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Bankruptcy rules for small businesses are set to change

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Small-business owners are poised to receive a streamlined way to file for and advance through the bankruptcy system.

Legislation known as the Bankruptcy Threshold Adjustment Act was passed by Congress late last month and now awaits President Trump's signature to become law. The legislation deals with a portion of the Chapter 11 bankruptcy process known as Subchapter V, which was created to enable businesses to go through reorganization in a streamlined way.

During the pandemic, Congress raised the debt ceiling under which small businesses were eligible to use Subchapter V from \$3.4 million to \$7.5 million, with a goal of addressing widespread concerns over small-business bankruptcies. That higher ceiling lapsed in 2024. The \$7.5 million limit would be permanently restored under the advancing legislation.

"Subchapter V of Chapter 11 of the U.S. Bankruptcy Code has become a widely used strategic tool for distressed small businesses, yet its accessibility has been limited by a lowered debt eligibility ceiling since June 2024," said Jonathan Carson, co-CEO at legal technology and services firm Stretto.

Carson said the Subchapter V system allows businesses to move through a more accelerated process with no unsecured creditors committee, lower costs and faster deadlines to keep cases moving so companies can exit bankruptcy more quickly.

"We expect to see an increasing number of small businesses filing for Subchapter V bankruptcy given the financial headwinds they face from tariffs, higher borrowing costs, rising operating expenses and near-historic levels of household debt," Carson said.

The bill also increases the cumulative debt limit under Chapter 13 of the Bankruptcy Code from approximately \$2.1 million to \$2.75 million and applies both secured and unsecured debt toward the Chapter 13 limit.



The pathway through a bankruptcy filing could be changing for some small-business owners.

Bankruptcies across the board have been on the rise, with 52,007 new bankruptcies filed in August, an 8% increase from August 2025. There were about 2,630 commercial filings in August, up 2% from a year earlier. Subchapter V filings were a small but growing fraction of that total, according to the American Bankruptcy Institute, growing from 185 filings in August 2025 to 302 filings in August of this year, even without the potential new, higher debt ceiling.

"Persistent cost pressures, restrictive credit markets and ongoing geopolitical uncertainty continue to create challenges for consumers and small businesses facing economic distress," said Amy Quackenboss, executive director at the American Bankruptcy Institute.

Cost pressures on small businesses are increasing

Soaring costs for health insurance for workers represent one of the sources of increasing expenses for small-business owners. Data from payroll and benefits platform Gusto found that the median individual premium at small businesses reached \$8,743 in 2026, up 7% since last year

and up 31% since 2022.

The smallest businesses pay the most. Businesses with two to five employees now pay a median of \$9,170 per employee, roughly 6% more than firms with 25 to 49 employees.

A separate survey by health insurance marketplace eHealth found that more than half of small to mid-sized businesses offering group benefits are facing premium increases of 10% or more for 2027, and the added costs are catching many by surprise.

Also happening this year, the Small Business Administration has rolled out a new set of rules and procedures for its loan programs that means higher costs and more out-of-pocket expenses for some types of loans. The new policies and procedures come as the SBA has proposed a much larger overhaul of its company size standards and industry classifications. The potential changes, as outlined in a proposed rule in the Federal Register, would alter who can access its loan and grant programs and those of other federal agencies. Public criticism has pushed the SBA to extend the comment period on the proposal.