

Sunset of Certain Bankruptcy Code Changes

December 5, 2022

As we **previously reported**, the Bankruptcy Code saw many changes in 2020 and 2021. Some of the changes that were enacted under the Consolidated Appropriations Act, 2021 ("CAA") will soon end.

Prior to the CAA, the Bankruptcy Code allowed a bankruptcy court to give a debtor extra time (up to 60 days from commencement of the bankruptcy case) to pay rent due for the first 60 days of the bankruptcy case. Under the CAA, debtors who filed under chapter 11, subchapter V (added by the Small Business Reorganization Act) could ask for an additional 60 days to pay if they were experiencing hardships related to the COVID pandemic. Further, the time limit for tenants to decide whether to assume or reject a nonresidential lease was increased to 210 days from 120 days. These provisions are set to expire on December 27, 2022, returning this section of the Bankruptcy Code to its "pre-COVID" language.

The CAA also provided a provision to encourage landlords and their tenants and suppliers and their customers to work with each other to ease COVID-related financial strains. As described in more detail in our prior report, the CAA-added provision provided some protection from having these "workouts" later attacked as preferential transfers in a subsequent bankruptcy case. This provision is also expiring on December 27, 2022.

Miller Canfield attorneys continually monitor the state of bankruptcy law. We remain ready to assist should you need assistance working through these and other changes to the Bankruptcy Code.