Bill to Retroactively Raise the Subchapter V Debt Awaiting President Biden's Signature

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Client Alert

Thousands of small business owners priced out of utilizing Subchapter V of Chapter 11 of the Bankruptcy Code since March 28, 2022 due to reduced debt limits will soon be eligible again. On June 7, 2022, the House, in a bipartisan effort, passed amended S. 3823, the "Bankruptcy Threshold Adjustment and Technical Corrections Act." The bill, which was previously approved by the Senate on April 7, 2022, retroactively increases the debt limit for Subchapter V eligibility to $7,500,000 (excluding debts owed to affiliates or insiders). Additionally, it provides that a small business debtor may include a debtor that is an affiliate of certain publicly traded companies, and authorizes a bankruptcy trustee to operate the business of the debtor if the debtor ceases to be a debtor in possession. The bill is currently awaiting President Biden's signature.

In a recent Porzio Small Business Alert (https://pbnlaw.com/small-business-alert-subchapter-v-changes), the Bankruptcy Team warned that the debt limit imposed under Subchapter V, which was specifically designed to provide relief to small businesses by creating a more efficient and less burdensome bankruptcy proceeding, was being reduced from $7,500,000 to $3,024,725 as of April 1, 2022. This meant that only qualifying businesses with less than $3,024,725 in debt could file a Subchapter V bankruptcy petition. Ultimately, Congress agreed that increasing the debt limit to $7,500,000 will aid small businesses across the country. If you have any questions about how to take advantage of this increased debt limit, or would like to explore a Subchapter V proceeding, please contact the Porzio Bankruptcy Team to discuss your options.