

Changes in Bankruptcy Law Included in the Coronavirus Aid, Relief and Economic Security Act

March 27, 2020

This afternoon, President Trump signed into law the “*Coronavirus Aid, Relief and Economic Security Act*” (the “CARES Act”). The legislative package provides a \$2 trillion economic stimulus for U.S. industries and citizens faced with the challenges of the COVID-19 coronavirus.

There are several provisions that impact bankruptcy law. These provisions offer individuals and small businesses greater access to bankruptcy relief. Key bankruptcy provisions within Sect. 1113 of the CARES Act include:

- Amending the Small Business Reorganization Act of 2019 (“SBRA”) to increase the eligibility threshold for businesses filing under SBRA from \$2,725,625 of debt to \$7,500,000. The eligibility threshold will return to \$2,725,625 after one year.
- Amending the definition of “income” in the Bankruptcy Code for chapters 7 and 13 to exclude coronavirus-related payments from the federal government from being treated as “income” for purposes of filing bankruptcy.
- Clarifying that the calculation of disposable income for purposes of confirming a chapter 13 plan shall not include coronavirus-related payments.
- Explicitly permitting individuals and families currently in chapter 13 to seek payment plan modifications if they are experiencing a material financial hardship due to the coronavirus pandemic, including extending their payments for up to seven years after their initial plan payment was due.

The bankruptcy provisions of the CARES Act listed above sunset within a year.

Additionally, the law 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. This provides relief to a significant percentage of student loan borrowers.