

CARES Act Bankruptcy Code Revisions Chart

This chart provides an overview of the bankruptcy provisions contained in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).

Overview

On March 27, 2020, the President signed the CARES Act into law. The CARES Act is a stimulus package designed to address the impact of the novel coronavirus (COVID-19) on, among others, individuals, businesses, and hospitals. As part of this design, the CARES Act revises several sections of the Bankruptcy Code to afford relief to small business debtors and individuals that are coping with the COVID-19 pandemic and its financial impact. These changes are effective immediately. This chart shows the Bankruptcy Code changes contained in the CARES Act. For more information on small business bankruptcies, see Chapter 11 Small Business Debtor. For an article on these changes, see CARES Act's Effect on Bankruptcy.

Original	CARES Act Changes	Comments
<p>Section 1182(1). The term debtor means a small business debtor. 11 U.S.C. § 1182(1).</p> <p>Section 101(51D). The term “small business debtor”— (A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning single asset real estate) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the filing of the petition or the date of the order for relief in an amount not more than \$2,725,625 (excluding debts owed to 1 or more affiliates or insiders) not less than 50 percent of which arose from the commercial or business activities of the debtor; and (B) does not include— (i) any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than \$2,725,625 (excluding debt owed to 1 or more affiliates or insiders); (ii) any debtor that is a corporation subject to the reporting requirements under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)); or (iii) any corporation that— (I) is subject to the reporting requirements under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)); and (II) is an affiliate of a debtor.</p> <p>11 U.S.C. § 101(51D).</p>	<p>Section 1182(1). The term “debtor” — <u>(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning single asset real estate) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the filing of the petition or the date of the order for relief in an amount not more than \$7,500,000 (excluding debts owed to 1 or more affiliates or insiders) not less than 50 percent of which arose from the commercial or business activities of the debtor; and (B) does not include—(i) any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than \$7,500,000 (excluding debt owed to 1 or more affiliates or insiders); (ii) any debtor that is a corporation subject to the reporting requirements under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78(d)); or (iii) any debtor that is an affiliate of an issuer, as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).</u></p> <p>11 U.S.C. § 1182(1).</p>	<p>Under the CARES Act, debtor with aggregate debts up to \$7,500,000 can qualify as a small business debtor – up from \$2,725,625.</p> <p>Section 1182 is revised to incorporate Section 101(51D)'s definition of small business debtor for debtors except that the \$2,725,625 is increased to \$7,500,000. For convenience, the redline changes show the Section 1182 revisions and the Section 101(51D) revisions (even though Section 101(51D) is not in the Pre-CARES Act Section 1182).</p> <p>This amendment expires one year after its enactment. At that point, the definition of debtor contained in Section 1182 will revert back to the pre-CARES Act definition; i.e., Section 1182 will again provide that the term debtor means a small business debtor.</p>

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<p>Section 101(51D). The term “small business debtor”— (A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning single asset real estate) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the filing of the petition or the date of the order for relief in an amount not more than \$2,725,625 (excluding debts owed to 1 or more affiliates or insiders) not less than 50 percent of which arose from the commercial or business activities of the debtor; and (B) does not include— (i) any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than \$2,725,625 (excluding debt owed to 1 or more affiliates or insiders); (ii) any debtor that is a corporation subject to the reporting requirements under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)); or (iii) any corporation that— (I) is subject to the reporting requirements under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)); and (II) is an affiliate of a debtor.</p> <p>11 U.S.C. § 101(51D).</p>	<p>Section 101(51D). The term “small business debtor”— (A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning single asset real estate) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the filing of the petition or the date of the order for relief in an amount not more than \$2,725,625 (excluding debts owed to 1 or more affiliates or insiders) not less than 50 percent of which arose from the commercial or business activities of the debtor; and (B) does not include— (i) any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than \$2,725,625 (excluding debt owed to 1 or more affiliates or insiders); (ii) any debtor that is a corporation subject to the reporting requirements under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)); or <u>(iii) any debtor that — is an affiliate of an issuer (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)).</u></p> <p>11 U.S.C. § 101(51D).</p>	<p>This is a technical correction.</p>
<p>Section 103(i). Subchapter V of chapter 11 of this title applies only in a case under chapter 11 in which a small business debtor elects that subchapter V of chapter 11 shall apply.</p> <p>11 U.S.C. § 103(i).</p>	<p>Section 103(i). Subchapter V of chapter 11 of this title applies only in a case under chapter 11 in which <u>a debtor (as defined in section 1182)</u> elects that subchapter V of chapter 11 shall apply.</p> <p>11 U.S.C. § 103(i).</p>	<p>Consistent with the change above, Section 103(i) is revised to provide that Subchapter V of Chapter 11 only applies to a debtor as defined in Section 1182 (as opposed to using the definition of small business debtor under Section 101(51D)).</p> <p>This amendment does not expire. As opposed to providing that Subchapter V will apply to small business debtors (and then getting the definition from Section 101(51D)), Section 103(i) will now provide that Subchapter V applies to debtors as defined in Section 1182. During the CARES Act period, the definition is contained in Section 1182. After the CARES Act period, Section 1182 will again use the definition</p>

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<p>Section 101(10A). The term “current monthly income”— (B)(ii) excludes— (I) benefits received under the Social Security Act (42 U.S.C. 301 et seq.); (II) payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes; (III) payments to victims of international terrorism or domestic terrorism, as those terms are defined in section 2331 of title 18 [18 USCS § 2331], on account of their status as victims of such terrorism; and (IV) any monthly compensation, pension, pay, annuity, or allowance paid under title 10, 37, or 38 in connection with a disability, combat-related injury or disability, or death of a member of the uniformed services, except that any retired pay excluded under this subclause shall include retired pay paid under chapter 61 of title 10 [10 USCS §§ 1201 et seq.] only to the extent that such retired pay exceeds the amount of retired pay to which the debtor would otherwise be entitled if retired under any provision of title 10 other than chapter 61 of that title.</p> <p>11 U.S.C. § 101(10)(A).</p>	<p>Section 101(10A). The term “current monthly income”— (B)(ii) excludes— (I) benefits received under the Social Security Act (42 U.S.C. 301 et seq.); (II) payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes; (III) payments to victims of international terrorism or domestic terrorism, as those terms are defined in section 2331 of title 18 [18 USCS § 2331], on account of their status as victims of such terrorism; (IV) any monthly compensation, pension, pay, annuity, or allowance paid under title 10, 37, or 38 in connection with a disability, combat-related injury or disability, or death of a member of the uniformed services, except that any retired pay excluded under this subclause shall include retired pay paid under chapter 61 of title 10 [10 USCS §§ 1201 et seq.] only to the extent that such retired pay exceeds the amount of retired pay to which the debtor would otherwise be entitled if retired under any provision of title 10 other than chapter 61 of that title; <u>and</u></p> <p><u>(V) Payments made under Federal law relating to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the coronavirus disease 2019 (COVID-19).</u></p> <p>11 U.S.C. § 101(10)(A).</p>	<p>specified in Section 101(51D).</p> <p>The CARES Act provides relief for Chapter 7 and 13 debtors by removing the federal government’s COVID-19 related payments from the current monthly income calculation.</p> <p>This amendment applies to all cases filed on, before, or after the enactment of the CARES Act and lasts for one year.</p>
<p>Section 1325(b)(2). For purposes of this subsection, the term “disposable income” means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—</p> <p>11 U.S.C. § 1325(b)(2)</p>	<p>Section 1325(b)(2). For purposes of this subsection, the term “disposable income” means current monthly income received by the debtor (other than <u>payments made under Federal law relating to the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the coronavirus disease 2019 (COVID-19)</u>, child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—</p>	<p>Thus, the CARES Act provides relief for Chapter 13 debtors by removing the federal government’s COVID-19 related payments from the disposable income calculation. This is consistent with the revised definition of current monthly income under Section 101(10A) of the Bankruptcy Code.</p> <p>This amendment applies to all cases filed on, before, or after the enactment of the CARES Act and lasts for one year.</p>

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	11 U.S.C. § 1325(b)(2)	
<p>Section 1329.</p> <p>(a) At any time after confirmation of the plan but before the completion of payments under such plan, the plan may be modified, upon request of the debtor, the trustee, or the holder of an allowed unsecured claim, to—</p> <p>(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;</p> <p>(2) extend or reduce the time for such payments;</p> <p>(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim other than under the plan; or</p> <p>(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—</p> <p>(A) such expenses are reasonable and necessary;</p> <p>(B)</p> <p>(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy; or</p> <p>(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance, who has similar income, expenses, age, and health status, and who lives in the same geographical location with the same number of dependents who do not otherwise have health insurance coverage; and</p> <p>(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title;</p> <p>and upon request of any party in interest, files proof that a health insurance policy was purchased.</p> <p>(b)</p> <p>(1) Sections 1322(a), 1322(b), and 1323(c) of this title and the requirements of section 1325(a) of this title apply to any modification under subsection (a) of this section.</p>	<p>Section 1329.</p> <p>(a) At any time after confirmation of the plan but before the completion of payments under such plan, the plan may be modified, upon request of the debtor, the trustee, or the holder of an allowed unsecured claim, to—</p> <p>(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;</p> <p>(2) extend or reduce the time for such payments;</p> <p>(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim other than under the plan; or</p> <p>(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—</p> <p>(A) such expenses are reasonable and necessary;</p> <p>(B)</p> <p>(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy; or</p> <p>(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance, who has similar income, expenses, age, and health status, and who lives in the same geographical location with the same number of dependents who do not otherwise have health insurance coverage; and</p> <p>(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title;</p> <p>and upon request of any party in interest, files proof that a health insurance policy was purchased.</p> <p>(b)</p> <p>(1) Sections 1322(a), 1322(b), and 1323(c) of this title and the requirements of section 1325(a) of this title apply to any modification under subsection (a) of this section.</p> <p>(2) The plan as modified becomes the plan unless, after notice and a hearing,</p>	<p>The CARES Act adds subsection (d) to allow Chapter 13 debtors to modify a confirmed plan if the debtor experienced material financial hardship due to COVID-19. The CARES Act further provides that the modification can include extending the repayment period for up to 7 years after the first payment under the original confirmed plan was due.</p> <p>This amendment applies to parties that confirmed their Chapter 13 plan prior to the enactment of the CARES Act and lasts for one year.</p>

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<p>(2) The plan as modified becomes the plan unless, after notice and a hearing, such modification is disapproved. (c) A plan modified under this section may not provide for payments over a period that expires after the applicable commitment period under section 1325(b)(1)(B) after the time that the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after five years after such time.</p> <p>11 U.S.C. § 1329</p>	<p>such modification is disapproved. (c) A plan modified under this section may not provide for payments over a period that expires after the applicable commitment period under section 1325(b)(1)(B) after the time that the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after five years after such time.</p> <p><u>(d)(1) Subject to paragraph (3), for a plan confirmed prior to the date of enactment of this subsection, the plan may be modified upon the request of the debtor if—(A) the debtor is experiencing or has experienced a material financial hardship due, directly or indirectly, to the coronavirus disease 2019 (COVID–19) pandemic; and (B) the modification is approved after notice and a hearing.</u> <u>(2) A plan modified under paragraph (1) may not provide for payments over a period that expires more than 7 years after the time that the first payment under the original confirmed plan was due.</u> <u>(3) Sections 1322(a), 1322(b), 1323(c), and the requirements of section 1325(a) shall apply to any modification under paragraph (1).</u></p> <p>11 U.S.C. § 1329</p>	
<p>Section 347(b). Any security, money, or other property remaining unclaimed at the expiration of the time allowed in a case under chapter 9, 11, or 12 of this title for the presentation of a security or the performance of any other act as a condition to participation in the distribution under any plan confirmed under section 943(b), 1129, 1173, 1194, or 1225 of this title, as the case may be, becomes the property of the debtor or of the entity acquiring the assets of the debtor under the plan, as the case may be.</p> <p>11 U.S.C. § 347(b)</p>	<p>Section 347(b). Any security, money, or other property remaining unclaimed at the expiration of the time allowed in a case under chapter 9, 11, or 12 of this title for the presentation of a security or the performance of any other act as a condition to participation in the distribution under any plan confirmed under section 943(b), 1129, 1173, <u>1191</u>, or 1225 of this title, as the case may be, becomes the property of the debtor or of the entity acquiring the assets of the debtor under the plan, as the case may be.</p> <p>11 U.S.C. § 347(b)</p>	<p>This is a technical correction.</p>