

116TH CONGRESS  
1ST SESSION

# H. R. 3311

To amend chapter 11 of title 11, United States Code, to address reorganization of small businesses, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 18, 2019

Mr. CLINE (for himself, Mr. CICILLINE, Mr. COLLINS of Georgia, and Mr. COHEN) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend chapter 11 of title 11, United States Code, to address reorganization of small businesses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Reor-  
5 ganization Act of 2019”.

6 **SEC. 2. REORGANIZATION OF SMALL BUSINESS DEBTORS.**

7 (a) IN GENERAL.—Chapter 11 of title 11, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing:

1 “SUBCHAPTER V—SMALL BUSINESS DEBTOR  
2 REORGANIZATION

3 **“§ 1181. Inapplicability of other sections**

4 “(a) IN GENERAL.—Sections 105(d), 1101(1), 1104,  
5 1105, 1106, 1107, 1108, 1115, 1116, 1121, 1123(a)(8),  
6 1123(c), 1127, 1129(a)(15), 1129(b), 1129(c), 1129(e),  
7 and 1141(d)(5) of this title do not apply in a case under  
8 this subchapter.

9 “(b) COURT AUTHORITY.—Unless the court for cause  
10 orders otherwise, paragraphs (1), (2), and (4) of section  
11 1102(a) and sections 1102(b), 1103, and 1125 of this title  
12 do not apply in a case under this subchapter.

13 “(c) SPECIAL RULE FOR DISCHARGE.—If a plan is  
14 confirmed under section 1191(b) of this title, section  
15 1141(d) of this title shall not apply, except as provided  
16 in section 1192 of this title.

17 **“§ 1182. Definitions**

18 “In this subchapter:

19 “(1) DEBTOR.—The term ‘debtor’ means a  
20 small business debtor.

21 “(2) DEBTOR IN POSSESSION.—The term ‘debt-  
22 or in possession’ means the debtor, unless removed  
23 as debtor in possession under section 1185(a) of this  
24 title.

1 **“§ 1183. Trustee**

2       “(a) IN GENERAL.—If the United States trustee has  
3 appointed an individual under section 586(b) of title 28  
4 to serve as standing trustee in cases under this sub-  
5 chapter, and if such individual qualifies as a trustee under  
6 section 322 of this title, then that individual shall serve  
7 as trustee in any case under this subchapter. Otherwise,  
8 the United States trustee shall appoint 1 disinterested  
9 person to serve as trustee in the case or the United States  
10 trustee may serve as trustee in the case, as necessary.

11       “(b) DUTIES.—The trustee shall—

12               “(1) perform the duties specified in paragraphs  
13 (2), (5), (6), (7), and (9) of section 704(a) of this  
14 title;

15               “(2) perform the duties specified in paragraphs  
16 (3), (4), and (7) of section 1106(a) of this title, if  
17 the court, for cause and on request of a party in in-  
18 terest, the trustee, or the United States trustee, so  
19 orders;

20               “(3) appear and be heard at the status con-  
21 ference under section 1188 of this title and any  
22 hearing that concerns—

23                       “(A) the value of property subject to a  
24 lien;

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

1                   “(C) modification of the plan after con-  
2                   firmation; or

3                   “(D) the sale of property of the estate;

4                   “(4) ensure that the debtor commences making  
5                   timely payments required by a plan confirmed under  
6                   this subchapter;

7                   “(5) if the debtor ceases to be a debtor in pos-  
8                   session, perform the duties specified in section  
9                   704(a)(8) and paragraphs (1), (2), and (6) of sec-  
10                  tion 1106(a) of this title, including operating the  
11                  business of the debtor;

12                  “(6) if there is a claim for a domestic support  
13                  obligation with respect to the debtor, perform the  
14                  duties specified in section 704(c) of this title; and

15                  “(7) facilitate the development of a consensual  
16                  plan of reorganization.

17                  “(c) TERMINATION OF TRUSTEE SERVICE.—

18                  “(1) IN GENERAL.—If the plan of the debtor is  
19                  confirmed under section 1191(a) of this title, the  
20                  service of the trustee in the case shall terminate  
21                  when the plan has been substantially consummated,  
22                  except that the United States trustee may reappoint  
23                  a trustee as needed for performance of duties under  
24                  subsection (b)(3)(C) of this section and section  
25                  1185(a) of this title.

1           “(2) SERVICE OF NOTICE OF SUBSTANTIAL  
2           CONSUMMATION.—Not later than 14 days after the  
3           plan of the debtor is substantially consummated, the  
4           debtor shall file with the court and serve on the  
5           trustee, the United States trustee, and all parties in  
6           interest notice of such substantial consummation.

7   **“§ 1184. Rights and powers of a debtor in possession**

8           “Subject to such limitations or conditions as the  
9           court may prescribe, a debtor in possession shall have all  
10          the rights, other than the right to compensation under sec-  
11          tion 330 of this title, and powers, and shall perform all  
12          functions and duties, except the duties specified in para-  
13          graphs (2), (3), and (4) of section 1106(a) of this title,  
14          of a trustee serving in a case under this chapter, including  
15          operating the business of the debtor.

16   **“§ 1185. Removal of debtor in possession**

17          “(a) IN GENERAL.—On request of a party in interest,  
18          and after notice and a hearing, the court shall order that  
19          the debtor shall not be a debtor in possession for cause,  
20          including fraud, dishonesty, incompetence, or gross mis-  
21          management of the affairs of the debtor, either before or  
22          after the date of commencement of the case, or for failure  
23          to perform the obligations of the debtor under a plan con-  
24          firmed under this subchapter.

1       “(b) REINSTATEMENT.—On request of a party in in-  
2   terest, and after notice and a hearing, the court may rein-  
3   state the debtor in possession.

4   **“§ 1186. Property of the estate**

5       “(a) INCLUSIONS.—If a plan is confirmed under sec-  
6   tion 1191(b) of this title, property of the estate includes,  
7   in addition to the property specified in section 541 of this  
8   title—

9               “(1) all property of the kind specified in that  
10   section that the debtor acquires after the date of  
11   commencement of the case but before the case is  
12   closed, dismissed, or converted to a case under chap-  
13   ter 7, 12, or 13 of this title, whichever occurs first;  
14   and

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

20       “(b) DEBTOR REMAINING IN POSSESSION.—Except  
21   as provided in section 1185 of this title, a plan confirmed  
22   under this subchapter, or an order confirming a plan  
23   under this subchapter, the debtor shall remain in posses-  
24   sion of all property of the estate.

1 **“§ 1187. Duties and reporting requirements of debt-**  
2 **ors**

3 “(a) FILING REQUIREMENTS.—Upon electing to be  
4 a debtor under this subchapter, the debtor shall file the  
5 documents required by subparagraphs (A) and (B) of sec-  
6 tion 1116(1) of this title.

7 “(b) OTHER APPLICABLE PROVISIONS.—A debtor, in  
8 addition to the duties provided in this title and as other-  
9 wise required by law, shall comply with the requirements  
10 of section 308 and paragraphs (2), (3), (4), (5), (6), and  
11 (7) of section 1116 of this title.

12 “(c) SEPARATE DISCLOSURE STATEMENT EXEMP-  
13 TION.—If the court orders under section 1181(b) of this  
14 title that section 1125 of this title applies, section 1125(f)  
15 of this title shall apply.

16 **“§ 1188. Status conference**

17 “(a) IN GENERAL.—Except as provided in subsection  
18 (b), not later than 60 days after the entry of the order  
19 for relief under this chapter, the court shall hold a status  
20 conference to further the expeditious and economical reso-  
21 lution of a case under this subchapter.

22 “(b) EXCEPTION.—The court may extend the period  
23 of time for holding a status conference under subsection  
24 (a) if the need for an extension is attributable to cir-  
25 cumstances for which the debtor should not justly be held  
26 accountable.

1       “(c) REPORT.—Not later than 14 days before the  
 2 date of the status conference under subsection (a), the  
 3 debtor shall file with the court and serve on the trustee  
 4 and all parties in interest a report that details the efforts  
 5 the debtor has undertaken and will undertake to attain  
 6 a consensual plan of reorganization.

7       **“§ 1189. Filing of the plan**

8       “(a) WHO MAY FILE A PLAN.—Only the debtor may  
 9 file a plan under this subchapter.

10       “(b) DEADLINE.—The debtor shall file a plan not  
 11 later than 90 days after the order for relief under this  
 12 chapter, except that the court may extend the period if  
 13 the need for the extension is attributable to circumstances  
 14 for which the debtor should not justly be held accountable.

15       **“§ 1190. Contents of plan**

16       “A plan filed under this subchapter—

17               “(1) shall include—

18                       “(A) a brief history of the business oper-  
 19 ations of the debtor;

20                       “(B) a liquidation analysis; and

21                       “(C) projections with respect to the ability  
 22 of the debtor to make payments under the pro-  
 23 posed plan of reorganization;

24               “(2) shall provide for the submission of all or  
 25 such portion of the future earnings or other future



1 income of the debtor to the supervision and control  
2 of the trustee as is necessary for the execution of the  
3 plan; and

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

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

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

14 **“§ 1191. Confirmation of plan**

15 “(a) TERMS.—The court shall confirm a plan under  
16 this subchapter only if all of the requirements of section  
17 1129(a), other than paragraph (15) of that section, of this  
18 title are met.

19 “(b) EXCEPTION.—Notwithstanding section 510(a)  
20 of this title, if all of the applicable requirements of section  
21 1129(a) of this title, other than paragraphs (8), (10), and  
22 (15) of that section, are met with respect to a plan, the  
23 court, on request of the debtor, shall confirm the plan not-  
24 withstanding the requirements of such paragraphs if the  
25 plan does not discriminate unfairly, and is fair and equi-

1 table, with respect to each class of claims or interests that  
2 is impaired under, and has not accepted, the plan.

3 “(c) RULE OF CONSTRUCTION.—For purposes of this  
4 section, the condition that a plan be fair and equitable  
5 with respect to each class of claims or interests includes  
6 the following requirements:

7 “(1) With respect to a class of secured claims,  
8 the plan meets the requirements of section  
9 1129(b)(2)(A) of this title.

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

11 “(A) the plan provides that all of the pro-  
12 jected disposable income of the debtor to be re-  
13 ceived in the 3-year period, or such longer pe-  
14 riod not to exceed 5 years as the court may fix,  
15 beginning on the date that the first payment is  
16 due under the plan will be applied to make pay-  
17 ments under the plan; or

18 “(B) the value of the property to be dis-  
19 tributed under the plan in the 3-year period, or  
20 such longer period not to exceed 5 years as the  
21 court may fix, beginning on the date on which  
22 the first distribution is due under the plan is  
23 not less than the projected disposable income of  
24 the debtor.

1           “(3)(A)(i) The debtor will be able to make all  
2       payments under the plan; or

3           “(ii) there is a reasonable likelihood that the  
4       debtor will be able to make all payments under the  
5       plan; and

6           “(B) the plan provides appropriate remedies,  
7       which may include the liquidation of nonexempt as-  
8       sets, to protect the holders of claims or interests in  
9       the event that the payments are not made.

10          “(d) DISPOSABLE INCOME.—For purposes of this  
11       section, the term ‘disposable income’ means the income  
12       that is received by the debtor and that is not reasonably  
13       necessary to be expended—

14           “(1) for—

15               “(A) the maintenance or support of the  
16               debtor or a dependent of the debtor; or

17               “(B) a domestic support obligation that  
18               first becomes payable after the date of the filing  
19               of the petition; or

20           “(2) for the payment of expenditures necessary  
21       for the continuation, preservation, or operation of  
22       the business of the debtor.

23          “(e) SPECIAL RULE.—Notwithstanding section  
24       1129(a)(9)(A) of this title, a plan that provides for the  
25       payment through the plan of a claim of a kind specified

1 in paragraph (2) or (3) of section 507(a) of this title may  
2 be confirmed under subsection (b) of this section.

3 **“§ 1192. Discharge**

4 “If the plan of the debtor is confirmed under section  
5 1191(b) of this title, as soon as practicable after comple-  
6 tion by the debtor of all payments due within the first  
7 3 years of the plan, or such longer period not to exceed  
8 5 years as the court may fix, unless the court approves  
9 a written waiver of discharge executed by the debtor after  
10 the order for relief under this chapter, the court shall  
11 grant the debtor a discharge of all debts provided in sec-  
12 tion 1141(d)(1)(A) of this title, and all other debts allowed  
13 under section 503 of this title and provided for in the plan,  
14 except any debt—

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

18 “(2) of the kind specified in section 523(a) of  
19 this title.

20 **“§ 1193. Modification of plan**

21 “(a) MODIFICATION BEFORE CONFIRMATION.—The  
22 debtor may modify a plan at any time before confirmation,  
23 but may not modify the plan so that the plan as modified  
24 fails to meet the requirements of sections 1122 and 1123  
25 of this title, with the exception of subsection (a)(8) of such

1 section 1123. After the modification is filed with the court,  
2 the plan as modified becomes the plan.

3 “(b) MODIFICATION AFTER CONFIRMATION.—If a  
4 plan has been confirmed under section 1191(a) of this  
5 title, the debtor may modify the plan at any time after  
6 confirmation of the plan and before substantial con-  
7 summation of the plan, but may not modify the plan so  
8 that the plan as modified fails to meet the requirements  
9 of sections 1122 and 1123 of this title, with the exception  
10 of subsection (a)(8) of such section 1123. The plan, as  
11 modified under this subsection, becomes the plan only if  
12 circumstances warrant the modification and the court,  
13 after notice and a hearing, confirms the plan as modified  
14 under section 1191(a) of this title.

15 “(c) CERTAIN OTHER MODIFICATIONS.—If a plan  
16 has been confirmed under section 1191(b) of this title, the  
17 debtor may modify the plan at any time within 3 years,  
18 or such longer time not to exceed 5 years, as fixed by the  
19 court, but may not modify the plan so that the plan as  
20 modified fails to meet the requirements of section 1191(b)  
21 of this title. The plan as modified under this subsection  
22 becomes the plan only if circumstances warrant such  
23 modification and the court, after notice and a hearing,  
24 confirms such plan, as modified, under section 1191(b) of  
25 this title.

1       “(d) HOLDERS OF A CLAIM OR INTEREST.—If a plan  
2 has been confirmed under section 1191(a) of this title, any  
3 holder of a claim or interest that has accepted or rejected  
4 the plan is deemed to have accepted or rejected, as the  
5 case may be, the plan as modified, unless, within the time  
6 fixed by the court, such holder changes the previous ac-  
7 ceptance or rejection of the holder.

8       **“§ 1194. Payments**

9       “(a) RETENTION AND DISTRIBUTION BY TRUST-  
10 EE.—Payments and funds received by the trustee shall be  
11 retained by the trustee until confirmation or denial of con-  
12 firmation of a plan. If a plan is confirmed, the trustee  
13 shall distribute any such payment in accordance with the  
14 plan. If a plan is not confirmed, the trustee shall return  
15 any such payments to the debtor after deducting—

16               “(1) any unpaid claim allowed under section  
17               503(b) of this title;

18               “(2) any payment made for the purpose of pro-  
19               viding adequate protection of an interest in property  
20               due to the holder of a secured claim; and

21               “(3) any fee owing to the trustee.

22       “(b) OTHER PLANS.—If a plan is confirmed under  
23 section 1191(b) of this title, except as otherwise provided  
24 in the plan or in the order confirming the plan, the trustee  
25 shall make payments to creditors under the plan.

1       “(c) PAYMENTS PRIOR TO CONFIRMATION.—Prior to  
 2 confirmation of a plan, the court, after notice and a hear-  
 3 ing, may authorize the trustee to make payments to the  
 4 holder of a secured claim for the purpose of providing ade-  
 5 quate protection of an interest in property.

6       **“§ 1195. Transactions with professionals**

7       “Notwithstanding section 327(a) of this title, a per-  
 8 son is not disqualified for employment under section 327  
 9 of this title, by a debtor solely because that person holds  
 10 a claim of less than \$10,000 that arose prior to com-  
 11 mencement of the case.”.

12       (b) CLERICAL AMENDMENT.—The table of sub-  
 13 chapters at the beginning of chapter 11 of title 11, United  
 14 States Code, is amended by adding at the end the fol-  
 15 lowing:

“SUBCHAPTER V—SMALL BUSINESS DEBTOR REORGANIZATION

- “1181. Inapplicability of other sections.
- “1182. Definitions.
- “1183. Trustee.
- “1184. Rights and powers of a debtor in possession.
- “1185. Removal of debtor in possession.
- “1186. Property of the estate.
- “1187. Duties and reporting requirements of debtors.
- “1188. Status conference.
- “1189. Filing of the plan.
- “1190. Contents of plan.
- “1191. Confirmation of plan.
- “1192. Discharge.
- “1193. Modification of plan.
- “1194. Payments.
- “1195. Transactions with professionals.”.

1 **SEC. 3. PREFERENCES; VENUE OF CERTAIN PROCEEDINGS.**

2 (a) PREFERENCES.—Section 547(b) of title 11,  
3 United States Code, is amended by inserting “, based on  
4 reasonable due diligence in the circumstances of the case  
5 and taking into account a party’s known or reasonably  
6 knowable affirmative defenses under subsection (c),” after  
7 “may”.

8 (b) VENUE OF CERTAIN PROCEEDINGS.—Section  
9 1409(b) of title 28, United States Code, is amended by  
10 striking “\$10,000” and inserting “\$25,000”.

11 **SEC. 4. CONFORMING AMENDMENTS.**

12 (a) TITLE 11.—Title 11, United States Code, is  
13 amended—

14 (1) in section 101—

15 (A) in paragraph (51C), by inserting “and  
16 has not elected that subchapter V of chapter 11  
17 of this title shall apply” after “is a small busi-  
18 ness debtor”; and

19 (B) in paragraph (51D)—

20 (i) in subparagraph (A)—

21 (I) by striking “or operating real  
22 property or activities incidental there-  
23 to” and inserting “single asset real  
24 estate”; and

25 (II) by striking “for a case in  
26 which” and all that follows and insert-



1 ing “not less than 50 percent of which  
2 arose from the commercial or business  
3 activities of the debtor; and”; and

4 (ii) in subparagraph (B)—

5 (I) by striking the period at the  
6 end and inserting a semicolon;

7 (II) by striking “does not include  
8 any member” and inserting the fol-  
9 lowing: “does not include—

10 “(i) any member”; and

11 (III) by adding at the end the  
12 following:

13 “(ii) any debtor that is a corporation  
14 subject to the reporting requirements  
15 under section 13 or 15(d) of the Securities  
16 Exchange Act of 1934 (15 U.S.C. 78m,  
17 78o(d)); or

18 “(iii) any corporation that—

19 “(I) is subject to the reporting  
20 requirements under section 13 or  
21 15(d) of the Securities Exchange Act  
22 of 1934 (15 U.S.C. 78m, 78o(d)); and

23 “(II) is an affiliate of a debtor.”;

24 (2) in section 103—

1           (A) by redesignating subsections (i)  
2           through (k) as subsections (j) through (l), re-  
3           spectively; and

4           (B) by inserting after subsection (h) the  
5           following:

6           “(i) Subchapter V of chapter 11 of this title applies  
7           only in a case under chapter 11 in which a small business  
8           debtor elects that subchapter V of chapter 11 shall  
9           apply.”;

10          (3) in section 322(a), by inserting “1183,”  
11          after “1163,”;

12          (4) in section 326—

13               (A) in subsection (a), by inserting “, other  
14               than a case under subchapter V of chapter 11,”  
15               after “7 or 11”; and

16               (B) in subsection (b), by inserting “sub-  
17               chapter V of chapter 11 or” after “In a case  
18               under”;

19          (5) in section 347—

20               (A) in subsection (a)—

21                       (i) by inserting “1194,” after “726,”;

22                       and

23                       (ii) by inserting “subchapter V of  
24                       chapter 11,” after “chapter 7,”; and

1 (B) in subsection (b), by inserting “1194,”  
2 after “1173,”;

3 (6) in section 363(c)(1), by inserting “1183,  
4 1184,” after “1108,”;

5 (7) in section 364(a), by inserting “1183,  
6 1184,” after “1108,”;

7 (8) in section 523(a), in the matter preceding  
8 paragraph (1), by inserting “1192,” after “1141,”;

9 (9) in section 524—

10 (A) in subsection (a)—

11 (i) in paragraph (1), by inserting  
12 “1192,” after “1141,”; and

13 (ii) in paragraph (3), by inserting  
14 “1192,” after “523,”;

15 (B) in subsection (c)(1), by inserting  
16 “1192,” after “1141,”; and

17 (C) in subsection (d), by inserting “1192,”  
18 after “1141,”;

19 (10) in section 557(d)(3), by inserting “1183,”  
20 after “1104,”;

21 (11) in section 1102(a), by striking paragraph  
22 (3) and inserting the following:

23 “(3) Unless the court for cause orders other-  
24 wise, a committee of creditors may not be appointed

1 in a small business case or a case under subchapter  
2 V of this chapter.”; and

3 (12) in section 1146(a), by inserting “or 1191”  
4 after “1129”.

5 (b) TITLE 28.—Title 28 United States Code, is  
6 amended—

7 (1) in section 586—

8 (A) in subsection (a)(3), by inserting “(in-  
9 cluding subchapter V of chapter 11)” after “7,  
10 11”;

11 (B) in subsection (b), by inserting “sub-  
12 chapter V of chapter 11 or” after “cases  
13 under”;

14 (C) in subsection (d)(1), by inserting “sub-  
15 chapter V of chapter 11 or” after “cases  
16 under” each place that term appears; and

17 (D) in subsection (e)—

18 (i) in paragraph (1), by inserting  
19 “subchapter V of chapter 11 or” after  
20 “cases under”;

21 (ii) in paragraph (2), by inserting  
22 “subchapter V of chapter 11 or” after  
23 “cases under” each place that term ap-  
24 pears; and

1 (iii) by adding at the end the fol-  
2 lowing:

3 “(5) In the event that the services of the trustee in  
4 a case under subchapter V of chapter 11 of title 11 are  
5 terminated by dismissal or conversion of the case, or upon  
6 substantial consummation of a plan under section  
7 1183(c)(1) of that title, the court shall award compensa-  
8 tion to the trustee consistent with services performed by  
9 the trustee and the limits on the compensation of the  
10 trustee established pursuant to paragraph (1) of this sub-  
11 section.”;

12 (2) in section 589b—

13 (A) in subsection (a)(1), by inserting “sub-  
14 chapter V of chapter 11 and” after “cases  
15 under”; and

16 (B) in subsection (d)—

17 (i) in the matter preceding paragraph  
18 (1), by inserting “subchapter V of chapter  
19 11 and” after “trustees under”; and

20 (ii) in the undesignated matter fol-  
21 lowing paragraph (8), by inserting “sub-  
22 chapter V of chapter 11 and” after “cases  
23 under”; and

1           (3) in section 1930(a)(6)(A), by inserting “,  
2       other than under subchapter V,” after “chapter 11  
3       of title 11”.

4 **SEC. 5. EFFECTIVE DATE.**

5       This Act and the amendments made by this Act shall  
6 take effect 180 days after the date of enactment of this  
7 Act.

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