Title 1 - Keeping American Workers Paid and Employed Act
Section-by-Section

Sec. 1101: Definitions

Sec. 1102: Paycheck Protection Program
Increases the government guarantee of loans made for the Payment Protection Program under section 7(a) of the Small Business Act to 100 percent through December 31, 2020.

Outlines the terms in this section.

Provides the authority for the Administrator of the U.S. Small Business Administration (SBA) to make loans under the Paycheck Protection Program.

Requires the Administrator to register each loan using the taxpayer TIN, as defined by the Internal Revenue Service, within 15 days.

Defines eligibility for loans as a small business, 501(c)(3) nonprofit, a 501(c)(19) veteran's organization, or Tribal business concern described in section 31(b)(2)(C) of the Small Business Act with not more than 500 employees, or the applicable size standard for the industry as provided by SBA, if higher.

Applies current SBA affiliation rules to eligible nonprofits.

Includes sole-proprietors, independent contractors, and other self-employed individuals as eligible for loans.

Allow businesses with more than one physical location that employs no more than 500 employees per physical location in certain industries to be eligible and is below a gross annual receipts threshold in certain industries to be eligible.

Waives affiliation rules for businesses in the hospitality and restaurant industries, franchises that are approved on the SBA's Franchise Directory, and small businesses that receive financing through the Small Business Investment Company (SBIC) program.

Defines the covered loan period as beginning on February 15, 2020 and ending on June 30, 2020.

Establishes the maximum 7(a) loan amount to $10 million through December 31, 2020 and provides a formula by which the loan amount is tied to payroll costs incurred by the business to determine the size of the loan.

Specifies allowable uses of the loan include payroll support, such as employee salaries, paid sick or medical leave, insurance premiums, and mortgage, rent, and utility payments.

Provides delegated authority, which is the ability for lenders to make determinations on borrower eligibility and creditworthiness without going through all of SBA's channels, to all current 7(a) lenders who make these loans to small businesses, and provides that same authority to lenders who join the program and make these loans.

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For eligibility purposes, requires lenders to, instead of determining repayment ability, which is not possible during this crisis, to determine whether a business was operational on February 15, 2020, and had employees for whom it paid salaries and payroll taxes, or a paid independent contractor.

Provides an avenue, through the U.S. Department of Treasury, for additional lenders to be approved to help keep workers paid and employed. Additional lenders approved by Treasury are only permitted to make Paycheck Protection Program loans, not regular 7(a) loans.

Provides a limitation on a borrower from receiving this assistance and an economic injury disaster loan through SBA for the same purpose. However, it allows a borrower who has an EIDL loan unrelated to COVID-19 to apply for a PPP loan, with an option to refinance that loan into the PPP loan. The emergency EIDL grant award of up to $10,000 would be subtracted from the amount forgiven under the Paycheck Protection Program.

Requires eligible borrowers to make a good faith certification that the loan is necessary due to the uncertainty of current economic conditions caused by COVID-19; they will use the funds to retain workers and maintain payroll, lease, and utility payments; and are not receiving duplicative funds for the same uses from another SBA program.

Waives both borrower and lender fees for participation in the Paycheck Protection Program.

Waives the credit elsewhere test for funds provided under this program.

Waives collateral and personal guarantee requirements under this program.

Outlines the treatment of any portion of a loan that is not used for forgiveness purposes. The remaining loan balance will have a maturity of not more than 10 years, and the guarantee for that portion of the loan will remain intact.

Sets a maximum interest rate of four percent.

Ensures borrowers are not charged any prepayment fees.

Increases the government guarantee of 7(a) loans to 100 percent through December 31, 2020, at which point guarantee percentages will return to 75 percent for loans exceeding $150,000 and 85 percent for loans equal to or less than $150,000.

Allows complete deferment of 7(a) loan payments for at least six months and not more than a year, and requires SBA to disseminate guidance to lenders on this deferment process within 30 days.

Provides guidance for loans sold on the secondary market.

Allows for state STEP participants to be reimbursed for events cancelled due to COVID-19, so long as it does not exceed their federal grant.

Sec. 1105: Waiver of Matching Funds Requirement under the Women's Business Center Program
Eliminates the non-federal match requirement for Women's Business Centers (WBC) for a period of three months.

Sec. 1106: Loan Forgiveness
Establishes that the borrower shall be eligible for loan forgiveness equal to the amount spent by the borrower during an 8-week period after the origination date of the loan on payroll costs, interest payment on any mortgage incurred prior to February 15, 2020, payment of rent on any lease in force prior to February 15, 2020, and payment on any utility for which service began before February 15, 2020.

Amounts forgiven may not exceed the principal amount of the loan. Eligible payroll costs do not include compensation above $100,000 in wages. Forgiveness on a covered loan is equal to the sum of the following payroll costs incurred during the covered 8 week period compared to the previous year or time period, proportionate to maintaining employees and wages:

Payroll costs **plus** any payment of interest on any covered mortgage obligation (which shall not include any prepayment of or payment of principal on a covered mortgage obligation) **plus** any payment on any covered rent obligation + and any covered utility payment.

The amount forgiven will be reduced proportionally by any reduction in employees retained compared to the prior year and reduced by the reduction in pay of any employee beyond 25 percent of their prior year compensation. To encourage employers to rehire any employees who have already been laid off due to the COVID-19 crisis, borrowers that re-hire workers previously laid off will not be penalized for having a reduced payroll at the beginning of the period.

Allows forgiveness for additional wages paid to tipped workers.

Borrowers will verify through documentation to lenders their payments during the period. Lenders that receive the required documentation will not be subject to an enforcement action or penalties by the Administrator relating to loan forgiveness for eligible uses.

Upon a lender's report of an expected loan forgiveness amount for a loan or pool of loans, the SBA will purchase such amount of the loan from the lender.

Canceled indebtedness resulting from this section will not be included in the borrower's taxable income.

Any loan amounts not forgiven at the end of one year is carried forward as an ongoing loan with terms of a max of 10 years, at max 4% interest. The 100% loan guarantee remains intact.

Sec. 1107: Direct Appropriations

Provides the regulatory capital risk weight of loans made under this program, and temporary relief from troubled debt restructuring (TDR) disclosures for loans that are deferred under this program.

Requires the Administrator to provide a lender with a process fee for servicing the loan. Sets lender compensation fees at five percent for loans of not more than $350,000; three percent for loans of more than $350,000 and less than $2,000,000; and one percent for loans of not less than $2,000,000.

Includes a sense of the Senate for the Administrator to issue guidance to lenders and agents 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.

Provides an authorization level of $349 billion for the 7(a) program through December 31, 2020.

Increases the maximum loan for a SBA Express loan from $350,000 to $1 million through December 31, 2020, after which point the Express loan will have a maximum of $350,000.

Requires Veteran's fee waivers for the 7(a) Express loan program to be permanently waived.

Permanently rescinds the interim final rule entitled, "Express Loan Programs: Affiliation Standards" (85 Fed. Reg. 7622 (February 10, 2020)).

Sec. 1103: Entrepreneurial Development
Authorizes SBA to provide additional financial awards to resource partners (Small Business Development Centers and Women's Business Centers) to provide counseling, training, and education on SBA resources and business resiliency to small business owners affected by COVID-19.

Authorizes SBA to provide an association or associations representing resource partners with grants to establish:

- one online platform that consolidates resources and information available across multiple Federal agencies for small business concerns related to COVID–19; and
- a training program to educate Small Business Development Center, Women's Business Center, Service Corps of Retired Executives, and Veteran's Business Outreach Center counselors on the various federal resources available to ensure counselors are directing small businesses appropriately.

Sec. 1104: State Trade Expansion Program
Allows for federal grant funds appropriated to support the State Trade Expansion Program (STEP) in FY 2018 and FY 2019 to remain available for use through FY 2021.

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This section appropriates funds for the following uses:

- $349 billion for loan guarantees,
- $675 million for Small Business Administration salaries and expenses,
- $25 million for the Office of Inspector General,
- $240 million for small business development centers and women's business centers for technical assistance for businesses,
- $25 million for resource partner associations to provide online information and training,
- $10 million for minority business centers for technical assistance for businesses,
- $10 billion for emergency EIDL grants,
- $17 billion for loan subsidies,
- $25 million for Department of Treasury salaries and expenses, and
- $100 billion for secondary market guarantee sales.

Sec. 1108: Minority Business Development Agency
Authorizes $10 million for the Minority Business Development Agency within the Department of Commerce to provide grants to Minority Business Centers and Minority Chambers of Commerce for the purpose of providing counseling, training, and education on federal resources and business response to COVID-19 for small businesses.

Eliminates the Minority Business Center program's non-federal match requirement for a period of three months and allows for centers to waive fee-for-service requirements through September 2021.

Sec. 1109: United States Treasury Program Management Authority
Establishes the authority of the U.S. Department of Treasury, the Farm Credit Administration, and other federal financial regulatory agencies to authorize bank and nonbank lenders to participate, including insured credit unions in loans made under the Paycheck Protection Program.

For financial institutions admitted under this section, gives Treasury the authority to issue regulations and guidance for terms concerning lender compensation, underwriting standards, interest rates, and maturity. Interest rates set under this authority may not exceed the maximum permissible rate of interest set on loans made under Section 1102 of this Act.

Requires that Treasury ensure that terms and conditions provided by this section are the same as the terms established for loans under Section 1102 of this Act for borrower eligibility, maximum loan amount, allowable uses, fee waivers, deferment, guarantee percentage, and loan forgiveness.

Allows Treasury to issue regulations and guidance as necessary, including to allow additional lenders to originate loans and establish terms.

Prohibits borrowers from applying for this loan if that borrower has a previously pending application for a 7(a) loan for the same purpose.

Establishes that the SBA will administer the program, including purchasing and guaranteeing loans, with guidance from Treasury.

All 7(a) lenders can opt-in to participate in the Paycheck Protection Program.

Sec. 1110: Emergency EIDL Grants
Expands eligibility for access to Economic Injury Disaster Loans (EIDL) to include Tribal businesses, cooperatives, and ESOPs with fewer than 500 employees or any individual operating as a sole proprietor or an independent contractor during the covered period (January 31, 2020 to December 31, 2020). Private non-profits are also eligible for both grants and EIDLs.

Requires that for any SBA EIDL loans made in response to COVID-19 before December 31, 2020, the SBA shall waive any personal guarantee on advances and loans below $200,000, the requirement that an applicant needs to have been in business for the 1-year period before the disaster, and the credit elsewhere requirement.

During the covered period, allows SBA to approve and offer EIDL loans based solely on an applicant's credit score, or use an alternative appropriate alternative method for determining applicant's ability to repay.

Establishes an Emergency Grant to allow an eligible entity who has applied for an EIDL loan due to COVID-19 to request an advance on that loan, of not more than $10,000, which the SBA must distribute within 3 days.

Establishes that applicants shall not be required to repay advance payments, even if subsequently denied for an EIDL loan.

In advance of disbursing the advance payment, the SBA must verify that the entity is an eligible applicant for an EIDL loan. This approval shall take the form of a certification under penalty of perjury by the applicant that they are eligible.

Outlines that advance payment may be used for providing paid sick leave to employees, maintaining payroll, meeting increased costs to obtain materials, making rent or mortgage payments, and repaying obligations that cannot be met due to revenue losses.

Requires that an advance payment be considered when determining loan forgiveness, if the applicant transfers into a loan made under SBA's Paycheck Protection Program.

Terminates the authority to carry out Emergency EIDL Grants on December 30, 2020.

Establishes that an emergency involving Federal primary responsibility determined to exist by the President under Section 501(b) of the Stafford Disaster Relief and Emergency Assistance Act qualifies as a new trigger for EIDL loans and, in such circumstances, the SBA Administrator shall deem that each State or subdivision has sufficient economic damage to small business concerns to qualify for assistance under this paragraph and the Administrator shall accept applications for such assistance immediately.

Adds "emergency" explicitly into other existing EIDL trigger language under Section 7(b)(2) of the Small Business Act.

Sec. 1111: Resources and Services Languages other than English
Directs $25 million for the SBA to offer resources and services in the 10 most commonly spoken languages, other than English.

Sec. 1112: Subsidy for Certain Loan Payments
Defines a covered loan as an existing 7(a) (including Community Advantage), 504, or microloan product. Paycheck Protection Program (PPP) loans are not covered.

Requires the SBA to pay the principal, interest, and any associated fees that are owed on the covered loans for a six month period starting on the next payment due. Loans that are already on deferment will receive six months of payment by the SBA beginning with the first payment after the deferral period. Loans made up until six months after enactment will also receive a full 6 months of loan payments by the SBA.

SBA must make payments no later than 30 days after the date on which the first payment is due. Requires the SBA to still make payments even if the loan was sold on the secondary market.

Requires SBA to encourage lenders to provide deferments and allows lenders, up until one year after enactment, to extend the maturity of SBA loans in deferment beyond existing statutory limits.

Sec. 1113: Bankruptcy
Amends the Small Business Reorganization Act to increase the eligibility threshold to file under subchapter V of chapter 11 of the U.S. Bankruptcy Code to businesses with less than $7,500,000 of debt. The increase sunsets after one year and the eligibility threshold returns to $2,725,625.

Amends the definition of income in the Bankruptcy Code for chapters 7 and 13 to exclude coronavirus-related payments from the federal government from being treated as "income" for purposes of filing bankruptcy. Sunsets after one year.

Clarifies that the calculation of disposable income for purposes of confirming a chapter 13 plan shall not include coronavirus-related payments. Sunsets after one year.

Explicitly permits individuals and families currently in chapter 13 to seek payment plan modifications if they are experiencing a material financial hardship due to the coronavirus pandemic, including extending their payments for up to seven years after their initial plan payment was due. Sunsets after one year.

Sec. 1114: Emergency Rulemaking Authority
SBA is required to establish regulations no later than 15 days after enactment of this title.