Testimony of Megan W. Murray
Underwood Murray P.A.

Hearing, "Bankruptcy Law: Overview and Legislative Reforms"
Subcommittee on Antitrust, Commercial and Administrative Law
of the Committee on the Judiciary

U.S. House of Representatives

Washington, D.C., July 15, 2025

Dear Chairman Jordan, Ranking Member Raskin, Subcommittee Chair Fitzgerald, and Subcommittee Ranking Member Nadler,

Thank you for inviting me to present my views in connection with Subchapter V of Chapter 11 of the United States Code.

I have been a member of the American Bankruptcy Institute, a non-partisan organization, since 2009, and I currently serve on ABI's Board of Directors.

During my legal career, I have significant experience on both the creditor and debtor side of bankruptcy cases. I have filed corporate reorganizations for both large and small corporate debtors, and I also have experience representing large and small creditors, and fiduciaries whose job it is to maximize value for the benefit of an estate.

Last year, I was selected by the ABI President, to co-chair a task force to study the effectiveness of Subchapter V with Hon. Judge Harner (MD). My views today are not necessarily that of the ABI or its Board, but they certainly have been informed by the work we did on the task force. My views also have been informed by my own practice and experience in bankruptcy over the past two decades.

Chapter 11 is a powerful tool that preserves jobs and is strategically used to reorganize businesses while simultaneously maximizing value to creditors and owners. Our country is built on entrepreneurialism, and small businesses are our nation's lifeblood. As we discussed in our Task Force Report, however, not all dreams are viable, and 50% of small businesses fail within the first five years.

Subchapter V was enacted to help address challenges in the bankruptcy process to help small businesses survive economic turmoil. Subchapter V appears to be working well, especially in Florida which leads the country in Subchapter V filings. Confirmation rates of Subchapter V cases nationally are slightly over 50%, according to the U.S. Trustee program, as compared to Chapter 11 cases which historically have had much lower confirmation success.[1]

[1] According to the ABI Commission to Study Chapter 11 Reform, noting a 27% chapter 11 confirmation rate from 2008 – 2015.

To be eligible to file a Subchapter V case, a business debtor must at least have liquidated, noncontingent, secured and unsecured debts of no more than roughly $3.4 million.[2] This debt limit reverted from $7.5 million on June 21, 2024.[3]

The Subchapter V cases that I have been involved with are distinct from my traditional complex Chapter 11 cases. A good bellwether of a 'small business' is the size of the loans the Small Business Administration provides to small business owners. For example, SBA 7A loans, made by participating lenders, provide smaller-sized businesses with access to capital to start or expand their companies. The maximum size of these loans is $5,000,000.

SBA 504 loans, with a maximum of $5.5 million, are made directly to small businesses to acquire capital assets such as machinery, equipment, and buildings. Both the 504 and 7(a) programs provide attractive borrowing terms.

Most small businesses also have *at least* one other form of debt, including EIDL loans,[4] bank loans, debt consolidation loans, cash advances, and friends and family loans. The combination of an SBA loan up to $5.5 million, together with a secondary source of capital, demonstrates why the current $3.4 million limit is too low for most small businesses. The addition of trade debt due to inflation easily pushes small business over the limit.

There are high-profile cases that have raised concerns of abuse. However, the checks and balances in the system, from judges to trustees to creditors, minimize abuse or unintended consequences.

I am also aware that unsecured creditors have concerns with increasing the Subchapter V debt limits, as is undisputed that Subchapter V shifts the dynamic for unsecured creditors at confirmation, because a plan can be confirmed under 1191 notwithstanding the regular chapter 11 requirements of either unanimous votes in favor of the plan (11 U.S.C. $1129(a)(8)), or the existence of one class of impaired accepting creditors (11 U.S.C. § 1129(b)(2)(B)). [5]

In my experience, bankruptcy courts recognize this balance of power and take it seriously. Debtors seeking protection under Subchapter V must follow strict guardrails and deadlines.[6] One

---

[2] On April 1, 2025, the Subchapter V debt limit increased to $3,424,000.

[3] Weeks after Subchapter V became effective in February 2020, the COVID pandemic hit the United States, and the Subchapter V debt limits were increased to $7.5 million under the CARES Act. Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136 (March 27, 2020).

[4] The SBA's COVID-19 Economic Injury Disaster Loan (EIDL) and EIDL Advance programs provided funding to help small businesses recover from the economic impacts of the COVID-19 pandemic.

[5] Equally impactful to a creditor is the lack of the adequate priority rule in Subchapter V, the Bankruptcy Code's euphemistic waterfall, which allows small business owners to maintain their equity in their business without first satisfying all creditors above equity in full.

[6] Subchapter V debtors must move through a case quickly and articulate a viable path at a judicial status conference, file historical reports that fully disclose business operations and problems, and, most importantly, they *must* file a plan within 90 days of the petition date. 11 U.S.C § 1189(b).

Judge has appropriately noted that the "SBRA provides qualifying debtors with 'the opportunity to use new, powerful tools to reorganize and save its business; but it must do so quickly.'"[7]

In addition to shortened deadlines, creditors have other protections including the best interest of creditors test under 11 U.S.C. § 1129(a)(7) and the feasibility requirements under § 1129(a)(11). In Florida, where I practice, Subchapter V trustees utilize their professional skills to ensure debtors' operations match their plan projections. Aspirational plans without support are not likely to be confirmed.

Subchapter V was enacted to give small businesses a fresh start and appears to be working. Increasing the debt limits to would give more main street businesses a reasonable opportunity to reorganize in difficult circumstances.

Thank you for your time.

Megan W. Murray

[7] *In re Seven Stars on the Hudson Corp.,* 618 B.R. 333, 340 (Bankr. S.D. Fla. 2020). According to Westlaw, this case has been cited as authority 125 times, largely for the point that while Subchapter V is a powerful too, it comes with the very important creditor protection: speed through a reorganization. *Id*. at 340.