

SBA Disaster Relief and CARES Act Update

Overview:

The Federal Government Covid 19 virus bailout bill included \$349 B in aid for small companies and their employees. This aid is going to be distributed through the SBA and is available for any company adversely effected by Covid 19. The dollars are distributed in the form of a loan, but most or all of the loan will be forgiven completely if used to pay rent, payroll, or other debt obligations. The dollars are designed to extend relief between Feb 15th, 2020, and June 30th, 2020. The loan rules are designed to encourage small businesses not to lay off workers, or to rehire those already let go.

How Much is Available in Total?

\$349 B, max of \$10 M per company

Size of Companies Eligible?

Must have no more than 500 employees (including part time)

How Much Can a Single Company Borrow? (Bill Section 1102)

Each maximum loan amount can be calculated based on a business' average monthly 'payroll cost'. The definition of these costs includes:

- Payroll (salary, wage commission, tips – but not above an annualized rate of \$100 K)
- Payments toward vacation, parental, family, medical or sick leave
- Allowance for dismissal or separation (severance)
- Group healthcare payments, including premiums
- Retirement benefits
- Taxes on compensation payments (state or local)
- Payments to sub-contractors (less than \$100 K per year, but not outside the US)

To calculate the maximum amount of the loan;

- Calculate the average monthly payroll costs for the 12-month period prior to the date the loan was taken, multiplied by 2.5

The loan can be no more than \$10 M.

What Period is Covered?

Feb 15th, 2020 - June 30, 2020

What Can the Money Be Used For? (Bill Section 1102)

Any of the below costs incurred during the Covered Period;

- (A) Payroll Costs
- (B) Continuation of group healthcare benefits and insurance premiums
- (C) Employee salaries;
- (D) Mortgage payments, but only interest, not principal;
- (E) Rent (including rent under a lease agreement);
- (F) Utilities; and
- (G) Interest on any other debt obligations that were incurred before the covered period.

Eligibility Rules:

You must make a ‘good faith Certification’;

- that the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations
- acknowledging that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments;
- that the eligible recipient does not have an application pending for a loan under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan
- that you have not already received a loan under the same subsection for the same purpose

* There is no personal guarantee required, no collateral is required.

** The lender cannot seek any damages IF funds are used for the above listed purposes during the ‘Covered Period’

“Forgiveness” of The Loan (Bill Section 1106)

This is still a loan under the SBA rules, but it offers FORGIVENESS, instead of repayment. If any portion of the loan is not forgiven, it must be repaid.

What Portion of the Loan is Forgiven?

(A) an amount equal to the sum of the costs incurred and payments made during the covered period for Payroll Costs (described above), interest on mortgages, rent payments, and utilities payments

Not to exceed;

(B) the total amount of principal.

Limits on Forgiveness

Reduction Based on Number of Employees -

In order for the full loan to be forgiven, companies must employ the same number of people as they did during 2019. If they employ fewer now, or have already laid off workers, the following rule must be used to reduce forgiveness:

$1 - ((\text{AVG number of employees Feb 15}^{\text{th}} - \text{June 30}^{\text{th}} \text{ of 2020}) / (\text{AVG number of employees Feb 15}^{\text{th}} - \text{June 30}^{\text{th}} \text{ of 2019} - \text{OR} - \text{AVG Number of employees Jan 1}^{\text{st}} - \text{Feb 29}^{\text{th}}, 2020))$

EX: If your company had 18 people, on average, between Feb 15th and June 30th of 2020, and the company had 20 employees, on average, between Feb 15th and June 30th of 2019, your loan would only be forgiven up to 90% of the amount borrowed.

$1 - (18/20) = .1$ Forgiveness Reduction

* You can choose to use the employee numbers for Feb – June of 2019 or Jan and Feb of 2020. Whichever is lower will be better.

** This is designed to encourage you to employ the same number of people as immediately before the problems related to the virus began.

Reduction Related to Salary and Wage Changes -

If the company reduces employee salaries by more than 25% in relation to the most recent full quarter prior to the covered period, the rule is as follows:

- The amount of loan forgiveness under this section shall be reduced by the amount of any reduction in total salary or wages of any employee during the covered period that is in excess of 25 percent of the total salary or wages of the employee during the most recent full quarter during which the employee was employed before the covered period.

This only applies to employees who did not receive, during any single pay period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000.

Exemption for Rehires –

- If you reduced the number of full-time employees in the period between Feb 15th of 2020 and 30 days after the enactment of this bill, your forgiveness amount will not be reduced if you hire back the same number of employees by June 30th, 2020.
- If you reduced salary or wages of 1 or more eligible employees (described above) in the period between Feb 15th of 2020 and 30 days after the enactment of this bill, your forgiveness amount will not be reduced if you eliminate that reduction by June 30th, 2020.

You must eventually apply to your lender for Forgiveness and include all supporting documentation.

Loan Advance (Bill Section 1110):

If your company is in an area that has declared an emergency, you can apply for an advance of up to \$10 K that should be received within 3 days of your application. It can be used to pay payroll, sick leave, supply chain disruptions, rent or other obligations due to revenue losses. The amount will be subtracted from your total amount Forgiven on the loan. If you eventually do not qualify for the loan, you do not have to pay this advance back.

Maturity for Loans with Remaining Balance:

If the loan has a remaining balance after application for Forgiveness;

- The loan will have a maximum maturity date of 10 years from the date at which the borrower applies for loan forgiveness
- The loan shall bear an interest rate not to exceed 4 percent

Payment Deferral:

Lenders will provide complete payment deferment relief for impacted borrowers with covered loans for a period of not less than 6 months, including payment of principal, interest, and fees, and not more than 1 year.

What If I Have Another SBA Loan?

There are provisions in the bill for rolling existing SBA loans, or SBA loans acquired under the previous disaster relief legislation, into these new loans. Details are unclear, but you may not have two loans for the same purpose.

The Application Process

Submit an application (we are still figuring out to whom, and what options will exist for applying) on the SBA website, which shall include documentation verifying the number of full-time equivalent employees on payroll and pay rates for the periods described including;

- (1) payroll tax filings reported to the Internal Revenue Service;
- (2) State income, payroll, and unemployment insurance filings;
- (3) financial statements verifying payment on debt obligations incurred before the covered period; and
- (4) any other documentation the Administrator determines necessary.

Link to Apply:

We will contact you with details as soon as they are published.

Link to Full Text of the Bill:

<https://assets.documentcloud.org/documents/20059055/final-final-cares-act.pdf>