The Small Business Reorganization Act

The *Small Business Reorganization Act* (SBRA) will streamline existing bankruptcy procedures and provide new tools to increase a small business' ability to achieve a successful restructuring.

Chapter 11 was designed for administering complex business reorganizations involving multi-million dollar companies. Despite containing several provisions specifically focused on small business debtors, there has been a significant amount research showing that Chapter 11 may still create difficulties for small businesses, including high costs, monitoring deficits, and procedural roadblocks. The SBRA will add a new subchapter V to Chapter 11 to address these issues, leading to more successful restructurings, reducing liquidations, and increasing recoveries to creditors.

Key Provisions of the SBRA include:

- Increasing the Debtors' Ability to Negotiate a Successful Reorganization and Retain Control of the Business.
    - Only the small business debtor may file a plan under subchapter V of the SBRA.
    - The owner of the small business debtor may retain a stake in the company so long as the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests.
    - If a trustee or a holder of an unsecured claim objects to the plan, the court cannot approve the plan unless the plan provides that all of the small business debtor's projected disposable income to be received during the plan will be applied to make payments under the plan for a period of 3-5 years.
- Reducing Unnecessary Procedural Burdens and Costs.
    - Unless the court for cause orders otherwise, an official committee of unsecured creditors will not be appointed and a disclosure statement will not be required.
- Increasing Oversight and Ensures Quick Reorganization.
    - A standing trustee would be appointed in every small business debtor case to perform duties similar to those performed by a Chapter 12 or Chapter 13 trustee and help ensure the reorganization stays on track.
    - The small business debtor must file a plan within 90 days of commencement, which may be extended under limited circumstances.
    - An initial status conference would be required in every case within 60 days of commencement "to further the expeditious and economical resolution" of a SBRA case.