



## The Consumer Bankruptcy Reform Act of 2020

On December 9, 2020, Senators Elizabeth Warren (D-MA), Dick Durbin (D-IL), and Sheldon Whitehouse (D-RI) and Representatives Jerrold Nadler (D-NY) and David Cicilline (D-RI) introduced the Consumer Bankruptcy Reform Act of 2020 ("CBRA").

The CBRA proposes a new chapter 10. There will no longer be a chapter 7 or chapter 13. All individual debtors with debts of less than \$7.5 million would be eligible for chapter 10; those with larger debts would have to file for 11 (or 12 if they qualify).

Under chapter 10, a consumer can either adjust the interest rate and amortization schedule of a secured loan, or cure a default on the loan. Chapter 10 also removes chapter 13's restrictions on mortgage modification ("cram down"), and pares back (but does not eliminate) the restriction on auto loan lien stripping.

Chapter 10 also allows a consumer to decouple a debtor's various financial obligations. There is no way to deal with debts a la carte under current law. Chapter 10 changes that by introducing the concept of a "limited proceeding." A debtor may elect at the time of filing to conduct a "limited proceeding," that consists of solely a residence or property plan - treating only secured debt - which means no discharge. This enables a cure of a mortgage or car loan without a full-blown bankruptcy.

There are a number of other CBRA provisions of note: 1. Reaffirmations are also entirely gone. 2. The CBRA creates a provision for the payment of attorney's fees in chapter 10. 3. The CBRA makes it possible for renters to keep their residences. Back rent is treated like any other unsecured debt. 4. Section 523 is amended to make certain previously non-dischargeable debts such as student loans, dischargeable.

A complete text of the bill, as proposed, can be found here:

[https://www.warren.senate.gov/imo/media/doc/Consumer%20Bankruptcy%20Reform%20Act%20\(DUN20676\)%2012.7.20%20FINAL.pdf](https://www.warren.senate.gov/imo/media/doc/Consumer%20Bankruptcy%20Reform%20Act%20(DUN20676)%2012.7.20%20FINAL.pdf)

Sottile & Barile will continue to keep you updated on the status of this legislation. Meanwhile, for any questions or concerns, please feel free to contact Partner, Jon Lieberman at [jon.lieberman@sottileandbarile.com](mailto:jon.lieberman@sottileandbarile.com)