

# UMA program updates & upcoming events for Members

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- **Please keep your microphone muted.**
- **Please refrain from sales/promotion in the chat room.**
- **Thank you! Enjoy the meeting.**

# Motorcoach NEWS

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# Today's Agenda

**1—Motorcoach Minute** *featuring the voice of Kevin Creighton*

**2—Welcome & Intro**

- Larry Killingsworth, UMA President/CEO
- Jeff Polzien, UMA Chairman of the Board

**3—Legislative Update**

- Ken Presley, UMA

**4—Vehicle Finance and the Law**

- Edward P. Kaye, Esq., Schickler Kaye LLP
- Jason Sharenow, President, Passaic Valley Coaches

**5—EXPO Sneak Peek**

**6—Overdrive!** *Informal chat featuring all of you*





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# TOWN HALL





# CERTS Act

as of October 15, 2020

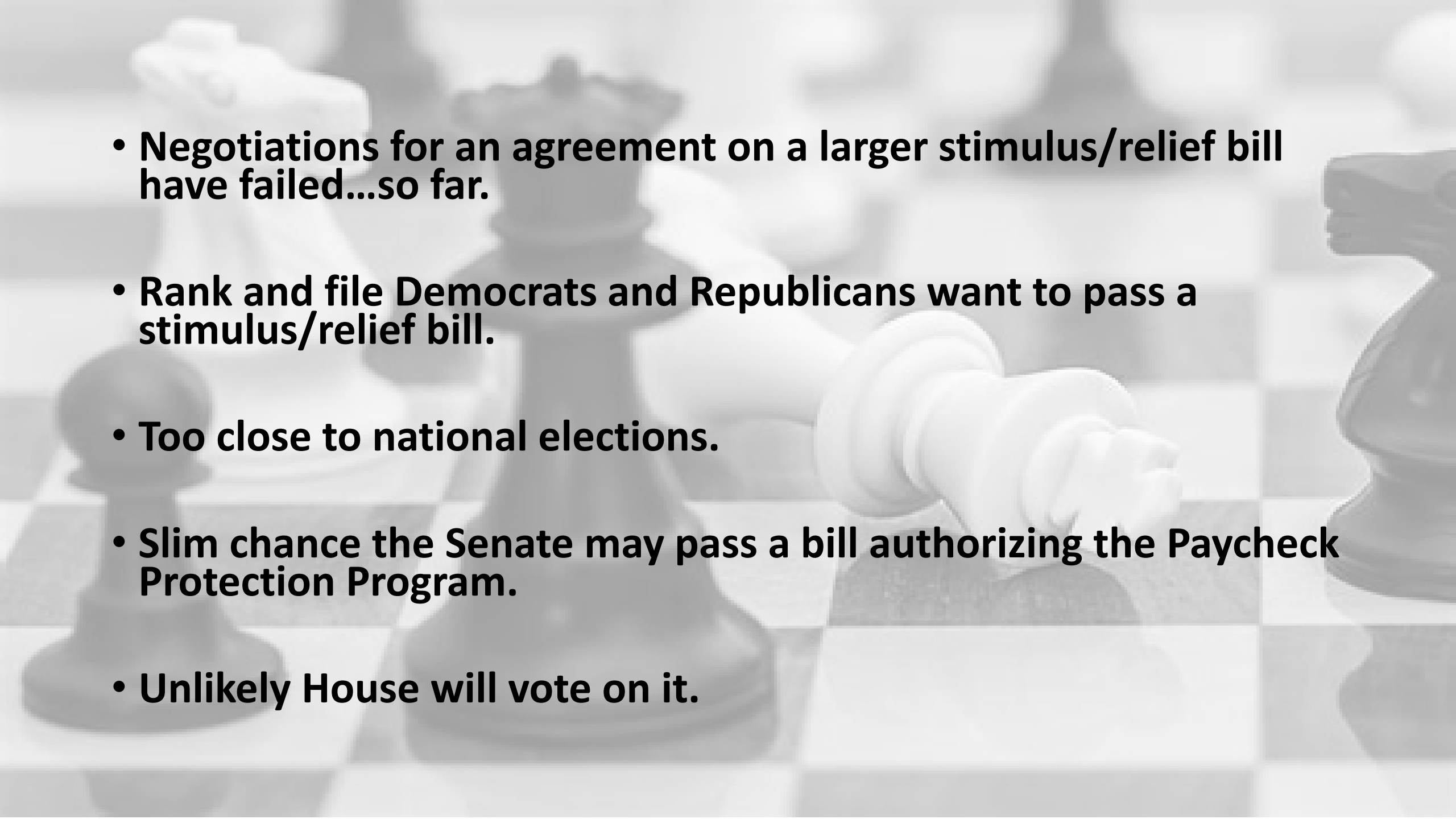
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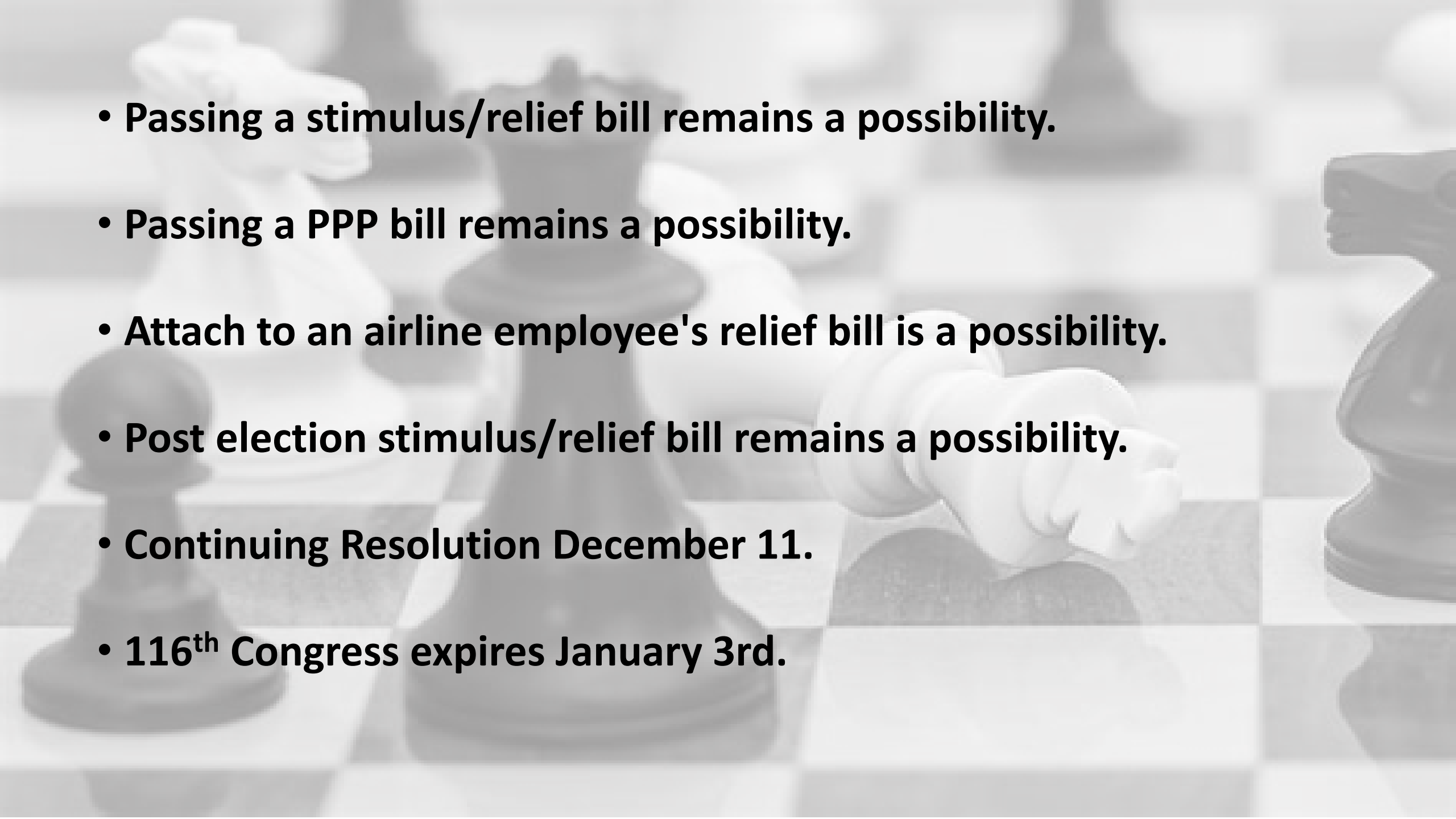
S. 4150 - 58

H.R. 7642 - 256





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- **Negotiations for an agreement on a larger stimulus/relief bill have failed...so far.**
  - **Rank and file Democrats and Republicans want to pass a stimulus/relief bill.**
  - **Too close to national elections.**
  - **Slim chance the Senate may pass a bill authorizing the Paycheck Protection Program.**
  - **Unlikely House will vote on it.**

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- **Passing a stimulus/relief bill remains a possibility.**
  - **Passing a PPP bill remains a possibility.**
  - **Attach to an airline employee's relief bill is a possibility.**
  - **Post election stimulus/relief bill remains a possibility.**
  - **Continuing Resolution December 11.**
  - **116<sup>th</sup> Congress expires January 3rd.**



**STAY THE COURSE**





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# COMMUNICATING WITH YOUR LENDER DURING A PANDEMIC



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**SCHICKLER KAYE LLP**

OUR SUCCESS IS YOUR CAPITAL

- Partner in the vehicle finance law firm of Schickler Kaye LLP
  - Clients have included major commercial banks, financial institutions, investment banks, captive and independent finance companies, and leasing companies.
  - Four seasoned finance attorneys, three litigators, and one bankruptcy counsel
- 30-year career in commercial vehicle finance and leasing (President, CEO, and General Counsel)
  - Co Founder of the Advantage Funding group of companies (largest independent financier to the motorcoach industry)
  - Co Founder of Access Commercial Capital (acquired by United Leasing and Finance)
  - Immediate past president and current board member of the National Vehicle Leasing Association (NVLA)
  - Member of the Advisory Board of Leasing News
- COVID-19 Pivot
  - Intimate knowledge of how lenders think, boundaries, and the decision process

## ***DISCLAIMER***

### **MY COMMENTS TODAY ARE NOT INTENDED FOR THE PURPOSE OF PROVIDING LEGAL OR PROFESSIONAL ADVICE.**

All the information I communicate on today's UMA Online Town Hall meeting are for informational purposes only and are not intended to serve as a substitute for the individual consultation of your own attorney. While some of my comments may be presented in conclusory, specific, or in summary form, they are not intended to replace individual, specific, legal, and professional advice provided by your own attorney, accountant, or other advisors. Any questions or feedback discussed today does not create a professional or attorney/client relationship and does not create any privacy interests.

**YOU SHOULD ALWAYS CONSULT AN ATTORNEY OF YOUR OWN CHOICE.**



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# HOW OFTEN SHOULD I COMMUNICATE WITH MY LENDER(S)?

- If you cannot make payments – often and honestly!
  - Understand the backdrop of today's lending environment
    - Historic losses on the horizon
    - Most lenders have already written down your loan on their books (***unprecedented loss provisions***)
    - Deferrals are ending or are over
      - The can has been kicked down the road as far as it can go (for most lenders)



# WHAT'S A LENDER TO DO?

- Terrible options
  - Offer another deferral -- continue to kick the can down the road (avoids repossession or voluntary surrender)
  - Offer short sales and short payoffs to exit the loan (avoids repossession or voluntary surrender)
  - Offer refinancing terms -- lower rate and/or extend the repayment term (avoids repossession or voluntary surrender)
    - Your current credit and cash flow must qualify
  - Take the collateral back and liquidate it
    - 10 - 25 cents on the dollar
    - There is no meaningful market to resell
    - Lenders are not set up to maintain and refurbish repossessed coaches to make them ready for resale





# THE CURRENT ECONOMIC BACKDROP AND RESALE MARKET CAN BE *YOUR* LEVERAGE!

- Worst Case/Perfect Storm scenario for lenders
  - Lenders have obligations to ***their*** shareholders, stakeholders, and banks (tied hands)
    - Delinquent loans cannot stay in an active or deferral status for much longer
  - They get the collateral back, sell it at auction or private sale, and suffer substantial losses
  - Down the road they get a deficiency judgment against the borrower and most likely against a personal guarantor
    - Reality check - chance of recovery in most cases will be minimal
    - Debtor and personal guarantor filing for bankruptcy protection is always in the decision making process
  - Lenders do **NOT** want to take the collateral back if possible



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## FIND THE "WIN - WIN" FOR YOU AND THE LENDER

The operator  
keeps the  
coach

The lender  
starts to get  
paid again



## GETTING TO THE “WIN-WIN”

- Understand your loan and lease agreement!
  - Have you ever read it?
  - If not, read it and understand it or hire a professional to advise you
- The pages of the loan agreement guide the lenders’ decision-making process
  - Expect they will attempt to enforce the terms of the agreement (even during Covid-19)
- Reach out to the lender before your last deferral expires or the loan goes into default
  - Preferably in writing – follow the notice provision in the contract



# COMMUNICATE WHAT YOU WANT

- Clearly state your plans and what you hope to accomplish with the lender
  - Another deferral
  - Interest only payments
  - Partial principal and interest
  - Refinance
  - Voluntarily surrender collateral
  - Discounted payoff (understand the other PPP - Pre Payment Penalty)
  - Termination of ACH payments
- The intimidation factor - engage a professional if you are uncomfortable negotiating with the lender



# SUPPORTING DOCUMENTATION IS CRITICAL

- Provide financials that support your recovery plan
  - If you don't have an internal accountant engage your outside accounting firm
    - Year To Date Balance Sheet and Profit & Loss Statement
    - 12 month forecast (base case, best case, worst case)
- If your plan does not have any meaningful and realistic revenue recovery, your options are limited
  - Have a hard conversation with yourself to determine if it is realistic to stay in business



# SAMPLE FIVE YEAR INCOME AND PROJECTIONS

	Baseline	2020	Rebuild	Rebuild	Rebuild	Rebuild	Rebuild
	2019	Projections	2021	2022	2023	2024	2025
	P&L		Full Year	Full Year	Full Year	Full Year	Full Year
			2019 Rev	2019 Rev	2019 Rev	2019 Rev	2019 Rev
			40%	50%	70%	80%	80%
<b>Total Income</b>	<b>12,699,655</b>	<b>2,595,328</b>	<b>5,079,862</b>	<b>6,349,827</b>	<b>8,889,758</b>	<b>10,159,724</b>	<b>10,159,724</b>
<b>Cost of Goods Sold</b>		% of Rev					
Cost of Operations							
Farmout Expense	2,073,326	423,709	829,330	1,036,663	1,451,328	1,658,660	1,658,660
Fuel Expense - Bus Diesel	28,426	5,809	11,370	14,213	19,898	22,740	22,740
Fuel Expense - Fleet Gas	339,123	69,304	135,649	169,561	237,386	271,298	271,298
Insurance - Bus	84,815	17,333	33,926	42,408	59,371	67,852	67,852
Insurance - Fleet	228,665	46,731	91,466	114,333	160,066	182,932	182,932
Insurance - I.O.	18,268	3,733	7,307	9,134	12,788	14,615	14,615
Lease Expense - Bus	0	0	0	0	0	0	0
Lease Expense - Bus Interest	33,007	6,745	13,203	16,503	23,105	26,406	26,406
Lease Expense - Fleet	0	0	0	0	0	0	0
Lease Expense - Fleet Interest	37,556	7,675	15,022	18,778	26,289	30,044	30,044
Lease Expense - I.O.	0	0	0	0	0	0	0
Lease Expense - I.O. Interest	4,901	1,002	1,960	2,450	3,431	3,921	3,921
License Expense - Bus	3,197	653	1,279	1,598	2,238	2,558	2,558
License Expense - Fleet	60,336	12,330	24,134	30,168	42,235	48,269	48,269
Local Networking	0	0	0	0	0	0	0
Paid Out Refreshments	10,241	2,093	4,096	5,121	7,169	8,193	8,193
Radio Expense	23,212	4,744	9,285	11,606	16,248	18,569	18,569
Repairs - Fleet Body Work	29,701	6,070	11,880	14,850	20,791	23,761	23,761
Repairs & Maintenance - Bus	30,690	6,272	12,276	15,345	21,483	24,552	24,552
Repairs & Maintenance - Fleet	156,139	31,909	62,456	78,070	109,297	124,911	124,911
Room & Board (Bus drivers-ov	0	0	0	0	0	0	0
Salaries - Bus Drivers	111,584	22,803	44,633	55,792	78,108	89,267	89,267
Salaries - Chauffers	1,531,530	312,987	612,612	765,765	1,072,071	1,225,224	1,225,224
Salaries - Maintenance	85,223	17,416	34,089	42,612	59,656	68,179	68,179
Telephone - Cellular	22,542	4,607	9,017	11,271	15,779	18,033	18,033
Tokens & Parking - Bus	5,194	1,061	2,078	2,597	3,636	4,155	4,155
Tokens & Parking - Fleet	208,269	42,562	83,308	104,135	145,788	166,615	166,615
Vehicle Rentals	54,022	11,040	21,609	27,011	37,815	43,217	43,217
Wanted Help Ads	4,495	919	1,798	2,248	3,147	3,596	3,596
Wash & Make Ready Expense	26,061	5,326	10,424	13,030	18,243	20,849	20,849
Worldwide Networking	2,969,270	606,806	1,187,708	1,484,635	2,078,489	2,375,416	2,375,416
<b>Total Cost of Operations</b>	<b>8,179,791</b>	<b>1,671,639</b>	<b>3,271,916</b>	<b>4,089,895</b>	<b>5,725,854</b>	<b>6,543,833</b>	<b>6,543,833</b>
Cost of Sales							
Advertising	450	92	180	225	315	360	360
Advertising - Marketing	83,517	17,068	33,407	41,759	58,462	66,814	66,814
Credit Card Charges	344,711	70,446	137,884	172,355	241,297	275,768	275,768
Genisys Expense	20,008	4,089	8,003	10,004	14,005	16,006	16,006
Membership Dues	5,304	1,084	2,122	2,652	3,713	4,244	4,244
Salaries -Sales	211,836	43,291	84,734	105,918	148,285	169,469	169,469
Travel & Entertainment	75,526	15,435	30,210	37,763	52,868	60,421	60,421
<b>Total Cost of Sales</b>	<b>741,352</b>	<b>151,504</b>	<b>296,541</b>	<b>370,676</b>	<b>518,946</b>	<b>593,082</b>	<b>593,082</b>
<b>Total COGS</b>	<b>8,921,143</b>	<b>1,823,143</b>	<b>3,568,457</b>	<b>4,460,571</b>	<b>6,244,800</b>	<b>7,136,914</b>	<b>7,136,914</b>
<b>Gross Profit</b>	<b>3,778,512</b>	<b>772,185</b>	<b>1,511,405</b>	<b>1,889,256</b>	<b>2,644,958</b>	<b>3,022,809</b>	<b>3,022,809</b>



# SAMPLE EXPENSE AND NET INCOME BOTTOM LINE

<u>Expense</u>							
Administration Expense							
Bank Service Charges	655	0	0	0	0	0	0
Computer Expense	134,269	134,269	134,269	134,269	134,269	134,269	134,269
Interest Expense	115,597	115,597	115,597	115,597	115,597	115,597	115,597
Leased Office Equipment	9,662	9,662	9,662	9,662	9,662	9,662	9,662
Office Supplies	49,356	49,356	49,356	49,356	49,356	49,356	49,356
Payroll Processing Fees	24,962	24,962	24,962	24,962	24,962	24,962	24,962
Postage and Delivery	2,596	2,596	2,596	2,596	2,596	2,596	2,596
Rent	80,451	80,451	80,451	80,451	80,451	80,451	80,451
Repairs - Facility	10,536	10,536	10,536	10,536	10,536	10,536	10,536
Salaries - Administration	303,373	303,373	303,373	303,373	303,373	303,373	303,373
Salaries - Billing	177,814	177,814	177,814	177,814	177,814	177,814	177,814
Salaries - Dispatch	476,855	476,855	476,855	476,855	476,855	476,855	476,855
Salaries - Reservations	435,251	435,251	435,251	435,251	435,251	435,251	435,251
Telephone & Equipment	29,339	29,339	29,339	29,339	29,339	29,339	29,339
Telephone Expense - Long Dis	7,438	7,438	7,438	7,438	7,438	7,438	7,438
Utilities	14,367	14,367	14,367	14,367	14,367	14,367	14,367
<b>Total Administration Expense</b>	<b>1,872,520</b>	<b>1,871,864</b>	<b>1,871,864</b>	<b>1,871,864</b>	<b>1,871,864</b>	<b>1,871,864</b>	<b>1,871,864</b>
Corporate Expense							
Insurance - DBL*	0	0	0	0	0	0	0
Insurance - General	23,360	4,774	9,344	11,680	16,352	18,688	18,688
Insurance - Health	329,643	67,367	131,857	164,822	230,750	263,714	263,714
Insurance - Workman's Comp	99,411	20,316	39,764	49,705	69,587	79,528	79,528
Pension Expense - 401K Cont	21,627	4,420	8,651	10,814	15,139	17,302	17,302
Professional Fees	182,798	37,357	73,119	91,399	127,958	146,238	146,238
Salaries - Officers*	220,000	220,000	220,000	220,000	220,000	220,000	220,000
Taxes - Corporate	4,727	966	1,891	2,364	3,309	3,782	3,782
Taxes - Payroll*	296,839	60,663	118,735	148,419	207,787	237,471	237,471
Taxes - Sales Tax	16,146	3,300	6,458	8,073	11,302	12,916	12,916
Taxes - State/City Corp	0	0	0	0	0	0	0
<b>Total Corporate Expense</b>	<b>1,194,550</b>	<b>419,161</b>	<b>609,820</b>	<b>707,275</b>	<b>902,185</b>	<b>999,640</b>	<b>999,640</b>
Depreciation-Telephone	0						
Depreciation-Vehicles	688,203	688,203	688,203	688,203	688,203	688,203	688,203
Depreciation-Computer	6,958	6,958	6,958	6,958	6,958	6,958	6,958
Reconciliation Discrepancies	0	0	0	0	0	0	0
<b>Total Expense</b>	<b>3,762,231</b>	<b>2,986,186</b>	<b>3,176,845</b>	<b>3,274,301</b>	<b>3,469,211</b>	<b>3,566,666</b>	<b>3,566,666</b>
<b>Net Operating Income</b>	<b>16,281</b>	<b>(2,214,002)</b>	<b>(1,665,441)</b>	<b>(1,385,045)</b>	<b>(824,252)</b>	<b>(543,856)</b>	<b>(543,856)</b>



# CONSIDERATIONS WHEN YOUR PROPOSAL IS REJECTED

- Understand what corporate and personal assets are at stake - **asset protection**
  - It may be too late to protect them
  - Hire qualified counsel that can guide you
- Do you intend to remain in business?
  - Can you...
    - scale down operations?
    - pledge additional collateral?
    - surrender collateral and negotiate deficiency terms
    - sell underutilized collateral yourself (maximize return)
- If you were not successful negotiating your plan it may be time to hire an attorney that is not emotionally tied to the discussion.
  - Problems can snowball out of control and multiply quickly
  - Focus on the result and not necessarily who communicates the message.





# CONSIDERATIONS WHEN YOUR PROPOSAL IS REJECTED

## (CONTINUED)

- Sell the company
  - Not easy in today's market but possible, there are deals getting done
  - Engage experts that can value the business and create meaningful pay outs
  - Expect an earn out and not a lump sum payment
  - You may be able to go with the sale, particularly through a transition period
- Selling the company will not get you out from under personal guaranties
- Find industry experts that can help (industry specialists)



# BANKRUPTCY - *THE LAST RESORT*

- You are not alone in filing (78% increase in Ch 11 filings for September YoY)
- Business success is not measured by getting through COVID-19
  - COVID-19 disrupted the entire industry and caused historic small business failures
  - You may be more capable of success when your business is right sided with debt
  - You are not a failure or irresponsible for declaring bankruptcy
  - It is a strategic decision for a fresh start and a decision to make necessary changes to restructure and stay in business



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# **BANKRUPTCY - *THE LAST RESORT***

## **(CONTINUED)**

- Dealing with the Stigma of Bankruptcy
  - Much less today than ever before
  - Emotional and social - the reality is not necessarily financial
  - Future credit availability (must weigh filing and starting over v. the ability to repay existing debt)
  - You may need to file personally to get out from under personal guaranties



# BANKRUPTCY - *THE LAST RESORT*

## (CONTINUED)

- Chapters 7, 11, 13 and now... ***Subchapter V of Chapter 11 to the rescue!***
- The Small Business Reorganization Act - SBRA
  - Enacted February 19, 2020
  - Easier, less expensive, and quicker version of Chapter 11 reorganization for small businesses and individuals provided their debts are primarily business debts and “engaged in commercial or business activities” (potentially a Covid-19 lifeline for the motorcoach industry)
  - Originally it capped secured and unsecured debt to \$2.75M but was increased to \$7.5M for a year as part of the CARES Act



## SUBCHAPTER V

- Similar to CH 13
  - Debt can be repaid over 3 to 5 years
  - Disposable income must be paid to creditors (benefits both creditors and debtors)
  - Debts are not discharged until the plan is completed
  - To file, the business needs to submit a recent balance sheet, statement of operations, cash flow statement, and the most recent federal tax return
  - The Plan must be submitted for approval within 90 days of filing and a status conference is held 60 days after the filing
    - Extensions of time are limited to circumstances beyond the debtor's control



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## SUBCHAPTER V (CONTINUED)

- Subchapter V
  - A trustee is automatically appointed but ***the debtor retains equity and control of its assets and operations***
    - Trustee's role is essentially to act as a mediator to facilitate a settlement among creditors
  - No Creditors' Committees (unless there is cause)
  - If the Debtor's principal used her primary residence as security for a loan to fund the business, the Subchapter V plan may modify the loan
  - Will allow small businesses to pause their obligations for long enough to negotiate with lenders, landlords, and other creditors
  - Subchapter V filings will likely surge once PPP funds run out, particularly among businesses who find themselves unable to meet the loan forgiveness criteria

# SUBCHAPTER V (CONTINUED)

- Other highlights
  - Cramdown is easier
    - Motor vehicle loans to individuals in a Subchapter V case will force the lender to accept payments equal to the value of the vehicle even though the value is less than the full amount of the vehicle loan (lien is retained by creditor)
    - All creditors must be treated equally (you cannot pick and choose)
    - Debtor must commit all of its disposable income for plan term of 3 to 5 years
    - Operating and TRAC Leases may be treated differently under Subchapter V



# TAKE AWAYS

- Understand your contract terms (the backdrop that guides your options)
- Communication is critical (either through a professional or yourself)
- Protect your assets (if its not too late)
- Develop a realistic Plan with realistic, concrete, financial goals
  - Hire an accountant if necessary
- If all else fails, contemplate filing Subchapter V bankruptcy to protect your assets and business
- Consult with qualified counsel before you make any rash decisions





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# Q & A AND MY CONTACT INFORMATION

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Once in a generation . . .

. . . an event comes along and makes history. Help tell the story.



United Motorcoach Association

# UMA MOTORCOACH EXPO 2021

MARCH 3<sup>rd</sup> - 7<sup>th</sup>

HONORING  
YEARS

50

ORLANDO, FL



A GENERATIONAL GATHERING

Send us your photos and memories from past Motorcoach EXPOs.

Email them to [jryder@uma.org](mailto:jryder@uma.org)



# UMA MOTORCOACH EXPO 2021

MARCH 3<sup>rd</sup> - 7<sup>th</sup>

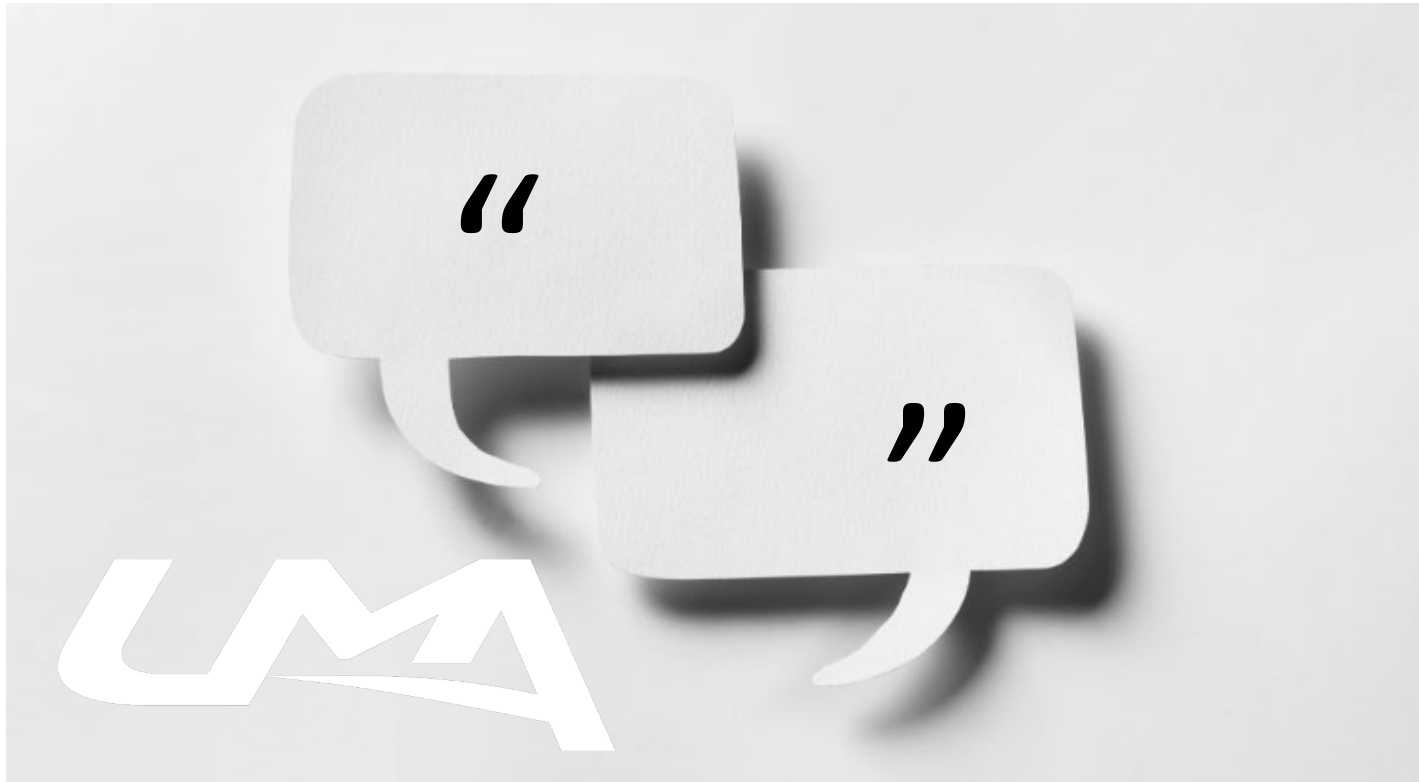
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# OVERDRIVE