

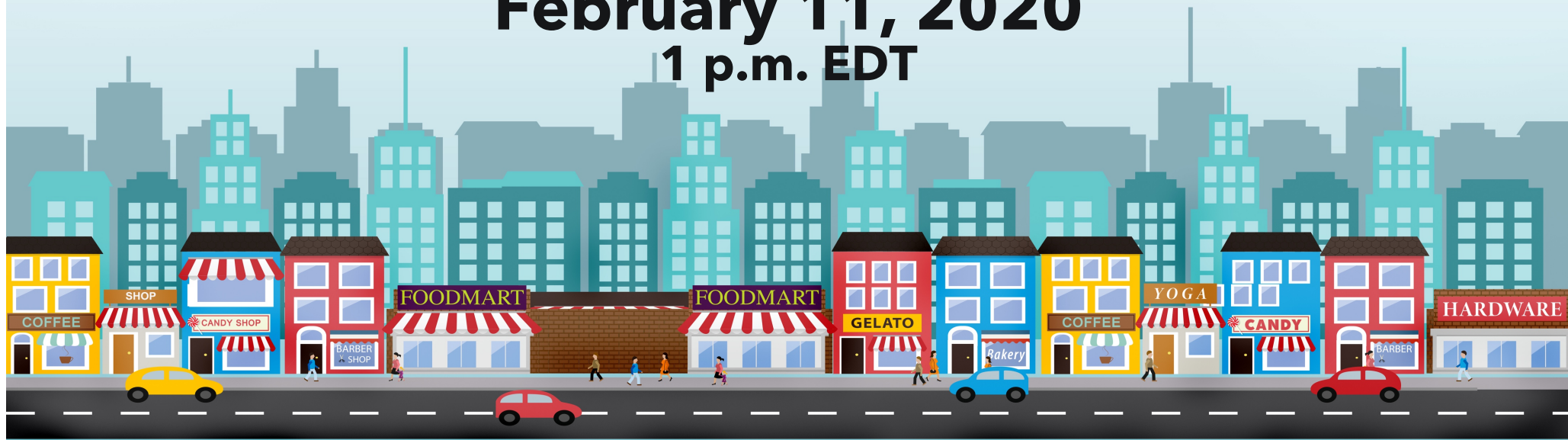


AMERICAN
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What's the Last Word on SBRA?

abiLIVE
webinar series

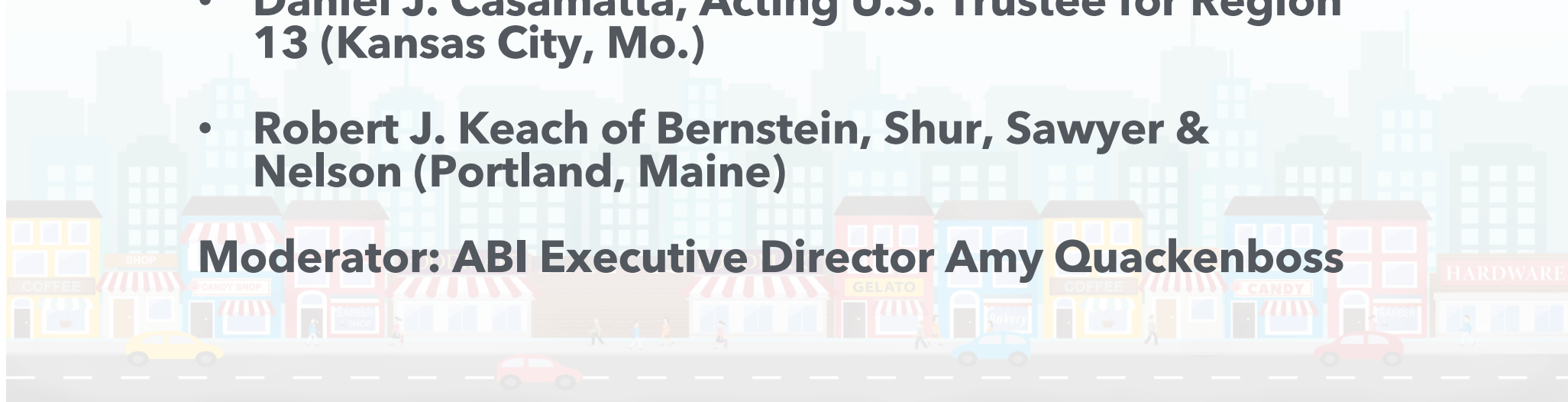
February 11, 2020
1 p.m. EDT



SPEAKERS ON TODAY'S PROGRAM

- **Bankruptcy Judge Michelle Harner (D. Md.; Baltimore)**
- **Bankruptcy Judge Benjamin Kahn (M.D. N.C.; Greensboro)**
- **Daniel J. Casamatta, Acting U.S. Trustee for Region 13 (Kansas City, Mo.)**
- **Robert J. Keach of Bernstein, Shur, Sawyer & Nelson (Portland, Maine)**

Moderator: ABI Executive Director Amy Quackenboss



THE NEED TO UPDATE THE BANKRUPTCY CODE: ORIGINS OF SBRA



80%

70%

50%

30%

**Only 30% of
small businesses
survive after the
10th year**



99% of U.S. businesses
are small businesses

47.5% of the total U.S.
workforce is employed
by small businesses



THE NEED FOR CHANGE

Small businesses avoiding chapter 11 because:

- **Risk of loss of ownership**
- **Cost**
 - **Time**
 - **Procedural/Reporting Burdens**
 - **Committee Counsel/Advisor Costs**
 - **Tactical Fights Driven by §1129(a)(10), APR, New Value Elements**

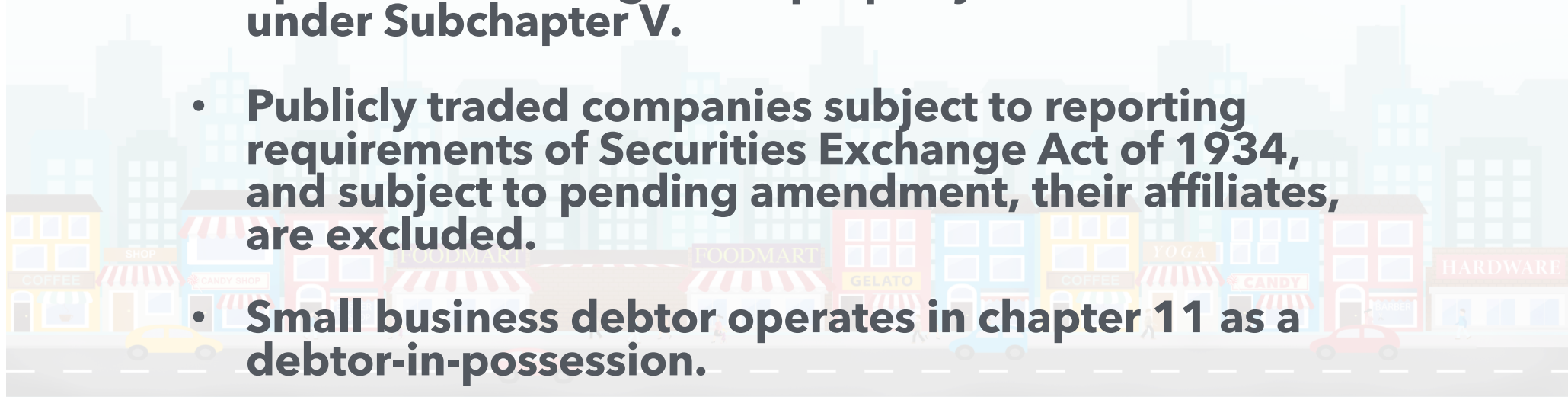


REORGANIZATION UNDER SBRA



WHO QUALIFIES AS A SUBCHAPTER V DEBTOR?

- Available to any entity or individual with aggregate noncontingent liquidated debts not more than \$2,725,625 of which not less than 50% of the debt is commercial or business.
- SARE debtors excluded: debtor who derives substantially all of its gross income from the operation of a single real property cannot elect under Subchapter V.
- Publicly traded companies subject to reporting requirements of Securities Exchange Act of 1934, and subject to pending amendment, their affiliates, are excluded.
- Small business debtor operates in chapter 11 as a debtor-in-possession.



SBRA

General Objective:

To make small business
reorganization cases ...

Quicker

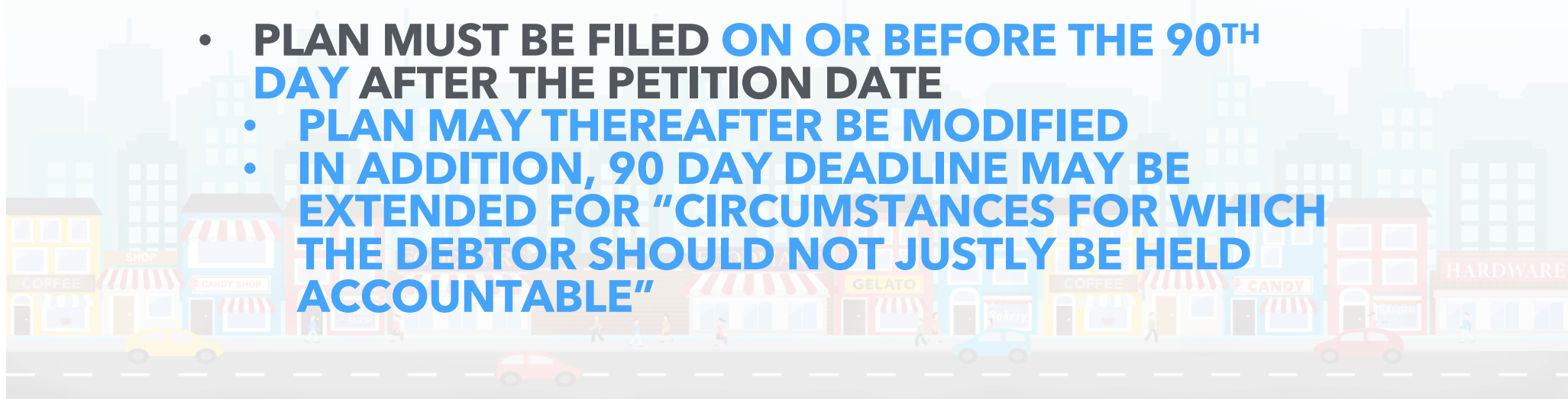
Cheaper

More effective



QUICKER: *NEW DEADLINES TO KEEP CASE ON TRACK*

- STATUS CONFERENCE TO BE HELD **NO LATER THAN 60 DAYS** AFTER FILING
- **AT LEAST 14 DAYS** BEFORE STATUS CONFERENCE, DEBTOR MUST FILE A REPORT CONTAINING AN OUTLINE OF EFFORTS TO CONFIRM A PLAN
- PLAN MUST BE FILED **ON OR BEFORE THE 90TH DAY** AFTER THE PETITION DATE
 - **PLAN MAY THEREAFTER BE MODIFIED**
 - **IN ADDITION, 90 DAY DEADLINE MAY BE EXTENDED FOR "CIRCUMSTANCES FOR WHICH THE DEBTOR SHOULD NOT JUSTLY BE HELD ACCOUNTABLE"**



Quicker



In general, no creditors' committee



In general, no disclosure statement



In general, subchapter V trustee serves different role than traditional chapter 11 trustee



In general, more flexibility in path to confirmation





Cheaper

**Fewer
disclosure
requirements**

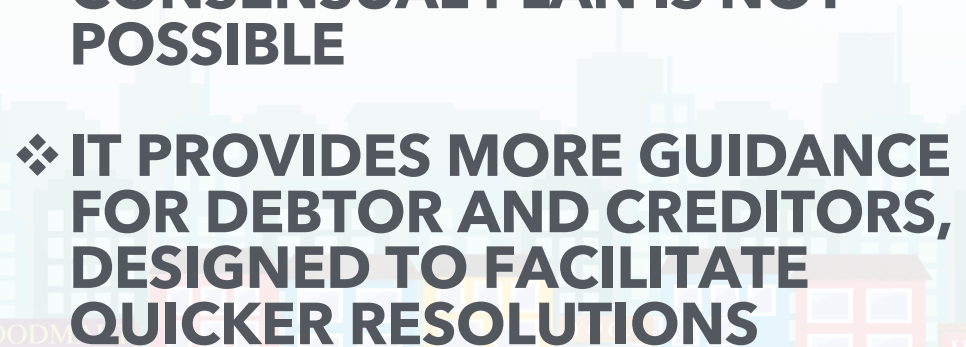
**No quarterly UST
fees**

**Potentially less
expense if case
proceeds on
expedited timeline**





More effective

- ❖ **SUBCHAPTER V GIVES DEBTOR THE CHANCE TO FILE A PLAN AND WORK TOWARD CONSENSUAL RESOLUTIONS**
 - ❖ **IT INCLUDES MORE ALTERNATIVES FOR CONFIRMATION WHEN A CONSENSUAL PLAN IS NOT POSSIBLE**
 - ❖ **IT PROVIDES MORE GUIDANCE FOR DEBTOR AND CREDITORS, DESIGNED TO FACILITATE QUICKER RESOLUTIONS**
- 

KEY DIFFERENCES BETWEEN CHAPTER 11 AND SUBCHAPTER V





SBRA

Small Business Reorganization Act A Better Road to Reorganization for Main Street Businesses

Prior to February 19, 2020

Some small businesses cannot afford to file under the 1978 Code.

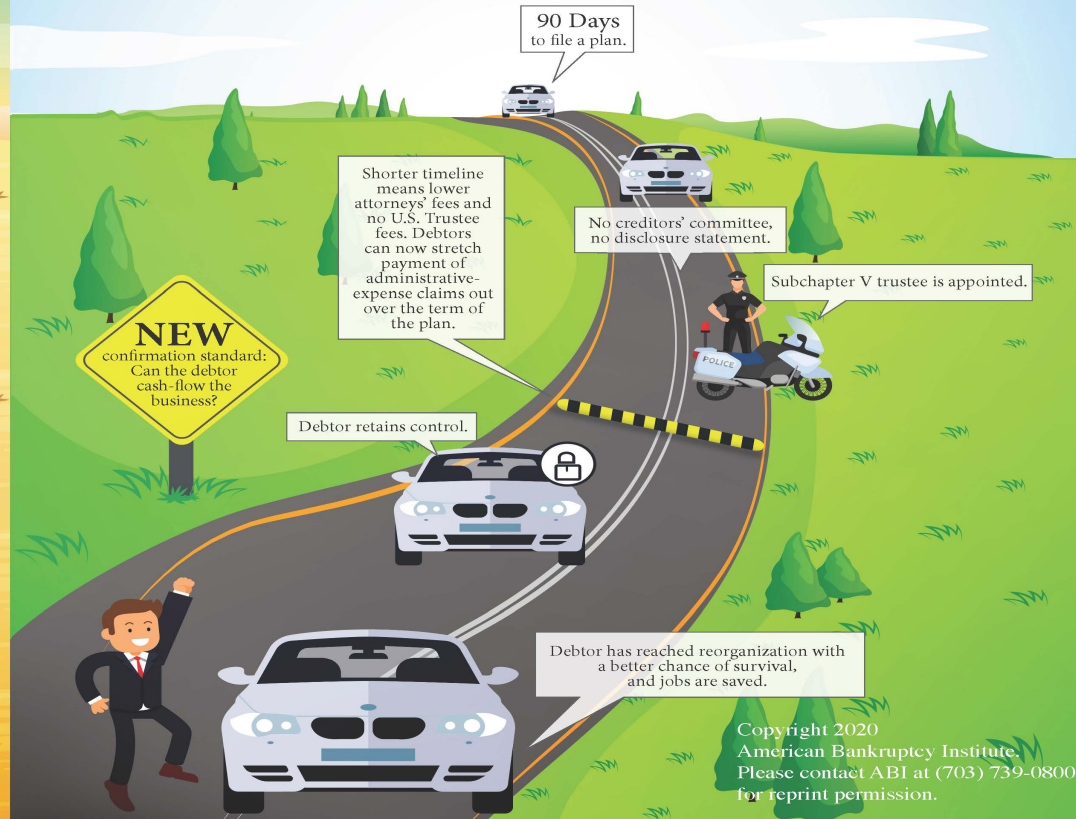


Editor's Note:

The Small Business Reorganization Act of 2019 (PL. 116-54) erects a new subchapter V of the Bankruptcy Code and is effective on Feb. 19, 2020. The new law is inspired by ABI's Commission to Study the Reform of Chapter 11. This graphic compares key changes from the prior law. For more on the ABI Commission's work, including its final report that was released in 2015, visit Commission.abi.org.

As of February 19, 2020

Price point has been addressed to allow greater ability to file.



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GENERAL PROVISIONS AND PROCESS FOR DEBTORS UNDER SBRA



COMMENCEMENT OF THE CASE (NEW § 1187(a))

- **UPON ELECTING TO FILE UNDER SUBCHAPTER V, THE DEBTOR MUST FILE A COPY OF THE COMPANY'S MOST-RECENT BALANCE SHEET, STATEMENT OF OPERATIONS, CASH-FLOW STATEMENT, AND FEDERAL INCOME TAX RETURN OR A SWORN STATEMENT THAT SUCH DOCUMENTS DO NOT EXIST**
- **SBRA DOES NOT SPECIFY WHEN THE DEBTOR MUST ELECT TO PROCEED UNDER SUBCHAPTER V**
INTERIM B.R. 1020: ELECTION MUST BE MADE ON PETITION (FOR VOLUNTARY CASE) OR WITHIN 14 DAYS AFTER ORDER FOR RELIEF (INVOLUNTARY CASE)
- **CREDITORS' COMMITTEE: UNLESS THE COURT ORDERS OTHERWISE, NO CREDITORS' COMMITTEE; CREDITORS' COMMITTEES WILL BE THE EXCEPTION - NOT THE RULE - IN SBRA REORGANIZATIONS**

DUTIES OF DEBTOR UNDER SECTION 308 (NEW §1187(b))

DEBTOR IS REQUIRED TO FILE PERIODIC REPORTS

THE PERIODIC REPORTS MUST CONTAIN INFORMATION:

- 1. THE DEBTOR'S PROFITABILITY**
- 2. REASONABLE APPROXIMATIONS OF THE DEBTOR'S PROJECTED CASH RECEIPTS AND CASH DISBURSEMENTS**
- 3. COMPARISONS OF ACTUAL CASH RECEIPTS AND DISBURSEMENTS WITH PROJECTIONS IN EARLIER REPORTS**
- 4. WHETHER THE DEBTOR IS IN COMPLIANCE WITH POST-PETITION REQUIREMENTS OF THE BANKRUPTCY CODE AND THE BANKRUPTCY RULES, AND WHETHER THE DEBTOR IS TIMELY FILING TAX RETURNS AND PAYING TAXES AND ADMINISTRATIVE EXPENSES WHEN DUE**
- 5. IF THE DEBTOR HAS NOT COMPLIED WITH THE FOREGOING DUTIES, HOW, WHEN AND AT WHAT COST THE DEBTOR INTENDS TO REMEDY ANY FAILURES**



DUTIES OF DEBTOR UNDER SECTION 1116(2) - (7) (NEW § 1187(b))

THE DEBTOR'S SENIOR MANAGEMENT PERSONNEL AND COUNSEL MUST:

- **ATTEND MEETINGS SCHEDULED BY THE COURT OR THE U.S. TRUSTEE (INCLUDING INITIAL DEBTOR INTERVIEWS, SCHEDULING CONFERENCES AND § 341 MEETINGS)**
- **TIMELY FILE ALL SCHEDULES AND STATEMENTS OF FINANCIAL AFFAIRS**
- **FILE ALL POST-PETITION FINANCIAL AND OTHER REPORTS**
- **MAINTAIN CUSTOMARY AND APPROPRIATE INSURANCE**
- **TIMELY FILE REQUIRED TAX RETURNS AND OTHER GOVERNMENT FILINGS, AND PAY ALL TAXES ENTITLED TO ADMINISTRATIVE EXPENSE PRIORITY**
- **ALLOW THE U.S. TRUSTEE TO INSPECT THE DEBTOR'S BUSINESS PREMISES, BOOKS, AND RECORDS**
- **PERFORM DUTIES OF A TRUSTEE UNDER SECTION 1106 EXCEPT CONDUCTING AND MAKING A REPORT OF AN INVESTIGATION OF A DEBTOR. 11 USC § 1184**

ROLE OF THE U.S. TRUSTEE AND BANKRUPTCY ADMINISTRATORS



ROLE OF THE U.S. TRUSTEE AND BA's

**SUBCHAPTER V DEBTORS DO NOT PAY
QUARTERLY FEES TO THE OFFICE OF THE U.S.
TRUSTEE, BUT THE OFFICE WILL STILL PERFORM
ALL OF ITS DUTIES UNDER 28 U.S.C. § 586**



ROLE OF THE U.S. TRUSTEE AND BA's

- CONDUCT INITIAL DEBTOR INTERVIEW
- **CONDUCT 341 MEETING OF CREDITORS**
- ENSURE DEBTOR OPENS DEBTOR-IN-POSSESSION BANK ACCOUNT
- **REVIEW MONTHLY OPERATING REPORTS**
- ENSURE DEBTOR MAINTAINS INSURANCE
- **ENSURE TRUSTEES ARE BONDED**
- REVIEW APPLICATIONS TO EMPLOY PROFESSIONALS
- **REVIEW APPLICATIONS FOR COMPENSATION**
- REVIEW CHAPTER 11 PLANS
- **ENSURE APPROPRIATE DISCLOSURES ARE FILED**
 - COMPENSATION OF OFFICERS
 - OWNERSHIP INTEREST IN OTHER ENTITIES
- **COLLECT AND REVIEW INITIAL FINANCIAL INFORMATION**
 - BANK ACCOUNT STATEMENTS
 - INCOME TAX RETURN
 - FINANCIAL STATEMENTS
- **REVIEW FIRST DAY MOTIONS**

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THE SBRA TRUSTEE



APPOINTMENT OF SUBCHAPTER V TRUSTEE

SBRA ALLOWS FOR EITHER STANDING OR CASE-BY-CASE TRUSTEES. 11 U.S.C. § 1183(a) BOTH STANDING AND CASE-BY-CASE TRUSTEES HAVE THE SAME DUTIES.

➤ **CURRENTLY, TRUSTEES ARE APPOINTED ON A CASE-BY-CASE BASIS IN BOTH UST REGIONS AND BA DISTRICTS**

➤ **EACH REGION HAS A POOL OF TRUSTEES**

➤ **IN BANKRUPTCY ADMINISTRATOR DISTRICTS, EACH DISTRICT HAS A POOL OF TRUSTEES**

APPOINTMENT PROCESS FOR SUBCHAPTER V TRUSTEE

- **THE SUBCHAPTER V TRUSTEE IS SIMILAR TO TRUSTEES UNDER CHAPTERS 12 AND 13 OF THE CODE**
- **WITH THE SUBCHAPTER V TRUSTEE IT IS IMPORTANT NOT TO THINK OF IT AS A CHAPTER 11 TRUSTEE IN THE SENSE THAT MANY CHAPTER 11 PRACTITIONERS ARE USED TO**
- **IT'S A SUPERVISORY TRUSTEE, NOT AN OPERATING TRUSTEE (THOUGH IT COULD BE TO THE EXTENT THAT THE DEBTOR IS REMOVED AS DIP ON REQUEST OF A PARTY IN INTEREST)**



DUTIES OF SUBCHAPTER V TRUSTEE

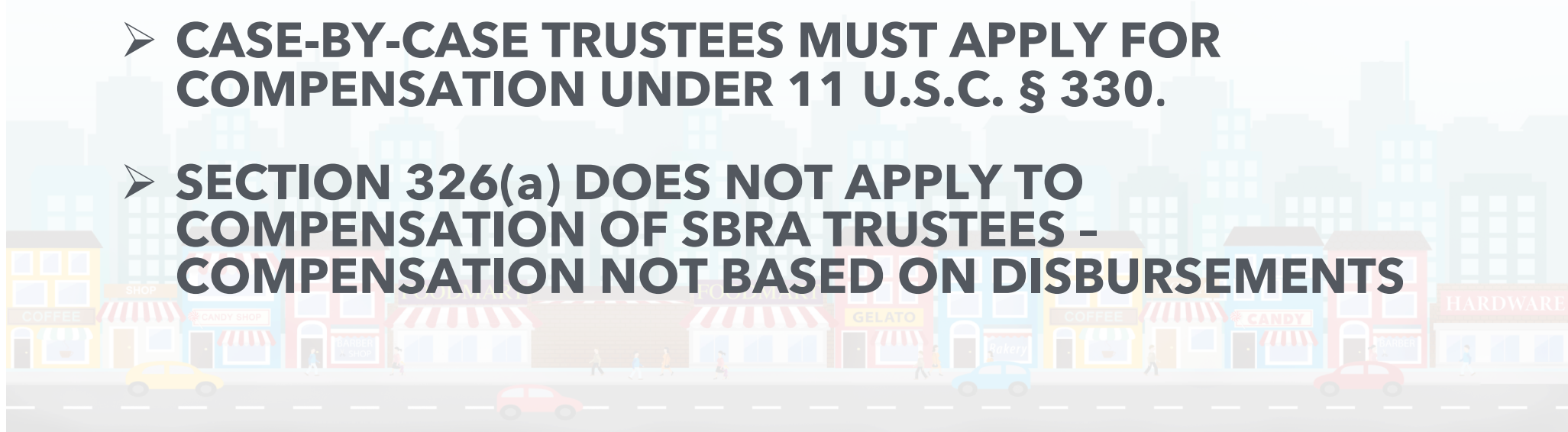
1. ATTEND INITIAL DEBTOR INTERVIEW
2. ATTEND 341 MEETING OF CREDITORS
3. PERFORM THE DUTIES IDENTIFIED IN SECTION 1183 OF THE CODE, WHICH INCORPORATES SOME BUT NOT ALL ASPECTS OF SECTIONS 704 AND 1106 OF THE CODE.
4. FACILITATE THE DEVELOPMENT OF A CONSENSUAL PLAN.

TERMINATION OF TRUSTEE

- **IF THE PLAN IS CONFIRMED UNDER SECTION 1191(a), UNLESS PROVIDED OTHERWISE IN THE PLAN, THE SERVICE OF THE TRUSTEE SHALL TERMINATE WHEN THE PLAN HAS BEEN SUBSTANTIALLY CONSUMMATED**
- **IF A PLAN IS CONFIRMED UNDER 1191(b)–SECTION 1194(b) PROVIDES THAT, EXCEPT AS OTHERWISE PROVIDED FOR IN THE PLAN OR THE ORDER CONFIRMING THE PLAN, THE TRUSTEE SHALL MAKE PAYMENTS TO CREDITORS UNDER THE PLAN FOR THE DURATION OF THE PLAN**
- **THE U.S. TRUSTEE OR BA MAY REAPPOINT A TRUSTEE AS NEEDED FOR PERFORMANCE OF DUTIES UNDER SUBSECTION 1183(b)(3)(C) (MODIFICATION) AND SECTION 1185(a) (REMOVAL OF DEBTOR AS DEBTOR IN POSSESSION)**

COMPENSATION OF SUBCHAPTER V TRUSTEE

- **COMPENSATION FOR SBRA STANDING TRUSTEES WILL BE BASED ON A PERCENTAGE FEE DETERMINED BY THE UST, MUCH LIKE THE PERCENTAGE FEES SET FOR OTHER STANDING TRUSTEES UNDER 28 USC § 586(e)**
- **CASE-BY-CASE TRUSTEES MUST APPLY FOR COMPENSATION UNDER 11 U.S.C. § 330.**
- **SECTION 326(a) DOES NOT APPLY TO COMPENSATION OF SBRA TRUSTEES - COMPENSATION NOT BASED ON DISBURSEMENTS**



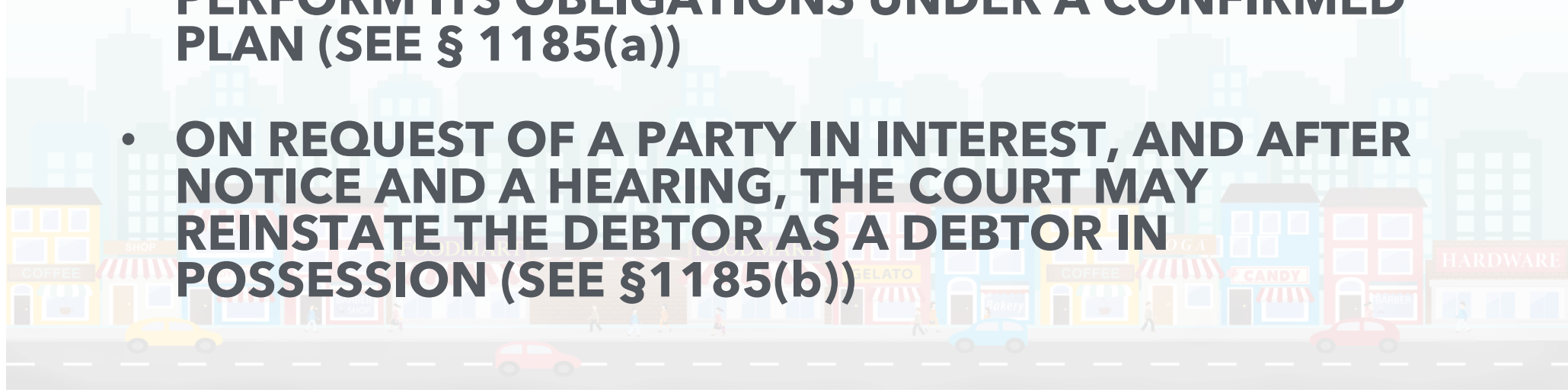
TRUSTEE'S EMPLOYMENT OF ATTORNEYS AND OTHER PROFESSIONALS

- **SECTION 327(a) PERMITS A BANKRUPTCY TRUSTEE TO EMPLOY ATTORNEYS AND OTHER PROFESSIONALS; SBRA DOES NOT MODIFY THIS PROVISION FOR SUBCHAPTER V CASES**
- ***NOTE:* A TRUSTEE'S EMPLOYMENT OF ATTORNEYS OR OTHER PROFESSIONALS HAS THE POTENTIAL OF SUBSTANTIALLY INCREASING THE ADMINISTRATIVE EXPENSES OF THE CASE**



REMOVAL OF THE DEBTOR IN POSSESSION

- **ON REQUEST OF A PARTY IN INTEREST AND AFTER NOTICE AND HEARING, THE DEBTOR SHALL BE REMOVED AS A DEBTOR IN POSSESSION FOR CAUSE, INCLUDING FRAUD, DISHONESTY, INCOMPETENCE, OR GROSS MISMANAGEMENT OF THE AFFAIRS OF THE DEBTOR, OR FOR FAILURE TO PERFORM ITS OBLIGATIONS UNDER A CONFIRMED PLAN (SEE § 1185(a))**
- **ON REQUEST OF A PARTY IN INTEREST, AND AFTER NOTICE AND A HEARING, THE COURT MAY REINSTATE THE DEBTOR AS A DEBTOR IN POSSESSION (SEE §1185(b))**





CREDITOR CONSIDERATIONS UNDER SBRA

- ✓ **THE CASH COLLATERAL, ADEQUATE PROTECTION AND AUTOMATIC STAY PROVISIONS REMAIN THE SAME UNDER SBRA AS UNDER CHAPTER 11**
- ✓ **THE CRAMDOWN PROVISIONS AS TO SECURED CREDITORS REMAIN THE SAME BUT DIFFER FOR UNSECURED CREDITORS**
- ✓ **MAY STILL MAKE SECTION 1111(b) ELECTION—THE DEADLINE FOR WHICH WILL BE ESTABLISHED BY THE COURT**
- ✓ **SUBCHAPTER V TRUSTEE WILL HELP FACILITATE DISCUSSIONS BETWEEN CREDITOR AND DEBTOR (§ 1183(b)(7))**
- ✓ **SBRA PROVIDES A POTENTIALLY EXPEDITED PATH TOWARD CONFIRMATION OF A STAND ALONE OR SALE PLAN, WHICH MAY BENEFIT CREDITOR TO THE EXTENT TERMS ARE REACHED WITH DEBTOR (OR TERMS PROPOSED BY DEBTOR ARE ACCEPTABLE)**

PLAN PROCESS



PLAN PROCESS

- **ONLY THE DEBTOR MAY FILE A PLAN (MUST DO SO WITHIN FIRST 90 DAYS)**
- **ONLY THE DEBTOR MAY MODIFY THE PLAN**
- **DEADLINE MAY BE EXTENDED BY THE COURT AT ANY TIME IF THE NEED FOR AN EXTENSION IS ATTRIBUTABLE TO CIRCUMSTANCES BEYOND THE DEBTOR'S CONTROL**
- **GENERALLY, NO SEPARATE DISCLOSURE STATEMENT REQUIRED**
- **THE PLAN MUST CONTAIN A BRIEF BUSINESS HISTORY OF THE DEBTOR, A LIQUIDATION ANALYSIS, AND PROJECTIONS TO SUPPORT PAYMENTS UNDER THE PLAN**
- **NO 45-DAY TIME LIMIT FOR PLAN CONFIRMATION**

PLAN PROCESS – ADMINISTRATIVE CLAIMS

**DELAYED PAYMENT OF ADMINISTRATIVE
EXPENSE CLAIMS; MAY STRETCH OUT
OVER TERM OF PLAN, EVEN FOR POST-
PETITION GOODS AND SERVICES AND
ESTATE PROFESSIONAL FEES**



PLAN PROCESS – MODIFICATION OF MORTGAGE

THE PROPOSED SUBCHAPTER V PLAN MAY MODIFY THE CLAIM SECURED BY REAL PROPERTY THAT IS THE PRINCIPAL RESIDENCE OF THE INDIVIDUAL DEBTOR IF

(1) MORTGAGE LOAN WAS NOT USED PRIMARILY TO PURCHASE THE DEBTOR'S RESIDENCE AND

(2) THE "NEW VALUE RECEIVED IN CONNECTION WITH THE GRANTING OF THE SECURITY INTEREST" IS USED PRIMARILY IN CONNECTION WITH DEBTOR'S SMALL BUSINESS



PLAN PROCESS - PROPERTY OF THE ESTATE

- **SECTION 1115 PROVIDES THAT, IN AN INDIVIDUAL CHAPTER 11 CASE, PROPERTY OF THE ESTATE INCLUDES ASSETS THAT THE DEBTOR ACQUIRES POSTPETITION AND EARNINGS FROM POST-PETITION SERVICES**
 - **SECTION 1115 DOES NOT APPLY IN A SUBCHAPTER V CASE (SEE § 1181(a))**
- **IF THE COURT CONFIRMS A PLAN UNDER THE CRAMDOWN PROVISIONS OF NEW § 1191(B), PROPERTY OF THE ESTATE INCLUDES (IN CASES OF BOTH INDIVIDUALS AND ENTITIES) POST-PETITION ASSETS AND "EARNINGS FROM SERVICES PERFORMED BY THE DEBTOR" (SEE § 1186(a))**



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PLAN CONFIRMATION



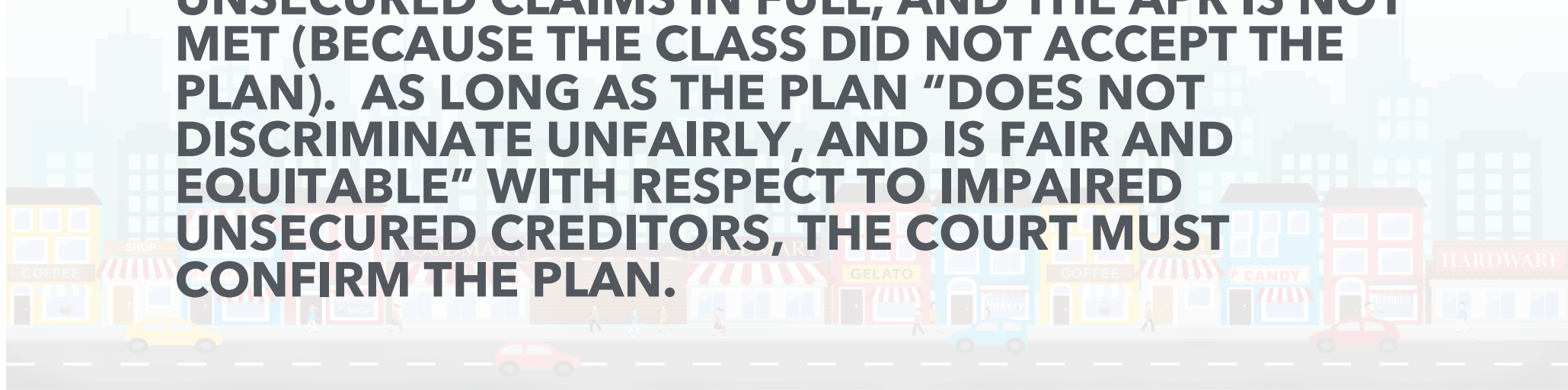
PLAN CONFIRMATION SECTION 1191(b) AND (c)

DEBTOR CAN CONFIRM A CONSENSUAL PLAN UNDER SECTION 1191(a) OF THE CODE, BUT ALSO ...

- ✓ **INCREASED ABILITY TO CRAMDOWN UNSECURED CREDITORS, MAY DO SO AS LONG AS THE PLAN IS "FAIR AND EQUITABLE" AND DOES NOT DISCRIMINATE UNFAIRLY**
- ✓ **PLAN IS PURSUANT TO THE USUAL CRITERIA OF SECTION 1129(a) OF THE BANKRUPTCY CODE, BUT SECTIONS 1129(a)(8) (ALL CLASSES ACCEPT), (a)(10) (ONE IMPAIRED CLASS ACCEPTS), AND (a)(15) (INDIVIDUAL 11, DISPOSABLE INCOME FOR 5 YEARS) DO NOT APPLY TO SBRA CASES**
- ✓ **REMOVES THE ABSOLUTE PRIORITY RULE**

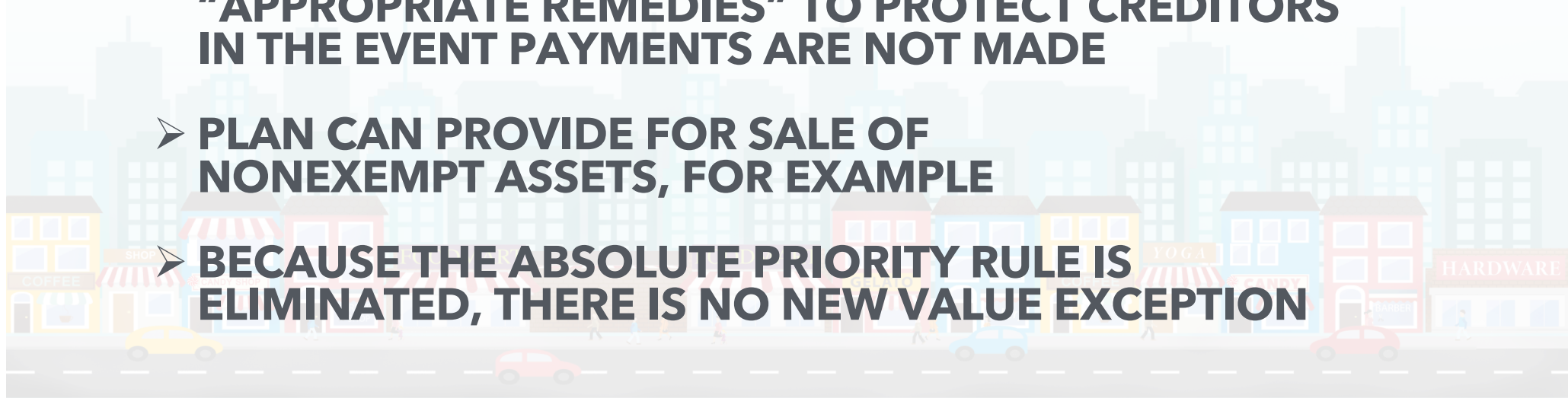
CRAMDOWN UNDER SBRA

- **WITH RESPECT TO SECURED CLAIMS, CRAMDOWN IS THE SAME AS AN ORDINARY BUSINESS ENTITY CHAPTER 11 CASE.**
- **EQUITY HOLDERS CAN RETAIN THEIR INTERESTS IN THE BUSINESS EVEN IF THE PLAN DOES NOT PAY UNSECURED CLAIMS IN FULL, AND THE APR IS NOT MET (BECAUSE THE CLASS DID NOT ACCEPT THE PLAN). AS LONG AS THE PLAN “DOES NOT DISCRIMINATE UNFAIRLY, AND IS FAIR AND EQUITABLE” WITH RESPECT TO IMPAIRED UNSECURED CREDITORS, THE COURT MUST CONFIRM THE PLAN.**



PLAN CONFIRMATION - FAIR AND EQUITABLE

- **FOR SECURED CLAIMS, PLAN MUST STILL MEET THE REQUIREMENTS OF 1129(b)(2)(A)**
- **THAT IT WILL MAKE ALL PAYMENTS UNDER THE PLAN, OR THAT THERE IS A "REASONABLE LIKELIHOOD" THAT IT WILL BE ABLE TO MAKE ALL PAYMENTS UNDER THE PLAN AND THE PLAN MUST PROVIDE "APPROPRIATE REMEDIES" TO PROTECT CREDITORS IN THE EVENT PAYMENTS ARE NOT MADE**
- **PLAN CAN PROVIDE FOR SALE OF NONEXEMPT ASSETS, FOR EXAMPLE**
 - **BECAUSE THE ABSOLUTE PRIORITY RULE IS ELIMINATED, THERE IS NO NEW VALUE EXCEPTION**

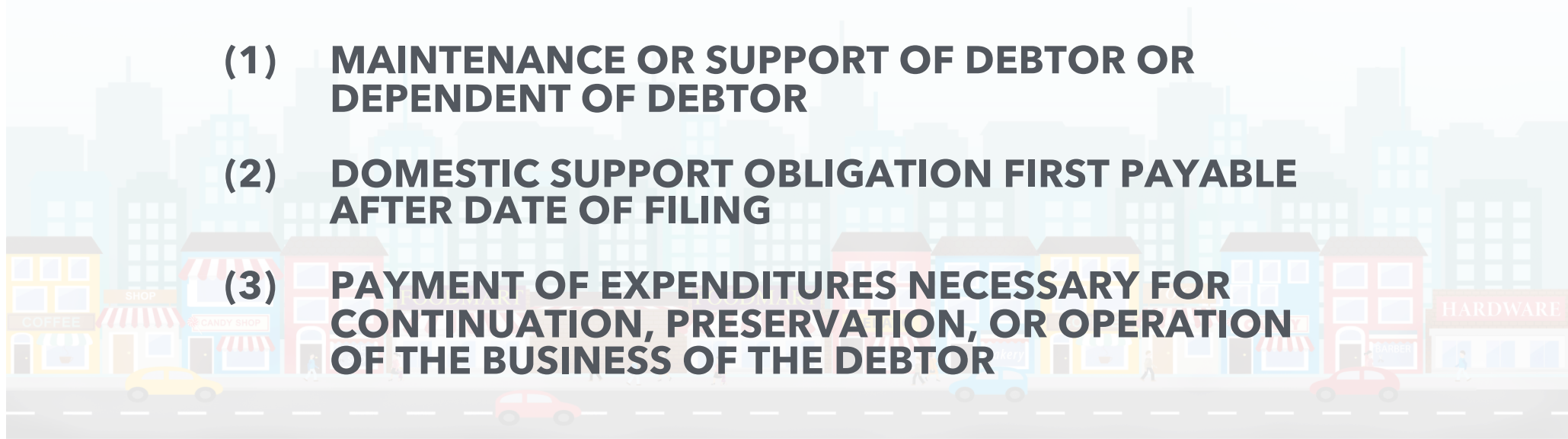


PLAN CONFIRMATION - FAIR AND EQUITABLE

***TO BE "FAIR AND EQUITABLE" AS TO UNSECURED- DEBTOR
MUST PAY ALL OF ITS PROJECTED DISPOSABLE INCOME FOR
THE FIRST 3 OR 5 YEARS OF THE PLAN (OR DISTRIBUTE VALUE
EQUIVALENT TO THAT AMOUNT)***

DISPOSABLE INCOME IS INCOME RECEIVED THAT IS NOT
NECESSARY FOR

- (1) MAINTENANCE OR SUPPORT OF DEBTOR OR
DEPENDENT OF DEBTOR**
- (2) DOMESTIC SUPPORT OBLIGATION FIRST PAYABLE
AFTER DATE OF FILING**
- (3) PAYMENT OF EXPENDITURES NECESSARY FOR
CONTINUATION, PRESERVATION, OR OPERATION
OF THE BUSINESS OF THE DEBTOR**



DISCHARGE AND POST- CONFIRMATION ISSUES

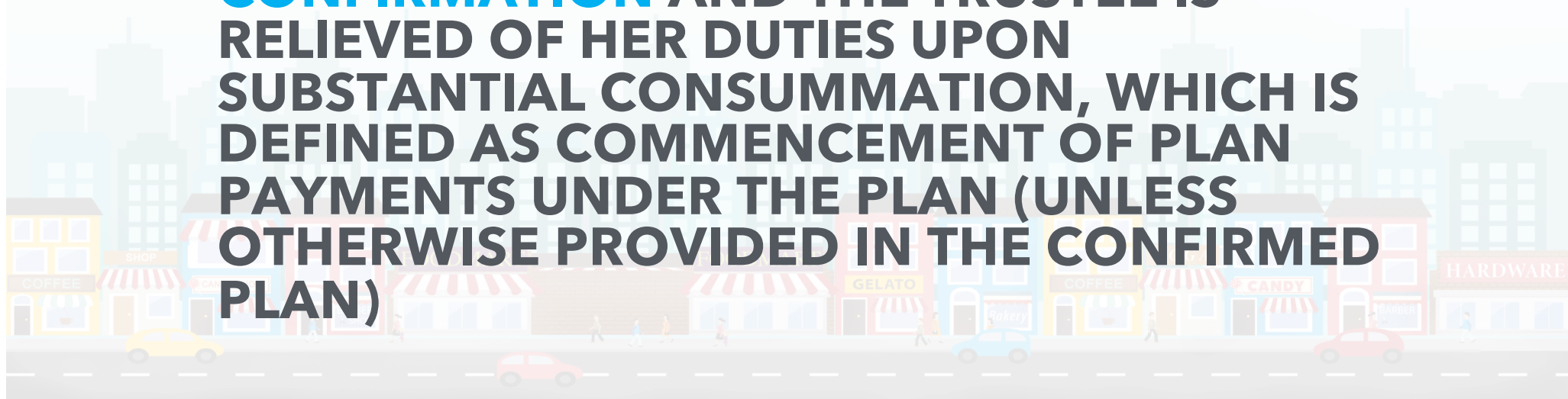




DISCHARGE AND POST-CONFIRMATION ISSUES

IF A CONSENSUAL PLAN IS CONFIRMED UNDER 1191(a):

THE DISCHARGE IS ENTERED UPON CONFIRMATION AND THE TRUSTEE IS RELIEVED OF HER DUTIES UPON SUBSTANTIAL CONSUMMATION, WHICH IS DEFINED AS COMMENCEMENT OF PLAN PAYMENTS UNDER THE PLAN (UNLESS OTHERWISE PROVIDED IN THE CONFIRMED PLAN)





DISCHARGE AND POST-CONFIRMATION ISSUES

IF PLAN IS CONFIRMED UNDER 1191(b) AND THE DEBTOR MAKES USE OF THE CRAMDOWN PROVISIONS:

A DISCHARGE IS ENTERED AS SOON AS PRACTICABLE AFTER DEBTOR COMPLETES PLAN PAYMENTS WITHIN THE INCOME COMMITMENT PERIOD, AND THE TRUSTEE WILL REMAIN AND MAKE PAYMENTS UNDER THE CONFIRMED PLAN (UNLESS OTHERWISE PROVIDED IN THE CONFIRMED PLAN)

PRE-BANKRUPTCY PLANNING

- ✓ **IDENTIFY SECURED CREDITORS**
- ✓ **IDENTIFY CASH COLLATERAL AND FIRST-DAY MOTION ISSUES**
- ✓ **GATHER THE FINANCIAL INFORMATION A SMALL BUSINESS IS REQUIRED TO PROVIDE AFTER FILING**
- ✓ **IDENTIFY EXECUTORY CONTRACTS AND LEASES**
- ✓ **CONTACT CREDITORS TO BEGIN NEGOTIATIONS**
- ✓ **WORK ON A CONSENSUAL PLAN**
- ✓ **CHECK STATUS OF INSURANCE, LICENSE, AND CORPORATE CHARTER**



SUBCHAPTER V CAN WORK FOR FREE FALL CASES

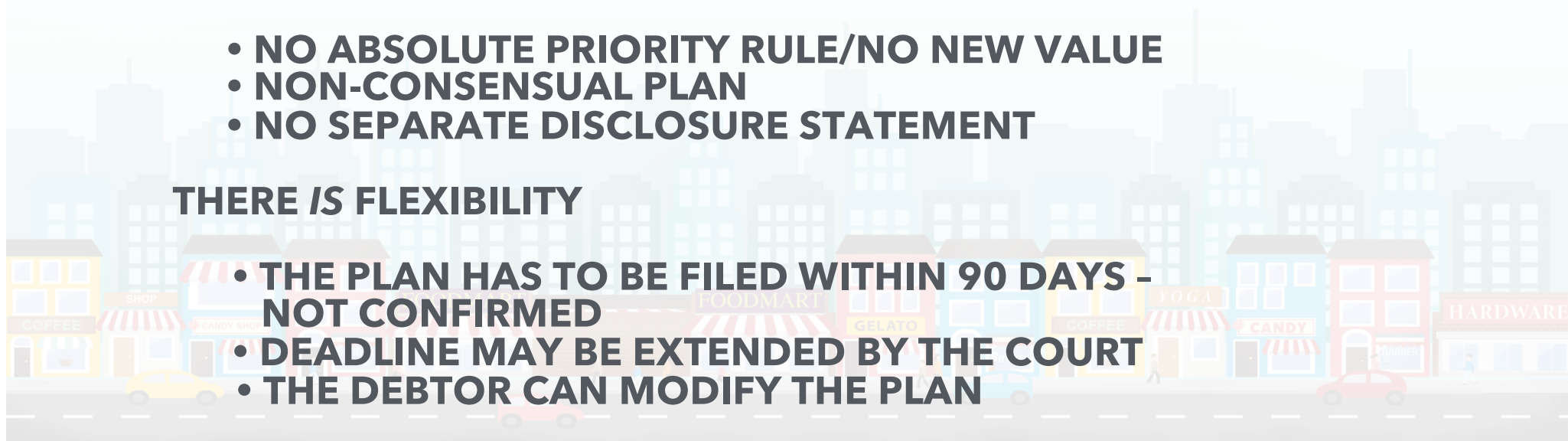
IN MANY CASES - PRE-BANKRUPTCY PLANNING IS NOT POSSIBLE BECAUSE THE DEBTOR IS IN "FREE FALL" - FACING FORECLOSURE, LEVY, OR REPOSSESSION

SUBCHAPTER V HAS SIGNIFICANT BENEFITS FOR THE SMALL BUSINESS DEBTOR

- **NO ABSOLUTE PRIORITY RULE/NO NEW VALUE**
- **NON-CONSENSUAL PLAN**
- **NO SEPARATE DISCLOSURE STATEMENT**

THERE IS FLEXIBILITY

- **THE PLAN HAS TO BE FILED WITHIN 90 DAYS - NOT CONFIRMED**
- **DEADLINE MAY BE EXTENDED BY THE COURT**
- **THE DEBTOR CAN MODIFY THE PLAN**



PROPOSED FORMS AND RULES GOVERNING SBRA



QUESTIONS AND ANSWERS



CLE CODE: 10101



THANK YOU FOR ATTENDING

BE SURE TO VISIT WWW.ABI.ORG/SBRA
FOR UPDATES AND ANALYSIS ON SBRA
DEVELOPMENTS

