

{SBA PPP Loan Forgiveness}

Congress to Act on PPP Loan Forgiveness

Several restrictions on companies that borrow money through the Paycheck Protection Program would be relaxed under an as-yet-unnumbered bill.

Among other provisions, the measure would:

- Give businesses more time and flexibility to make qualifying expenditures for loan forgiveness.
- Allow businesses with forgiven loans to defer payroll taxes.

Paycheck Protection Program

The Paycheck Protection Program offers low-interest loans guaranteed by the Small Business Administration for small businesses and other entities to keep workers on the payroll (see BGOV OnPoint). Its lending authority was set at \$349 billion under the CARES Act (Public Law 116-136), and increased to \$659 billion under Public Law 116-139.

The program is open to businesses and 501(c)(3) nonprofits with 500 or fewer employees, self-employed workers, and some companies that are part of food or hotel chains, among others. PPP loans can be forgiven for borrowers that pay eligible payroll expenses or make other covered payments for mortgage interest, rent, or utility costs incurred over eight weeks. No more than 25% of forgiven amounts can be attributed to nonpayroll costs, and amounts that aren't forgiven have to be repaid within two years under an SBA regulation.

Some restaurants and other small businesses affected by coronavirus shutdown orders said they won't be open or fully functional within eight weeks. They also said they need more flexibility to cover nonpayroll expenses such as rent and utility payments, especially while employees are laid off.

The SBA inspector general found that tens of thousands of borrowers wouldn't meet the agency's required threshold for payroll costs. "It may be important to consider that many small businesses have more operational expenses than employee expenses," the inspector general wrote.

Loan Forgiveness Changes

The bill would:

- Extend the PPP loan forgiveness period to include costs incurred over 24 weeks after a loan is issued or through Dec. 31, whichever comes first. Businesses that received a loan before the measure is enacted could keep the current eight-week period.
- Extend to Dec. 31 from June 30 a period in which loans can be forgiven if businesses restore staffing or salary levels that were previously reduced. The provision would apply to

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worker and wage reductions made from Feb. 15 through 30 days after enactment of the CARES Act, which was signed into law on March 27.

- Maintain forgiveness amounts for companies that were unable to rehire employees or resume business levels as of Feb. 15, or find similarly qualified workers by the end of the year.
- Extend the deadline to apply for a PPP loan to Dec. 31 from June 30.

It also would:

- Bar the SBA from limiting loan forgiveness for expenses other than payroll.
- Repeal a provision from the CARES Act that barred companies with forgiven PPP loans from deferring their payroll tax payments.
- Establish a minimum loan maturity period of five years following an application for loan forgiveness, instead of the current two-year deadline set by the SBA.

The changes would apply retroactively to the enactment of the CARES Act.

The Senate also hasn't voted on bipartisan legislation from Small Business Chairman Marco Rubio (R-Fla.) that would:

- Extend the PPP loan forgiveness period to 16 weeks.
- Extend the deadline to apply for a PPP loan to Dec. 31 from June 30.
- Allow borrowers to use PPP funds to buy personal protective equipment and make changes to their property — such as installing sneeze guards or upgrading ventilation systems — so they can safely reopen.

Prospects

The House is scheduled to consider the measure as soon as May 27 under suspension of the rules. A two-thirds majority would be required for passage.

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