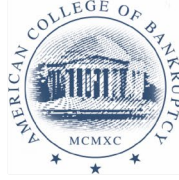


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Speaker
U.S. House of Representatives
H-232, The Capitol
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
H-204, The Capitol
Washington, D.C. 20515

The Honorable Charles E. Schumer
Majority Leader
United States Senate
S-221, The Capitol
Washington, D.C. 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
S-230, The Capitol
Washington, D.C. 20510

March 21, 2022

Dear Speaker Pelosi, and Leaders Schumer, McConnell, and McCarthy:

The American College of Bankruptcy is an honorary association of almost 900 bankruptcy and insolvency professionals who are selected for membership based on being leaders in the bankruptcy field. College Fellows include commercial and consumer bankruptcy attorneys, judges, insolvency accountants, turnaround and workout specialists, law professors, government officials and others in the bankruptcy and insolvency community. Its Fellows share a commitment to professional excellence, and to the administration and improvement of the bankruptcy system. The College has no political orientation and is highly selective in the issues on which it takes a position. The policy positions it does take are nonpartisan, focusing entirely on enhancing the quality of the bankruptcy system.

We understand that Congress will soon consider bipartisan legislation to make permanent the \$7.5 million dollar debt limit for the Small Business Reorganization Act (Pub. L. No 116-4) commonly known as the SBRA or Subchapter V. The present \$7.5 million debt limit expires on March 27, 2022. We write to express the College's support for making permanent the \$7.5 million debt limit.

In 2019—with our support and with the overwhelming support of members of Congress on both sides of the aisle—Congress enacted the SBRA so as to make chapter 11 of the Bankruptcy Code more available and workable for small businesses. As it was originally enacted, eligibility for relief under the SBRA was limited to small businesses with aggregate liquidated, noncontingent secured and unsecured debt of about \$2.7 million, exclusive of debt owed to insiders.

The SBRA's original effective date coincided with the onset of the COVID-19 pandemic, and the looming impact of that pandemic on the economy, and particularly on small businesses. In response, Congress passed an amendment to the SBRA, as part of the Coronavirus Aid, Relief and Economic Security Act (the CARES Act), raising the debt limit to \$7.5 million (with the same exclusions), making Subchapter V bankruptcy relief available to a dramatically larger number of deserving small businesses. But the greater debt limit had a sunset date in one year, which Congress unanimously extended last year to March 27, 2022.

While the higher debt limit for the SBRA was passed as part of COVID-19 legislation, the increase in the debt limit would have been appropriate even if there had been no pandemic. The SBRA had proved itself, and continues to prove itself, to be a highly useful tool to restructure small business liabilities effectively and at reasonable cost. As recently noted in an article by the director of the Executive Office for U.S. Trustees, citing data collected for the American Bankruptcy Institute, “by all current measures, the SBRA is working as Congress intended.”¹ The article notes that the percentage of cases with confirmed plans under the SBRA is six times higher than the percentage of cases with confirmed plans that did not proceed under Subchapter V; that early indications are that subchapter V cases are confirming more quickly than cases under the prior procedure; and that the majority of those confirmed plans were consensual, signaling that the SBRA is successful in driving consensus and cooperation, as intended. A subsequent article published late last year provides updated data demonstrating the remarkable success of SBRA with the \$7.5 million debt ceiling.²

Avoiding sunset of the existing \$7.5 million debt limit would serve the interests of debtors, creditors, and the American public at large, by maintaining the availability of efficient and effective relief for small businesses under the American bankruptcy system. We wholeheartedly support this important legislation. We note also that this provision involves no appropriation or cost to the government.

We note that the views expressed in this statement are those of the American College of Bankruptcy, on behalf of which this statement is issued, and do not necessarily reflect the personal views of any judge or other Fellow of the College, or any firm or educational institution with which any Fellow is affiliated.

¹ Clifford J. White III, Small Business Reorganization Act: Implementation and Trends, 40 ABI J. 54 (January 2021).

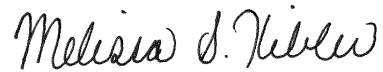
² American Bankruptcy Trustee Journal, Vol 37, No. 4 (2021), at 19.

We would be grateful if you would keep us abreast of developments in this area.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Bloom". The signature is written in a cursive style with a long horizontal line extending to the right.

Mark D. Bloom, Chair

A handwritten signature in black ink, appearing to read "Melissa S. Kibler". The signature is written in a cursive style.

Melissa S. Kibler, President

cc: Senator Richard Durbin
Senator Charles Grassley
Representative Jerrold Nadler
Representative Jim Jordan