



812 W. Dr. MLK, Jr. Blvd., Suite 101 |  
Tampa, FL 33603 |

Phone: (813) 225-1918 |

Fax: (813) 225-2531

Email: [tjh@whhlaw.com](mailto:tjh@whhlaw.com)

This is a brief summary of the Small Business Sections of the Coronavirus Aid, Relief, and Economic Security Act or the (“CARES Act”) enacted on March 27, 2020.

By: Theodore J. Hamilton, Esq.

This is a brief summary of the Small Business Sections of the third COVID-19 Act (H.R. 748) signed into law by President Trump on March 27, 2020 (herein “The Act” or “Act”). This Act distributes over \$2 trillion dollars of federal support to the U.S. Economy. The Act provides specific benefits to Businesses under 500 employees. These benefits include loans with low interest and with forgiveness provisions, tax credits for those that keep their employees working, and unemployment benefits for those laid off. In addition, tax credits are available to individuals.

Section 1, starting at Section 1101 of the Act, deals with keeping workers paid and employed. The Act allocates \$349 Billion dollars of the total Act funding to this part of the Act. The first section of the Act deals with loans to those companies that keep employees working during the COVID-19 outbreak.

Loans are available from the SBA to cover salaries and other expenses of Small Businesses for the period February 15, 2020 through June 30, 2020 (It is titled the Paycheck Protection Plan). Under the Act, employers can get a loan for 2.5 times the average of their payroll from February 15, 2019 to February 15, 2020. The Employer can use this money for salaries, commissions or similar compensation, mortgage obligations, rent, utilities and interest on debt incurred before the covered period. The Small Business Administration (herein “SBA”) will administer this Emergency Loan Program. This loan money also applies to non-profits with fewer than 500 employees. This program will be moved out by the SBA to qualified SBA lenders. These loans shall not require personal guarantees as the employer uses for the above purposes. The loans shall have a four percent interest rate with a ten year payback. These COVID-19 Loans will have an immediate 6 month complete payment deferral and up to 1 year of such deferral at the Lender’s discretion for COVID-19 related reasons including all amounts. The loans shall have a 0 risk weight for the lenders. The loans are not included in reporting for TARP purposes for the banks. Loan fees are paid by the SBA as a reimbursement and no agent can charge a fee. No loan commitment fees can be charged. These loans can be up to \$1 million.

This program applies to all small businesses (under 500 employees) that experience supply chain disruption, staffing challenges, a decrease in gross receipts or customers, or a closure due to COVID-19.

Grants are also available for those Associations providing information to small business about the of these programs.

## THE EMERGENCY LOANS AND CERTAIN EXISTING SBA LOANS GET LOAN FORGIVENESS - Section 1106

Small Business loans (ie loans guaranteed by the SBA) in existence as of February 20, 2020 that included a mortgage on real property and loans under this Act qualify for loan forgiveness. Such loan forgiveness, which could be up to 100%, shall be reduced by the amount of the loan multiplied by the average number of employees from the 8 week period beginning on the date of the Covered Loan (Covered loan being a new loan under this Act or a prior SBA loan secured by real property) divided by the average number of full time equivalent employees from either Feb 15, 2019 and ending June 30, 2019 or beginning January 1, 2020 and ending February 29, 2020 at the discretion of the employer. The amount of the loan forgiveness is also reduced by any employee salary reductions over 25% of regular pay during this loan forgiveness period. (The purpose here is to keep paying employees even in the face of less work knowing the amounts borrowed will be forgiven). Furthermore, the calculation of the forgiveness reduction amount does not include those making over \$100k per year (So technically you could continue to pay those making over \$100k with the regular income of the company and supplement the other payroll for those making \$100k with the new loan). The amount of loan forgiveness does not include a reduction for those laid off between February 15, 2020 and 30 days after March 27, 2020 as long as the employer hires those laid off by June 30, 2020 at their regular pay. Proper documentation must be provided to the SBA lender as to the use of the funds and employment status of employees. The amount of loan forgiveness shall be included in the income of the Company receiving the forgiveness.

Immediate advance amounts of \$10,000 are also immediately available even if the loans are not approved. If the loan is not approved these advance amounts do not need to be repaid. If approved for the loans under the prior section, then this \$10k amount shall be deducted from the credit forgiveness.

All lenders are encouraged to forgive interest or defer it during the next 90 days whether backed by the SBA or not. In addition, all SBA loans shall be in deferment and the amount of principal and interest due under such loans shall be paid by the SBA. For purposes of this section all SBA loan payments shall not be required to be paid for the next six months from the next payment due under the loan.

## AMENDMENTS TO THE SMALL BUSIENSS DEBTOR REORGANIZATION ACT – SECTION 1113.

The Small Business Debtor Reorganization Act is also amended to increase the secured and unsecured debt limit to file Bankruptcy as a Small Business debtor up to \$7.5 Million Dollars. In addition, confirmed plans can also be amended if the debtor is affected by COVID-19 upon filing a motion to modify the plan. Amounts received under this COVID-19 Act by a debtor shall not be included as part of the income of the debtor.

## ASSISTANCE FOR AMERICAN WORKERS, FAMILIES, AND BUSINESSES - Unemployment Insurance. Section A.

Unemployment compensation is now available for layoffs relating to COVID-19. These payments are available retroactively to January 27, 2020 until December 31, 2020 for all employees unable to work at all (teleworking is work) during this period. The total amount cannot exceed 39 weeks. The regular amounts of unemployment will apply plus an additional 600 per week.

## REBATES AND OTHER INDIVIDUAL PROVISIONS – SUBTITLE B

Credits against taxes in the amounts of \$1,200 for individual and \$2,400 for those filing jointly shall apply to the 2020 tax year. Plus, an amount of \$500 shall be paid for each qualifying child. The amounts received will be reduced by 5 percent of so much of the taxpayers adjusted gross income as exceed \$150k for a joint return, \$112,500 for the head of a household and \$75,000 in the case of a taxpayer not described as the head of a household or joint filer. These refunds shall be made immediately.

As to 401ks the amount that can be withdrawn shall not exceed \$100k per employer but up to that amount distributions can be made from the plans without penalty. You need to check with your 401k provider on this. Also, a loan increase from a 401k is now in effect allowing for up to \$100k for loans from a qualified plan. In addition, there is a deferment of payments on existing loans until December 31, 2020.

Contributions to qualified non-profits including religious institutions allows for a \$300 credit to be taken as a credit on a return and also allows provides for an unlimited deduction in 2020 for such contributions for amounts over \$300 to qualified non-profits.

#### CREDITS FOR EMPLOYEE RETENTION - Subtitle C

For employers with under 500 employees, a credit in an amount equal to 50 percent of qualified wages up to \$10k per quarter per employee against payroll taxes for that quarter for payroll taxes during the COVID-19 outbreak is now in effect. The amount not recovered in payroll taxes shall be entitled to be shown as a refund and overpayment on the corporate tax return and due as a credit. This provision applies to employers carrying on a trade or business during 2020 and during such quarter the business is fully or partially suspended due to order from a governmental authority limiting commerce, travel, or group meetings due to the disease. The credit occurs from the time the employer shows 50% decrease in gross receipts from the prior calendar quarter and ending with the calendar quarter when gross receipts are up to 80% of gross receipt for the same calendar quarter in the prior year. This provision applies to tax exempt organizations as well. Wages under this section do not include family leave or sick leave wages required to be paid under Part II of the COVID-19 relief act. Also, these wages don't include wages paid by the loans from the SBA outlined in the prior portions of the ACT (these are the loans referenced above). In addition, payroll taxes are deferred for 2020 until the January 1, 2021 payment date. Thus a refund for those amounts due will still occur and 50 per cent of these taxes due shall not be due until December 31, 2021 with the remaining amounts due December 31, 2022.

#### FORECLOSURE MORATORIUM AND CONSUMER RIGHT TO REQUEST FORBEARANCE – Section 4022.

A forbearance period of 180 days with no fees, interest or late fees other than the regular amounts due is now in place on all Federally Backed Mortgage Loans insured by the FHA, under the Nation Housing Act or securitized by FHA or FNMA. There is a 60 day moratorium on foreclosures or foreclosure related evictions for not less than the 60 day period beginning on March 8, 2020. This will apply to anyone submitting a request for forbearance and an affirmation that the debtor is experiencing a financial hardship due to COVID-19 (not hard to do). The eviction limitation is also in place as to all multifamily properties with a federally backed loan. Such borrowers under such loans covering apartments complexes can also apply for the forbearance as well.

This summary is just that, a summary. It is not intended a complete overview of how it might apply to your circumstance. However, with that said, many if not all small businesses can take the benefit of the

act if they see any reduction whatsoever in their cash flow either now or the near future due to COVID-19. These loans and the forgiveness granted by the Act not only helps those that have had to layoff employees, but will also cover reductions in cash flow caused by this pandemic. It should give all businesses a bit of peace of mind to know that we have the backing of the government in such a worst case scenario.

Also, there are many provisions of the Act that this article does not address. The Act includes broad provisions for Healthcare and for all sorts of other State and Local funding, including Education. In the long run, this injection of cash into the U.S. economy can only help get things moving again.