

CARES Act: Bankruptcy Provisions

April 1, 2020

The “Coronavirus Aid, Relief and Economic Security Act” (CARES Act) includes bankruptcy-specific provisions that provide enhanced relief for individuals and businesses that have been negatively impacted by the coronavirus outbreak.

The CARES Act amended the Small Business Reorganization Act of 2019 (SBRA) to increase the eligibility threshold for businesses filing under new subchapter V of chapter 11 of the U.S. Bankruptcy Code from \$2,725,625 of debt to \$7,500,000. (A general description of subchapter V of chapter 11 can be found [here](#) and [here](#).) The eligibility threshold will return to \$2,725,625 after one year.

On March 27, 2020, Judge Thomas Tucker from the Bankruptcy Court in the Eastern District of Michigan allowed a debtor who had filed for bankruptcy prior to the SBRA’s enactment to proceed under subchapter V of chapter 11. Judge Tucker’s opinion joins a small but quickly growing set of cases that hold that cases that are already proceeding in a “traditional” chapter 11 may elect to switch and proceed under the SBRA instead.

In addition to revising the SBRA, the CARES Act makes minor revisions to chapters 7 and 13, such as allowing debtors in those chapters to exclude certain coronavirus-related payments from being treated as income for bankruptcy purposes.

Miller Canfield represents debtors, lenders, and creditors in bankruptcy cases and out of court workouts. Please contact us if you would like to discuss this new bankruptcy law or any other insolvency matter.

*This is part of our series of **COVID-19 alerts** providing clients with practical advice on measures they can take to navigate through these challenging times. This information is based on the facts and guidance available at the time of publication, and may be subject to change.*