

HR 3311 -- Redline

Received in Senate to Chaptered -- Small Business Reorganization Act of 2019

Deletions ~~struck~~ · Insertions underlined

~~[Congressional~~[116th Bill~~Congress 116th~~Public Congress]Law 54] [From the U.S.

Government Publishing Office] ~~[H.R.~~[Page 133 STAT.

~~3311~~1079] ~~Received~~Public in Law Senate~~116-54 (RDS)]~~116th <DOC>Congress 116th~~An CONGRESS~~Act 1st~~To Session~~amend H-~~chapter 11 of title 11, United States Code, to address reorganization of small businesses, and for other purposes.~~

~~R-~~<<NOTE:

~~3311~~Aug. ~~_____~~ _____ ~~IN THE SENATE OF THE UNITED STATES~~ July 24, 2019 Received

~~_____~~ AN ACT To amend chapter 11 of title 11, United States Code, to address reorganization of small businesses, and for other purposes.
~~Be~~23, ~~it~~2019 ~~enacted_ by~~[H.R. ~~the Senate and House of Representatives of the United States of America in Congress assembled,~~ SECTION 1.

~~3311]>> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,~~ <<NOTE:

Small Business Reorganization Act of 2019.

11 USC 101 note.>> SECTION 1.

(a) In General.--Chapter 11 of title 11, United States Code, is amended ~~by~~<<NOTE: adding at the end the following:

11 USC 1181 prec.>> by adding at the end the following:

~~Inapplicability<<NOTE: of other sections `` (a) In General.--Sections 105(d), 1101(1), 1104, 1105, 1106, 1107, 1108, 1115, 1116, 1121, 1123(a)(8), 1123(c), 1127, 1129(a)(15), 1129(b), 1129(c), 1129(e), and 1141(d)(5) of this title do not apply in a case under this subchapter.~~

11 USC 1181.>> Inapplicability of other sections `` (a) In General.--Sections 105(d), 1101(1), 1104, 1105, 1106, 1107, 1108, 1115, 1116, 1121, 1123(a)(8), 1123(c), 1127, 1129(a)(15), 1129(b), 1129(c), 1129(e), and 1141(d)(5) of this title do not apply in a case under this subchapter.

~~Definitions<<NOTE: ``In this subchapter:~~

11 USC 1182.>> Definitions ``In this subchapter:

~~Trustee<<NOTE: `` (a) In General.--If the United States trustee has appointed an individual under section 586(b) of title 28 to serve as standing trustee in cases under this subchapter, and if such individual qualifies as a trustee under section 322 of this title, then that individual shall serve as trustee in any case under this subchapter.~~

Otherwise, 11 USC 1183.>> Trustee `` (a) In General.--If the United States trustee shall has appointappointed onean disinterestedindividual personunder section 586(b) of title 28 to serve as standing trustee in thecases caseunder orthis thesubchapter, Unitedand Statesif such individual qualifies as a trustee mayunder section 322 of this title, then that individual shall serve as trustee in theany case,case asunder necessary.this subchapter.

Otherwise, the United States trustee shall appoint one disinterested person [[Page 133 STAT. 1080]] to serve as trustee in the case or the United States trustee may serve as trustee in the case, as necessary.

~~`` (2) Service<<NOTE: of notice of substantial consummation.--Not later than 14 days after the plan of the debtor is substantially consummated, the debtor shall file with the court and serve on the trustee, the United States trustee, and all parties in interest notice of such substantial consummation.~~

Deadline.>> Service of notice of substantial consummation.--Not later than 14 days after the plan of the debtor is substantially consummated, the debtor shall file with the court and serve on the trustee, the United States trustee, and all parties in interest notice of such substantial consummation.

~~Rights<<NOTE: and powers of a debtor in possession ``Subject to such limitations or conditions as the court may prescribe, a debtor in possession shall have all the rights, other than the right to compensation under section 330 of this title, and powers, and shall perform all functions and duties, except the duties specified in paragraphs (2), (3), and (4) of section 1106(a) of this title, of a trustee serving in a case under this chapter, including operating the business of the debtor.~~

11 USC 1184.>> Rights and powers of a debtor in possession ``Subject to such limitations or conditions as the court may prescribe, a debtor in possession shall have all the rights, other than the right to compensation under section 330 of this title, and powers, and shall perform all functions and duties, except the duties specified in paragraphs (2), (3), and (4) of section 1106(a) of this title, of a trustee serving in a case under this chapter, including operating the business of the debtor.

~~Removal<<NOTE: of debtor in possession `` (a) In General.--On request of a party in interest, and after notice and a hearing, the court shall order that the debtor shall not be a debtor in possession for cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor, either before or after the date of commencement of the case, or for failure to perform the obligations of the debtor under a plan confirmed under this subchapter.~~

11 USC 1185.>> Removal of debtor in possession `` (a) In General.--On request of a party in interest, and after notice and a hearing, the court may shall reinstate order that the debtor shall not be a debtor in possession for cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor, either before or after the date of commencement of the case, or for failure to perform the obligations of the debtor under a plan confirmed under this subchapter.

[[Page 133 STAT.

1081]] `` (b) Reinstatement.--On request of a party in interest, and after notice and a hearing, the court may reinstate the debtor in possession.

~~Property<<NOTE: of the estate `` (a) Inclusions.-- If a plan is confirmed under section 1101(b) of this title, property of the estate includes, in addition to the property specified in section 541 of this title-- `` (1) all property of the kind specified in that section that the debtor acquires after the date of commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13 of this title, whichever occurs first;~~

11 USC 1186.>> Property of the estate `` (a) Inclusions.--If a plan is confirmed under section 1191(b) of this title, property of the estate includes, in addition to the property specified in section 541 of this title-- `` (1) all property of the kind specified in that section that the debtor acquires after the date of commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13 of this title, whichever occurs first;

`` (b) Debtor Remaining in Possession.--Except as provided in section 1185 of this title, a plan confirmed under this subchapter, or an order confirming a plan under this subchapter, the debtor shall remain in possession of all property of the estate.

~~Duties<<NOTE: and reporting requirements of debtors `` (a) Filing Requirements.--Upon electing to be a debtor under this subchapter, the debtor shall file the documents required by subparagraphs (A) and (B) of section 1116(1) of this title.~~

11 USC 1187.>> Duties and reporting requirements of debtors `` (a) Filing Requirements.--Upon electing to be a debtor under this subchapter, the debtor shall file the documents required by subparagraphs (A) and (B) of section 1116(1) of this title.

~~`` (c) Separate<<NOTE: Disclosure Statement Exemption.--If the court orders under section 1181(b) of this title that section 1125 of this title applies, section 1125(f) of this title shall apply.~~

Applicability.>> Separate Disclosure Statement Exemption.--If the court orders under section 1181(b) of this title that section 1125 of this title applies, section 1125(f) of this title shall apply.

~~Status<<NOTE: conference `` (a) In General.--Except as provided in subsection (b), not later than 60 days after the entry of the order for relief under this chapter, the court shall hold a status conference to further the expeditious and economical resolution of a case under this subchapter.~~

11 USC 1188.>> Status conference `` (a) <<NOTE:

Deadline.>> In General.--Except as provided in subsection (b), not later than 60 days after the entry of the order for relief under this chapter, the court shall hold a status conference to further the expeditious and economical resolution of a case under this subchapter.

~~Filing<<NOTE: of the plan `` (a) Who May File a Plan.--Only the debtor may file a plan under this subchapter.~~

~~`` (b) 11 Deadline.--The USC debtor 1189.>> shall Filing file of a the plan not `` (a) later Who than May 90 File days a after Plan.--Only the order debtor for relief under this chapter, except that the court may extend file the a period plan if under the this needs subchapter. for the extension is attributable to circumstances for which the debtor should not justly be held accountable.~~

`` (b) <<NOTE:

Extension.>> Deadline.--The debtor shall file a plan not later than 90 days after the order for relief under this chapter, except that the court may extend the period if the need for the extension [[Page 133 STAT.

1082]] is attributable to circumstances for which the debtor should not justly be held accountable.

~~Contents<<NOTE: of plan `` A plan filed under this subchapter-- `` (1) shall include-- `` (A) a brief history of the business operations of the debtor;~~

11 USC 1190.>> Contents of plan `` A plan filed under this subchapter-- `` (1) shall include-- `` (A) a liquidation brief analysis; history of the business operations of the debtor;

`` (B) <<NOTE:

Analysis.>> a liquidation analysis;

~~Confirmation<<NOTE: of plan `` (a) Terms.--The court shall confirm a plan under this subchapter only if all of the requirements of section 1129(a), other than paragraph (15) of that section, of this title are met.~~

11 USC 1191.>> Confirmation of plan `` (a) Terms.--The court shall confirm a plan under this subchapter only if all of the requirements of section 1129(a), other than paragraph (15) of that section, of this title are met.

~~`` (2) As of the effective date of the plan-- `` (A) the<<NOTE: plan provides that all of the projected disposable income of the debtor to be received in the 3-year period, or such longer period not to exceed 5 years as the court may fix, beginning on the date that the first payment is due under the plan will be applied to make payments under the plan;~~

Time periods.>> the plan provides that all of the projected disposable income of the debtor to be received in the 3-year period, or such longer period not to exceed 5 years as the court may fix, beginning on the date that the first payment is due under the plan will be applied to make payments under the plan;

~~`` (3)(A)(i) [[Page The133 debtorSTAT. will be able to make all payments under the plan; 1083]] `` (3)(A)(i) The debtor will be able to make all payments under the plan;~~

~~`` (d) Disposable<<NOTE: Income.--For purposes of this section, the term `disposable income' means the income that is received by the debtor and that is not reasonably necessary to be expended-- `` (1) for-- `` (A) the maintenance or support of the debtor or a dependent of the debtor;~~

Definition.>> Disposable Income.--For purposes of this section, the term `disposable income' means the income that is received by the debtor and that is not reasonably necessary to be expended-- `` (1) for-- `` (A) the maintenance or support of the debtor or a dependent of the debtor;

~~Discharge<<NOTE: `` If the plan of the debtor is confirmed under section 1101(b) of this title, as soon as practicable after completion by the debtor of all payments due within the first 3 years of the plan, or such longer period not to exceed 5 years as the court may fix, unless the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter, the court shall grant the debtor a discharge of all debts provided in section 1141(d)(1)(A) of this title, and all other debts allowed under section 503 of this title and provided for in the plan, except any debt-- `` (1) on which the last payment is due after the first 3 years of the plan, or such other time not to exceed 5 years fixed by the court;~~

11 USC 1192.>> Discharge `` If the plan of the debtor is confirmed under section 1191(b) of this title, as soon as practicable after completion by the debtor of all payments due within the first 3 years of the plan, or such longer period not to exceed 5 years as the court may fix, unless the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter, the court shall grant the debtor a discharge of all debts provided in section 1141(d)(1)(A) of this title, and all other debts allowed under section 503 of this title and provided for in the plan, except any debt-- `` (1) on which the last payment is due after the first 3 years of the plan, or such other time not to exceed 5 years fixed by the court;

~~Modification<<NOTE: of plan `` (a) Modification Before Confirmation.--The debtor may modify a plan at any time before confirmation, but may not modify the plan so that the plan as modified fails to meet the requirements of sections and 1123 of this title, with the exception of subsection (a)(8) of such section 1123.~~

11 USC 1193.>> Modification of plan `` (a) Modification Before Confirmation.--The debtor may modify a plan at any time before confirmation, but may not modify the plan so that the plan as modified fails to meet the requirements of sections and 1123 of this title, with the exception of subsection (a)(8) of such section 1123.

~~`` (b) Modification After Confirmation.--If a plan has been confirmed under section 1191(a) of this title, the debtor may modify the plan at any time after confirmation of the plan and before substantial consummation of the plan, but may not modify the plan so that the plan as modified fails to meet the requirements of sections 1122 and 1123 of this title, with the exception of subsection (a)(8) of such section 1123.~~

~~`` (c) [[Page Certain133 OtherSTAT. Modifications.--If a plan has been confirmed under section 1191(b) of this title, the debtor may modify the plan at any time within 3 years, or such longer time not to exceed 5 years, as fixed by the court, but may not modify the plan so that the plan as modified fails to meet the requirements of section 1191(b) of this title.~~

1084]] `` (c) Certain Other Modifications.--If a plan has been confirmed under section 1191(b) of this title, the debtor may modify the plan at any time within 3 years, or such longer time not to exceed 5 years, as fixed by the court, but may not modify the plan so that the plan as modified fails to meet the requirements of section 1191(b) of this title.

~~Payments<<NOTE: `` (a) Retention and Distribution by Trustee.--Payments and funds received by the trustee shall be retained by the trustee until confirmation or denial of confirmation of a plan.~~

11 USC 1194.>> Payments `` (a) Retention and Distribution by Trustee.--Payments and funds received by the

trustee shall be retained by the trustee until confirmation or denial of confirmation of a plan.

~~Transactions<<NOTE: with professionals ``Notwithstanding section 327(a) of this title, a person is not disqualified for employment under section 327 of this title, by a debtor solely because that person holds a claim of less than \$10,000 that arose prior to commencement of the case.''.>>~~

~~(b)11 ClericalUSC Amendment.--The1195.>> tableTransactions ofwith subchaptersprofessionals at ``Notwithstanding thesection beginning327(a) of chapterthis 11title, ofa titleperson 11, is Unitednot Statesdisqualified Code, for isemployment amendedunder section 327 of this title, by addinga atdebtor thesolely endbecause that person holds a claim of less than \$10,000 that arose prior to commencement of the following+case.''.>>~~

(b) Clerical Amendment.--The table of subchapters at the beginning of chapter 11 of title 11, United States Code, <<NOTE:

11 USC 1101 prec.>> is amended by adding at the end the following:

~~``1102. [[Page 133 STAT.~~

~~1085]] ``1192.~~

~~and (B) [[Page in133 subsectionSTAT. (b), by inserting ``subchapter V of chapter 11 or'' after ``In a case under'';~~

1086]] (B) in subsection (b), by inserting ``subchapter V of chapter 11 or'' after ``In a case under'';

~~and (B) [[Page in133 subsectionSTAT. (d) -- (i) in the matter preceding paragraph (1), by inserting ``subchapter V of chapter 11 and'' after ``trustees under'';~~

1087]] (B) in subsection (d) -- (i) in the matter preceding paragraph (1), by inserting ``subchapter V of chapter 11 and'' after ``trustees under'';

~~EFFECTIVE<<NOTE: -DATE-~~

11 USC 101 note.>> EFFECTIVE DATE.

~~PassedApproved theAugust House of Representatives July 23, 2019.~~

~~Attest+LEGISLATIVE HISTORY--H.R.~~

~~CHERYL3311:-L-~~

~~JOHNSON,-~~----- Clerk.HOUSE REPORTS:

No.

116-171 (Comm.

on the Judiciary).

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July 23, considered and passed House.

Aug.

1, considered and passed Senate.

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