



U.S. Small Business  
Administration



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**This Act may be cited as the “Coronavirus Aid,  
Relief, and Economic Security Act”  
or  
the “CARES Act”.**



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# HR 748

## I. TITLE I—KEEPING AMERICAN WORKERS PAID AND EMPLOYED ACT

**Sec. 1102. Paycheck protection program.**

**Sec. 1103. Entrepreneurial development.**

**Sec. 1106. Loan forgiveness.**

**Sec. 1110. Emergency EIDL grants.**



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# HR 748

- I. The Paycheck Protection Act**
- II. Express Loans under HR748**
- III. Loan Forgiveness under HR748**
- IV. Emergency Grants under HR748**



# **The Paycheck Protection Program**

# Opt-in For SBA Qualified Lenders

- Lenders qualified to participate as a lender under 7(a) of the Small Business Act (15 U.S.C. 636(a)) may elect to participate in the paycheck protection program under the criteria, terms, and conditions established under this section.
- Such participation shall not preclude the lenders from continuing participation as a lender under section 7(a) of the Small Business Act (15 U.S.C. 636(a)).

# PROGRAM ADMINISTRATION

With guidance from the Secretary, the Administrator shall administer the program established under this section, including the making and purchasing of guarantees on loans under the program, until the date on which the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID-19) expires.

# PAYCHECK PROTECTION LOANS

The Administrator may guarantee covered loans under the same terms, conditions, and processes as a loan made under this subsection.



# REGISTRATION OF LOANS

Not later than 15 days after the date on which a loan is made under this paragraph, the Administration shall register the loan using the TIN (as defined in section 7701 of the Internal Revenue Code of 1986) assigned to the borrower.

# Covered Loans

- A “covered loan” is an eligible SBA guaranteed loan made during the covered period
- The ‘covered period’ means the period beginning on February 15, 2020 and ending on June 30, 2020;

# Eligible Business

- A small business with fewer than 500 employees
- A 501(c)(3) with fewer than 500 employees
- An individual who operates as a sole proprietor
- An individual who operates as an independent contractor
- An individual who is self-employed who regularly carries on any trade or business

# Eligible Businesses

- A Tribal business concern that meets the SBA size standard
- A 501(c)(19) Veterans Organization that meets the SBA size standard

# Eligible Businesses

- The 500-employee threshold includes all employees: full-time, part-time, and any other status.
- Businesses in the accommodation and food services sector (NAICS 72), the 500-employee rule is applied on a per physical location basis
- For franchises or businesses receiving financial assistance from an approved Small Business Investment Company the normal affiliation rules do not apply

# Covered Small Business Concern

- The term “covered small business concern” means a small business concern that has experienced, as a result of COVID–19 has experienced:
- supply chain disruptions, including changes in—
  - quantity and lead time, including the number of shipments of components and delays in shipments;
  - quality, including shortages in supply for quality control reasons; and technology, including a compromised payment network;
  - staffing challenges;
  - a decrease in gross receipts or customers; or a closure

## Eligible Businesses

- *IN GENERAL.*—During the covered period, in addition to small business concerns, any business concern, nonprofit organization, veterans organization, or Tribal business concern described in section 31(b)(2)(C) shall be eligible to receive a covered loan if the business concern, nonprofit organization, veterans organization, or Tribal business concern employs not more than the ***GREATER OF***—
  - 500 employees; or
  - if applicable, the size standard in number of employees established by the industry for NAICS code.

## BUSINESS CONCERNS WITH MORE THAN 1 PHYSICAL LOCATION

During the covered period, any business concern that employs not more than 500 employees per physical location of the business concern and that is assigned a North American Industry Classification System code beginning with 72 at the time of disbursement shall be eligible to receive a covered loan.



# MAXIMUM LOAN AMOUNT CALCULATIONS

- Average previous year payroll Costs x 2.5 or
  - seasonal employer: average total monthly payments for payroll for the 12-week period beginning February 15, 2019, or at the election of the eligible recipient, March 1, 2019, and ending June 30, 2019
- The outstanding amount of a loan made during the period beginning on January 31, 2020 and ending on the date on which covered loans are made available to be refinanced
- Not to exceed \$10,000,000

## ALLOWABLE USES OF COVERED LOANS

- payroll costs including costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums;
- employee salaries, commissions, or similar compensations;
- interest on any mortgage obligation
- interest on any other debt obligations incurred before the covered period.
- rent and utilities

## DELEGATED AUTHORITY

- The authority to make loans shall be extended lenders determined to have the necessary qualifications to process, close, disburse and service loans made with the guarantee of the Administration providing:
  - the borrower was in operation on February 15, 2020; and
  - had employees for whom the borrower paid salaries and payroll taxes; or
  - paid independent contractors, as reported on Form 1099–MISC.

# Required Documentation- Certification

**An eligible recipient applying for a covered loan shall make a good faith certification—**

- that the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient;
- that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments;
- during the period beginning on February 15, 2020 and ending on December 31, 2020, the eligible recipient has not received amounts under this subsection for the same purpose and duplicative of amounts applied for or received

# FEE WAIVER

During the covered period, with respect to a covered loan  
no fees will be collected

# Credit Elsewhere

During the covered period, the requirement that a small business concern is unable to obtain credit elsewhere, shall not apply to a covered loan.

# WAIVER OF PERSONAL GUARANTEE

- During the covered period, no personal guarantee shall be required for the covered loan; and
- no collateral shall be required for the covered loan.

# Terms

During Covered Period:

SBA 7(a) **loan amount:** maximum of \$10 million

SBA **loan** guarantee of (100%).

SBA 7(a) **loan term:** 30-year term

SBA 7(a) **interest rates:** not to exceed 4%.



# III. Express Loans

# Maximum Loans under SBA 7a Express

Maximum Express Loans have been increased from \$350,000 to \$1,000,000.

- Covered period: January 31, 2020- December 31, 2020
- Eligible Entity-
  - business with not more than 500 employees
  - Individual operating as sole proprietorship with or without employees
  - Independent contractor
  - Cooperative with not more than 500 employees
  - ESOP with not more than 500 employees
  - Tribal small business concern with not more than 500 employees

## CREDIT ELSEWHERE

With respect to a loan made under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) in response to COVID-19 during the covered period, the Administrator shall waive—

- any rules related the personal guarantee on advances and loans of not more than \$200,000 during the covered period for all applicants;
- the requirement that an applicant needs to be in business for the 1-year period before the disaster, except that no waiver may be made for a business that was not in operation on January 31, 2020; and
- the requirement that an applicant be unable to obtain credit elsewhere.

## APPROVAL AND ABILITY TO REPAY FOR SMALL DOLLAR LOANS

With respect to a loan made under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) in response to COVID-19 during the covered period, the Administrator may—

- approve an applicant based solely on the credit score of the applicant and shall not require an applicant to submit a tax return or a tax return transcript for such approval;

**or**

- use alternative appropriate methods to determine an applicant's ability to repay.

# Loan Deferments

## Impacted Borrower

IN GENERAL- the term ‘impacted borrower’ means an eligible recipient that

- was in operation on February 15, 2020; and
- has an application for a covered loan that is approved or pending approval on or after the date of enactment

### *PRESUMPTION*

*an impacted borrower is presumed to have been adversely impacted by COVID-19.*

# Loan Deferments

## Impacted Borrower

During the covered period, the Administrator shall—

- consider each eligible recipient that applies for a covered loan to be an impacted borrower; and
- require lenders to 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.

# Loan Deferments

## Secondary Market

- During the covered period, with respect to a covered loan that is sold on the secondary market, if an investor declines to approve a deferral requested by a lender the Administrator shall exercise the authority to purchase the loan so that the impacted borrower may
- receive a deferral for a period of not less than 6 months, including payment of principal, interest, and fees, and not more than 1 year.



# Secondary Market Sales

- A covered loan shall be eligible to be sold in the secondary market.
- No fees will be collected for any guarantee sold into the secondary market.

# Capital Requirements

## Risk Weight

A covered loan shall receive a risk weight of zero percent.

# Capital Requirements

## TEMPORARY RELIEF FROM TDR DISCLOSURES

- an insured depository institution or an insured credit union that modifies a covered loan in relation to COVID-19- related difficulties in a troubled debt restructuring on or after March 13, 2020, shall not be required to comply with the Financial Accounting Standards
- for purposes of compliance with the requirements until such time and under such circumstances as the appropriate Federal banking agency or the National Credit Union Administration Board, as applicable, determines appropriate.

# Capital Requirements

## REIMBURSEMENT FOR PROCESSING

- The Administrator shall reimburse a lender authorized to make a covered loan at a rate, based on the balance of the financing outstanding at the time of disbursement of the covered loan, of—
- 5 percent for loans of not more than \$350,000;
- 3 percent for loans of more than \$350,000 and less than \$2,000,000; and
- 1 percent for loans of not less than \$2,000,000.

# Capital Requirements

## Fee Limits

An agent that assists an eligible recipient to prepare an application for a covered loan may not collect a fee in excess of the limits established by the Administrator.

## Timing

Reimbursement shall be made no later than 5 days after the disbursement of the covered loan.

# Waiver of Prepayment Penalty

There shall be no prepayment penalty for any payment made on a covered loan.

# Commitments for Covered Loans

Commitments are made for covered loans during the period beginning on February 15, 2020 and ending on June 30, 2020

# III. Loan Forgiveness



# Maturity

## For Loans With Remaining Balance After Application of Forgiveness

- With respect to a covered loan that has a remaining balance after reduction based on the loan forgiveness amount

Lenders may forgive for a period of 8-weeks beginning on the date of the origination of the ‘covered loan’ which is originated under the Paycheck Protection Act. The remaining balance will continue to be guaranteed and shall have a maximum maturity of 10 years from the date of which the borrower applies for loan forgiveness. The remaining balance shall continue to be guaranteed by the Administration.

# LOAN FORGIVENESS

## TREATMENT OF AMOUNTS FORGIVEN

IN GENERAL.—Amounts which have been forgiven under this section shall be considered canceled indebtedness by a lender authorized under section 7(a) of the Small Business Act (15 U.S.C. 636(a)).

# LOAN FORGIVENESS

- A “covered loan” is an SBA guaranteed loan
- A “covered mortgage obligation” a debt instrument incurred in the ordinary course of business that—
  - is a liability of the borrower;
  - is a mortgage on real or personal property; and
  - was incurred before February 15, 2020;
- the “covered period” means the 8-week period beginning on the date of the origination of a covered loan;

# LOAN FORGIVENESS

- the term “covered rent obligation” means rent obligated under a leasing agreement in force before February 15, 2020;
- the term “covered utility payment” means payment for a service for the distribution of electricity, gas, water, transportation, telephone, or internet access for which service began before February 15, 2020;
- the term “expected forgiveness amount” means the

# LOAN FORGIVENESS

- amount of principal that a lender reasonably expects a borrower to expend during the covered period on the sum of any—
  - payroll costs;
  - payments of interest on any covered mortgage obligation (which shall not include any prepayment of or
  - payment of principal on a covered mortgage obligation);
  - payments on any covered rent obligation; and (D) covered utility payments

# LOAN FORGIVENESS

## REMITTANCE

Not later than 90 days after the date on which the amount of forgiveness under this section is determined, the Administrator shall remit to the lender an amount equal to the amount of forgiveness, plus any interest accrued through the date of payment.

# LOAN FORGIVENESS

## REPORT

A lender authorized under section 7(a) of the Small Business Act (15 U.S.C. 636(a)), or, at the discretion of the Administrator, a third party participant in the secondary market, may, report to the Administrator an expected forgiveness amount on a covered loan or on a pool of covered loans of up to 100 percent of the principal on the covered loan or pool of covered loans, respectively.

# LOAN FORGIVENESS

## TIMING

- Not later than 15 days after the date on which the Administrator receives a report the Administrator shall purchase the expected forgiveness amount with respect to each covered loan to which the report relates.



# LOAN FORGIVENESS

## LIMITS ON AMOUNT OF FORGIVENESS.—

- AMOUNT MAY NOT EXCEED PRINCIPAL
- REDUCTION- BASED ON REDUCTION IN NUMBER OF EMPLOYEES
- REDUCTION- RELATING TO SALARY AND WAGES
- EXEMPTION FOR RE-HIRES

the “covered period” means the 8-week period beginning on the date of the origination of a covered loan

# LOAN FORGIVENESS

## Exemptions

The Administrator and the Secretary of the Treasury may prescribe regulations granting de minimis exemptions from the requirements under this subsection.

# LOAN FORGIVENESS

## Application and Documentation

Number of full-time equivalent employees on payroll and pay rates for the periods described including—

- payroll tax filings reported to the Internal Revenue Service;
- State income, payroll, and unemployment insurance filings;
- documentation, including cancelled checks, payment receipts, transcripts of accounts, or other documents verifying payments on covered mortgage obligations, payments on covered lease obligations, and covered utility payments;
- a certification that the documentation presented is true and correct; and that:
  - the amount for which forgiveness is requested was used to retain employees, make interest payments on a covered mortgage obligation, make payments on a covered rent obligation, or make covered utility payments; and
  - any other documentation determined necessary.

# LOAN FORGIVENESS

## Application and Documentation

### PROHIBITION ON FORGIVENESS WITHOUT DOCUMENTATION

No eligible recipient shall receive forgiveness under this section without submitting to the lender that is servicing the covered loan the documentation required.

# LOAN FORGIVENESS

## TAXABILITY

For purposes of the Internal Revenue Code of 1986, any amount which would be includible in gross income of the eligible recipient by reason of forgiveness described shall be excluded from gross income.

# LOAN FORGIVENESS

## Loan Construction

The cancellation of indebtedness on a covered loan under this section shall not otherwise modify the terms and conditions of the covered loan.

# IV. Emergency Grants

# Emergency Grants

## EMERGENCY GRANT

IN GENERAL.—During the covered period, an entity included for eligibility in subsection (b), including small business concerns, private nonprofit organizations, and small agricultural cooperatives, that applies for a loan under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) in response to COVID–19 may request that the Administrator provide an advance that is in the amount requested by such applicant within 3 days after the Administrator receives an application from such applicant.



# Emergency Grants

## VERIFICATION

- Before disbursing amounts under this subsection, the Administrator shall verify that the applicant is an eligible entity by accepting a self-certification from the applicant under penalty of perjury pursuant to section 1746 of title 28 United States Code.

# Emergency Grants

## AMOUNT

The amount of an advance provided under this subsection shall be not more than \$10,000.

# Emergency Grants

## USE OF FUNDS

An advance provided under this subsection may be used to address any allowable purpose for

- a loan made under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)), including—
  - providing paid sick leave to employees unable to work due to the direct effect of the COVID-19;
  - maintaining payroll to retain employees during business disruptions or substantial slowdowns;
  - meeting increased costs to obtain materials unavailable from the applicant's original source due to interrupted supply chains;
  - making rent or mortgage payments; and
  - repaying obligations that cannot be met due to revenue losses.

# Emergency Grants

## REPAYMENT

An applicant shall not be required to repay any amounts of an advance provided under this subsection, even if subsequently denied a loan under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)).

# Emergency Grants

## UNEMPLOYMENT

If an applicant that receives an advance under this subsection transfers into, or is approved for, the loan program under section 7(a) of the Small Business Act (15 U.S.C. 636(a)), the advance amount shall be reduced from the loan forgiveness amount for a loan for payroll costs made under such section 7(a).

# Sense of the Senate

A recipient of an economic injury disaster loan made during the period beginning on January 31, 2020 and ending on the date on which covered loans are made available **are not precluded** from receiving a covered loan.

- **TERMINATION.**—The authority to carry out grants under this subsection shall terminate on December 31, 2020.

# Sense of the Senate

It is the sense of the Senate to ensure that the processing and disbursement of covered loans prioritizes small business concerns and entities in underserved and rural markets, including veterans and members of the military community, small business concerns owned and controlled by socially and economically disadvantaged individuals including women, and businesses in operation for less than 2 years.



## Additional Information for Borrowers

- Businesses are eligible for an employee retention tax credit
- Businesses and self-employed individuals can delay payroll tax payments.

- Businesses that have net operating losses (NOLs) have some limitations relaxed. If your business had an NOL in a tax year beginning in 2018, 2019, or 2020, that NOL can now be carried back five years instead.

This may improve cash flow and liquidity for some businesses. Pass-through businesses and sole proprietors will also be able to take advantage of the relaxed NOL limitations.

# Resource Partner Support

- **SMALL BUSINESS DEVELOPMENT CENTERS.**—The Administration shall award 80 percent of funds authorized to small business development centers
- **WOMEN’S BUSINESS CENTERS.**—The Administration shall award 20 percent of funds authorized to carry out this subsection to women’s business centers,
- **NO MATCHING FUNDS REQUIRED.**—Matching funds shall not be required for any grant under this subsection.

## For additional information

- <https://sdbusinesshelp.com/>
- <https://www.bhsu.edu/sdceo>
- <https://www.sba.gov/offices/district/sd/sioux-falls>
- <https://www.uschamber.com/co/start/strategy/cares-act-small-business-guide>
- [https://www.uschamber.com/sites/default/files/023595\\_comm\\_corona\\_virus\\_smallbiz\\_loan\\_final\\_revised.pdf](https://www.uschamber.com/sites/default/files/023595_comm_corona_virus_smallbiz_loan_final_revised.pdf)
- [https://www.sba.gov/sites/default/files/files/resourceguide\\_3146.pdf](https://www.sba.gov/sites/default/files/files/resourceguide_3146.pdf)
- <https://covid19relief.sba.gov/#/>