# Subchapter V: A silver lining for small businesses mulling bankruptcy

Many small businesses continue to struggle in the wake of the coronavirus (COVID-19) pandemic. Some have already closed their doors and are liquidating assets. Others, however, may have a relatively less onerous option: bankruptcy.

Although bankruptcy obviously isn't an optimal outcome for any small company, there may be a silver lining: A new bankruptcy law — coupled with an under-the-radar provision of the Coronavirus Aid, Relief, and Economic Security (CARES) Act — has made the process quicker and easier. It may even allow you to retain your business.

**New law made better**

The law in question is the Small Business Reorganization Act of 2019. That's right, it was passed just last year and took effect on February 19, 2020, about a month before the pandemic hit the country full force.

The Small Business Reorganization Act added a new subchapter to the U.S. bankruptcy code: Subchapter V. Its purpose is to streamline the reorganization process for smaller companies and, in some cases, improve their odds of recovery.

When signed into law, Subchapter V applied only to companies or proprietors with less than about $2.7 million in debt. However, under the CARES Act, this amount has been temporarily increased to $7.5 million in debt. (Additional details apply; contact a bankruptcy attorney for a full explanation.)

**Potential improvements**

For small-business owners, Subchapter V could improve the bankruptcy process in several ways:

**You may be able to keep your company.** Under a Chapter 11 reorganization, business owners typically don't receive an equity stake in the reorganized company until all debts are repaid. Subchapter V creates a pathway for owners to retain their equity if their disposable income is distributed to creditors over a certain period (generally three to five years) in a "fair and equitable" manner.

**You may not need creditors' approval to proceed.** Small-business bankruptcies have long been stymied when one group of creditors object to the reorganization plan. Under Subchapter V, once a bankruptcy court approves the plan, the reorganization may proceed without creditors' approval.

**You may incur fewer costs and get it done more quickly.** Subchapter V offers the opportunity to reduce the documentation and level of detail required under a traditional Chapter 11 proceeding. In turn, this can make the process less costly and more expeditious.

**Prudent path**

Given the extreme and sudden nature of this year's economic downturn, bankruptcy has unfortunately become an option that many embattled small businesses will need to consider. Our firm can help you assess your company's financial position and choose the most prudent path forward.