

## **BANKRUPTCY CODE AMENDMENTS AS PART OF THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT**

Congress recently enacted broad relief legislation, known as The Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), to provide emergency assistance to individuals, families, and businesses affected by the 2020 coronavirus pandemic. Included in the CARES Act are various provisions which temporarily amend the Bankruptcy Code.

From a business bankruptcy perspective, the CARES Act amends the newly enacted Small Business Reorganization Act of 2019 (the "SBRA"), which itself became effective February 19, 2020. Generally, the SBRA created a new subchapter of chapter 11 of the Bankruptcy Code (Subchapter 5—Small Business Debtor Reorganization). The SBRA's purpose was to provide small businesses with an opportunity to reorganize through a streamlined, faster, and more cost-effective chapter 11 process. The CARES Act amends the SBRA to increase the debt limit eligibility threshold for businesses filing for relief as a small business debtor from \$2,725,625 to \$7,500,000. This substantially increases the percentage of businesses who will be able to take advantage of the restructuring benefits afforded by the SBRA. The eligibility threshold will return to \$2,725,625 after one year.

The CARES Act also modifies the Bankruptcy Code in several significant ways to help consumer debtors in chapter 7 and 13 cases, specifically:

- It amends the definition of "income" in the Bankruptcy Code for chapters 7 and 13 to exclude coronavirus-related payments from the federal government, so that they will not be treated as "income" for purposes of filing bankruptcy.
- It clarifies that the calculation of disposable income which, generally speaking, must be paid to creditors under a chapter 13 plan, shall not include coronavirus-related payments.
- It expressly permits individuals and families with cases pending under chapter 13 of the Bankruptcy Code 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.

These bankruptcy specific provisions of the CARES Act likewise will sunset one year after the enactment of the legislation.

Finally, the CARES Act provides some relief to student loan borrowers. Specifically, the legislation requires the Secretary of Education to defer student loan payments of principal and interest for six months, through September 30, 2020, without penalty to the borrower, for all federally owned student loans.

Please contact one of the members of Jaffe's Insolvency & Reorganization group to learn more about the SBRA and other recent revisions to the Bankruptcy Code.

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