

Key Facts About the CARES Act, SBA Lending, and Loan Forgiveness

The “Coronavirus Aid, Relief, and Economic Security Act,” commonly referred to as the CARES Act, is anticipated to be signed into law by today, Friday, March 27, 2020.

Key aspects of the bill’s expansion of the SBA’s 7(a) Loan Program to **Support** New “Paycheck Protection Program” include increased loan amounts, expanded allowable use provisions and loan forgiveness.

At a Glance:

- Loan Application Period: February 15, 2020 - December 31, 2020.
- Maximum Loan Amount: \$10 million.
- Allowable Uses:
 - Payroll Expenses (including benefits, paid leave (excepting those paid under the Family First Act and commissions) up to \$100,000 in 1 year, prorated;
 - Mortgage or rent payments;
 - Payroll support, including paid sick or medical leave;
 - Utility payments and insurance premiums;
 - Certain other debt obligations.
- Partial Loan Forgiveness for Qualifying Borrowers:
 - Amount: the potential loan forgiveness amount will be equal to the amount spent for certain “forgivable uses” for the eight (8) week period immediately following the loan funding;
 - Forgivable uses:
 - Payroll expenses (compensation costs capped at \$100,000);
 - Interest payments on loans borrowed before February 15, 2020;
 - Rent on any leases in effect prior to February 15, 2020; and
 - Utility payments for services that were in effect prior to February 15, 2020.
 - Employee “Layoff” or “Salary Reduction” Caveat: the forgivable loan amount will be reduced proportionality to (1) any employee reduction from the prior year and (2) any employee salary reduction by more than 25% from the prior year’s salary. However, this can be offset by rehiring workers that were previously laid off.
 - Tax Implications: the forgiven debt will not be recognized as income for tax purposes.
 - Notice: Borrowers must submit an application for forgiveness.
 - **DETAILED ACCOUNTING, RECEIPTS AND COMPLETE AND ACCURATE RECORDKEEPING WILL BE VITAL FOR QUALIFYING FOR LOAN FORGIVENESS.**
- Maximum Loan Term: 10 years
- Personal or Collateral Guarantees: None needed.
- Good-Faith Certification:
 - The loan proceeds will be utilized to retain employees and meet payroll or pay for utilities, rent and mortgage payments;
 - The loan is required because the borrower cannot continue operations without the loan because of the impact of the COVID-19 pandemic;

- The borrower is not receiving and has not requested funds from another SBA program for the same uses.
- Maximum Interest Rate: 4%.
 - Note: interest payments are completely deferred for one (1) year.
- Prepayment Penalty: None.
- Eligible Borrowers: with 500 or fewer employees, unless said industry SBA Standard allows for more employees.
 - Note: this size standard takes affiliate businesses into account (standard is common control by 50% or more ownership or by contractual control).
 - Exception: hospitality and restaurant businesses, franchises, and recipients of Small Business Investment Company (SBIC) investment, which size thresholds will be determined on a location-by-location basis.
- Deferred Payment: six months.
 - Note: This does not apply for new “Paycheck Protection Program” loans made under the CARES Act.