

CARES ACT'S IMPACT ON BANKRUPTCY LAW

The Senate passed the “Coronavirus Aid, Relief and Economic Security Act” (CARES Act) on March 25. It provides a \$2 trillion economic stimulus for businesses and individuals faced with the challenges of the COVID-19 pandemic. The legislation now goes to the House, where it is anticipated to be approved on March 26 or 27, and signed shortly thereafter by the president. The bill changed the Bankruptcy Code in several areas; some of those changes are significant.

Small Business

The Small Business Reorganization Act of 2019 (SBRA) went into effect in February 2020 in order to make reorganization under Chapter 11 of the Bankruptcy Code easier and less expensive for small businesses. Even though SBRA has only recently begun to be utilized, CARES Act amends it in a substantial way. Previously, the eligibility threshold for businesses filing Chapter 11 bankruptcy under SBRA was \$2,725,625 in aggregate debt. CARES Act increases that to \$7,500,000. The eligibility threshold will return to \$2,725,625 after one year. Many bankruptcy commentators have indicated that they will lobby for the increase in the debt limit to be made permanent. Other aspects of SBRA were unchanged.

Individuals

CARES Act also modified bankruptcy law with respect to individuals. COVID-19-related payments from the federal government will not be treated as “income” for purposes of filing bankruptcy. Additionally, these payments will not be counted as disposable income for individuals pursuing payment plans under Chapter 13. (Chapter 13 enables individuals with regular income to develop a plan to repay all or part of their debts. The definition of “disposable income” is critical to the approval of such a plan.) Individuals and families currently in Chapter 13 may 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.

Momkus LLC is Here to Help

Please feel free to contact your Momkus LLC attorney with questions or concerns. Our office is operating at 100% and we’ve been designated as an “essential service” during the crisis; your calls and emails will receive prompt attention, even if we can’t personally shake your hand.