



Creditors' Rights and Bankruptcy Practice Group

**CLIENT ALERT**

March 30, 2020

**CARES ACT ALLOWS GREATER ACCESS TO BANKRUPTCY  
RELIEF FOR BUSINESSES AND CONSUMERS**



On Friday, March 27, 2020, President Trump signed into law the *Coronavirus Aid, Relief and Economic Security Act* (the "CARES Act"). The CARES Act provides emergency assistance for individuals, families and businesses affected by the 2020 coronavirus pandemic, including emergency grants, forgivable loans, relief for existing loans and refundable tax credits to businesses. The CARES Act made some important changes to provisions of the United States Bankruptcy Code (the "Bankruptcy Code") affecting businesses.

**DEBT LIMIT INCREASES FOR SUBCHAPTER 5 BUSINESS DEBTORS**

The Small Business Reorganization Act ("SBRA") which became effective in mid-February 2020, created a new Subchapter 5 under Chapter 11 of the Bankruptcy Code. Subchapter 5 is aimed at small businesses with debts of \$2,725,625 or less and provides these businesses a quicker and less expensive option for reorganizing under Chapter 11 of the Bankruptcy Code.

Importantly, Section 1113 of the CARES Act increases the debt limit for Subchapter 5 cases from \$2,725,625 to \$7.5 million. This change became effective on Friday and applies to cases filed through March 27, 2021. After this one year period, the debt limit for Subchapter 5 cases will return to \$2,725,625.

This debt limit increase by the CARES Act will allow many more businesses, including sole proprietorships, to qualify as Subchapter 5 debtors which could benefit from a streamlined Chapter 11 reorganization.

**EXCLUSIONS FROM INCOME TO CHAPTER 7 AND CHAPTER 13 DEBTORS**

The CARES Act also made changes to Chapter 7 and Chapter 13 of the Bankruptcy Code to allow payments made to the debtor pursuant to the CARES Act to be excluded from the definition of current monthly income for the means test calculation determining a debtor's eligibility for Chapter 7.

Additionally, the amendments exclude payments made to the debtor pursuant to the CARES Act from the calculation of disposable income for the purposes of determining confirmability of a Chapter 13 plan of reorganization. The amendments also permit Chapter 13 debtors to modify confirmed plans based on material financial hardship related to the coronavirus pandemic, allowing extensions of plan payments for up to seven years after the initial term.

Finally, Sect. 3513 of the CARES Act provides temporary relief for federal student loan borrowers by requiring the Secretary of Education to defer student loan payments, principal, and interest for 6 months, through September 30, 2020, without penalty to the borrower for all federally-owned loans and will suspend all involuntary collection on loans.

Like the changes to the Subchapter 5 provisions, these changes in Chapter 7 and 13 cases will be applicable for one year after the CARES Act becomes effective.



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**Creditors' Rights and Bankruptcy.** Goodsill's attorneys practicing in the area of creditors' rights and bankruptcy concentrate on the representation of lenders, creditors, trustees, committees and other interest holders in complex bankruptcy, foreclosure, receivership, commercial landlord-tenant, collection and commercial litigation matters. Goodsill attorneys are adept at helping creditors avoid protracted litigation through creative workouts and settlements. Goodsill attorneys in this practice area frequently contribute to publications and lecture at bankruptcy and collection law seminars.

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