

COVID-19 Bankruptcy Relief Extension Act of 2021: Debt limit increased to \$7.5M for another year



Maria G. Carr | Tuesday, March 30, 2021

On March 27, 2021, President Joe Biden signed the COVID-19 Bankruptcy Relief Extension Act of 2021 (H.R. 1651) (Extension Act) into law. The Extension Act comes exactly one year after the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) temporarily increased the debt limit for small businesses to be eligible to file for bankruptcy pursuant to subchapter 5 of chapter 11 of the Bankruptcy Code from \$2,725,625 to \$7,500,000 under the Small Business Reorganization Act of 2019 (SBRA) for one year due to the COVID-19 pandemic. The Extension Act extends the temporary increase in the debt limit for subchapter 5 filings for one more year – until March 27, 2022, as the economic crisis brought on by COVID-19 continues.

Although bankruptcy filings did not dramatically increase as expected over the past year, the increase in the debt limit to \$7.5 million allowed hundreds more individuals and business to take advantage of the streamlined bankruptcy process offered in the SBRA throughout 2020 and early 2021. Over 1,400 chapter 11 cases were filed under subchapter 5 in the past year. The Extension Act was widely supported on both sides of the aisle; if subchapter 5 filings of debtors with higher debt limits continue throughout 2021 and early 2022, the debt limit will hopefully be increased permanently. Limiting the debt limit to \$2,725,625, as the SBRA originally contemplated, would make SBRA applicable only to the smallest companies or companies with a relatively minimal debt load.

Congressman Ben Cline of Virginia and House Judiciary Committee Chairman Jerrod Nadler of New York

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introduced the Extension Act, and Congressman Cline stated that since the SBRA's inception in February 2020, "80 percent of small business debtors have chosen to proceed under the provisions of [the SBRA], meaning more entrepreneurs have been able to keep their doors open and employees on payroll during these uncertain times. By extending the debt threshold for eligibility, significantly more businesses can take advantage of this bill."

The Extension Act also extends for another year a few other COVID-19 related provisions in the CARES Act that primarily impact individual debtors, including:

- Clarifying that "disposable income," as calculated for confirming a chapter 13 plan, does not include COVID-19 stimulus or relief related payments
- Excluding federal COVID-19 relief related payments from being treated as "income" for chapter 7 and chapter 13 debtors
- Allowing individuals in chapter 13 bankruptcy to seek payment plan modifications for plans confirmed prior to March 27, 2021 if they are experiencing COVID-19 related financial hardship.



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