

insights

TYPES NOT MAPPED YET June 23, 2022 | TTR not mapped yet | Mark T. Power, Joseph Orbach

Thompson Coburn attorneys successfully advocate for technical corrections to the Bankruptcy Code

On June 21, 2022, President Biden signed into law the [Bankruptcy Threshold Adjustment and Technical Corrections Act](#) (“Act”). As indicated by its name, the Act addressed certain bankruptcy dollar threshold amounts, as well as some highly technical corrections to the Bankruptcy Code and related legislation governing the Bankruptcy Trustee system.

The Act was introduced into the Senate on March 14, 2022, by Senator Charles Grassley (R- Iowa). Senators Richard J. Durbin (D-IL), Senator Sheldon Whitehouse (D-RI) and Senator John Cornyn (R-TX) co-sponsored the legislation. On April 7, 2022, the Act (as amended in the Senate) passed the Senate via unanimous consent, and on June 7, 2022, the House of Representatives passed corresponding legislation with wide bipartisan support (392-21).

Prior to the introduction of the Act in Congress, [Mark Power](#) and [Joseph Orbach](#), partners in the firm’s [Financial Restructuring and Bankruptcy](#) group, published an article in the February issue of American Bankruptcy Institute Journal titled [Not So Technical: A Flaw in the Cares Act’s Correction to “Small Business Debtor.”](#) The article focused on a flaw they identified in the way Congress had drafted exclusions to the definition of “small business debtor”. In the article, Mark and Joe proposed specific language that they advocated Congress should adopt to amend the Bankruptcy Code in order to fix this flaw.

The issue went from abstract to real world a few months later in a written opinion issued by a Bankruptcy Judge in the Central District of California on April 28, 2022. The authors examined this decision in detail in a [blogpost](#) on the firm’s [credit report blog](#). The opinion was the first reported decision addressing the highly technical flaw that was identified by Mark and Joe, and the decision discussed their ABI article in detail.

As a result of the Act making the technical corrections to the Bankruptcy Code first suggested by Mark and Joe, Congress has now corrected a flaw, which will allow potentially significantly more debtors to utilize Subchapter V of the Bankruptcy Code to reorganize.

Thompson Coburn attorneys continue to be at the forefront of shaping and developing many areas of the law, including the highly technical aspects of the recent amendment to the Bankruptcy Code.

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