The Small Business Reorganization Act Arrives in February 2020: Here's What You Need to Know

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Tuesday, September 10, 2019

With President Trump’s signature August 23rd, the Small Business Reorganization Act of 2019 (“SBRA”) will officially take effect in February 2020.

The SBRA is designed to fill a gap in the current bankruptcy laws by providing a framework for small businesses to successfully reorganize in bankruptcy court. As noted by the senate bill’s sponsor, Iowa Senator Charles Grassley, “Chapter 11 was designed for administering complex business reorganizations involving multi-million dollar companies.” Due to this design, small businesses are frequently overwhelmed with the burdens of Chapter 11, cannot craft successful plans and are routinely forced to liquidate. Plus, chapter 13 bankruptcy is not a viable alternative for many small businesses; this form of reorganization is only available for sole proprietorships, as only individuals are eligible to be debtors in chapter 13.

Amendments to the Bankruptcy Code

Under the SBRA, the Bankruptcy Code will be amended to ease the procedural burden on small businesses seeking reorganization. The SBRA amends the Bankruptcy Code...
with the addition of a new subchapter to Chapter 11, defining a small business debtor as an entity with an aggregate of noncontingent liquidated secured and unsecured debt of not more than $2,725,625.

**Key provisions take their cue from Chapter 13.** For example, a small business will not be required to be a debtor-in-possession, which for a small business can create a whole new panoply of logistical concerns. The SBRA mandates a standing trustee to be appointed in every small business Chapter 11, similar to the existing statutes for Chapter 12 and Chapter 13. Among other provisions, the new subchapter will now allow a small business to confirm a plan over the objections of creditors, which is a significant change and should greatly increase the overall success rate for small businesses.

With provisions that increase a small business’ ability to negotiate with creditors, a reduction in procedural burdens and costs, and an increase in oversight, the SBRA hopefully should create a valuable framework for small businesses to successfully reorganize.

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