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# SBA LOANS AND THE CARES ACT

The Coronavirus Aid, Relief, and Economic Security Act, was signed into law on Friday March 27, 2020. This \$2 Trillion dollar stimulus bill will help ease some of the economic devastation caused by COVID-19 by providing cash flow and liquidity to small businesses. Shamrock Foods is providing the summary below of additional assistance available from the Small Business Administration (SBA) under the CARES Act (Act) for the general information of our customers. Shamrock Foods does not provide tax, legal or accounting advice. This material is being provided for informational purposes only, and is not intended to provide, and should not be relied on for, tax, legal or accounting advice. You should consult your own tax, legal and accounting advisors before engaging in any transaction.

## **PAYMENTS ON EXISTING SBA LOANS**

The Act includes \$17 billion to help businesses with existing SBA business loans. For six months, the SBA will pay all principal, interest, and fees on all existing SBA loan products including 7(a), Community Advantage, 504, and Microloan programs. It will not do the same for the new Paycheck Protection Program loans added under Section 1102 of the Act.

## **PAYCHECK PROTECTION PROGRAM**

The Act provides \$349 billion for the Paycheck Protection Program (PPP), a new business loan program under Section 7(a) of the Small Business Act. Here are some of the key terms of the PPP:

- Small businesses can receive up to \$10 million with payments deferred for up to a year. The Act provides a formula by which the loan amount is tied to payroll costs incurred by the business.
- The SBA will forgive up to eight weeks of payroll and other costs if the business retains its employees and maintains salary levels.
- All loan fees are waived for borrowers and lenders.
- Unlike traditional 7(a) loans, an applicant does not need to demonstrate that it is unable obtain credit elsewhere, nor does it have to provide a personal guarantee or provide collateral.
- This program is available to any business that is already qualified as a “small business concern,” plus businesses, 501(c) (3)s, veterans organizations, and tribal business concerns that employ not more than either: 500 employees; the size standard established by the SBA for their industry; or, if the business has more than one physical location (with 500 or fewer employees per location) and is assigned a North American Industry Classification System (NAICS) code beginning with 72 (generally, hospitality and dining).

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- Sole proprietors, independent contractors, and self-employed individuals are also eligible.
- The Act waives the affiliation rules (13 CFR 121.103) for the following: businesses with no more than 500 employees that are assigned a NAICS code beginning with 72, franchises that have been assigned a franchise identifier code, and businesses receiving financing from small business investment companies.
- Loan proceeds may be used for: (1) payroll costs; (2) employee salaries; (3) interest payments on mortgages entered into before February 15, 2020 (but not prepayment or payment of principal); (4) rent under any lease in force prior to February 15, 2020; (5) utilities, including electricity, gas, water, transportation, telephone, or internet access; and (6) interest on any debt incurred before February 15, 2020.
- Note that, by participating in the PPP, businesses may become ineligible for other relief under the Act. For example, an employer who receives a loan under the PPP is ineligible for the employee retention credit found in Section 2301 of the Act. That said, the Act does allow a business to receive both a PPP loan and an economic injury disaster loan (EIDL) under certain circumstances.
- Businesses will apply for PPP loans through a bank approved to do 7(a) lending, unlike EIDL loans, which are applied for through the SBA.
- PPP loans will be eligible for payment deferment for at least 6 months and no more than one year, as well as forgiveness for the total amount borrowers spent on payroll costs, mortgage interest, rent, and utility payments between February 15 and June 30, 2020. Any canceled indebtedness will not be included in the borrower's taxable income. Please note that a borrower whose PPP loan is forgiven is not eligible for deferral of the payroll tax offered under Section 2302 of the Act.
- The loan forgiveness is subject to the following restrictions: (i) the forgiven amount cannot exceed the loan principal, and (ii) the amount forgiven will be reduced proportionally by any reduction in employees compared to the prior year and reduced by the reduction in pay of any employee beyond 25% of their compensation the prior year. To encourage employers to rehire employees who may already have been laid off due to COVID-19, the Act provides an exception to the reduction if the business re-hires employees and/or eliminates the reduction in salaries by June 30, 2020.

## DISASTER AND EIDL

The Act appropriates an additional \$562 million for SBA disaster loans, including economic injury disaster loans (EIDLs). Generally, EIDLs provide up to \$2 million for working capital and have a 3.75% interest rate for small businesses. Here is a summary of the EIDL provisions under the Act:

- Under current law, EIDLs are available to small businesses, small agricultural cooperatives, small businesses engaged in aquaculture, and most private, nonprofit organizations. The Act expands eligibility for EIDL to include tribal businesses, cooperatives, and ESOPs with fewer than 500 employees or any individual operating as a sole proprietor or independent contractor between January 31, 2020 and December 31, 2020. Private nonprofits are also eligible for both grants and EIDLs.
- Until December 31, 2020, the SBA can approve EIDLs based solely on an applicant's credit score or an alternative appropriate method for determining an applicant's ability to repay.
- For EIDLs made before December 31, 2020 due to COVID-19, the SBA will waive the requirement for a personal guarantee on advances and EIDLs below \$200,000, the requirement that an applicant needs to have been in business for the one-year period before the disaster, and the requirement that a business not have credit available elsewhere.
- In addition, the Act establishes that a federally declared emergency qualifies as a new trigger for the EIDL program, thus making EIDLs available nationwide.

## EMERGENCY ECONOMIC INJURY GRANTS

The Act includes \$10 billion for SBA to provide emergency EIDL grants until December 31, 2020. The emergency EIDL grant is an advance of \$10,000 to small businesses and nonprofits that apply for SBA's EIDL program. The advance will be provided within three days of applying for the loan, and businesses will not be required to repay the advance, even if they are denied for an EIDL.



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