

*Subchapter V Changed The Chapter 11  
Bankruptcy Landscape – How Should Creditors  
Protect Their Interests?*

*By: Jennifer D. Raviele, Special Counsel, Kelley  
Drye & Warren LLP*

*As originally published in the Credit Research Foundation 1Q 2022 Credit & Financial Management Review*

**Abstract**

*Subchapter V was intended to be the faster, easier, and cheaper version of Chapter 11 bankruptcy, allowing small “Main Street” businesses to reorganize like mid-size and large companies.<sup>1</sup> After participating in Subchapter V cases for two years, we highlight the changes to Chapter 11 that impact creditors, practical implications, and possible strategies creditors should consider to protect their interests when a debtor elects Subchapter V.*

Since the new law went into effect on February 19, 2020, over 3,000 Subchapter V cases have been filed.<sup>2</sup> More than one-third filed in California, Florida, and Texas.<sup>3</sup> While more companies are electing to file under Subchapter V, it remains to be seen whether the changes actually lead to more successful reorganizations.<sup>4</sup>

Although the benefits to small Main Street businesses are evident, Subchapter V is also ripe for manipulation. While it eases the complex requirements of the Chapter 11 statutory framework and reduces the associated costs, helping small businesses reorganize rather than liquidate, creditors should be concerned about companies that are not Main Street businesses manipulating Subchapter V to capitalize on those benefits. Critics argue that safeguards should be added to the new statute to ensure that large companies and private equity funds cannot use Subchapter V to circumvent the creditor protections embodied in Chapter 11. Creditors contesting a company's eligibility for Subchapter V must take immediate action with assistance from experienced bankruptcy counsel.

*This article is only available to members of the Credit Research Foundation (CRF).*

*Interested in reading more? Join CRF to gain access to this and hundreds of other resources! [CLICK HERE](#) for membership information.*

*Members should [LOGIN](#) to view the full article.*