

BANKRUPTCY BLOG

Small Business Bankruptcy Rights to Sunset on March 27, 2021

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While there was no shortage of mega-bankruptcy filings last year, bankruptcy attorneys continue to scratch their heads at the absence of small-to-midsized corporate bankruptcy filings. There are several reasons for that absence. The Coronavirus Aid, Relief and Economic Security Act ("CARES Act") provided meaningful assistance to small business owners. In addition, economic stimulus checks provided some relief. Moratoriums were placed on federally guaranteed loans, and many states and cities halted evictions actions. With the change in administration, many are likely still trying to survive long enough for another round of stimulus.

That said, bankruptcy attorneys believe a flood of bankruptcy filings is on the horizon. If you own or represent a struggling small or mid-sized business, take heed that your strongest tool for reorganizing might be gone by the end of March 2021.

As originally enacted, the Small Business Reorganization Act ("SBRA") only covered small businesses reorganizing through Chapter 11 that had less than about \$3 million in total debt (of which at least 50% arose from commercial or business activities, excluding debts owed to affiliates or insiders). However, the CARES Act increased the SBRA debt limit to \$7.5 million. Absent action by Congress, which at the moment seems otherwise occupied, the SBRA debt limit is set to return to about \$3 million on March 27, 2021.

So, if your small to mid-sized business or client is considering bankruptcy, act now to obtain a competent consultation on the business's bankruptcy rights. Failure to do so could – likely will – result in the loss of several important benefits, including:

- Exemption from paying quarterly U.S. Trustee Fees;
- Assignment of a disinterested trustee to aid with administering the case and getting a Chapter 11 plan confirmed;

- Freedom from the Absolute Priority Rule, which can require all unsecured creditors be paid in full before equity can retain its interests; and
- Freedom from the appointment of an Official Committee of Unsecured Creditors, whose professional fees must be paid by the debtor in an ordinary Chapter 11 case.

Feel free to contact us (Larry Pittman, II, 816.210.9680 or Sharon Stolte, 816.627.5543) for a consultation, and we will put you on the road to reorganizing with a full, capable bankruptcy team who is ready to help you or your client reorganize.