

**SMALL BUSINESS
REORGANIZATION ACT
CHAPTER 11 BANKRUPTCY
USES AND STRATEGIES**

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Fredrikson
& BYRON, P.A.

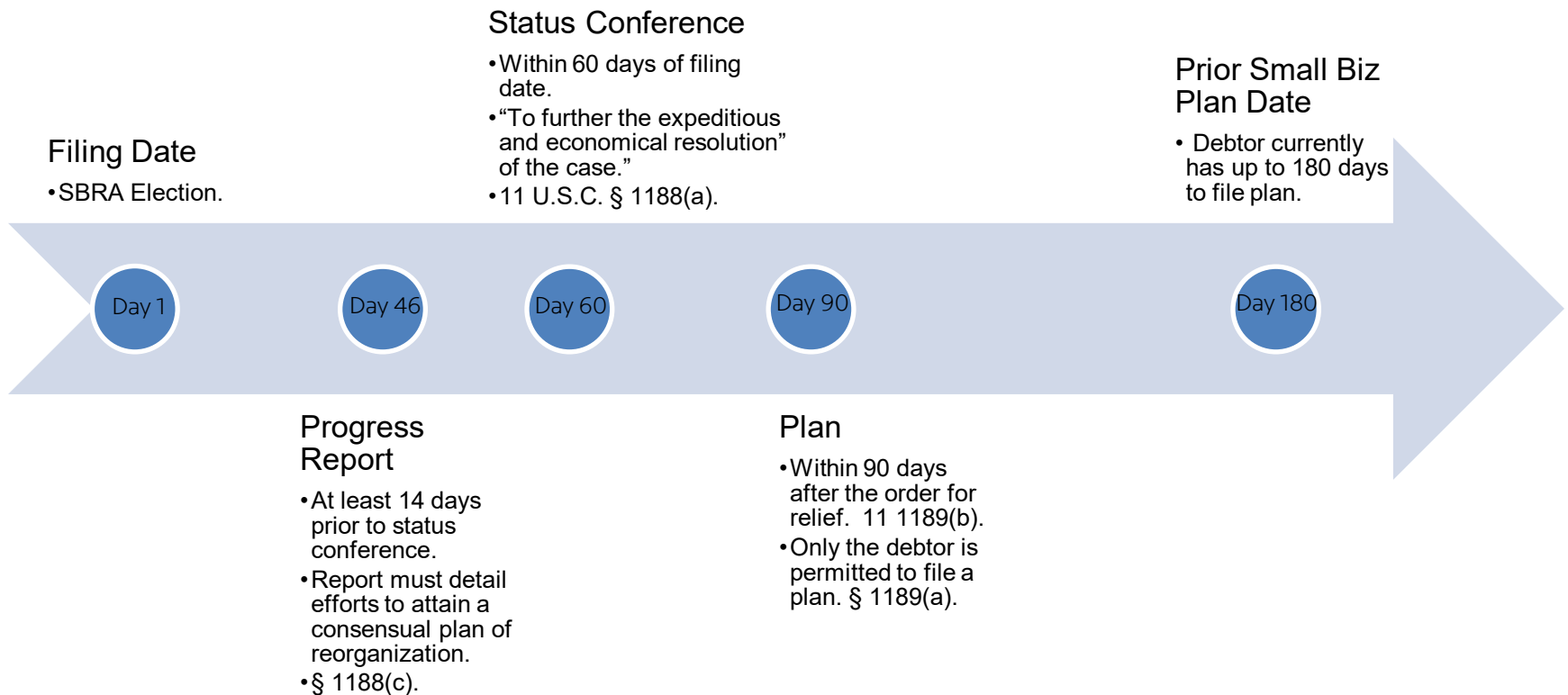
“SMALL BUSINESS DEBTOR”

- A person or entity
- Engaged in commercial or business activity
 - Single asset real estate excluded
- Up to \$7.5 million of debt
 - Debt limit reduces to \$2.7 million end of March 2021
- 50% of debt arises from commercial or business activity

SBRA CHAPTER 11 USES

- Stay or Stop Litigation or Creditor Remedies
- Suspend Debt Payments to Banks or Creditors
- Restructure Payment Terms with Banks, Landlords and Other Creditors
- Bind Creditors to Plan Even If No Agreement of Creditor
- May Retain Equity Without Paying Creditors in Full
- Able To Obtain New Loans
- Process Encourages Resolution of Issues with Creditors
- Accelerated Process
- No Disclosure Statement Required
- Less Expensive Than Regular Process
- If Necessary, Facilitate Sale of Assets Free and Clear of Liens

SBRA ACCELERATED REORGANIZATION PROCESS



BASICS OF SBRA PLAN PROCESS

- No Disclosure Statement Required
- Plan of Reorganization
 - Debtor exclusive right to file plan
 - Due within 90-days of filing
 - Classification of Claims—secured creditors, unsecured creditors, etc.
 - Class Voting – 2/3 in \$'s and 1/2 in #'s
 - Assume or Reject Contracts
 - Negotiations and Binding Effect

KEYS FOR CONFIRMATION OF PLAN

- “Best Interests” of Creditors
 - Each creditor receive at least as much under plan as compared to liquidation
- Feasibility
 - More likely than not Plan projections met
- Administrative Claims May Be Paid Over Life of Plan
- Creditors Accept
 - Class Voting – 2/3 in \$'s and 1/2 in #'s

CRAMDOWN AND RETAIN EQUITY

- “Cramdown”—Confirm Plan Where One or More Classes Reject
- No “Absolute Priority” Rule Under SBRA
 - Need not obtain acceptance or pay all creditors in full to retain equity
- Even if No Class Accepts, Under SBRA Retain Equity When
 - Not “discriminate unfairly”, and
 - “Fair and equitable”
 - pay creditors from “projected disposable income” over 3 to 5 years
 - excludes income needed to support debtor or dependents or ensure continuation or operation of business
- Test for Secured Creditor – Receive “Indubitable Equivalent”:
 - Retain liens
 - Cash payments over time equal to present value of secured claim

SBRA CHAPTER 11 CHALLENGES

- Public Process
- Financial Reporting
 - Under SBRA, Reporting Due Early in Case
- Court Approval Required for Many Acts
 - Financing: Use of Cash or New Loans
 - Other Actions Outside Ordinary Course
- Pay Expenses, Including Lease Payments, As They Come Due After Filing
- One Way Street—Reorganize or Liquidate
- Transactional Expenses
- Technical Requirements