LEGAL UPDATES

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Service

Insolvency & Commercial Bankruptcy

CARES Act Expands Subchapter V Eligibility for Debtors

The recently enacted Coronavirus Aid, Relief and Economic Security (CARES) Act includes key provisions to provide financially distressed consumers and small businesses greater access to bankruptcy relief. Among these is an amendment to the Small Business Reorganization Act of 2019 (SBRA) to increase the eligibility threshold from $2,725,625 of debt to $7,500,000 for businesses filing under new Subchapter V of Chapter 11 of the U.S. Bankruptcy Code.

Enacted in the summer of 2019, the SBRA aims to streamline existing bankruptcy procedures and provide new tools to increase a small business's ability to achieve a successful restructuring. In addition to its relative simplicity and efficiency, the SBRA permits small business debtors with total debt of less than $2,725,625 (now increased to $7,500,000) to confirm a plan of reorganization over creditors' objections by dedicating three to five years of net operating income as payment to creditors notwithstanding the absolute-priority rule in regular Chapter 11s.

The increase in the eligibility threshold is temporary and will return to $2,725,625 after one year following the enactment of the CARES Act. The increased debt limit for struggling small businesses to access Subchapter V reflects recommendations of the American Bankruptcy Institute's Commission to Study the Reform of Chapter 11.

Contact us

If you have any questions about the CARES Act or Subchapter V eligibility, please contact Iana Vladimirova or your Husch Blackwell attorney.

CARES Act updates

Husch Blackwell's CARES Act resource team has reviewed the Act carefully and is developing content to help clients determine how best to access the available assistance. The team will add new content frequently as the Act is implemented through a number of agency rulemakings over the coming weeks.