

Small Business Reorganization Act
Subchapter V of Title 11

- Effective February 19, 2020
- Eligibility—a person (§101(41)) engaged in commercial or business activity with aggregate or non-contingent liquidated secured and unsecured debts of not more than \$2,725,625. (§101(51D))
- A trustee is appointed in every SBRA case. (§1183)
- Trustee’s duties are covered under §1183(b).
- A SBRA Standing Order will be entered in each case. (Local procedure)
- Operating Order will include an initial meeting with the Bankruptcy Administrator. (Local procedure)
- Claims deadline 60 days after order for relief. (Local procedure)
- Court will hold a status hearing approximately 45 days after filing and debtor must file a status report not later than 14 days prior to the status hearing. (§1188)
- Debtor will file a Monthly Operating Report (Form 425C) (§1187(b))
- Plan must be filed 90 days after order for relief, but court can extend the deadline upon a showing by the debtor of circumstances for which the debtor should not be justly held accountable. (§1189)
- Plan must comply with all provisions of §1129(a) except (15) for confirmation as a consensual plan. (§1191(a))
- Plan may be confirmed as a non-consensual plan if §1129(a) other than (8),(10) and (15) is met as long as 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.(§1191(b))

- The trustee serves until a plan confirmed under §1191(a) is substantially consummated, or until all payments are made under the plan if the plan is confirmed under §1191(b). (§1183(c) & §1192)
- Discharge—If the plan is confirmed under §1191(a), §1141(d) applies. If the plan is confirmed under §1191(b), the discharge is not entered until the debtor/trustee complete payments under the plan. (§1181(c) & §1192)
- Trustee will hold payments until confirmation or denial of confirmation. If the plan is confirmed, the trustee will distribute payments pursuant to the plan. If the plan is not confirmed, the trustee will return payments to the debtor after deducting payments for unpaid and allowed administrative expenses, adequate protection payments to a secured creditor, and trustee's fee. (§1194)
- Not applicable in SBRA—quarterly fees, Creditors Committee, Disclosure Statements, and Absolute Priority Rule (§1181(a), (b)). Also not required is Official Form 122B for Individuals (Chapter 11 Statement of Current Monthly Income).
- Trustees will be compensated pursuant to 11 U.S.C. §330 on a reasonable hourly rate. (Conforming amendments to SBRA)
- Debtor serves as debtor-in-possession unless and until removal for cause, including dishonesty, incompetence, or gross mismanagement of the affairs of the debtor. (§1185)
- In addition to the duties under §704(a)(2),(5),(6),(7),(9) and §1106(a)(3),(4),(7), the trustee appears at the status conference under §1188 and other hearings; ensures that debtor commences timely payments under the plan; performs duties under §704(a)(8) and §1106(a)(1),(2),(6) if the debtor is removed as debtor in possession; performs duties under §704(c) relating to domestic support obligations, and facilitates the development of a consensual plan of reorganization. (§1183(b))
- Debtor's duties include compliance with §308 and §1116(1), (2), (3), (4), (5), (6) and (7). (§1187)
- Property of the estate includes property under §541, as well as property acquired post-petition and earnings from services performed by the debtor after commencement of the case. (§1186).
- A plan shall include: a) a brief history of the business operations of the debtor; b) a liquidation analysis; c) projections with respect to the ability of the debtor to make

payments under the proposed plan of reorganization; d) provide for the submission of all or such portion of future earnings or future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan; e) may modify rights of holders of claims secured only by a security interest in the debtor's principal residence if the new value received was used in the business and not to acquire the home. (§1190).

- Only debtor may file or modify a plan. (§1189 & §1193)
- A professional is not disqualified for employment under §327 solely because that person holds a pre-petition claim against the debtor of less than \$10,000. (§1195)
- Revised Forms are available on uscourts.gov or from your bankruptcy software provider.