

# **BANKRUPTCY <sup>UP</sup>DATE**

## **January 4, 2022**

If someone else would like to receive these <sup>UP</sup>dates, please send an e-mail to [Shan\\_Stroup@sdb.uscourts.gov](mailto:Shan_Stroup@sdb.uscourts.gov).

### **Job Opening at Bankruptcy Clerk's Office**

The Bankruptcy Clerk's office is seeking qualified applicants for the position of Operations Clerk at its headquarters office in Sioux Falls.

[Career opportunity](#)

### **Certain Bankruptcy Provisions in Consolidated Appropriations Act of 2021 Have Lapsed**

Certain bankruptcy provisions in the Consolidated Appropriations Act of 2021 ("CAA") expired on December 27, 2021. While the Senate passed legislation extending the provisions through March 27, 2022, the House did not. There may be an effort in the new year to extend some or all of the provisions.

Here is a summary of some key provisions in the CAA that are no longer in effect:

**Stimulus Payment Protection.** The CAA temporarily amended 11 U.S.C. § 541 to exempt stimulus payments from being considered property of a bankruptcy estate.

**Chapter 13 Discharge Available Even if Certain Plan Payments Have Not Been Made.** The CAA temporarily amended 11 U.S.C. § 1328 to give the bankruptcy court discretion to grant a discharge to a chapter 13 debtor despite certain defaults in mortgage payments or mortgage arrearage cure payments because of a material COVID-19 related financial hardship.

**The CAA's Fix Regarding CARES Act Forbearance Claims.** The CAA temporarily amended 11 U.S.C. § 501 to allow qualified servicers to file a supplemental proof of claim for mortgage payments deferred under the CARES Act, even if the claims bar date had passed. The CAA also amended § 1329 of the Bankruptcy Code to authorize debtors to modify a confirmed chapter 13 plan to address the deferred payments. Official Form 4100S, a Supplemental Proof of Claim for CARES Forbearance Claim, presumably has also gone away.

**No Discrimination Because of Bankruptcy Filing.** The CAA amended 11 U.S.C. § 525 to provide no person could be denied relief under three enumerated CARES Act provisions solely because the person was a debtor in a bankruptcy case.

**Utilities.** The CAA amended 11 U.S.C. § 366 to prohibit a utility company from discontinuing utility services to an individual debtor so long as the debtor paid the company for services rendered in the 20-day post-filing period and continued to make all other post-petition utility payments, even if the debtor did not otherwise provide adequate assurance of payment.

## **National Conference of Bankruptcy Judges - Free Virtual Programming in 2022**

The National Conference of Bankruptcy Judges is planning a series of free virtual programs titled "Behind the Bench" to take place throughout 2022. The programs have been bifurcated between consumer and commercial bankruptcy topics and are free to all professionals in the insolvency community who register through the following links:

[Consumer \(first program on January 14 at 11 a.m. Central\)](#)

[Commercial \(first program on January 27 at 2 p.m. Central\)](#)

### **Link**

[Previous Bankruptcy <sup>UP</sup>dates](#)

As always, should you have questions regarding this <sup>UP</sup>date or anything else concerning your dealings with the Court or the Clerk's office, please let us know.