

PUBLIC ANNOUNCEMENT

United States Bankruptcy Court for the Western District of Pennsylvania

March 27, 2022 Expiration of Bankruptcy Provisions in Section 1113 of the CARES Act

On March 27, 2020, the President signed into law the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”). Included in the CARES Act are many provisions impacting the bankruptcy system. A year later, on March 27, 2021, the President signed into law an amended version of the CARES Act which extended provisions in Section 1113 (Bankruptcy) for one year. Absent legislative action, these provisions will expire on March 27, 2022. The expiring provisions will affect debtor eligibility in Chapter 11 Subchapter V cases, the calculation of “current monthly income” and “disposable income,” Chapter 13 plan modifications, Official Forms and Interim Bankruptcy Rule 1020.

The CARES Act amended the Small Business Reorganization Act of 2019 (SBRA) to increase the eligibility threshold for businesses filing under Subchapter V of Chapter 11 of the U.S. Bankruptcy Code from \$2,725,625 of debt to \$7,500,000. On March 28, 2022, the eligibility threshold will return to \$2,725,625.

The CARES Act modified the definition of “current monthly income” for Chapter 7 and Chapter 13 debtors found in 11 U.S.C. § 101(10A)(B)(ii) to exclude payments made under federal law relating to the national emergency declared by the President in response to COVID-19. The modification to “current monthly income” excluded such stimulus payments from inclusion in the 707(b) Means Test for determining the eligibility of a debtor to proceed under Chapter 7. The modification to “current monthly income” also excluded such stimulus payments from inclusion in the “disposable income” analysis for Chapter 13 debtors seeking to determine the amount of funds required to be committed to their Chapter 13 plan. Thus, the definition of “disposable income” found in 11 U.S.C. § 1325(b)(2) was amended for the life of the CARES Act. These provisions altering the methods for determining “current monthly income” and “disposable income” will expire on March 27, 2022.

The CARES Act added Subsection (d) to 11 U.S.C. § 1329 to permit a debtor to modify a confirmed plan, after notice and a hearing, if they were experiencing a “material financial hardship” due, “directly or indirectly,” to the COVID-19 pandemic. Debtors were given the ability to request a temporary suspension of plan payments and the life of a Chapter 13 plan was temporarily allowed to extend up to seven years after the first payment under the original confirmed plan became due. 11 U.S.C. § 1329(d) will expire on March 27, 2022.

The expiring provisions of the CARES Act affect Official Forms 101, 122A-1, 122B-1, and 122C-1. These forms will revert to the pre-CARES Act versions on March 28, 2022.

On December 29, 2019, the Court issued Standing Order 19-217 adopting changes to the Federal Rules of Bankruptcy Procedure (“Interim Rules”) necessitated by the enactment of the Small Business Reorganization Act of 2019 (the “SBRA”). On April 22, 2020, the Court issued Standing Order 20-210, revising Interim Rule 1020 to accommodate the Cares Act which will expire on March 27, 2022. Accordingly, on March 25, 2022 the Court issued [Standing Order 22-208](#) which reverts back to the original version of Interim Rule 1020 as adopted by Standing Order 19-217.