

CLIENT ALERTS

President Signs Bankruptcy Threshold Adjustment and Technical Corrections Act

Client Alert

6.28.2022

On June 21, 2022, President Biden signed into law the Bankruptcy Threshold Adjustment and Technical Corrections Act (the "Act"), Pub. L. No. 117-151.

As we reported in previous client alerts concerning the impact of CARES Act legislation on small business reorganizations under subchapter V of chapter 11 of the Bankruptcy Code, the maximum debt threshold (aggregate noncontingent liquidated secured and unsecured debts as of the date of filing of the bankruptcy petition) for eligible small business debtors was increased by Congress under the March 27, 2020 CARES Act^[1] from \$2,725,625, originally established under the Small Business Reorganization Act of 2019^[2], to \$7,500,000 with a one-year sunset provision. Then, in response to the continuing economic distress of the pandemic, Congress extended the \$7,500,000 debt threshold for an additional one year under March 27, 2021 COVID-19 Bankruptcy Relief Extension Act of 2021.^[3]

The Act restores the \$7,500,000 debt threshold retroactive to subchapter V cases commenced on or after March 27, 2020. However, the increased debt threshold is subject to a two-year sunset provision and, unless further extended by Congress, will expire on June 21, 2024.

As a summary reminder of the benefits of subchapter V of Chapter 11, it provides small business owners the opportunity to right-size their companies' financial affairs and retain their equity in a more cost-effective proceeding than the traditional chapter 11 reorganization case, provided they devote all of their companies' net disposal income as defined by the Bankruptcy Code^[4] towards payments to creditors under a 3 to 5 year plan.

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[1] Public Law 116-136, Div. A, Title I § 1113

[2] Public Law 116-54

[3] Public Law 17-5

[4] 11 U.S.C. § 1191(d)(2)