

The CARES Act Small Business Loan

The Federal Government signed The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) into law on Friday, March 27, 2020. The \$2 trillion stimulus package is aimed in part at assisting small businesses experiencing financial strain due to COVID-19. The assistance comes in the form of loans. Your loan may be **forgiven** if you use the funds to cover the payroll costs and business expenses discussed below. The application process will begin **this week**.

We begin with a few critical details: (1) CARES loans are only issued through a “certified” CARES Act lender (no application fee or closing costs); (2) the maximum loan amount is 2.5 times an employer’s monthly average of “payroll costs” for the year prior to the loan; and (3) your loan may be “**forgiven**” if the funds are utilized and documented properly. The “quoted” terms above are further explained below.

- ***Borrower Qualifications:***
 - Any for-profit or non-profit business with under 500 employees per physical location; sole proprietors and other self-employed individuals; and independent contractors.
 - You must have been in operation on 2/15/20 and paying salaries and taxes.
 - You must certify that the current economic conditions make the loan necessary to support ongoing operations **AND** that you will use the funds to retain workers, pay wages, mortgage payments, lease payments, and/or utility payments.
 - No collateral or personal guarantees are required; there is, however, potential personal liability if you misuse the loan proceeds.

- ***Application Process:***
 - It starts the week of March 30, 2020.
 - You must apply with a certified CARES Act lender. Ask your bank if it is certified and find out its application procedures.
 - Immediately start gathering proof of payroll, rent/mortgage, utilities (electric, gas, water, transportation, phone and internet) costs for the previous year.
 - Open a new bank account for the loan proceeds. Only deposit loan proceeds in the account and then only use that money to pay payroll, rent/mortgage interest and utility costs. This will make it easier to get the loan forgiven.

- ***Maximum Loan Amounts:***
 - You can borrow up to 2.5 times the total average monthly payments for payroll, mortgage, rent, and utilities during the one-year period before the date of the loan. In other words, your loan amount will be about 10 weeks’ worth of your payroll, rent/mortgage and utility expenses. Your loan can’t exceed \$10 million.
 - If you are a seasonal employer then use your average monthly payments from February 15, 2019 to June 30, 2019.
 - Payroll costs include salary, wages, commissions, or similar compensation, cash tips or equivalent, vacation, parental, family, medical or sick leave, termination benefits, payments for group health benefits and

premiums, payment of retirement benefits, and state and local payroll taxes.

- Payroll costs are capped at \$100,000 per any individual employee or independent contractor.
- Payroll costs do NOT include compensation to employees whose principal place of residence is outside of the U.S., OR qualified sick and family leave for which a credit is allowed under section 7001 and 7003 of the Families First Coronavirus Response Act.
- Payroll costs do NOT include taxes imposed or withheld under FICA, and other taxes imposed by the IRS.
- There are other exceptions for employers that were not in business in 2019.

- ***Forgivable Loan Amounts:***

- If you prove you used the loan proceeds ONLY for payroll, rent/mortgage interest (you can't pay ahead on your mortgage) and utilities for the **8 week period** after you get the loan, then you may get that 8 week portion of the loan forgiven. Your bank must make a decision within sixty days of receiving your loan forgiveness application.
 - Submit the following documents to your bank when asking for loan forgiveness: (1) verification of full-time employees on payroll, (2) rates of pay for employees, (3) payroll tax filings reported to IRS, (4) state income, payroll and unemployment insurance filings, (5) cancelled checks, payment receipts, transcripts of accounts showing payments to mortgage lender, rent and utility payments.
- **BE AWARE** - the forgivable amount of the loan **may be reduced if** employment levels during the first 8 weeks after you get the loan drop below your employment level during one of the following periods: 2/15/19 – 6/30/19 **OR** 1/1/20 – 2/29/20. The forgivable amount **may also be reduced if** employee compensation levels drop by 25% from the previous levels.
 - Considering the above, you may want to rehire people BEFORE you apply for the loan.
- Any amount that is not forgiven will need to be repaid over a maximum ten-year period with an interest rate capped at 4%.
- The loan can be deferred for no longer than one (1) year, but no less than six (6) months.
- No prepayment penalties.
- The forgivable amounts are not considered “income” for tax purposes.

The window to apply for a CARES Act loan remains open until June 30, 2020; however, there is sure to be a scramble to secure these funds. The CARES Act has set aside an incredible amount of money for small businesses loans that could very well keep outfits in business and employees making a wage. There is sure to be a long line at any CARES Act certified bank. Be prepared. Be timely. Be in business next year. Use the information presented above to get documents and information in order to apply for a CARES Act loan.