

The CARES Act Provides Additional Relief to Consumer Debtors in Bankruptcy

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The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") was enacted on March 27, 2020.

The CARES Act provides relief for the widespread economic hardship caused by the coronavirus ("COVID-19"). Along with several changes to Chapter 11 reorganizations of small business debtors, the CARES Act also provides short-term relief to individual debtors under Chapter 7 and Chapter 13 of the Bankruptcy Code. The changes are temporary and, if not extended, will expire on March 27, 2021.

The CARES Act will provide many Americans with a one-time payment as an economic stimulus. In Chapter 7 filings, these stimulus payments will be excluded in calculating current monthly income when determining a debtor's eligibility. Similarly, in Chapter 13 filings, the stimulus payments will be excluded when determining a debtor's disposable income. The practical effect of these provisions is to prevent the stimulus payments from affecting a debtor's eligibility to file under either chapter.

The CARES Act also provides relief to Chapter 13 debtors operating under a confirmed plan (as of March 27, 2020). Under the revised Bankruptcy Code provision, the debtor may extend their plan for up to seven years from when the first payment was due under the confirmed plan. But to qualify for this extension, there must be some "material financial hardship" suffered as a direct or indirect result of COVID-19. It remains unclear what courts will consider a "material financial hardship" when granting modifications. But given the extraordinary circumstances caused by COVID-19 to most Americans and the soaring unemployment rates caused by stay-at-home orders, most debtors likely will meet the standard in the court's eyes.

We will continue to monitor the effects of the CARES Act on consumer bankruptcies, and will be ready to advise you on this and other COVID-19 related issues as they develop. Additional information about how the CARES Act effects Chapter 11 Reorganizations can be found [here](#).

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