

APPENDIX SIX

Small Business Reorganization Act of 2019

Title 11. Chapter 11. Subchapter V

11 U.S. Code § 1181. Inapplicability of other sections

(a) IN GENERAL.—

Sections 105(d), 1101(1), 1104, 1105, 1106, 1107, 1108, 1115, 1116, 1121, 1123(a)(8), 1123(c), 1127, 1129(a)(15), 1129(b), 1129(c), 1129(e), and 1141(d)(5) of this title do not apply in a case under this subchapter.

(b) COURT AUTHORITY.—

Unless the court for [cause](#) orders otherwise, paragraphs (1), (2), and (4) of section 1102(a) and sections 1102(b), 1103, and 1125 of this title do not apply in a case under this subchapter.

(c) SPECIAL RULE FOR DISCHARGE.—

If a plan is confirmed under [section 1191\(b\) of this title](#), [section 1141\(d\) of this title](#) shall not apply, except as provided in [section 1192 of this title](#).

(Added [Pub. L. 116–54, § 2\(a\)](#), Aug. 23, 2019, 133 Stat. 1079.)

§ 1182. Definitions

In this subchapter:

(1) DEBTOR.—

The term “[debtor](#)” means a small business [debtor](#).¹

(2) DEBTOR IN POSSESSION.—

The term “[debtor in possession](#)” means the [debtor](#), unless removed as [debtor in possession](#) under [section 1185\(a\) of this title](#).

¹ 11 USC Sec 101(51D)

- Individual or entity
- Engaged in business
- Exclude single asset real estate company
- Dollar amount \$2,275,625 eff. 4/1/19
- Majority of such debt resulting from business activities

§ 1183.Trustee

(a) IN GENERAL.—

If the [United States trustee](#) has appointed an individual under [section 586\(b\) of title 28](#) to serve as standing [trustee](#) in cases under this subchapter, and if such individual qualifies as a [trustee](#) under [section 322 of this title](#), then that individual shall serve as [trustee](#) in any case under this subchapter. Otherwise, the United States [trustee](#) shall appoint one [disinterested person](#) to serve as [trustee](#) in the case or the United States [trustee](#) may serve as [trustee](#) in the case, as necessary.

(b) DUTIES.—The [trustee](#) shall—

(1) perform the duties specified in paragraphs (2), (5), (6), (7), and (9) of [section 704\(a\) of this title](#);²

(2) perform the duties specified in paragraphs (3), (4), and (7) of [section 1106\(a\) of this title](#), if the court, for [cause](#) and on request of a party in interest, the [trustee](#), or the United States [trustee](#), so orders;

(3) appear and be heard at the status conference under [section 1188 of this title](#) and any hearing that concerns)

(A) the value of property subject to a [lien](#);

(B) confirmation of a plan filed under this subchapter;

(C) modification of the plan after confirmation; or

(D) the sale of property of the estate;

² 11 USC Sec 704(a) as applicable. “The {chapter7} trustee shall....

... (2) be accountable for all property received;

(5) if a purpose would be served, examine proofs of [claims](#) and object to the allowance of any [claim](#) that is improper;

(6) if advisable, oppose the discharge of the [debtor](#);

(7) unless the court orders otherwise, furnish such information concerning the estate and the estate’s administration as is requested by a party in interest; ...

...(9) make a final report and file a final account of the administration of the estate with the court and with the [United States trustee](#);

- (4) ensure that the [debtor](#) commences making timely payments required by a plan confirmed under this subchapter;
- (5) if the [debtor](#) ceases to be a [debtor in possession](#), perform the duties specified in section 704(a)(8) and paragraphs (1), (2), and (6) of [section 1106\(a\) of this title, including](#) operating the business of the [debtor](#);
- (6) if there is a [claim](#) for a [domestic support obligation](#) with respect to the [debtor](#), perform the duties specified in [section 704\(c\) of this title](#); and
- (7) facilitate the development of a consensual plan of reorganization.

(c) TERMINATION OF TRUSTEE SERVICE.—

(1) IN GENERAL.—

If the plan of the [debtor](#) is confirmed under [section 1191\(a\) of this title](#), the service of the [trustee](#) in the case shall terminate when the plan has been substantially consummated, except that the United States [trustee](#) may reappoint a [trustee](#) as needed for performance of duties under subsection (b)(3)(C) of this section and [section 1185\(a\) of this title](#).

(2) SERVICE OF NOTICE OF SUBSTANTIAL CONSUMMATION.—

Not later than 14 days after the plan of the [debtor](#) is substantially consummated, the [debtor](#) shall file with the court and serve on the [trustee](#), the United States [trustee](#), and all parties in interest notice of such [substantial consummation](#).³

Sec 1184. Powers of Debtor in Possession

Subject to such limitations or conditions as the court may prescribe, a [debtor in possession](#) shall have all the rights, other than the right to compensation under [section 330 of this title](#), and powers, and shall perform all functions and duties, except the duties specified in paragraphs (2), (3), and (4) of [section 1106\(a\) of this title](#), of a [trustee](#) serving in a case under this chapter, [including](#) operating the business of the [debtor](#).

(Added Pub. L. 116–54, § 2(a), Aug. 23, 2019, 133 Stat. 1080.)

Sec 1185. Removal of Debtor in Possession

(a) IN GENERAL.—

On request of a party in interest, and after notice and a hearing, the court shall order that the [debtor](#) shall not be a [debtor in possession](#) for cause, [including](#) fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the [debtor](#), either before or after the date of commencement of the case, or for failure to perform the obligations of the [debtor](#) under a plan confirmed under this subchapter.

(b) REINSTATEMENT.—

³ Sec 1101 defines substantial consummation.

On request of a party in interest, and after notice and a hearing, the court may reinstate the [debtor in possession](#).

(Added [Pub. L. 116–54, § 2\(a\)](#), Aug. 23, 2019, [133 Stat. 1080](#).)

Sec 1186. Property of the Estate

(a) INCLUSIONS.—

If a plan is confirmed under [section 1191\(b\) of this title](#), property of the estate [includes](#), in addition to the property specified in [section 541 of this title](#)—

(1) all property of the kind specified in that section that the [debtor](#) acquires after the date of commencement of the case but before the case is closed, dismissed, or converted to a case under chapter [7](#), [12](#), or [13](#) of this title, whichever occurs first; and

(2) earnings from services performed by the [debtor](#) after the date of commencement of the case but before the case is closed, dismissed, or converted to a case under chapter [7](#), [12](#), or [13](#) of this title, whichever occurs first.

(b) DEBTOR REMAINING IN POSSESSION.—

Except as provided in [section 1185 of this title](#), a plan confirmed under this subchapter, or an order confirming a plan under this subchapter, the [debtor](#) shall remain in possession of all property of the estate.

(Added [Pub. L. 116–54, § 2\(a\)](#), Aug. 23, 2019, [133 Stat. 1081](#).)

Sec 1187. Duties and Reporting Requirements of Debtor

(a) FILING REQUIREMENTS.—

Upon electing to be a [debtor](#) under this subchapter, the [debtor](#) shall file the documents required by subparagraphs (A) and (B) of [section 1116\(1\) of this title](#).⁴

(b) OTHER APPLICABLE PROVISIONS.—

A [debtor](#), in addition to the duties provided in this title and as otherwise required by law, shall comply with the requirements of section 308 and paragraphs (2), (3), (4), (5), (6), and (7) of [section 1116 of this title](#).

(c) SEPARATE DISCLOSURE STATEMENT EXEMPTION.—

⁴ See Appendix One

If the court orders under [section 1181\(b\) of this title](#) that [section 1125 of this title](#) applies, [section 1125\(f\) of this title](#) shall apply.

Sec. 1188. Status Conference

(a) IN GENERAL.—

Except as provided in subsection (b), not later than 60 days after the entry of the [order for relief](#) under this chapter, the court shall hold a status conference to further the expeditious and economical resolution of a case under this subchapter.

(b) EXCEPTION.—

The court may extend the period of time for holding a status conference under subsection (a) if the need for an extension is attributable to circumstances for which the [debtor](#) should not justly be held accountable.

(c) REPORT.—

Not later than 14 days before the date of the status conference under subsection (a), the [debtor](#) shall file with the court and serve on the [trustee](#) and all parties in interest a report that details the efforts the [debtor](#) has undertaken and will undertake to attain a consensual plan of reorganization. (Added [Pub. L. 116–54, § 2\(a\)](#), Aug. 23, 2019, [133 Stat. 1081](#).)

Sec 1189. Filing of the Plan

(a) WHO MAY FILE A PLAN.—

Only the [debtor](#) may file a plan under this subchapter.

(b) DEADLINE.—

The [debtor](#) shall file a plan not later than 90 days after the [order for relief](#) under this chapter, except that the court may extend the period if the need for the extension is attributable to circumstances for which the [debtor](#) should not justly be held accountable.

Sec 1190. Contents of Plan

A plan filed under this subchapter—

(1) shall include—

(A) a brief history of the business operations of the [debtor](#);

(B) a liquidation analysis; and

(C) projections with respect to the ability of the debtor to make payments under the proposed plan of reorganization;

(2) shall provide for the submission of all or such portion of the future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan; and

(3) notwithstanding section 1123(b)(5) of this title, may modify the rights of the holder of a claim secured only by a security interest in real property that is the principal residence of the debtor if the new value received in connection with the granting of the security interest was—

(A) not used primarily to acquire the real property; and

(B) used primarily in connection with the small business of the debtor.

(Added Pub. L. 116–54, § 2(a), Aug. 23, 2019, 133 Stat. 1082.)

Sec. 1191. Confirmation of Plan

(a) TERMS.—

The court shall confirm a plan under this subchapter only if all of the requirements of section 1129(a), other than paragraph (15) of that section, of this title [1] are met.⁵

(B) EXCEPTION.—

Notwithstanding section 510(a) of this title, if all of the applicable requirements of section 1129(a) of this title, other than paragraphs (8), (10), and (15) of that section, are met with respect to a plan, the court, on request of the debtor, shall confirm the plan notwithstanding the requirements of such paragraphs if the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan.

(c) RULE OF CONSTRUCTION.—

For purposes of this section, the condition that a plan be fair and equitable with respect to each class of claims or interests includes the following requirements:

(1) With respect to a class of secured claims, the plan meets the requirements of section 1129(b)(2)(A) of this title.

(2) As of the effective date of the plan—

(A) the plan provides that all of the projected disposable income of the debtor to be received in the 3-year period, or such longer period not to exceed 5 years as the

⁵ See Appendix Two

court may fix, beginning on the date that the first payment is due under the plan will be applied to make payments under the plan; or

(B) the value of the property to be distributed under the plan in the 3-year period, or such longer period not to exceed 5 years as the court may fix, beginning on the date on which the first distribution is due under the plan is not less than the projected [disposable income](#) of the [debtor](#).

(3) (A) (i) The [debtor](#) will be able to make all payments under the plan; or

(ii) there is a reasonable likelihood that the [debtor](#) will be able to make all payments under the plan; and

(C) the plan provides appropriate remedies, which may include the liquidation of non-exempt assets, to protect the holders of [claims](#) or interests in the event that the payments are not made.

(d) **DISPOSABLE INCOME.**—For purposes of this section, the term “[disposable income](#)” means the income that is received by the [debtor](#) and that is not reasonably necessary to be expended—
(1) for—

(A) the maintenance or support of the [debtor](#) or a dependent of the [debtor](#); or

(B) a [domestic support obligation](#) that first becomes payable after the date of the filing of the [petition](#); or

(2) for the payment of expenditures necessary for the continuation, preservation, or operation of the business of the [debtor](#).

(e) **SPECIAL RULE.**—

Notwithstanding [section 1129\(a\)\(9\)\(A\) of this title](#), a plan that provides for the payment through the plan of a [claim](#) of a kind specified in paragraph (2) or (3) of [section 507\(a\) of this title](#) may be confirmed under subsection (b) of this section.

(Added [Pub. L. 116–54, § 2\(a\)](#), Aug. 23, 2019, [133 Stat. 1082](#).)

§ 1192. Discharge

If the plan of the [debtor](#) is confirmed under [section 1191\(b\) of this title](#), as soon as practicable after completion by the [debtor](#) of all payments due within the first 3 years of the plan, or such longer period not to exceed 5 years as the court may fix, unless the court approves a written waiver of discharge executed by the [debtor](#) after the [order for relief](#) under this chapter, the court shall grant the [debtor](#) a discharge of all [debts](#) provided in [section 1141\(d\)\(1\)\(A\) of this title](#), and all other [debts](#) allowed under [section 503 of this title](#) and provided for in the plan, except any [debt](#)—

(1) on which the last payment is due after the first 3 years of the plan, or such other time not to exceed 5 years fixed by the court; or

(2) of the kind specified in [section 523\(a\) of this title](#).

Sec1193. Modification

(a) MODIFICATION BEFORE CONFIRMATION.—

The [debtor](#) may modify a plan at any time before confirmation, but may not modify the plan so that the plan as modified fails to meet the requirements of sections [1122](#) and [1123](#) of this title, with the exception of subsection (a)(8) of such section 1123. After the modification is filed with the court, the plan as modified becomes the plan.

(b) MODIFICATION AFTER CONFIRMATION.—

If a plan has been confirmed under [section 1191\(a\) of this title](#), the [debtor](#) may modify the plan at any time after confirmation of the plan and before [substantial consummation](#) of the plan, but may not modify the plan so that the plan as modified fails to meet the requirements of sections 1122 and 1123 of this title, with the exception of subsection (a)(8) of such section 1123. The plan, as modified under this subsection, becomes the plan only if circumstances warrant the modification and the court, after notice and a hearing, confirms the plan as modified under [section 1191\(a\) of this title](#).

(c) CERTAIN OTHER MODIFICATIONS.—

If a plan has been confirmed under [section 1191\(b\) of this title](#), the [debtor](#) may modify the plan at any time within 3 years, or such longer time not to exceed 5 years, as fixed by the court, but may not modify the plan so that the plan as modified fails to meet the requirements of [section 1191\(b\) of this title](#). The plan as modified under this subsection becomes the plan only if circumstances warrant such modification and the court, after notice and a hearing, confirms such plan, as modified, under [section 1191\(b\) of this title](#).

(d) HOLDERS OF A CLAIM OR INTEREST.—

If a plan has been confirmed under [section 1191\(a\) of this title](#), any holder of a [claim](#) or interest that has accepted or rejected the plan is deemed to have accepted or rejected, as the case may be, the plan as modified, unless, within the time fixed by the court, such holder changes the previous acceptance or rejection of the holder.

(Added [Pub. L. 116–54, § 2\(a\)](#), Aug. 23, 2019, [133 Stat. 1083](#).)

Sec 1194. Payments

(a) **RETENTION AND DISTRIBUTION BY TRUSTEE.**—Payments and funds received by the [trustee](#) shall be retained by the [trustee](#) until confirmation or denial of confirmation of a plan. If a plan is confirmed, the [trustee](#) shall distribute any such payment in accordance with the plan. If a plan is not confirmed, the [trustee](#) shall [return](#) any such payments to the [debtor](#) after deducting—

- (1) any unpaid [claim](#) allowed under [section 503\(b\) of this title](#);

(2) any payment made for the purpose of providing adequate protection of an interest in property due to the holder of a secured [claim](#); and

(3) any fee owing to the [trustee](#).

(b) OTHER PLANS.—

If a plan is confirmed under [section 1191\(b\) of this title](#), except as otherwise provided in the plan or in the order confirming the plan, the [trustee](#) shall make payments to [creditors](#) under the plan.

(c) PAYMENTS PRIOR TO CONFIRMATION.—

Prior to confirmation of a plan, the court, after notice and a hearing, may authorize the [trustee](#) to make payments to the holder of a secured [claim](#) for the purpose of providing adequate protection of an interest in property.

Sec 1195. Transactions with Professionals

Notwithstanding [section 327\(a\) of this title](#), a person is not disqualified for employment under [section 327 of this title](#), by a [debtor](#) solely because that person holds a [claim](#) of less than \$10,000 that arose prior to commencement of the case.