

BELL NUNNALLY PARTNER RUSSELL MILLS ON SUBCHAPTER V BANKRUPTCIES IN NACM NEWSLETTER

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Partner Russell W. Mills authored the National Association of Credit Management (NACM) article “Small Business, Subchapter V Bankruptcies Hit 1,000 Cases.” The piece discusses the number of bankruptcy filings by small businesses under the Small Business Reorganization Act (SBRA) of 2019 occurring against the backdrop of the COVID-19 pandemic. The SBRA, enacted in February 2020, eased the barriers to entry for small businesses seeking to file bankruptcy. The CARES Act, also passed in 2020, Mills notes, “[A]mended the SBRA (also known as Subchapter V to the Bankruptcy Code) to make it even more available to small businesses by increasing the debt limitations to \$7,500,000. This increase is set to expire on March 27, 2021.”

Mills reports that Subchapter V filings have been robust, “By early October (2020), 1,000 Subchapter V cases had been filed with the number increasing every single month since SBRA’s passage. Of all small business bankruptcy filings, 80% elected to file under Subchapter V.”

Mills concludes with an important caveat, “But Congress’ increase of the debt limitations under Subchapter V to \$7,500,000 was only temporary. It is set to expire on March 27, 2021, though it can be extended by Congress. There is no guarantee that Congress will extend the increased debt limitations. While Subchapter V was originally passed with bipartisan support, it is unclear how the recent elections and incoming legislature may temper past support for Subchapter V. And, in the event there is no effort to extend the debt limitations, one can also expect a “rush to the courthouse” in March 2021.”

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