

Changes to Bankruptcy Law Affect Farmers and Small Businesses

Moss & Barnett Advocate (Summer 2020 edition)
03.31.2020

The Family Farmer Relief Act of 2019 revises the definition of “family farmer” to include farmers whose aggregate debts do not exceed \$10,000,000 — double the previous debt limit.

The Small Business Reorganization Act of 2019 (“SBRA”), effective February 19, 2020, simplifies the reorganization process for certain small businesses. Procedures and fees required in Chapter 11 bankruptcies, including the appointment of committees of unsecured creditors, the filing of a disclosure statement in connection with a debtor’s proposal of a plan of reorganization, and the payment of U.S. Trustee quarterly fees, are eliminated under the newly created subchapter of Chapter 11 of the Bankruptcy Code. The objective of these changes is to lower the costs of bankruptcy for small businesses and increase the efficiency of the bankruptcy process.

Under the SBRA, a small business debtor is required to file its plan of reorganization within 90 days of the date it files its bankruptcy petition. The new law also changes the substantive requirements of a plan with respect to treatment of secured creditors and all classes of creditors’ roles in supporting a plan of reorganization.

Notably, the SBRA also raises the bar for Chapter 11 trustees seeking to bring preference-payment recovery actions against creditors. Specifically, the SBRA requires claims of less than \$25,000 to be filed in the district where the defendant resides and requires the trustee to conduct due diligence into a would-be defendant’s likely affirmative defenses to a preference claim.

Attorneys

Sarah E. Doerr

Practice Areas

Business Law

Closely Held Businesses

Financial Services