



Insights: Alerts

CARES Act | Small Business Loan Programs under the CARES Act: Look Here First for Financing

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Written by **G. William Joyner III, Jon Neiditz, Ronald L. Raider, Robert B. Shaw, David A. Stockton**

Please note: The below information may require updating, including additional clarification, as the COVID-19 pandemic continues to develop. Please monitor our main [COVID-19 Task Force page](#) and/or your email for updates.

Relief for Small Businesses

The federal CARES Act, if enacted in its current form¹, would contain several provisions which are intended to provide assistance and resources for small businesses impacted by the current crisis, and to incentivize small businesses not to furlough their employees.

Expansion of SBA Section 7(a) Loan Program

- The CARES Act would provide direct relief to qualified small businesses through a loan program that provides very favorable terms to small business owners, with substantial portions of the loans being forgiven to the extent that employers maintain their payroll levels.
- This is an expansion of the existing 7(a) Loan Program, which is the SBA's primary program for providing financial assistance to small businesses. The 7(a) Loan Program would now have an authorization level of \$349 billion through June 30, 2020.
- Before you look for or take private financing to avoid furloughing your employees, you should check your eligibility for the very favorable terms for small business loans under the CARES Act.
- If you have already taken steps to furlough employees, this loan program could enable you to bring employees back to work, as the program uses historical employee/payroll levels to determine the maximum loan amount.

Key Terms:

- You are eligible if you have 500 or fewer workers (full time or part time).

- This includes hotels and restaurants (based on assigned NAICS Code) with fewer than 500 employees per physical location.
- You do not need to certify that you are unable to get credit elsewhere, but you must not have applied for or received another SBA loan to keep from furloughing employees during the period of February 15, 2020 to June 30, 2020.
- The loans are non-recourse to any shareholder, member or partner, and require no personal guarantee.
- The loans must be used for the broad purposes of paying payroll, rent, employee benefits, utilities and interest on pre-existing debt.
- The loans can be for up to 2.5 times your average total monthly payroll over the prior 1-year period, with a limit of \$10 million.²
- The term of the loans is ten (10) years.
- The interest rate cannot exceed 4.0%, and interest payments are deferred for one year.
- There is no prepayment penalty.
- The loans would be made through banks and other lenders, and the new act contains measures designed to expedite the approval and funding process.

Loan Forgiveness

- The CARES Act, if enacted in its current form, would also provide for loan forgiveness of these small business loans, with the amount forgiven decreasing as borrowers furlough or lower compensation of their employees.

Key Terms:

- The loan amounts eligible to be forgiven are the sum of the following expenses of the small business paid during the 8 weeks after the origination of the loan:
 - Payroll costs;
 - Interest on a covered mortgage obligation (but not on any other debt);
 - A covered rental obligations; and
 - Any covered utility payments.
- “Covered” means the obligation (mortgage, rent or utility payments) was in force **before** February 15, 2020.

- The amount of eligible loan forgiveness is reduced as follows:
 - The overall amount is reduced by a fraction equal to (i) the average number of fulltime equivalent employees during the 8 weeks after the loan is originated, divided by (ii) the number of fulltime equivalent employees in the pre-COVID-19 period, i.e., 20% less employees equals a 20% reduction in the overall amount forgiven, and
 - Less the amount of a compensation decrease during the 8 weeks following loan origination of more than 25% for any employee making less than \$100,000.
- The amount of the loan that is forgiven does not count as gross income to the employer.
- The small business must submit documentation of payroll and expenses for 2019 and 2020 to the lending institution. The SBA would reimburse the lending institution for the amounts of the forgiven loans.

Economic Injury Disaster Loan (EIDL) Program

In addition to expanding the Section 7(a) loan program, the CARES Act would also expand the SBA's existing EIDL loan program as an additional financing resource for small businesses. Under the EIDL loan program, the SBA can provide up to \$2 million in disaster assistance to small businesses or private, non-profit organizations that suffer substantial economic injury as a result of a declared disaster, regardless of whether the applying entity sustained physical damage.

Key terms of the EIDL loan program are as follows:

- Loans can be for up to \$2 million.
- Term of up to 30 years.
- The interest rate is 3.75% for small businesses and 2.75% for nonprofits.
- The loan can be used to repay fixed debts, payroll, accounts payable and other bills that could not have been paid had the disaster not occurred.
- Loans over \$25,000 are required to be secured with collateral.
- The CARES Act, if enacted in its current form, would also establish an emergency grant to allow an entity that previously applied for an EIDL loan to request an advance on that loan of up to \$10,000. The SBA is required to distribute the advance within 3 days. The applying entity would not be required to repay the \$10,000 advance, even if it is subsequently denied an EIDL loan.
- For EIDL loans made in response to COVID-19 before December 31, 2020, the SBA would be required to waive any personal guarantee on advances and loans below \$200,000, as well as the requirement that an applicant be in business for the one-year period before the disaster and the "credit elsewhere" requirement.

- Unlike the 7(a) loan program, which is administered through private lenders, an entity applies for an EIDL loan directly from the SBA, via an online application process.
- Link to more information about the EIDL loan program and whether an entity qualifies:
<https://www.benefits.gov/benefit/1504>

A small business will need to make a determination as to whether the Section 7(a) loan program or the EIDL loan program is most appropriate for them. Small businesses cannot use both SBA loan programs for the same purpose.

Other Provisions – The CARES Act, if enacted in its current form, would also provide for several additional relief measures for small businesses, including:

- Entrepreneurial Development: Authorizes \$265 million for federal grants to small business development centers and women's business centers for the purposes of providing counseling, training and advising on SBA resources and ways to counteract the effects of COVID-19 on small businesses.
- Minority Business Agency: Authorizes \$10 million for grants to Minority Business Centers for the purposes of providing, counseling, training and advising on federal resources and business response to COVID-19 for small businesses.

Footnotes

¹The CARES Act was approved by the Senate on March 25, 2020 and by the House on March 27, 2020. It was signed into law by President Trump.

²Due to imprecise drafting, there is some confusion over whether the maximum loan amount is 2.5X one month of payroll, or 2.5X the last 12 months of payroll. However, we believe it is 2.5X one month of payroll, which is also consistent with the short-term relief nature of the bill.

Related People



G. William Joyner III

t 336.607.7342

wijoyner@ktslaw.com



Jon Neiditz

t 404.815.6004

jneiditz@ktslaw.com



Ronald L. Raider

t 404.532.6909

rraider@ktslaw.com



Robert B. Shaw

t 404.745.2596

rshaw@ktslaw.com



David A. Stockton

t 404.815.6444

dstockton@ktslaw.com