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March 5, 2021

The Honorable Richard Durbin
Chairman
Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Charles Grassley
Ranking Member
Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senators Durbin and Grassley:

The American Bankruptcy Institute (ABI) is the nation's largest association of bankruptcy professionals, comprised of over 10,000 members in multi-disciplinary roles, including accountants, attorneys, judges, lenders, auctioneers, bankers, professors, turnaround specialists and others. Founded in 1982, ABI offers its members education and resources, but also plays a leading role in providing congressional leaders and the general public with nonpartisan reporting and analysis of bankruptcy regulations, laws and trends. ABI members and/or senior staff are often called on to testify before Congress, analyze proposed bills, and conduct periodic briefings for congressional committees and legislative staff.

In its Final Report, published in 2014, ABI's Commission to Study the Reform of Chapter 11 unanimously proposed revisions to the United States Bankruptcy Code that would make it more efficient for small business debtors to successfully reorganize under Chapter 11 of the Bankruptcy Code. Members of the ABI Commission to Study the Reform of Chapter 11 testified before Congress in support of these amendments. In August 2019, Congress passed the Small Business Reorganization Act (SBRA), which went into effect on February 19, 2020. Then, in March 2020, as part of the CARES Act, Congress amended the SBRA to increase the debt limit to \$7.5 million for one year, making even more businesses eligible to utilize the provisions of the SBRA. This provision expires on March 27, 2021.

We understand that the two of you have introduced bipartisan legislation — the "COVID-19 Bankruptcy Relief Extension Act" — to extend, for another year, the bankruptcy-relief provisions in the 2020 CARES Act and the December 2020 omnibus appropriations bill. For the reasons set forth below, ABI offers its strong support for the bipartisan initiatives set forth in this legislation.

Before the SBRA's enactment, the barriers to entry (*i.e.*, the overall length and sheer

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expense) often prevented small businesses from pursuing the benefits of chapter 11. This left small businesses in a position where a closure and liquidation, or a state law bankruptcy alternative (such as an assignment for the benefit of creditors), was often their only viable option. With the passage of the CARES Act, the subchapter V debt limit was raised from \$2,725,625 to \$7.5 million. This debt limit increase offered a favorable alternative to companies that may have otherwise been forced to shutter and liquidate as a result of the economic strain caused by the COVID-19 pandemic.

As of the end of January, over 1,400 cases had been filed under the SBRA. Almost 30% of those cases would not have qualified for filing under the SBRA without the increased debt limit provided for in the CARES Act. According to the Executive Office for United States Trustees, cases filed under the SBRA are experiencing higher plan-confirmation rates, speedier plan confirmation, more consensual plans and improved cost-effectiveness than if those cases had been filed under Chapter 11. See “Small Business Reorganization Act: Implementation and Trends,” *ABI Journal*, January 2021. This means that as a result of the increased debt limit, more small businesses are being successfully reorganized during the pandemic.

There is no doubt that the COVID-19 pandemic and its aftermath will continue to put significant strain on U.S. small businesses in the near future and perhaps for years to come. By extending the increased debt limit of the SBRA, the COVID-19 Bankruptcy Relief Extension Act offers much-needed relief to a growing number of U.S. small businesses that find themselves in need of reorganizing in order to stay in business. Accordingly, ABI supports the adoption of the COVID-19 Bankruptcy Relief Extension Act you proposed.

We note that the views expressed in this statement are those of the American Bankruptcy Institute, on whose behalf this statement is issued, and do not necessarily reflect the personal views, if any, of any individual ABI member.

If you have any questions or need further information on this or any other bankruptcy-related matters, please do not hesitate to contact me.

Sincerely,



Amy Alcock Quackenboss
Executive Director
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