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March 24, 2026

Honorable Charles Grassley
Senate President Pro Tempore
Chairman, Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, DC 20510

Honorable Ben Cline
2443 Rayburn House Office Building
Washington, DC 20515-4606

Re: Continued Support for Maintaining Subchapter V Eligibility at \$7,500,000

On behalf of the American Bankruptcy Institute (ABI) and its Subchapter V Task Force (the “Task Force”), we write to provide an update to ABI’s December 15, 2023, letter transmitting the Task Force’s Preliminary Report and the Task Force’s Final Report issued April 19, 2024 (the “Final Report”), to reaffirm ABI’s strong support for legislation increasing the debt cap back to \$7,500,000 for Subchapter V eligibility.

Since the issuance of the Task Force’s Final Report, the Task Force has continued monitoring Subchapter V cases nationwide. The additional data and stakeholder input further confirm the Task Force’s central conclusion: Subchapter V continues to function as Congress intended and is producing efficient, cost-effective and creditor-beneficial reorganizations for small businesses. Problematically, however, a significant number of small businesses have been denied access to this restructuring resource because the debt limits sunsetted down to \$3,024,725 in June 2024 and have not been increased to \$7,500,000 as anticipated.

As explained in the Task Force’s Final Report, Subchapter V cases consistently provide for:

- Higher plan confirmation rates than comparable small business chapter 11 cases;
- A significant number of consensual plans, reflecting meaningful creditor participation and negotiated outcomes; and
- Faster case resolution, reducing administrative costs and preserving going-concern value.

These results are not anecdotal; they are consistent across jurisdictions and case types. Practitioners, judges and stakeholders continue to report that Subchapter V provides a practical and effective restructuring path that did not previously exist for small businesses.

Businesses in the \$3.024 million to \$7.5 million debt range represent a substantial portion of small businesses that need access to an affordable debt-restructuring

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option. Traditional chapter 11 is frequently cost-prohibitive and impractical, and loss of eligibility increases the likelihood of increased liquidations rather than reorganizations. Although it is difficult, if not impossible, to quantify the number of troubled small businesses that did not file and simply failed because of their ineligibility to file Subchapter V during the lapse of the higher threshold, ABI estimates that between June 22, 2024, and March 15, 2026, 1,475 would-be Subchapter V debtors were not eligible to file due to the lower debt ceiling.¹ It appears that most of these “missing” debtors did not file at all, rather than file under chapter 7 or 13, or under the non-Subchapter V provisions of chapter 11.

Increasing Access for Businesses Between \$3.024 Million² and \$7.5 Million Is Critical

The Task Force is aware of legislation contemplating a permanent increase of debt limits for Subchapter V to \$7,500,000, up from the current \$3,024,725 as a result of the sunset in temporary legislation in June 2024. The Task Force emphasizes that increasing the debt cap to \$7,500,000 is essential for providing access to Subchapter V for small businesses for the reasons set forth above.

Concerns Regarding Subchapter V Are Not Supported by the Evidence

The Task Force also has considered criticisms of Subchapter V, largely lodged by certain creditors and creditor lobbying initiatives, and finds that they are not borne out by data or case experience.

As previously reported in its March 19, 2024, letter to Congress, the Task Force found no evidence that excluding affiliate or insider debt from the eligibility calculation has resulted in abuse or allowed ineligible businesses to access Subchapter V. Courts can and do evaluate eligibility for Subchapter V, and have effective tools to ensure that any improper cases continue as chapter 11 cases without application of the provisions of Subchapter V, or are converted to another chapter under the Bankruptcy Code or dismissed. Moreover, including affiliate or insider debt in the eligibility calculation could discourage critical owner financing without addressing a demonstrable problem.

Another reported, but unsubstantiated, problem is an allegation that Subchapter V debtors are not bound by the same disclosure requirements. To the contrary, all Subchapter V debtors remain subject to similar comprehensive disclosure and oversight as regular chapter 11 debtors. Each Subchapter V debtor must, among other things, prepare for and attend an initial debtor interview, file the same schedules, file reports under 11 U.S.C. § 1116 (an added requirement), file monthly operating reports, and comply with 11 U.S.C. § 1129(a)(7) (best-interests test and provide a liquidation analysis). Although the process is streamlined, it does not diminish transparency. Courts, trustees and creditors retain full authority to require information and ensure accountability.

As with any chapter of the Bankruptcy Code, isolated misuse may occasionally occur, but Subchapter V includes robust safeguards to minimize abuse. Those safeguards include the reporting obligations discussed above, trustee oversight and court supervision. The Subchapter V trustee constituency has been instrumental in ensuring that abuse is minimized. Further, creditors are armed with the same rights and protections that exist in standard chapter 11 cases, including access to the reporting described above, § 341 examinations, Bankruptcy Rule 2004 examinations, and nearly all the requirements under § 1129 of the Bankruptcy Code, including the same requirements for secured creditors under § 1129(b)(2)(B). The Office of the United States Trustee provides additional oversight regarding eligibility standards to prevent abuse.

Finally, Subchapter V does not alter the rights of landlords to receive payment of post-petition rent under § 365, nor does Subchapter V alter assumption of leases or the related, required cure of pre-petition defaults. A Subchapter V debtor may pay certain administrative claims over the life of a plan, but the rights of landlords to

¹ These data are estimated based on three numbers:

- ABI estimated (when the debt ceiling was \$7.5 million) that 26.2 percent of Subchapter V debtors had debts of between \$2,725,625 and \$7,500,000.
- There have been 4,437 Subchapter V cases filed since the debt limit was lowered.
- ABI adjusted the estimate downward by 100 to account for the surge in cases just before June 21, 2024.

² The current adjusted debt limit is \$3,424,000, but the June 2024 dollar amount is referenced for consistency. Neither amount is adequate to address the needs of small businesses.

demand prompt payment remain intact. Indeed, the ability of the debtor to resolve problems of other creditors in Subchapter V actually increases the probability that the debtor will be able to assume the lease and continue to honor its obligations as a tenant in accordance with the lease.

In sum, the Task Force has identified no systemic abuse, and courts are effectively addressing any one-off instances of misuse on a case-by-case basis.

Conclusion

Based on its continued study and the growing body of evidence, the Task Force reiterates its recommendation in its preliminary and Final Reports that Congress should increase the current Subchapter V eligibility framework to include a permanent \$7,500,000 debt cap, excluding affiliate and insider debt.

Subchapter V is one of the most effective recent reforms to the Bankruptcy Code. Restricting access to eligible debtors at the current \$3,024,725 limit would not improve outcomes — it would eliminate a critical restructuring pathway for small businesses, to the detriment of employees, creditors and local economies.

ABI and members of the Task Force remain available to provide additional data, case studies or testimony at your convenience.

Thank you for your attention to this important matter.

Sincerely,



Amy A. Quackenboss
Executive Director
American Bankruptcy Institute

cc: Hon. John Cornyn
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Hon. Sheldon Whitehouse
Hon. Lindsey Graham
Hon. Christopher Coons

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