



CLLA LEGISLATIVE DAY

March 6, 2024

PERMANENCY OF SUBCHAPTER V AND CHAPTER 13 DEBT LIMITS

1. EVOLUTION OF SUBCHAPTER V

The Small Business Reorganization Act of 2019 (SBRA), in effect as of February 19, 2020, was enacted to provide small business debtors with a more streamlined path for restructuring their debts. The SBRA introduced an innovation: Subchapter V of Chapter 11, a new type of bankruptcy designed to make reorganization under the Bankruptcy Code faster and less expensive for America’s small businesses. Subchapter V defined a “small business debtor” as “a person engaged in commercial or business activities . . . that has aggregate noncontingent liquidated secured and unsecured debts . . . in an amount not more than \$2,725,625.” At least half of those debts must have been incurred from business activity. About a month after the SBRA’s February 2020 effective date, the COVID-19 pandemic upended the country. In response, Congress and the President acted swiftly to enact the CARES Act,¹ which increased Subchapter V’s debt limits to \$7.5 million for two years.² When Subchapter V’s increased debt limits lapsed in March of 2022, Congress enacted the Bankruptcy Threshold Adjustment and Technical Corrections Act (the “Technical Corrections Act”)³ on June 21, 2022, extending the increased \$7.5 million Subchapter V debt limit for another 2 years and increased the Chapter 13 debt limits to \$2,750,000,⁴ without distinction as to whether the debts are secured or unsecured.⁵

2. THE PROBLEM

As of March 2023, there were 33,185,550 small businesses⁶ in the United States. Between 2000 and 2019, these small businesses created 10.5 million net new jobs and accounted for 65.1% of the net

¹ Coronavirus Aid, Relief, and Economic Security Act. Public Law 116-123.

² The initial \$7,500,000 Subchapter V debt limit increase expired on March 27, 2022, but was resurrected three months later under the Technical Corrections Act.

³ Public Law No. 117-151.

⁴ The \$7,500,000 Subchapter V and \$2,750,000 Chapter 13 debt limit increases will sunset on June 21, 2024.

⁵ Prior to the Act, debtors were only eligible to file under Chapter 13 if they had noncontingent, unsecured debts of less than \$419,275 and noncontingent, secured debts of less than \$1,257,850.

⁶ Defined by the U.S. Small Business Administration, Office of Advocacy as an independent business having fewer than 500 employees. <https://advocacy.sba.gov/2023/03/07/frequently-asked-questions-about-small-business-2023/#:~:text=There%20are%2033%2C185%2C550%20small%20businesses,net%20jobs%20created%20since%201995.>

