

116TH CONGRESS
2D SESSION

H. R. 7481

To establish a loan program for businesses affected by COVID–19, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 2, 2020

Mr. GOLDEN (for himself and Mr. KELLY of Pennsylvania) introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a loan program for businesses affected by
COVID–19, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Reviving the Economy
5 Sustainably Towards A Recovery in Twenty-twenty Act”
6 or the “RESTART Act”.

7 **SEC. 2. RESTART LOAN PROGRAM.**

8 (a) DEFINITIONS.—In this section:

1 (1) ADMINISTRATION; ADMINISTRATOR.—The
2 terms “Administration” and “Administrator” mean
3 the Small Business Administration and the Adminis-
4 trator thereof, respectively.

5 (2) COMMUNITY DEVELOPMENT FINANCIAL IN-
6 STITUTION.—The term “community development fi-
7 nancial institution” has the meaning given the term
8 in section 103 of the Riegle Community Develop-
9 ment and Regulatory Improvement Act of 1994 (12
10 U.S.C. 4702).

11 (3) COMPARABLE PERIOD.—

12 (A) DEFINITION.—The term “comparable
13 period” means a period that—

14 (i) begins on the date that is 1 year
15 or 2 years earlier than the beginning of a
16 covered period; and

17 (ii) may be adjusted to begin at the
18 beginning of a pay period that is imme-
19 diately before or immediately after the date
20 described in clause (i).

21 (B) HOLIDAYS.—If a holiday occurs dur-
22 ing the covered period or the period described
23 in subparagraph (A)(i), the holiday shall be in-
24 cluded as part of both periods.

1 (4) COVERED LOAN.—The term “covered loan”
2 means a loan made under this section during the
3 covered period.

4 (5) COVERED PERIOD.—The term “covered pe-
5 riod” means—

6 (A) except as provided in subparagraph
7 (B), and as determined by the eligible recipient
8 of a covered loan, the 6-month period beginning
9 on—

10 (i) the date of the origination of the
11 covered loan;

12 (ii) the first day of the next scheduled
13 pay period following the date of the origi-
14 nation of the covered loan;

15 (iii) the first day of the first full
16 month following the date of the origination
17 of the covered loan; or

18 (iv) April 15, 2020; or

19 (B) with respect to an eligible recipient of
20 a covered loan that suffered a decline in gross
21 receipts of more than 80 percent in 2020 as
22 compared to 2019 or in the 6-month period be-
23 ginning on the date of the origination of the
24 covered loan as compared to a comparable pe-
25 riod, and as determined by the eligible recipient

of a covered loan, the 12-month period beginning on—

(i) the date of the origination of the covered loan;

(ii) the first day of the next scheduled pay period following the date of the origination of the covered loan;

(iii) the first day of the first full month following the date of the origination of the covered loan; or

(iv) April 15, 2020.

(6) ELIGIBLE RECIPIENT.—The term “eligible recipient”—

(A) means an individual or entity that—

(i) is eligible to receive a loan made under section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)); or

(ii) as of February 15, 2020, has not more than 5,000 full-time employees;

(B) includes—

(i) a nonprofit organization that—

(I) as of February 15, 2020, has not more than 5,000 full-time employees; and

1 (II) is not more than 50 percent
2 owned or controlled by a State, local,
3 or Tribal government;

4 (ii) a business concern that—

5 (I) deals in rare coins and
6 stamps; and

7 (II) as of February 15, 2020, has
8 not more than 5,000 full-time employ-
9 ees; and

10 (iii) a business concern that leases or
11 finances equipment to other businesses, if
12 the business concern—

13 (I) as of February 15, 2020, has
14 not more than 5,000 full-time employ-
15 ees; and

16 (II) is not—

17 (aa) a mortgage lender; or

18 (bb) a lender participating
19 in the loan program under sec-
20 tion 7(a)(36) of the Small Busi-
21 ness Act (15 U.S.C. 636(a)(36)).

22 (7) MINORITY DEPOSITORY INSTITUTION.—The
23 term “minority depository institution” has the
24 meaning given the term in section 308 of the Finan-

1 cial Institutions Reform, Recovery, and Enforcement
2 Act of 1989 (12 U.S.C. 1463 note).

3 (8) NONPROFIT ORGANIZATION.—The term
4 “nonprofit organization” means an entity described
5 in paragraph (3), (5), (6), (7) (related to housing),
6 (12), (13), or (19) of section 501(c) of the Internal
7 Revenue Code and that is exempt from taxation
8 under section 501(a) of such Code.

9 (9) PAYROLL COSTS.—The term “payroll costs”
10 has the meaning given the term in section
11 7(a)(36)(A) of the Small Business Act (15 U.S.C.
12 636(a)(36)(A)), except that such costs shall not in-
13 clude—

14 (A) qualified wages taken into account in
15 determining the credit allowed under section
16 2301(g) of the CARES Act (Public Law 116–
17 136); or

18 (B) any payments made to an independent
19 contractor.

20 (10) SECRETARY.—The term “Secretary”
21 means the Secretary of the Treasury.

22 (11) UNDERSERVED BORROWER.—The term
23 “underserved borrower” means any business concern
24 that has traditionally had difficulty accessing fi-
25 nance, including—

1 (A) business concerns that—

2 (i) have fewer than 25 full-time equiv-
3 alent employees as of February 15, 2020,
4 and do not have a strong relationship with
5 a bank;

6 (ii) are owned or controlled by minori-
7 ties;

8 (iii) are owned or controlled by
9 women;

10 (iv) are owned or controlled by vet-
11 erans, including service-disabled veterans
12 (as those terms are defined in section 3(q)
13 of the Small Business Act (15 U.S.C.
14 632(q))); or

15 (v) are located in low-income and
16 rural communities, including low-income
17 communities as defined in section 45D(e)
18 of the Internal Revenue Code of 1986; and

19 (B) Tribal business concerns.

20 (b) ESTABLISHMENT.—The Administrator shall es-
21 tablish a program to guarantee loans made to eligible re-
22 cipients affected by COVID–19.

23 (c) PARTICIPATION.—In an agreement to participate
24 in a covered loan on a deferred basis, the participation
25 by the Administration shall be 100 percent.

1 (d) TERMS AND REQUIREMENTS.—

2 (1) DURATION.—Except as provided in para-
3 graph (4), the duration of a covered loan shall be for
4 not more than 7 years.

5 (2) AMOUNT.—

6 (A) IN GENERAL.—The amount of a cov-
7 ered loan made to an eligible recipient shall be
8 not more than the lesser of—

9 (i) 45 percent of the 2019 gross re-
10 cepts of the eligible recipient; and

11 (ii) \$12,000,000.

12 (B) DUPLICATION OF ASSISTANCE.—An el-
13 igible recipient of a covered loan shall not use
14 proceeds of the covered loan for the same ex-
15 penses that are covered using funds received
16 under subsection (a)(36) or (b)(2) of section 7
17 of the Small Business Act (15 U.S.C. 636), sec-
18 tion 1110 of the CARES Act (Public Law 116–
19 136), or section 4003 of the CARES Act (Pub-
20 lic Law 116–136).

21 (3) INTEREST RATE.—

22 (A) IN GENERAL.—Except as provided in
23 paragraph (4), the interest rate on a covered
24 loan shall be, as determined by the Adminis-
25 trator and the Secretary—

1 (i) for the first 2 years of the covered
2 loan, not less than 2 percent and not more
3 than 4 percent; and

4 (ii) for the third through seventh
5 years of the covered loan, the Applicable
6 Federal Rate plus 250 to 600 basis points
7 based on the decline in gross receipts of
8 the eligible recipient.

9 (B) NO PAYMENTS FOR 12 MONTHS.—No
10 interest payments shall be due on a covered
11 loan for the first 12 months of the covered loan.

12 (4) SPECIAL PROVISIONS FOR NONPROFIT OR-
13 GANIZATIONS.—At the time of application for a cov-
14 ered loan, a nonprofit organization described in sub-
15 section (a)(5)(B) shall make an election—

16 (A) for a covered loan with a maturity of
17 not more than 14 years and an interest rate of
18 not more than 2 percent for the first 4 years
19 and the Applicable Federal Rate plus 100 to
20 300 basis points for the remaining duration of
21 a covered loan, with no eligibility for forgiveness
22 of the covered loan under subsection (j); or

23 (B) for a covered loan with the maturity
24 and interest rate terms described in paragraphs
25 (1) and (3), respectively, with the ability to ob-

tain forgiveness of the covered loan if the non-profit organization qualifies under subsection (j)(2).

(5) PAYMENT DEFERRAL.—

(A) IN GENERAL.—No payment of principal shall be due on a covered loan for the first 2 years of the covered loan.

(B) ADDITIONAL DEFERRAL.—After the 2-year deferral period described in subparagraph (A), the Administrator may grant not more than an additional 2 years of principal deferral to an eligible recipient of a covered loan if the eligible recipient is certified by the Administrator and the Secretary as economically distressed based on publicly available criteria established by the Administrator and the Secretary.

(6) ORIGINATION FEES.—

(A) IN GENERAL.—The origination fee for a covered loan shall be as follows:

(i) 3.75 percent for a covered loan of not more than \$100,000.

(ii) 3.5 percent for a covered loan of more than \$100,000 and not more than \$250,000.

1 (iii) 3.25 percent for a covered loan of
2 more than \$250,000 and not more than
3 \$500,000.

4 (iv) 3 percent for a covered loan of
5 more than \$500,000 and not more than
6 \$750,000.

7 (v) 2.75 percent for a covered loan of
8 more than \$750,000 and not more than
9 \$1,000,000.

10 (vi) 2.5 percent for a covered loan of
11 more than \$1,000,000 and not more than
12 \$1,500,000.

13 (vii) 2.25 percent for a covered loan of
14 more than \$1,500,000 and not more than
15 \$1,750,000.

16 (viii) 2 percent for a covered loan of
17 more than \$1,750,000 and not more than
18 \$2,000,000.

19 (ix) 1.75 percent for a covered loan of
20 more than \$2,000,000 and not more than
21 \$2,500,000.

22 (x) 1.5 percent for a covered loan of
23 more than \$2,500,000 and not more than
24 \$3,000,000.

1 (xi) 1.25 percent for a covered loan of
2 more than \$3,000,000 and not more than
3 \$3,500,000.

4 (xii) 1 percent for a covered loan of
5 more than \$3,500,000 and not more than
6 \$4,000,000.

7 (xiii) 0.75 percent for a covered loan
8 of more than \$4,000,000 and not more
9 than \$12,000,000.

10 (B) PAYMENT BY FEDERAL GOVERN-
11 MENT.—The Administrator shall—

12 (i) for any covered loan that is made
13 to an eligible recipient with not more than
14 500 full-time employees as of February 15,
15 2020, together with all its affiliates in the
16 aggregate, without regard to any waiver of
17 applicable affiliation rules, pay the applica-
18 ble origination fee described in subpara-
19 graph (A); and

20 (ii) for any covered loan of not more
21 than \$10,000,000 that is made to an eligi-
22 ble recipient with more than 500 full-time
23 employees as of February 15, 2020, in the
24 aggregate, without regard to any waiver of
25 applicable affiliation rules, pay 50 percent

1 of the amount of the applicable origination
2 fee described in subparagraph (A).

3 (C) PAYMENT BY ELIGIBLE RECIPIENT.—

4 After any applicable payments by the Adminis-
5 trator under subparagraph (B), the eligible re-
6 cipient of a covered loan—

7 (i) shall be responsible for paying the
8 remainder of any applicable origination fee
9 under subparagraph (A); and

10 (ii) may finance the amount of the ap-
11 plicable origination fee as part of the cov-
12 ered loan amount, with such origination
13 fee amount not counting toward the limita-
14 tion on covered loan amounts described in
15 paragraph (2)(A).

16 (7) STREAMLINED PROCEDURES.—The Admin-
17 istrator and the Secretary shall establish streamlined
18 application and loan approval procedures for eligible
19 recipients with not more than 500 full-time employ-
20 ees, including by allowing an eligible recipient to use
21 an existing application submitted to a lender for the
22 loan program under section 7(a)(36) of the Small
23 Business Act (15 U.S.C. 636(a)(36)) and update the
24 application as necessary for purposes of applying for
25 a covered loan.

1 (8) APPLICATION.—

2 (A) AVAILABILITY.—The Administrator
3 shall make available the application for a cov-
4 ered loan in the 10 most commonly spoken lan-
5 guages, other than English, in the United
6 States, which shall include Spanish, Mandarin,
7 Cantonese, Japanese, and Korean.

8 (B) GUIDANCE.—Not later than 15 days
9 after the date of enactment of this Act, the Ad-
10 ministrator and the Secretary shall issue guid-
11 ance to allow lenders to receive applications for
12 covered loans.

13 (C) DEADLINE FOR RESPONSE.—A lender
14 that receives an application for a covered loan
15 shall—

16 (i) not later than 2 days after submis-
17 sion of the application to the Adminis-
18 trator, notify the applicant that the lender
19 submitted the application and provide the
20 confirmation number; and

21 (ii) not later than 15 days after ap-
22 proving the application, disburse the funds
23 to the applicant.

24 (D) FORMAT.—The application for a cov-
25 ered loan shall be similar to the application

1 used for a loan made under section 7(a)(36) of
2 the Small Business Act (15 U.S.C. 636(a)(36)),
3 with additional details requested by the Admin-
4 istrator as necessary.

5 (E) APPLICATION WINDOWS.—The Admin-
6 istrator shall make efforts to ensure that under-
7 served borrowers that are eligible recipients re-
8 ceive covered loans, including by establishing
9 exclusive application windows for those eligible
10 recipients.

11 (9) LIMITATION ON NUMBER OF LOANS.—An
12 eligible recipient may receive not more than 2 cov-
13 ered loans, the requested aggregate amount of which
14 shall not exceed the limitation on covered loan
15 amounts described in paragraph (2)(A).

16 (10) WAIVER OF PREPAYMENT PENALTY.—Not-
17 withstanding any other provision of law, there shall
18 be no prepayment penalty for any payment made on
19 a covered loan.

20 (11) UNITED STATES OPERATIONS.—A covered
21 loan may only be used for expenses which are—

22 (A) properly allocable to the production of
23 income from sources within the United States
24 (as determined under rules similar to the rules

1 of part I of subchapter N of the Internal Rev-
2 enue Code of 1986), and

3 (B) effectively connected (as determined
4 under rules similar to the rules section 952 of
5 such Code) with the conduct by the eligible re-
6 cipient of a trade or business within the United
7 States (or any territory or possession of the
8 United States) or off the coastline of the
9 United States, including State submerged lands
10 and territorial sea and exclusive economic zones
11 owned by a United States entity.

12 (e) LENDERS.—

13 (1) EXISTING PPP LENDERS.—A lender that is
14 approved to make loans under section 7(a)(36) of
15 the Small Business Act (15 U.S.C. 636(a)(36)) and
16 is approved by the Administrator and the Secretary
17 may make and approve covered loans.

18 (2) ADDITIONAL LENDERS.—The authority to
19 make covered loans shall be extended to additional
20 lenders determined by the Administrator and the
21 Secretary to have the necessary qualifications to
22 process, close, disburse, and service loans made with
23 the guarantee of the Administration.

24 (3) LENDERS SERVING UNDERSERVED BOR-
25 ROWERS.—In approving lenders to make covered

1 loans, the Administrator and the Secretary shall give
2 priority to lenders that are community development
3 financial institutions with lower lending volumes, mi-
4 nority depository institutions, mission-based non-
5 profit lenders, nonbank lenders, and other financial
6 institutions that disproportionately serve under-
7 served borrowers.

8 (4) RESALE OF LOANS.—A lender of a covered
9 loan may sell the covered loan to a third party.

10 (5) SALE OF PARTICIPATION IN COVERED
11 LOANS.—A lender of a covered loan may sell a par-
12 ticipation in the covered loan to a non-authorized
13 lender in an amount that is not more than 85 per-
14 cent of the covered loan.

15 (6) AGENT DISCLOSURE.—In order to be eligi-
16 ble to obtain a fee, any agent shall be disclosed to
17 the lender and the Administrator at the time of ap-
18 plication for a covered loan.

19 (7) CAPITAL AND LIQUIDITY REQUIREMENTS.—
20 Until December 31, 2021, the amount of a covered
21 loan made by a lender shall be disregarded by Fed-
22 eral regulators for the purpose of calculating regu-
23 latory capital and liquidity requirements.

24 (f) BORROWER REQUIREMENTS.—

1 (1) CERTIFICATION.—An eligible recipient ap-
2 plying for a covered loan shall submit a good faith
3 certification that the eligible recipient suffered a de-
4 cline in gross receipts of not less than 25 percent—

5 (A) during an 8-week period during the pe-
6 riod beginning on February 1, 2020, and end-
7 ing on July 31, 2020, relative to—

8 (i) an 8-week period during the period
9 beginning on January 1, 2020, and ending
10 on March 31, 2020; or

11 (ii) a comparable 8-week period in
12 2019; or

13 (B) during a calendar or fiscal quarter
14 during the period beginning on February 15,
15 2020, and ending on July 31, 2020, relative to
16 the same calendar or fiscal quarter in 2019.

17 (2) ACCOUNTING METHOD.—An eligible recipi-
18 ent may calculate the decline in gross receipts de-
19 scribed in paragraph (1) using the cash or accrual
20 accounting method.

21 (3) ADJUSTMENTS.—The Administrator, in
22 consultation with the Secretary, shall provide guid-
23 ance on appropriate adjustments to the terms under
24 this subsection for eligible recipients seeking a cov-

1 ered loan that are fiscal year taxpayers or seasonal
2 businesses.

3 (4) RESTRICTIONS.—

4 (A) IN GENERAL.—The Administrator may
5 enter into agreements to guarantee covered
6 loans made to eligible recipients only if the Ad-
7 ministrator determines that the agreement pro-
8 vides that, until the date that is 12 months
9 after the date on which the covered loan is no
10 longer outstanding—

11 (i) the eligible recipient or an affiliate
12 of the eligible recipient shall not purchase
13 an equity security that is listed on a na-
14 tional securities exchange of the eligible re-
15 cipient or any parent company of the eligi-
16 ble recipient, except to the extent required
17 under a contractual obligation in effect as
18 of the date of enactment of this Act;

19 (ii) the eligible recipient shall not pay
20 dividends or make other capital distribu-
21 tions with respect to the common stock of
22 the eligible recipient; and

23 (iii) the restrictions on certain em-
24 ployee compensation described in section
25 4004(a) of the CARES Act (Public Law

116–136) apply to officers and employees of the eligible recipient.

(B) EXCEPTIONS.—

(i) DIVIDENDS.—

(I) REAL ESTATE INVESTMENT TRUSTS.—Subparagraph (A)(ii) shall not apply to any eligible recipient that is a real estate investment trust (as defined under section 856 of the Internal Revenue Code of 1986) for the taxable year in which the distribution is made to the extent that such entity distributes no more than 100 percent of real estate investment trust taxable income (as defined in section 857(b)(2) of such Code, determined without regard to the deduction for dividends paid (as defined in section 561 of such Code)) during such taxable year.

(II) REGULATED INVESTMENT COMPANIES.—Subparagraph (A)(ii) shall not apply to any eligible recipient that is a regulated investment company (as defined under section

1 851 of the Internal Revenue Code of
2 1986) for the taxable year in which
3 the distribution is made to the extent
4 that such entity distributes no more
5 than 100 percent of investment com-
6 pany taxable income (as defined in
7 section 852(b)(2) of such Code, deter-
8 mined without regard to the deduction
9 for dividends paid (as defined in sec-
10 tion 561 of such Code)) during such
11 taxable year.

12 (ii) DISTRIBUTIONS.—Notwith-
13 standing subparagraph (A), during the pe-
14 riod described in that subparagraph an eli-
15 gible recipient that is an S-corporation or
16 a limited liability company may provide a
17 distribution to pay income taxes.

18 (5) EMERGENCY RELIEF FUNDS.—

19 (A) IN GENERAL.—Except as provided in
20 subparagraph (B), an eligible recipient applying
21 for a covered loan may not receive or have re-
22 ceived any assistance under 4003 of the
23 CARES Act (Public Law 116–136) for any
24 purpose.

1 (B) RETURN OF FUNDS.—An eligible re-
2 cipient that received assistance under section
3 4003 of the CARES Act (Public Law 116–136)
4 may apply for a covered loan if the eligible re-
5 cipient returns the funds received under such
6 section 4003.

7 (6) BUSINESS CONCERNS WITH MORE THAN 1
8 PHYSICAL LOCATION.—A business concern that em-
9 ploys not more than 500 full-time employees per
10 physical location of the business concern and that is
11 assigned a North American Industry Classification
12 System code beginning with 72 at the time of dis-
13 bursal shall be eligible to receive a covered loan of
14 not more than \$25,000,000 if the number of full-
15 time employees, in the aggregate, does not exceed
16 5,000.

17 (7) WAIVER OF AFFILIATION RULES.—

18 (A) IN GENERAL.—The provisions applica-
19 ble to affiliations under section 121.103 of title
20 13, Code of Federal Regulations, or any suc-
21 cesssor regulation, are waived with respect to eli-
22 gibility for a covered loan for—

23 (i) any eligible recipient with not more
24 than 500 full-time employees that is as-

1 signed a North American Industry Classi-
2 fication System code beginning with 72;

3 (ii) any eligible recipient operating as
4 a franchise;

5 (iii) any eligible recipient that receives
6 financial assistance from a company li-
7 censed under section 301 of the Small
8 Business Investment Act of 1958 (15
9 U.S.C. 681); and

10 (iv) any eligible recipient with not
11 more than 500 full-time employees that is
12 not more than 50 percent owned or con-
13 trolled by another entity.

14 (B) CONTROL.—For purposes of this para-
15 graph, the term “control”, with respect to an
16 eligible recipient, shall include—

17 (i) the possession, direct or indirect,
18 of the power to vote not less than 50 per-
19 cent of the voting equity in the eligible re-
20 cipient;

21 (ii) ownership, direct or indirect, of
22 not less than 50 percent of the equity in-
23 terests in the eligible recipient; and

1 (iii) direct or indirect control over the
2 management of affairs of the eligible re-
3 cipient.

4 (8) CALCULATION OF FULL-TIME EMPLOY-
5 EES.—For purposes of determining the number of
6 full-time employees of an eligible recipient as of Feb-
7 ruary 15, 2020—

8 (A) any employee working not fewer than,
9 at the election of the eligible recipient, an aver-
10 age of 30 hours per week during the preceding
11 3-month period or 30 hours during the pre-
12 ceding pay period shall be considered a full-time
13 employee; and

14 (B) any employee working not fewer than
15 10 hours and fewer than 30 hours per week
16 shall be counted as one-half of a full-time em-
17 ployee.

18 (9) CREDIT ELSEWHERE.—During the covered
19 period, an eligible recipient is not required to show
20 that the eligible recipient is unable to obtain credit
21 elsewhere, as defined in section 3(h) of the Small
22 Business Act (15 U.S.C. 632(h)).

23 (10) SUBORDINATION.—Any covered loan made
24 to an eligible recipient shall be subordinate to any

1 liability incurred by the eligible recipient before Feb-
2 ruary 15, 2020.

3 (11) RESTRICTIONS FOR PRIOR BANK-
4 RUPTCY.—A lender may deny an application for a
5 covered loan submitted by an eligible recipient if,
6 during the 7-year period preceding the date of the
7 application, the eligible recipient or a person that
8 owns or controls the eligible recipient filed a petition
9 for bankruptcy under chapter 7 or 13 of title 11,
10 United States Code.

11 (g) USE OF FUNDS.—

12 (1) IN GENERAL.—An eligible recipient of a
13 covered loan may use the proceeds for allowable ex-
14 penses described in paragraph (2).

15 (2) ALLOWABLE EXPENSES.—The expenses de-
16 scribed in this paragraph are—

17 (A) payroll costs for employees and fur-
18 loughed employees, including—

19 (i) costs for continuation coverage
20 provided pursuant to part 6 of subtitle B
21 of title I of the Employee Retirement In-
22 come Security Act of 1974 (other than
23 under section 609), title XXII of the Pub-
24 lic Health Service Act, section 4980B of
25 the Internal Revenue Code of 1986 (other

1 than subsection (f)(1) of such section inso-
2 far as it relates to pediatric vaccines), or
3 section 8905a of title 5, United States
4 Code, or under a State program that pro-
5 vides comparable continuation coverage,
6 other than coverage under a health flexible
7 spending arrangement under a cafeteria
8 plan within the meaning of section 125 of
9 the Internal Revenue Code of 1986; or

10 (ii) any other non-cash benefit;

11 (B) rent;

12 (C) utilities;

13 (D) scheduled mortgage interest payments
14 on existing mortgages as of February 15, 2020;

15 (E) scheduled interest payments on other
16 scheduled debt as of February 15, 2020;

17 (F) costs related to personal protective
18 equipment, which shall include N95 masks and
19 authorized equivalent respirator masks, surgical
20 masks, exam gloves, face shields, head covers,
21 isolation gowns, and coveralls;

22 (G) payments of principal on outstanding
23 loans as of February 15, 2020, not including
24 the prepayment of any obligation for a period

1 in excess of a month unless the payment for
2 such period is customarily due in advance;

3 (H) payments of principal on outstanding
4 loans;

5 (I) payments made to independent contrac-
6 tors, as reported on Internal Revenue Service
7 Form-1099 NEC;

8 (J) other ordinary and necessary business
9 expenses, including—

10 (i) settling existing debts owed to ven-
11 dors and replenishing inventory;

12 (ii) franchise fees;

13 (iii) management fees paid to third
14 parties on an arm's length basis;

15 (iv) maintenance expenses;

16 (v) administrative costs;

17 (vi) taxes;

18 (vii) operating leases; and

19 (viii) any other capital expenditure or
20 expense required under any State, local, or
21 Federal law or guideline related to social
22 distancing as a result of COVID-19.

23 (3) PROHIBITED EXPENSES.—An eligible recipi-
24 ent may not use the proceeds of a covered loan—

25 (A) to purchase real estate;

1 (B) for payments of interest or principal
2 on loans originated after February 15, 2020;

3 (C) to invest or re-lend funds;

4 (D) for contributions or expenditures to, or
5 on behalf of, any political party, party com-
6 mittee, or candidate for elective office;

7 (E) for expenses related to any acquisition
8 or divestiture; or

9 (F) for any other use as may be prohibited
10 by the Administrator.

11 (h) LOAN DISBURSAL.—

12 (1) INITIAL DISBURSAL.—During the initial 14-
13 day period in which lenders make and approve cov-
14 ered loans, the lenders shall be limited to making
15 covered loans to eligible recipients—

16 (A) with fewer than 50 full-time employees
17 for the first 7-day period; and

18 (B) with fewer than 500 full-time employ-
19 ees for the second 7-day period.

20 (2) REPORT.—Not later than the later of the
21 date that is 180 days after the date on which
22 amounts made available to carry out this Act are ex-
23 pended or July 31, 2021, the Inspector General of
24 the Administration shall submit to Congress a report
25 evaluating whether small business concerns (as de-

1 fined in section 3 of the Small Business Act (15
2 U.S.C. 632)), minority-owned eligible recipients, and
3 other underserved borrowers are treated fairly in the
4 process of making and approving covered loans.

5 (3) REQUIREMENT TO DRAW FUNDS.—An eligi-
6 ble recipient shall draw all covered loan proceeds not
7 later than March 31, 2021.

8 (i) MATURITY FOR LOANS WITH REMAINING BAL-
9 ANCE AFTER APPLICATION FOR FORGIVENESS.—With re-
10 spect to a covered loan that has a remaining balance after
11 a reduction based on the loan forgiveness amount under
12 subsection (j)—

13 (1) the remaining balance shall continue to be
14 guaranteed by the Administration under this section;
15 and

16 (2) the covered loan shall have a maximum ma-
17 turity of 7 years beginning on the date of the origi-
18 nation of the covered loan.

19 (j) LOAN FORGIVENESS.—

20 (1) IN GENERAL.—Except as otherwise pro-
21 vided in this subsection, an eligible recipient of a
22 covered loan that is not a nonprofit organization and
23 submits an application not later than December 31,
24 2023, shall be eligible for forgiveness for expenses
25 described in subparagraphs (A) through (F) of sub-

1 section (g)(2) incurred during the covered period
2 using proceeds of the covered loan in an amount
3 equal to the product obtained by multiplying—

4 (A) the product obtained by multiplying—

5 (i) the percentage decline in gross re-
6 ceipts of the eligible recipient—

7 (I) if the covered period does not
8 extend past March 31, 2021, between
9 the total gross receipts received by the
10 business during calendar year 2020
11 and the total gross receipts received
12 by the business during calendar year
13 2019;

14 (II) between the total gross re-
15 ceipts received by the business during
16 the 6-month period following the date
17 of the origination of the covered loan
18 and the total gross receipts received
19 by the business during a comparable
20 6-month period during the 12-month
21 period preceding the date of the origi-
22 nation of the covered loan; or

23 (III) if the covered period ex-
24 tends past March 31, 2021, between
25 the total gross receipts received by the

1 business during the covered period
2 and the total gross receipts received
3 by the business during a comparable
4 period; and

5 (ii) .90; and

6 (B)(i) for an eligible recipient with not
7 more than 500 full-time employees as of Feb-
8 ruary 15, 2020, the sum of the expenses of the
9 eligible recipient described in subparagraphs
10 (A) through (F) of subsection (g)(2) paid dur-
11 ing the covered period; or

12 (ii) for an eligible recipient with more than
13 500 and not more than 5,000 full-time employ-
14 ees as of February 15, 2020, the sum of—

15 (I) the benefits described in clauses
16 (i) and (ii) of subsection (g)(2)(A) of this
17 section and the payments described in
18 subitems (CC) through (GG) of section
19 7(a)(36)(A)(viii)(I)(aa) of the Small Busi-
20 ness Act (15 U.S.C.
21 636(a)(36)(A)(viii)(I)(aa)) that were paid
22 during the covered period; and

23 (II) the expenses described in sub-
24 paragraphs (B) through (F) of subsection

1 (g)(2) that were paid during the covered
2 period.

3 (2) ALTERNATIVE AMOUNT.—If the amount of
4 forgiveness on a covered loan as calculated under
5 paragraph (1) is less than or equal to the amount
6 of accrued interest payments for the first 12 months
7 of the covered loan—

8 (A) the amount of loan forgiveness shall be
9 equal to the amount of those interest payments;

10 (B) forgiveness shall not be subject to sec-
11 tion 108(j) of the Internal Revenue Code, as
12 added by paragraph (8)(C); and

13 (C) to receive the forgiveness amount de-
14 scribed in subparagraph (A), the eligible recipi-
15 ent shall include in the loan forgiveness applica-
16 tion a certification to the Administrator that
17 the eligible recipient was eligible for a covered
18 loan under this section at the time of applica-
19 tion for the covered loan.

20 (3) LOAN FORGIVENESS FOR SMALL NON-
21 PROFITS.—A nonprofit organization described in
22 subsection (a)(5)(B) with not more than 500 full-
23 time employees as of February 15, 2020, that is an
24 eligible recipient of a covered loan and submits an
25 application not later than December 31, 2023, shall

1 be eligible for forgiveness for expenses described in
2 subparagraphs (A) through (F) of subsection (g)(2)
3 using, at the election of the nonprofit organization—

4 (A) the amount obtained using the formula
5 described in paragraph (1), except that gross
6 receipts shall not include donations, grants,
7 dues, and investment income; or

8 (B) the amount obtained using the formula
9 described in paragraph (1), except that the
10 number in subparagraph (A)(ii) of such para-
11 graph shall be—

12 (i) .7 for a nonprofit organization
13 with not more than 50 full-time employees
14 as of February 15, 2020; and

15 (ii) .2 for a nonprofit organization
16 with not fewer than 50 and not more than
17 500 full-time employees as of February 15,
18 2020.

19 (4) PROHIBITION ON FORGIVENESS.—Any cov-
20 ered loan made to an eligible recipient that is pub-
21 licly traded, is a nonprofit organization described in
22 section 501(c)(7) of the Internal Revenue Code, or
23 is an eligible recipient described in subsection
24 (f)(7)(D) shall not be eligible for loan forgiveness
25 under this subsection.

1 (5) LIMITATION ON AMOUNT OF FORGIVE-
2 NESS.—

3 (A) IN GENERAL.—The amount of all cov-
4 ered loans made to an eligible recipient that
5 may be forgiven under this subsection shall not
6 exceed the total losses incurred by the eligible
7 recipient in the taxable year 2020.

8 (B) APPLICATION OF RELATED PARTY
9 PAYMENTS.—The Secretary shall issue regula-
10 tions that provide that, for purposes of the loss
11 calculation under subparagraph (A)—

12 (i) with respect to an eligible recipient
13 of a covered loan with not fewer than 500
14 full-time employees, related party trans-
15 actions are prohibited from counting to-
16 ward the loss calculation; and

17 (ii) with respect to an eligible recipi-
18 ent of a covered loan with not more than
19 500 full-time employees, any related party
20 payments made during the covered period
21 cannot be greater than related party pay-
22 ments made during taxable year 2019.

23 (C) CAPITAL LOSSES.—For purposes of
24 the loss calculation under subparagraph (A),
25 capital losses from the sale of assets or deduc-

1 tions for guaranteed payments to partners in
2 partnerships or owners in S-corporations shall
3 not count toward the loss calculation.

4 (D) LIMITATION ON PPE EXPENSES.—An
5 eligible recipient may only receive forgiveness
6 for personal protective equipment expenses de-
7 scribed in subsection (g)(2)(F) of not more
8 than \$5,000.

9 (6) NO LIMITS BASED ON PERCENTAGE OF
10 FUNDS USED FOR CERTAIN EXPENSES.—The Ad-
11 ministrator or the Secretary shall not place limita-
12 tions on forgiveness under this subsection based on
13 the percentage of covered loan proceeds that are
14 used for specific expenses described in subsection
15 (g)(2).

16 (7) HOLD HARMLESS.—If a lender approved to
17 make covered loans has received the required docu-
18 mentation under this section from an applicant at-
19 testing that the applicant has accurately verified the
20 eligibility, gross receipts, and expenses of the appli-
21 cant during the covered period—

22 (A) an enforcement action may not be
23 taken against the lender under section 47(e) of
24 the Small Business Act (15 U.S.C. 657t(e)) re-

1 lating to loan forgiveness for those expenses;
 2 and

3 (B) the lender shall not be subject to any
 4 penalties by the Administrator relating to loan
 5 forgiveness for the expenses.

6 (8) TREATMENT OF FORGIVEN AMOUNTS.—

7 (A) IN GENERAL.—Section 108(a)(1) of
 8 the Internal Revenue Code of 1986 is amended
 9 by striking “or” at the end of subparagraph
 10 (D), by striking the period at the end of sub-
 11 paragraph (E)(ii) and inserting “, or”, and by
 12 adding at the end the following new subpara-
 13 graph:

14 “(F) the indebtedness discharged is a cov-
 15 ered loan (as defined in section 2(a) of the RE-
 16 START Act) discharged under section 2(j) of
 17 such Act.”.

18 (B) REDUCTION OF TAX ATTRIBUTES.—
 19 Section 108(b)(1) of such Code is amended by
 20 striking “or (C)” and inserting “, (C), or (F)
 21 (after application of subsection (j)(i))”.

22 (C) LIMITATION.—Section 108 of such
 23 Code is amended by adding at the end the fol-
 24 lowing new subsection:

1 “(j) SPECIAL RULES FOR DISCHARGES OF COVERED
2 LOANS.—

3 “(1) INCLUSION OF EXCESS AMOUNTS.—

4 “(A) IN GENERAL.—In the case of any
5 taxpayer to which subsection (a)(1)(F) applies,
6 the gross income of such taxpayer for any tax-
7 able year in the applicable period shall be in-
8 creased by the product of—

9 “(i) 20 percent, and

10 “(ii) so much of the amount excluded
11 under subsection (a)(1)(F) as exceeds
12 \$250,000.

13 “(B) APPLICABLE PERIOD.—For purposes
14 of subparagraph (A), the term ‘applicable pe-
15 riod’ means the 5 taxable-year period beginning
16 with the taxable year in which the discharge oc-
17 curs.

18 “(2) APPLICATION TO TAX ATTRIBUTES.—For
19 purposes of applying subsection (b), the amount
20 taken into account as excluded from income under
21 subsection (a)(1)(F) shall not exceed \$250,000.”.

22 (D) EFFECTIVE DATE.—The amendments
23 made by this paragraph shall apply to dis-
24 charges of indebtedness after the date of the
25 enactment of this Act.

1 (9) COORDINATION WITH EMPLOYEE RETEN-
2 TION TAX CREDIT.—Section 2301(g) of the CARES
3 Act (Public Law 116–136) is amended to read as
4 follows:

5 “(g) ELECTION TO NOT TAKE CERTAIN WAGES
6 INTO ACCOUNT.—

7 “(1) IN GENERAL.—This section shall not apply
8 to qualified wages paid by an eligible employer with
9 respect to which such employer makes an election
10 (at such time and in such manner as the Secretary
11 may prescribe) to have this section not apply to such
12 wages.

13 “(2) COORDINATION WITH RESTART LOANS.—
14 The Secretary, in consultation with the Adminis-
15 trator of the Small Business Administration, shall
16 issue guidance providing that payroll costs paid or
17 incurred during the covered period shall not fail to
18 be treated as qualified wages under this section by
19 reason of an election under paragraph (1) to the ex-
20 tent that a covered loan of the eligible employer is
21 not forgiven by reason of a decision under section
22 2(j) of the RESTART Act. Terms used in the pre-
23 ceding sentence which are also used in section 3 of
24 such Act shall have the same meaning as when used
25 in such section.”.

1 (k) SPECIAL RULES FOR SEASONAL AND NEW BUSI-
2 NESSES.—

3 (1) IN GENERAL.—The Administrator and the
4 Secretary shall develop special rules and procedures
5 for eligibility, calculation of full-time employees, loan
6 terms, and loan forgiveness for—

7 (A) covered loans made to eligible recipi-
8 ents that are seasonal that do not have suffi-
9 cient revenue to fully benefit from assistance
10 provided under this section; and

11 (B) covered loans made to eligible recipi-
12 ents formed after January 1, 2019, that do not
13 have sufficient revenue to fully benefit from as-
14 sistance provided under this section.

15 (2) LOAN AMOUNT.—The Administrator and
16 the Secretary shall develop terms with respect to the
17 loan amount of a covered loan for the eligible recipi-
18 ents described in paragraph (1) to provide consistent
19 support to those eligible recipients relative to an ex-
20 isting or a non-seasonal eligible recipient.

21 (3) PROHIBITION.—An eligible recipient formed
22 after January 1, 2019, shall not be eligible for loan
23 forgiveness under this section.

24 (l) TRANSPARENCY.—

1 (1) REPORTING.—The Administrator shall col-
2 lect and publish information in searchable and
3 downloadable format on eligible recipients of covered
4 loans, including—

5 (A) the name of each eligible recipient with
6 not fewer than 50 full-time employees that re-
7 ceived a covered loan, which shall be published
8 on a monthly basis;

9 (B) aggregate demographic information of
10 applicants that applied and applicants that were
11 approved for a covered loan, which shall be pub-
12 lished on a weekly basis;

13 (C) the number of loan applications re-
14 ceived and total loan amount requested, the
15 number of loan applications awaiting disposition
16 and the total loan amount awaiting disposition,
17 the number of loan applications rejected and
18 the total loan amount rejected, and the number
19 of loan applications approved and the total loan
20 amount approved by each lender, which shall be
21 published on a weekly basis;

22 (D) aggregate total loan volume approved
23 broken down by the applicable North American
24 Industry Classification System code and by

1 State, which shall be published on a weekly
2 basis;

3 (E) details on the total number of employ-
4 ees, loan size, applicable North American In-
5 dustry Classification System code, and head-
6 quarters location of each eligible recipient of a
7 covered loan, which shall be published on a
8 monthly basis; and

9 (F) the name of and loan amount forgiven
10 for each eligible recipient of a covered loan with
11 not fewer than 50 full-time employees, with ag-
12 gregate loan amount forgiveness data provided
13 for all eligible recipients of covered loans, which
14 shall be published in a final report not later
15 than December 31, 2022.

16 (2) MULTIPLE APPLICATIONS.—To the extent
17 possible, the Administrator should endeavor to de-
18 duplicate multiple applications for a covered loan
19 submitted by the same applicant to different lenders
20 for purposes of public reporting.

21 (3) INFORMATION FROM BORROWERS.—The
22 Administrator shall require lenders of covered loans
23 to collect information from eligible recipients and
24 submit the information to the Administrator for the

1 purpose of meeting the reporting requirements in
2 paragraph (1).

3 (m) SEPARATION OF FUNDS AND BANKRUPTCY
4 TREATMENT.—

5 (1) SEPARATION OF FUNDS.—An eligible recipi-
6 ent of a covered loan shall—

7 (A) separately account for, and not com-
8 mingle with other funds, the proceeds of the
9 covered loan; and

10 (B) account in detail for the use of the
11 proceeds.

12 (2) BANKRUPTCY TREATMENT.—

13 (A) IN GENERAL.—If an eligible recipient
14 of a covered loan is a debtor in a case under
15 chapter 7 or 13 of title 11, United States Code,
16 and the covered loan is still outstanding on the
17 date of the commencement of the case—

18 (i) any interest of the eligible recipient
19 in the proceeds of the covered loan shall
20 not be included in the property of the es-
21 tate; and

22 (ii) the amount of the proceeds of the
23 covered loan that were not expended on al-
24 lowable expenses described in subsection

1 (g)(2) or forgiven under subsection (j) shall
2 be transferred to the Federal Government.

3 (B) UNRECOVERED AMOUNTS ON COVERED
4 LOANS.—Nothing in subparagraph (A) shall
5 preclude the Federal Government from pur-
6 suing a claim in a case under chapter 7 or 13
7 of title 11, United States Code, with respect to
8 the difference, if any, between the amount due
9 to the Federal Government on a covered loan
10 and the amount that was transferred under
11 subparagraph (A)(ii).

12 (n) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated to the Administration—

14 (1) such sums as may be necessary to carry out
15 this section, to remain available until December 31,
16 2020; and

17 (2) \$150,000,000, to remain available until ex-
18 pended, for administrative purposes to update tech-
19 nologies to allow for digital case management, elec-
20 tronic submissions, and increased telecommuni-
21 cations related to the program under this section.

○