

June 4, 2020

Congress Passes Bill Easing Paycheck Protection Program Restrictions

Bill allows borrowers to use up to 40% of the loan on non-payroll expenses

The Senate yesterday approved by unanimous consent the [AHA-supported](#) Paycheck Protection Program Flexibility Act of 2020 ([H.R. 7010](#)) to allow more leeway for small business loans during the COVID-19 crisis. The House passed the bill last week, and President Trump is expected to sign it.

The Paycheck Protection Program (PPP) was established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act to provide loans to small businesses primarily to help keep their workers on the payroll. The legislation approved by the Senate yesterday extends the loan period to 24 weeks through Dec. 31, 2020, as well as the timeframe for repayment, if required. It also changes the parameters for potential loan forgiveness.

In addition, the legislation allows borrowers to use up to 40% of the loan on non-payroll expenses, and it provides different scenarios under which borrowers may be eligible for forgiveness, even if they are unable to retain or reinstate the same number of full-time equivalent employees. It also allows PPP loan borrowers who seek forgiveness of the loan to qualify for deferred payment of the employer's portion of certain payroll taxes.

Highlights of the legislation follow.

Expansion of the Covered Period. The legislation expands the covered period to 24 weeks from 8 weeks and through Dec. 31, 2020, from June 30, 2020.

Extension of Loan Term. The legislation extends the minimum loan term to five years, up from two.

Deferral of Payments. To account for expectation of forgiveness, the PPP includes a deferral period on payments. The legislation eliminates the current six-month deferral and instead defers payments until the date on which the amount of loan forgiveness is remitted to the lender. If a borrower fails to apply for loan forgiveness within 10 months after the end of the covered period, the borrower must begin making payments on the loan.

Modifications to Spending Limits. In order to be eligible for loan forgiveness, borrowers may not spend more than 40% of their PPP loan on non-payroll related costs, such as rent and utilities. These costs were originally limited to 25% of the value of the loan.

Permit PPP Borrowers to Also Defer Payment of Certain Payroll Taxes. The CARES Act permitted employers to defer payment of the employer share of Federal Insurance Contributions Act (FICA) taxes; however, employers that had a PPP loan forgiven were not eligible for this deferral. This legislation removes that eligibility restriction enabling employers to both obtain forgiveness of a PPP loan and defer payment of their share of FICA taxes.

Extension of Rehiring Deadline. PPP borrowers are required to either rehire or reinstate wage and benefit cuts in order to be eligible for full loan forgiveness. This legislation extends the rehiring deadline to Dec. 31, 2020, from June 30, 2020, and includes a number of exemptions, such as instances where an employer is unable to rehire the same or similarly qualified employees or the employer was unable to return to normal business operations due to government-authorized safety protocols.

Further Questions

If you have questions, please contact AHA at 800-424-4301.