Small Business Reorganization Act of 2019

Background
The Small Business Reorganization Act was signed into law on August 23, 2019 and became effective in February 2020. It creates a new Subchapter V under Chapter 11 of the U.S. Bankruptcy Code. Historically, few small businesses have been able to reorganize under Chapter 11 due to the costs and administrative burdens associated with the process. The Act gives small businesses greater access to the benefits that Chapter 11 affords—namely, breathing room to improve financial and operational performance, and the ability to reduce or at least, restructure debts.

Highlights
• An eligible “small business debtor” cannot have more than $2,725,625 in debts.
• A trustee is appointed and will have a role in assisting the debtor in developing a plan of reorganization. The trustee is responsible for disbursing payments under a plan.
• A plan of reorganization must be filed within 90 days of the petition date.
• Under the Act, a discharge is not granted until the debtor completes all payments due within the first three years of the plan or up to five years as the court determines.

Summary
The Act will give small businesses expanded access to the Bankruptcy Code’s reorganization tools but because it is so new, very few attorneys are even aware of its application to Maine’s small businesses.