

Farmers, Vets, Small Businesses, Oh My!

Bankruptcy Reforms Open Up Access

By Katherine Rea and Adam Floyd

One of the first major pieces of bankruptcy reform in well over 10 years will provide much-needed bankruptcy relief to debtors and businesses that many suspect have been deprived of access to bankruptcy protection. The federal legislation comes in three pieces: the Family Farmers Relief Act (“FFRA”), the Honoring Americans in Extreme Need (“HAVEN”) Act, and the Small Business Reorganization Act (“SBRA”). The SBRA will take effect February 19, 2020, and the other pieces of the code change were implemented when President Donald Trump signed the law in August 2019.

Types of bankruptcy relief

Before discussing the amendments, it is useful to have a little bit of background on the types of

bankruptcy relief. Generally, there are two types of bankruptcies: liquidation and reorganization. In both types, an “estate” is created on the day the petition is filed.¹ For reorganization bankruptcies, the estate is usually augmented by assets acquired after the case is filed²; for liquidation bankruptcies,

the estate is mostly set as of the date of the petition.³ The status of a debt – that is, secured, unsecured, perfected, priority – is also generally set as of the date the case is filed.⁴ The debtor then can protect some of her assets through state and/or federal law exemptions.⁵

If the debtor is in a liquidation

Table 1: Bankruptcy Filings in Perspective in South Carolina

Source: U.S. Bankruptcy Courts – Bankruptcy Cases Filed, Terminated, and Pending, December 31, 2014 – 18, available at www.uscourts.gov/statistics-reports/caseload-statistics-data-tables, last accessed November 19, 2019.

Year	Total Nationwide Filings	Total South Carolina Filings	Chapter 7	Chapter 11	Chapter 12	Chapter 13
2018	773,418	6,598	2,597	27	3	3,971
2017	789,020	6,554	2,587	29	5	3,933
2016	794,960	6,617	2,658	32	3	3,923
2015	844,495	6,953	2,777	25	4	4,146
2014	936,795	7,386	3,029	35	4	4,317

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Chapter 7 bankruptcy, an appointed trustee liquidates unprotected, lien-free assets and distributes to creditors in an order of priority.⁶ Secured debts survive the bankruptcy and are generally unaffected; unsecured debts receive distributions if there are any assets to distribute (there frequently are not), and then these debts are discharged.⁷ There are very few limitations on what types of legal entities can file for Chapter 7 liquidation.⁸ For individuals, however, there are income caps.⁹ Although a Chapter 7 of a legal entity may last for years, for most consumers, a Chapter 7 bankruptcy only lasts a few months before the debtor receives the much-coveted discharge.

If an individual cannot file for Chapter 7 bankruptcy, that individual generally must file a Chapter 13 bankruptcy.¹⁰ In exchange for the discharge, Chapter 13 bankruptcy requires a debtor to propose a bankruptcy plan; a court to approve the plan; and the debtor to then successfully complete payments under the plan.¹¹ The plan must treat all secured debts and pay some percentage, determined by debtor's assets and income, to unsecured creditors.¹² Most secured debts, with the notable exception of home mortgages, can be modified, and delinquent mortgages can be caught back up.¹³ Debtors generally do not need creditor consent to modify debts, provided the modification is consistent with Bankruptcy Code provisions. While in the plan, the debtor makes payments to a Chapter 13 trustee, who monitors the debtor's progress, collects funds, and makes distributions to creditors.¹⁴ The primary limitation on individuals filing Chapter 13 is the size of the debts: they must be under \$1.6 million.¹⁵

The other two types of reorganization bankruptcy relevant here are Chapters 11 and 12. Chapter 12 is limited to "a family farmer or family fisherman" that can be a legal entity or a person, and amount of debt the debtor has.¹⁶ Like Chapter 13, a Chapter 12 bankruptcy plan does not need creditor consent provided it follows

the provisions of the Bankruptcy Code. Also similar to Chapter 13, the debtor makes payments to an appointed trustee who monitors the debtor's progress and makes distributions to creditors.¹⁷ Unlike Chapter 13, Chapter 12 debtors are not required to stay in the plan for any particular length of time or pay any particular amount to unsecured creditors.

Chapter 11 is the most complicated of the reorganization chapters, although in theory it is similar to Chapters 12 and 13 in that the debtor proposes a plan,¹⁸ pays creditors (there generally is not a trustee)¹⁹, and receives a discharge.²⁰ However, Chapter 11 has quite a few hurdles that, unlike the fairly straightforward process of a Chapter 7, 12, or 13, make the process a lot longer, significantly more expensive, and more difficult. For example, a debtor must pay quarterly fees to the United States Trustee (the "UST"), a governmental oversight organization; there must be enough cash on hand when the plan is confirmed to pay certain types of debts;²¹ there must be some creditor consent to the plan;²² and generally a debtor must give up any property or equity ownership in any assets.²³

Bankruptcy reform over the past 20 years has focused on what types of debtors should be able to utilize what types of chapters. Chapter 7 is preferred by many for its quick discharge, but it provides limited relief for debtors who need to restructure secured debts. Additionally, some consumers are barred from using it due to the income restrictions. Chapter 13 is preferred by those consumer debtors seeking to catch up delinquent home mortgages, however those mortgages cannot be restructured, and the Chapter 13 debtor must keep making proposed payments for three to five years to get a discharge. For some consumer debtors, particularly those who are or were small business owners, they have too much debt to qualify for Chapter 13 relief and cannot afford to file a Chapter 11 bankruptcy. Chapter 12 debtors enjoy many

of the benefits of Chapter 13, but who may file under Chapter 12 is limited by the type of business and, again, by debt limits. Chapter 11 is a catch-all for those who do not qualify for the other chapters, but it is expensive (prohibitively so for many small and mid-level businesses), complicated, and has a lot more rules than all the other chapters. The new amendments to the Bankruptcy Code are all attempts to rebalance a debtor's options to address financial distress.

Changes for family farmers and fisherman

The most straightforward change to the Bankruptcy Code is through the FFRA. The amendment raises the debt limits in Chapter 12 for family farmers from \$4,411,400²⁴ to \$10 million. The significance of this increase cannot be overstated. Farmers who had debts over the debt limits had limited options in bankruptcy: liquidation under Chapter 7, which results in liquidating the farm, or Chapter 11 reorganization, which requires the farmer to give up its ownership interest. Either way the farm is lost: an emotional and heart-breaking decision for most farmers that Chapter 12 was designed to help them avoid. The new debt limits, which became effective as of the signing of the bill, are designed to eliminate this Catch-22 and will give more family farmers access to the protections of Chapter 12. It should be noted that this increase in the debt limits under the FFRA does not apply to family fishermen, who are also allowed to be debtors under Chapter 12.

Changes for veterans

The second, slightly less straightforward change is the HAVEN Act. The HAVEN Act changes how "income" is defined for consumer debtors. As stated above, the amount of income a person has will affect whether the person can file for Chapter 7 or must file for Chapter 13, and, once in Chapter 13, income will also affect how long the plan must be and what must be paid to unsecured creditors.

Generally, current monthly income includes all income from all sources received by the debtor. Prior to the signing of the HAVEN Act, the only income excluded was:

- (1) Benefits received pursuant to the Social Security Act
- (2) Payments to victims of war crimes or crimes against humanity
- (3) Payments to victims of terrorism or domestic terrorism.²⁵

Courts have consistently construed these provisions strictly.²⁶ The HAVEN Act²⁷ added a new category of income excluded from the current monthly income calculation:

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 ...

The types of benefits received cover most military and veteran disability payments.²⁸ Although the benefit may be exempt, importantly the amount of the benefit that is excluded from the calculation is limited

... 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.

Understanding this exclusion requires, first, an understanding that Veterans Affairs (VA) disability compensation and military retirement are two different types of military compensation, and second, an understanding of how military retirement is calculated.²⁹ Generally, a person receives military retirement upon retiring after 20 years of active service, and the amount of the retirement is based on how long the person was in the service.³⁰ A Chapter 61 retiree is someone who was medically retired from military service with a 30 percent

or greater rated disability, regardless of how long the person was in the service.³¹ Thus, for Chapter 61 retirees, the amount of the retirement pay may be higher than “the amount of retired pay that the debtor would be entitled to receive if retired under another provision of Title 10,” and only a portion of the retirement would be protected. An alternate reading of the language could lead to the conclusion that any medical retirement is protected, as the veteran would not otherwise be entitled to retirement benefits. This ambiguity will need to be resolved through the courts.

Changes for small business debtors

As stated above, Chapter 11 is difficult for some debtors because it is expensive and complicated. However, there are some provisions in it designed to assist small business debtors. The code defines small business debtors as debtors engaged in commercial or business activity with debts of no more than \$2,725,625.³² The most important

differences between a small business Chapter 11 case and a regular Chapter 11 case are (1) extending the “exclusivity period” a debtor has to file a plan (as opposed to a creditor filing a plan) from 120³³ to 180 days³⁴; (2) waiving or modifying the paperwork the debtor must file to get a plan confirmed;³⁵ and (3) setting a deadline of 45 days after a plan is filed to confirm the plan (versus no deadline to confirm a plan in a regular Chapter 11).³⁶ This latter requirement, in particular, is very challenging for a lot of small business debtors to meet. All of these small business provisions are mandatory.

SBRA was passed in response to criticisms that small businesses in Chapter 11 were continuing to struggle.³⁷ The SBRA goes into effect 180 days from the date that it was signed into law, on February 19, 2020. These provisions are voluntary, and in many instances would replace the existing small business provisions.³⁸

The first major category of changes in Subchapter V involves

what parties control the path of the bankruptcy case. Generally, in Chapter 11, the debtor retains control of the operation of the business, has the first right to file a plan, and, upon confirmation, makes distributions to creditors. Although there is a mechanism to replace the debtor and debtor's management with a trustee, this rarely occurs.³⁹ If it does happen, the trustee takes complete control of the bankruptcy case, including the filing of a bankruptcy plan and the operation of the business.

Subchapter V provides for a trustee to be appointed automatically.⁴⁰ The role of this trustee is not as expansive as a normal appointed Chapter 11 trustee: the debtor remains in possession of its assets and operates the business.⁴¹ The trustee's role is more closely akin to a Chapter 12 or 13 trustee who primarily collects funds, disburses payments to creditors, and monitors the debtor's progress.⁴² Like in Chapter 11, the debtor can be removed from having control over the business for "fraud, dishonesty, incompetence, or gross mismanagement."⁴³ If that happens, the trustee takes control of the operation of the business;⁴⁴ existing management is out.

The final amendment relevant to this category of changes is who may file a bankruptcy plan and when a plan must be filed. In a Chapter 11 case, the debtor initially has the exclusive right to file a plan, but, upon expiration of the exclusivity period⁴⁵, any party in interest may file a plan.⁴⁶ In a case under Subchapter V, only the debtor may file a plan, which is, again, similar to a Chapter 12 or 13 case.⁴⁷

Additionally, in a typical Chapter 11 case, there is no statutory deadline within which a Chapter 11 debtor must file the plan.⁴⁸ Subchapter V will substantially expedite this timeline by requiring that a debtor file the plan no later than 90 days from the petition date.⁴⁹

The second category of changes involves fees and professional compensation. Generally speaking, in all bankruptcies, an attorney is not allowed to file a bankruptcy on

behalf of a debtor that has unpaid attorney's fees which have not been waived by the attorney. Subchapter V allows an attorney to represent a debtor filing under Subchapter V so long as that attorney is owed no more than \$10,000 as of the petition date.⁵⁰

Additionally, Chapter 11 debtors are generally required to pay a quarterly fee to the UST. These fees are calculated based on a percentage of the total distributions made by the debtor during the quarter.⁵¹ Subchapter V exempts debtors that elect this provision from the requirement of paying the UST quarterly fees.⁵² Small business debtors, who frequently are cash-strapped enough they cannot afford the large retainers required for a Chapter 11 case, or the quarterly fees, will greatly benefit from these provisions.

The final category of changes relates to the bankruptcy plan itself. Chapter 11 debtors are required to file a "disclosure statement" with the bankruptcy plan.⁵³ The purpose of the disclosure statement is to facilitate creditors' understanding of the bankruptcy plan, and ultimately whether the creditor will accept or reject the plan. The disclosure statement itself can be very lengthy, as it contains detailed historical operational and financial information; a summary of the Chapter 11 case; an analysis explaining why creditors will fare better in a Chapter 11 reorganization rather than a liquidation, and future projections of the debtor's business to show the debtor's ability to make the payments required under the plan.⁵⁴ After the disclosure statement is served on all creditors, the court must hold a hearing to approve the disclosure statement for the Chapter 11 case to towards the ultimate goal of confirming the bankruptcy plan.⁵⁵

The creation, serving, and approval of the disclosure statement is expensive and time-consuming. Thus, in 2005, amendments to the Bankruptcy Code allowed the court to determine that the disclosure statement is not necessary for

small business cases, and to require, instead, that information be provided in the plan.⁵⁶ Subchapter V takes this a step further and instead presumes a disclosure statement is not necessary unless the court orders otherwise; instead all information should be in the plan.⁵⁷ This amendment will allow the debtor to save significant time and money on professional fees and expenses.

The final, and perhaps both most technical and important change in Subchapter V is to the "absolute priority rule." The Bankruptcy Code classifies creditors in different categories which mandate how creditors are treated in the bankruptcy plan.⁵⁸ In corporate bankruptcies, the "absolute priority rule" governs. This rule requires that a senior class of creditors must be paid in full (or consent to lesser treatment) before junior classes of creditors and equity holders can receive any money or property under the plan.⁵⁹ If the debtor is an individual or a small business, the practical result is that all other creditors have to be paid in full or consent to being paid less for the debtor to maintain ownership of any of his or her assets, or in the case of a business, for the equity owners to keep their ownership interest in the debtor.

Subchapter V provides that a debtor can obtain confirmation of a Chapter 11 plan over dissenting (or silent) classes of creditors so long as the plan is "fair and equitable" with respect to the classes whose interests are being affected.⁶⁰ The plan is fair and equitable if (i) it proposes to commit all of the debtor's disposable income for the entire term of the plan to making plan payments (or the equivalent thereof); (ii) the debtor is able to make the payments under the plan or there is a reasonable likelihood that the debtor will be able to make the payments; and (iii) the plan provides appropriate remedies, which could include the liquidation of nonexempt assets, to protect creditors if the payments are not made.⁶¹ Thus, it allows a debtor's equity holders to retain their equity

or individual debtors to retain their assets, even if unsecured creditors are not paid in full.⁶²

The aforementioned changes only represent a portion of the differences between a Chapter 11 case and a case being filed under the newly added Subchapter V. For a more detailed description of some of the differences, please visit www.bealLLC.com or www.sclar.org/sclawyer.

Universal changes

The enactment of the SBRA also provides amendments to 11 U.S.C. § 547 and 28 U.S.C. § 1409(b), which will affect recovery of preferential transfers in cases under all chapters of the Bankruptcy Code. Section 547 of the Bankruptcy Code allows a trustee or debtor to bring litigation to avoid transfers received by anyone within 90 days of the bankruptcy filing (one year for an insider), on account of an antecedent debt, while the debtor was insolvent, which allows the recipient to receive more than it would have in a Chapter 7 liquidation.

tion.⁶³ There are statutory defenses to these claims.⁶⁴

The SBRA amends Section 547(b) to require the trustee/debtor to perform reasonable due diligence and consider the recipient's known or reasonably knowable affirmative defenses under subsection (c) before bringing the action to avoid the preference.⁶⁵ Unfortunately, the SBRA does not amend the Code to explain what the consequences are for a trustee or debtor in possession (DIP) that does not perform any due diligence or consider the recipient's defenses before bringing the action.

This new language in Section 547 will require the plaintiff in the action to plead in its complaint that it has performed reasonable due diligence and considered the defendant's defenses before bringing the action. Once the SBRA goes into effect, attorneys that represent defendants in a preference actions should revise their discovery requests to include an investigation into what due diligence the trustee/debtor performed before bringing

the action.

The SBRA also amends 28 U.S.C. § 1409(b) to provide that a trustee/debtor seeking to recover a non-consumer debt in an amount less than \$25,000 must bring the action in the district where the defendant resides.⁶⁶ Currently, the ceiling under Section 1409(b) is \$13,650.⁶⁷

The amendments to 11 U.S.C. § 547 and 28 U.S.C. § 1409(b) will heighten the standard of pleading in preference litigation and could discourage trustees/debtors from pursuing preference claims of \$25,000 or less if the recipient of the transfers is not located in the same district where the case is pending. These changes seem incongruous with the intent of the SBRA to help small businesses reorganize and represent the only creditor-friendly changes made by the enactment of the legislation.

Conclusion

The raising of the debt limits for family farmers and the passage of the HAVEN Act open the door for



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bankruptcy relief for two groups of debtors to use federal bankruptcy law. Given the agrarian nature of much of South Carolina, and its strong military and veteran's population, these reforms will be of great relief to financially-distressed South Carolinians.

The SBRA, through the enactment of Subchapter V, has made a lot of debtor-friendly changes to the Chapter 11 process as it pertains to small business debtors. By hybridizing Chapter 11 with Chapters 12 and 13, the SBRA will; lower the administrative costs of small business bankruptcies, expedite the timeline for filing and confirming a plan, and make it easier for small business debtors to confirm a Chapter 11 plan. It remains to be seen what type of relief this new law will have: in our experience, it is very common for corporate debtors or individuals operating businesses to have combined debt that significantly exceeds \$2.7 million. By setting the maximum debt ceiling at \$2.725 million, Congress seems to have substantially

limited the number of individuals and businesses to whom this relief will be available. However, for the businesses or individuals that will be eligible to file under Subchapter V, these provisions will substantially increase the likelihood that their reorganization efforts will be successful.

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Endnotes

- ¹ 11 U.S.C. § 541 (2018).
- ² 11 U.S.C. §§ 1115, 1207, & 1306 (2018); Section 1115 only applies if the chapter 11 debtor is an individual but not a business

entity.

- ³ 11 U.S.C. § 541 (2018).
- ⁴ See 11 U.S.C. §§ 101(5), 502 (2018).
- ⁵ 11 U.S.C. § 522 (2018).
- ⁶ 11 U.S.C. §§ 701 - 704, 726 (2018).
- ⁷ There are a large category of debts that are not forgiven, such as student loans, restitution, domestic support obligations, taxes, and debts obtained through fraud. See 11 U.S.C. § 523 (2018).
- ⁸ 11 U.S.C. § 109(b) (2018).
- ⁹ 11 U.S.C. § 707(b) (2018). Calling this an "income cap" is a significant simplification, however an explanation of the statutory test for income in Chapter 7 is a topic worthwhile of an entire bankruptcy seminar, and thus too complex to discuss here.
- ¹⁰ Non-individuals cannot file for Chapter 13. 11 U.S.C. § 109(e) (2018).
- ¹¹ 11 U.S.C. § 1328 (2018).
- ¹² 11 U.S.C. §§ 1322, 1325 (2018).
- ¹³ 11 U.S.C. § 1322(b)(2) (2018).
- ¹⁴ 11 U.S.C. § 1302 (2018).
- ¹⁵ 11 U.S.C. § 109(e) (2018) (Specifically "non-contingent, liquidated, unsecured debts of less than \$394,725 and noncontingent, liquidated, secured debts of less than \$1,184,200").
- ¹⁶ 11 U.S.C. §§ 109(f) & 101(18A) (2018).
- ¹⁷ 11 U.S.C. § 1202 (2018).
- ¹⁸ 11 U.S.C. § 1121 (2018).
- ¹⁹ 11 U.S.C. § 1104 (2018).
- ²⁰ 11 U.S.C. § 1141 (2018).
- ²¹ 11 U.S.C. § 1129(a)(9) (2018).
- ²² 11 U.S.C. § 1129(a)(10) (2018).
- ²³ 11 U.S.C. § 11 U.S.C. § 1129(b) (2018).
- ²⁴ 11 U.S.C. §§ 109(f) and 101(18A) (2018)

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²⁵ 11 U.S.C. § 101(10A)(B)(ii)(I) – (III) (2018).
²⁶ See *Mort Ranta v. Gorman*, 721 F.3d 241 (4th Cir. 2013).
²⁷ Codified as 11 U.S.C. § 101(10A)(B)(ii)(iv) (2018).
²⁸ The exception applies to funds received on account of a disability, combat-related injury, or death. It does not apply to benefits received solely due to length of service or age.
²⁹ Ryan Guina, “How VA Disability Compensation Affects Military Retirement Pay,” April 10, 2019, <https://themilitarywallet.com/va-disability-compensation-affects-military-retirement-pay/>, last accessed October 15, 2019.
³⁰ “Types of Retirement,” <https://www.dfas.mil/retiredmilitary/plan/retirement-types.html>; last accessed October 15, 2019.
³¹ See 11 U.S.C. §§ 1201 – 1222; see also CRSC Chapter 61 Retirement, <https://www.hrc.army.mil/content/CRSC%20Chapter%2061%20Retirement> (last accessed October 15, 2019).
³² Excluding debts owed to insiders and as adjusted on April 1, 2019. Additionally, to be technical, an unsecured creditors committee must not be appointed or if appointed, has been determined ineffective. 11 U.S.C. § 101(51D)(A) (2018). Finally, excluded from this definition is (i) a single debtor is a part of a group of affiliated debtors where the aggregate debts exceed the aforementioned limit and (ii) a debtor whose primary business is the ownership and operation of real property. This definition was tweaked as part of the SBRA

amendments to clarify that 50 percent of the debt in the case be related to commercial activities and to exclude publicly traded companies. 11 U.S.C. §§ 101(51C), (51D)(A), (B) as amended by H.R. 3311, 16th Cong. (2019).
³³ 11 U.S.C. § 1121(c) (2018).
³⁴ 11 U.S.C. § 1121(e)(1) (2018).
³⁵ 11 U.S.C. § 1125(f) (2018).
³⁶ 11 U.S.C. § 1129(e) (2018).
³⁷ H.R. Rep. No. 116-171, at 4 (2019).
³⁸ 11 U.S.C. § 103(i) (2018).
³⁹ 11 U.S.C. § 1104 (2018).
⁴⁰ 11 U.S.C. § 1183(b) (2018).
⁴¹ 11 U.S.C. § 1184 (2018).
⁴² 11 U.S.C. § 1183(b) (2018).
⁴³ Compare 11 U.S.C. § 1185 & 11 U.S.C. § 1104 (2018).
⁴⁴ 11 U.S.C. 1183(b)(5) (2018) .
⁴⁵ Set forth in § 1121(c) for regular Chapter 11 debtors and in § 1121(e) for small business debtors that have not elected to file under Subchapter V.
⁴⁶ 11 U.S.C. § 1121(c) (2018).
⁴⁷ 11 U.S.C. § 1189 (2018)
⁴⁸ SC LBR 3016-1(a) requires a Chapter 11 debtor file a plan within 180 days of the filing of the bankruptcy petition, but there is no deadline set forth in the Bankruptcy Code.
⁴⁹ 11 U.S.C. § 1189(b) (2018).
⁵⁰ 11 U.S.C. § 1195 (2018).
⁵¹ 28 U.S.C. § 1930(a)(6) (2018).
⁵² 28 U.S.C. § 1930(a)(6), as amended by H.R. 3311, 116th Cong. (2019).
⁵³ 11 U.S.C. § 1125 (2018).
⁵⁴ *Id.*

⁵⁵ 11 U.S.C. § 1125 (2018).
⁵⁶ 11 U.S.C. § 1125(f) (2018).
⁵⁷ 11 U.S.C. § 1187(c) (2018).
⁵⁸ 11 U.S.C. § 507 (2018).
⁵⁹ *In re Maharaj*, 681 F.3d 558, 562 (4th Cir. 2012). There is an exception to the absolute priority rule for equity holders when the debtor is an entity rather than an individual, called the “new value exception,” but we will not get into detail in this article regarding the new value exception. Recall this is also one of the reasons Chapter 11 is not attractive to family farmers and fishermen.
⁶⁰ 11 U.S.C. § 1191(b) (2018), This provision also provides that the plan cannot “discriminate unfairly.” Whether a plan discriminates unfairly has different meanings depending on whether the case is a Chapter 11 or Chapter 13 and could be the subject of its own article. Because subchapter V is a hybridization of Chapters 11, 12, and 13, it is unclear whether this is referring to unfair discrimination in a Chapter 11 or Chapter 13 context.
⁶¹ 11 U.S.C. § 1191(c)(2) & (c)(3) (2018).
⁶² 11 U.S.C. § 1191(c) (2018).
⁶³ 11 U.S.C. § 547(b); Section 547(c)(9) establishes a floor on the value of transfers that the trustee/debtor can seek to avoid under Section 547.
⁶⁴ 11 U.S.C. § 547(c) (2018).
⁶⁵ 11 U.S.C. § 547(b), as amended by H.R. 3311, 116th Cong. (2019).
⁶⁶ 28 U.S.C. § 1409(b), as amended by H.R. 3311, 116th Cong. (2019).
⁶⁷ 28 U.S.C. § 1409(b) (2018).

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