

116TH CONGRESS
2D SESSION

H. R. 7894

To require the Administrator of the Small Business Administration to establish a program to provide certain borrowers with a second loan under the paycheck protection program, to modify the eligibility and forgiveness requirement of the program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2020

Mr. CURTIS (for himself, Mr. ROY, Mr. VAN DREW, Mr. MEUSER, and Ms. WILD) 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 require the Administrator of the Small Business Administration to establish a program to provide certain borrowers with a second loan under the paycheck protection program, to modify the eligibility and forgiveness requirement of the program, 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 “Paycheck Protection
5 Program Small Business Enhancement Act”.

1 **SEC. 2. EXTENDING AUTHORITY FOR COMMITMENTS FOR**
 2 **THE PAYCHECK PROTECTION PROGRAM.**

3 Section 1102(b)(1) of title I of division A of the
 4 Coronavirus Aid, Relief, and Economic Security Act (Public
 5 Law 116–136) is amended by striking “August 8,
 6 2020” and inserting “December 31, 2020”.

7 **SEC. 3. ELIGIBILITY OF FRANCHISES AND 501(c)(6) ORGANI-**
 8 **ZATIONS FOR THE PAYCHECK PROTECTION**
 9 **PROGRAM.**

10 Section 7(a)(36)(D) of the Small Business Act (15
 11 U.S.C. 636(a)(36)(D)) is amended—

12 (1) in subparagraph (A)(vii), by striking “sec-
 13 tion 501(c)(3)” and inserting “paragraph (6) or (3)
 14 of section 501(c)”;

15 (2) in subparagraph (D)—

16 (A) in clause (iv)—

17 (i) in subclause (II), by striking
 18 “and” at the end;

19 (ii) in subclause (III), by striking the
 20 period at the end and inserting “; and”;
 21 and

22 (iii) by adding at the end the fol-
 23 lowing new subclause:

24 “(IV) any business concern that
 25 is a franchisor or franchisee as de-
 26 scribed in clause (vii)(II).”; and

1 (B) by adding at the end the following new
2 clause:

3 “(vii) FRANCHISES AND 501(c)(6) OR-
4 GANIZATIONS.—During the covered period,
5 the following shall be eligible to receive a
6 covered loan:

7 “(I) Any organization that is de-
8 scribed in section 501(c)(6) of the In-
9 ternal Revenue Code and that is ex-
10 empt from taxation under section
11 501(a) of such Code.

12 “(II) Any business concern that
13 is a franchisor or franchisee in a fran-
14 chise (as defined in section 436.1(h)
15 of title 16, Code of Federal Regula-
16 tions), regardless of whether the fran-
17 chise is assigned a franchise identifier
18 code by the Administration, if the
19 business concern employs not more
20 than 500 employees per physical loca-
21 tion of the business concern.”.

1 **SEC. 4. PROHIBITION ON USE OF LOAN PROCEEDS FOR**
2 **LOBBYING ACTIVITIES.**

3 Section 7(a)(36)(F) of the Small Business Act (15
4 U.S.C. 636(a)(36)(F)) is amended by adding at the end
5 the following:

6 “(vi) PROHIBITION.—None of the pro-
7 ceeds of a covered loan may be used for
8 lobbying activities, as defined in section 3
9 of the Lobbying Disclosure Act of 1995 (2
10 U.S.C. 1602).”.

11 **SEC. 5. SUBSEQUENT LOANS UNDER THE PAYCHECK PRO-**
12 **TECTION PROGRAM.**

13 (a) IN GENERAL.—An eligible business that received
14 a covered loan under section 7(a)(36) of the Small Busi-
15 ness Act may submit an application to the Administrator
16 of the Small Business Administration for a subsequent
17 loan made under the same terms, conditions, and proc-
18 esses as such covered loan.

19 (b) FORGIVENESS.—

20 (1) IN GENERAL.—A subsequent loan made
21 under subsection (a) shall be eligible for forgiveness
22 under section 1106 of the CARES Act under the
23 same terms, conditions, and processes as a covered
24 loan made under section 7(a)(36) of the Small Busi-
25 ness Act.

1 (2) ADDITIONAL FORGIVABLE EXPENSES.—

2 Amounts of a subsequent loan used for covered
3 worker protection expenditures shall be eligible for
4 forgiveness under such section 1106.

5 (3) COVERED PERIOD.—With respect to a sub-
6 sequent loan, the covered period (as defined in sec-
7 tion 1106(a)(3) of the CARES Act) shall begin on
8 the date of disbursement of the subsequent loan.

9 (c) SAFE HARBOR.—

10 (1) IN GENERAL.—A lender may rely on any
11 certification or documentation submitted by an ap-
12 plicant for a covered loan or an eligible recipient of
13 a covered loan that—

14 (A) is submitted pursuant to any statutory
15 requirement relating to covered loans or any
16 rule or guidance issued to carry out any action
17 relating to covered loans; and

18 (B) attests that the applicant or eligible
19 recipient, as applicable, has accurately verified
20 any certification or documentation provided to
21 the lender.

22 (2) NO ENFORCEMENT ACTION.—With respect
23 to a lender that relies on a certification or docu-
24 mentation described in paragraph (1)—

1 (A) an enforcement action may not be
2 taken against the lender acting in good faith re-
3 lating to origination or forgiveness of a covered
4 loan based on such reliance; and

5 (B) the lender acting in good faith shall
6 not be subject to any penalties relating to origi-
7 nation or forgiveness of a covered loan based on
8 such reliance.

9 (d) DEFINITIONS.—In this section:

10 (1) COVERED WORKER PROTECTION EXPENDI-
11 TURE.—The term “covered worker protection ex-
12 penditure”—

13 (A) means an operating or a capital ex-
14 penditure, as determined in accordance with
15 generally accepted accounting principles, that is
16 required to facilitate the adaptation of the busi-
17 ness activities of an eligible recipient to comply
18 with requirements established or guidance
19 issued by the Department of Health and
20 Human Services, the Centers for Disease Con-
21 trol, or the Occupational Safety and Health Ad-
22 ministration during the period beginning on
23 March 1, 2020, and ending December 31, 2020,
24 related to the maintenance of standards for
25 sanitation, social distancing, or any other work-

er or customer safety requirement related to
COVID-19;

(B) may include—

(i) the purchase, maintenance, or renovation of assets that create or expand—

(I) a drive-through window facility;

(II) an indoor, outdoor, or combined air or air pressure ventilation or filtration system;

(III) a physical barrier such as a sneeze guard;

(IV) an indoor, outdoor, or combined commercial real property;

(V) an onsite or offsite health screening capability; or

(VI) other assets relating to the compliance with the requirements or guidance described in subparagraph (A), as determined by the Administrator in consultation with the Secretary of Health and Human Services and the Secretary of Labor;

(ii) expenses related to testing employees of an eligible business for COVID-19; and

(iii) the purchase of—

(I) covered materials described in section 328.103(a) of title 44, Code of Federal Regulations, or any successor regulation;

(II) particulate filtering facepiece respirators approved by the National Institute for Occupational Safety and Health, including those approved only for emergency use authorization; or

(III) other kinds of personal protective equipment, as determined by the Administrator in consultation with the Secretary of Health and Human Services and the Secretary of Labor; and

(C) does not include residential real property or intangible property.

(2) ELIGIBLE BUSINESS.—The term “eligible business” means an eligible recipient as defined in section 7(a)(36)(A) of the Small Business Act (15

1 U.S.C. 636(a)(36)(A)), but does not include a non-
2 profit organization as defined in such section—

3 (A) that experienced a reduction in gross
4 receipts of more than 20 percent during—

5 (i) the period between April 1, 2020,
6 and June 1, 2020, as compared to the pe-
7 riod between April 1, 2019, and June 1,
8 2019; or

9 (ii) the period between July 1, 2020,
10 and September 1, 2020, compared to the
11 period between July 1, 2019, and Sep-
12 tember 1, 2019; and

13 (B) that is able to document an inability to
14 return to the same level of business activity as
15 such business was operating at before February
16 15, 2020, due to compliance with requirements
17 established or guidance issued by the Secretary
18 of Health and Human Services, the Director of
19 the Centers for Disease Control and Prevention,
20 or the Occupational Safety and Health Admin-
21 istration during the period beginning on March
22 1, 2020, and ending December 31, 2020, re-
23 lated to the maintenance of standards for sani-
24 tation, social distancing, or any other worker or

1 customer safety requirement related to COVID—
2 19.

3 **SEC. 6. CLARIFICATION OF TREATMENT OF BUSINESS EX-**
4 **PENSES.**

5 (a) IN GENERAL.—Subsection (i) of section 1106 of
6 the CARES Act (Public Law 116–136) is amended—

7 (1) by striking “1986, any amount” and insert-
8 ing “1986—

9 “(1) any amount”;

10 (2) by striking the period at the end and insert-
11 ing “, and”; and

12 (3) by adding at the end the following new
13 paragraph:

14 “(2) no deduction shall be denied or reduced,
15 no tax attribute shall be reduced, and no basis in-
16 crease shall be denied, by reason of the exclusion
17 from gross income provided by paragraph (1).”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply as if included in the enactment
20 of section 1106 of the CARES Act (Public Law 116–136).

21 **SEC. 7. FORGIVENESS FOR COVERED LOANS UNDER**
22 **\$150,000.**

23 Section 1110 of the CARES Act (15 U.S.C. 9009)
24 is amended by adding at the end the following new sub-
25 sections:

1 “(m) FORGIVENESS FOR COVERED LOANS UNDER
2 \$150,000.—

3 “(1) IN GENERAL.—Notwithstanding subsection
4 (e), with respect to a covered loan made to an eligi-
5 ble recipient that is not more than \$150,000, the
6 covered loan amount shall be forgiven under this
7 section if the eligible recipient submits to the lender
8 a one-page online or paper form, to be established
9 by the Administrator not later than 7 days after the
10 date of enactment of this subsection, that attests
11 that the eligible recipient complied with the require-
12 ments under section 7(a)(36) of the Small Business
13 Act (15 U.S.C. 636(a)(36)).

14 “(2) HOLD HARMLESS.—With respect to a
15 lender that relies on an attestation submitted by an
16 eligible recipient under paragraph (1), no enforce-
17 ment action may be taken against the lender for any
18 falsehoods contained in the attestation.

19 “(3) DEMOGRAPHIC INFORMATION.—The online
20 or paper form established by the Administrator
21 under paragraph (1) shall include a means by which
22 an eligible recipient may, at the discretion of the eli-
23 gible recipient, submit demographic information of
24 the owner of the eligible recipient, including the sex,
25 race, ethnicity, and veteran status of the owner.

1 “(n) ENFORCEMENT ACTION AGAINST BOR-
2 ROWERS.—An eligible recipient of a covered loan may only
3 be subject to an enforcement action or penalty relating
4 to loan origination, forgiveness, or guarantee of the cov-
5 ered loan if the eligible recipient commits fraud or expends
6 covered loan proceeds on expenses that are not allowable
7 under section 7(a)(36)(F) of the Small Business Act (15
8 U.S.C. 636(a)(36)(F)).”.

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