

To amend title 11, United States Code, to change the treatment of certain rental obligations during bankruptcy.

AUGUST 6, 2020

9 (i) by inserting “(A)” after “(3)”;

1 (ii) by inserting “, except as provided
 2 in subparagraph (B)” after “such 60-day
 3 period”; and

4 (iii) by adding at the end the fol-
 5 lowing:

6 “(B) In a case under subchapter V of chapter 11,
 7 the time for performance of an obligation described in sub-
 8 paragraph (A) arising under any unexpired lease of non-
 9 residential real property may be extended by the court if
 10 the debtor is experiencing or has experienced a material
 11 financial hardship due, directly or indirectly, to the
 12 coronavirus disease 2019 (COVID–19) pandemic until the
 13 earlier of—

14 “(i) the date that is 60 days after the date of
 15 the order for relief, which may be extended by the
 16 court for an additional period of 60 days if the court
 17 determines that the debtor is continuing to experi-
 18 ence a material financial hardship due, directly or
 19 indirectly, to the coronavirus disease 2019 (COVID–
 20 19) pandemic; or

21 “(ii) the date on which the lease is assumed or
 22 rejected under this section.

23 “(C) An obligation described in subparagraph (A) for
 24 which an extension is granted under subparagraph (B)
 25 shall be treated as an administrative expense described in

1 section 507(a)(2) in accordance with section 1191(e).”;
 2 and

3 (B) in paragraph (4), by striking “120”
 4 each place it appears and inserting “210”.

5 (2) SUNSET.—

6 (A) IN GENERAL.—Effective on the date
 7 that is 2 years after the date of enactment of
 8 this Act, section 365(d) of title 11, United
 9 States Code, is amended—

10 (i) in paragraph (3)—

11 (I) by striking “(A)” after “(3)”;
 12 (II) by striking “, except as pro-

13 vided in subparagraph (B)” after
 14 “such 60-day period”; and

15 (III) by striking subparagraphs
 16 (B) and (C); and

17 (ii) in paragraph (4), by striking
 18 “210” each place it appears and inserting
 19 “120”.

20 (B) SUBCHAPTER V CASES FILED BEFORE
 21 SUNSET.—Notwithstanding the amendments
 22 made by subparagraph (A), the amendments
 23 made by paragraph (1) shall apply in any case
 24 commenced under subchapter V of chapter 11
 25 of title 11, United States Code, before the date

1 that is 2 years after the date of enactment of
2 this Act.

3 (b) PREFERENCES.—

4 (1) IN GENERAL.—Section 547 of title 11,
5 United States Code, is amended—

6 (A) in subsection (b), in the matter pre-
7 ceding paragraph (1), by striking “and (i)” and
8 inserting “, (i), and (j)”; and

9 (B) by adding at the end the following:

10 “(j)(1) In this subsection:

11 “(A) The term ‘covered payment of rental ar-
12 rearages’ means a payment of arrearages that—

13 “(i) is made in connection with an agree-
14 ment or arrangement—

15 “(I) between the debtor and a lessor
16 to defer or postpone the payment of rent
17 and other periodic charges under a lease of
18 nonresidential real property; and

19 “(II) made or entered into on or after
20 March 13, 2020;

21 “(ii) does not exceed the amount of rental
22 and other periodic charges agreed to under the
23 lease of nonresidential real property described
24 in clause (i)(I) before March 13, 2020; and

1 “(iii) does not include fees, penalties, or in-
2 terest in an amount greater than the amount of
3 fees, penalties, or interest—

4 “(I) scheduled to be paid under the
5 lease of nonresidential real property de-
6 scribed in clause (i)(I); or

7 “(II) that the debtor would owe if the
8 debtor had made every payment due under
9 the lease of nonresidential real property
10 described in clause (i)(I) on time and in
11 full before March 13, 2020.

12 “(B) The term ‘covered payment of supplier ar-
13 rearages’ means a payment of arrearages that—

14 “(i) is made in connection with an agree-
15 ment or arrangement—

16 “(I) between the debtor and a supplier
17 of goods or services to defer or postpone
18 the payment of amounts due under an ex-
19 ecutory contract for goods or services; and

20 “(II) made or entered into on or after
21 March 13, 2020;

22 “(ii) does not exceed the amount due
23 under the executory contract described in clause
24 (i)(I) before March 13, 2020; and

1 “(iii) does not include fees, penalties, or in-
 2 terest in an amount greater than the amount of
 3 fees, penalties, or interest—

4 “(I) scheduled to be paid under the
 5 executory contract described in clause
 6 (i)(I); or

7 “(II) that the debtor would owe if the
 8 debtor had made every payment due under
 9 the executory contract described in clause
 10 (i)(I) on time and in full before March 13,
 11 2020.

12 “(2) The trustee may not avoid a transfer under this
 13 section for—

14 “(A) a covered payment of rental arrearages; or

15 “(B) a covered payment of supplier arrear-
 16 ages.”.

17 (2) SUNSET.—

18 (A) IN GENERAL.—Effective on the date
 19 that is 2 years after the date of enactment of
 20 this Act, section 547 of title 11, United States
 21 Code, is amended—

22 (i) in subsection (b), in the matter
 23 preceding paragraph (1), by striking “, (i),
 24 and (j)” and inserting “and (i)”; and

25 (ii) by striking subsection (j).

1 (B) CASES FILED BEFORE SUNSET.—Not-
2 withstanding the amendments made by sub-
3 paragraph (A), the amendments made by para-
4 graph (1) shall apply in any case commenced
5 under title 11, United States Code, before the
6 date that is 2 years after the date of enactment
7 of this Act.

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