

Passage of Bankruptcy Threshold Adjustment and Technical Corrections Act

June 28, 2022

Congress has made some small but important changes to the Bankruptcy Code through its enactment of the Bankruptcy Threshold Adjustment and Technical Corrections Act (the "Act") on June 21, 2022. The most important of these are the increases in the debt limits for debtors under chapter 13 and under the Small Business Reorganization Act (the "SBRA")—increases that will continue for at least two years.

First, the Act reinstates the debt limit for debtors to qualify under the SBRA (a.k.a. "Subchapter V") at \$7,500,000. When the SBRA was first enacted, the debt limit was set at \$2,725,625. The debt limit increased to \$7,500,000 under the CARES Act and the COVID-19 Bankruptcy Relief Act of 2021, but the increase had a sunset provision of March 27, 2022. After that date, the debt limit reverted to its original amount. The Act raises the debt limit to \$7,500,000 again and makes the increase retroactive to March 27, 2022. The Act sunsets in two years on June 21, 2024.

Second, the Act increases the debt limit for filing chapter 13 bankruptcy cases. Previously, a debtor needed to have under \$465,275 in noncontingent, liquidated^[1] unsecured debt and under \$1,395,875 in noncontingent, liquidated secured debt to file under chapter 13. The Act combines and increases the unsecured and secured limits into one figure. Now, the aggregate debt limit for noncontingent, liquidated debt (both secured and unsecured) is \$2,750,000. This increased debt limit sunsets on June 21, 2024, at which time the original debt limits are set to be reimposed.

The Act also makes a few technical corrections to the Bankruptcy Code. For instance, the Act clarifies that certain debtors who seemed to be prohibited from filing under the SBRA (because they have affiliates that may qualify as "issuers" under the Securities Exchange Act of 1934) may indeed qualify as SBRA debtors. It also makes clear that dollar amounts in the SBRA are to be increased every three years for inflation along with all other dollar **amounts in the Bankruptcy Code**, along with other minor adjustments.

More debtors able to file chapter 13 and SBRA cases mean it is more likely that people will find themselves involved in these cases, whether as debtors or as creditors. Miller Canfield regularly assists clients in navigating the Bankruptcy Code and protecting their rights under it. Should you have any questions or need any assistance, please feel free to contact us.

[1] Generally speaking, a "contingent" debt is one that requires some event to happen before it is owed (e.g., a warranty claim owed only if a covered part fails). "Noncontingent" debts are those that lack such a requirement. A "liquidated" debt is one where the amount is known or can be readily determined. (E.g., the amount owed at any moment under a loan may not be stated in the note, but can be quickly computed by reference to its terms.)