

## HR 748: Coronavirus Aid, Relief, and Economic Security (CARES) Act (3/27/2019)

As Passed Senate and House; awaiting President Signature

### **Title I: Keeping American Workers Paid and Employed Act**

#### Paycheck Protection Program

- Small Business Administration (aka Administrator) may make loans on a deferred basis made from February 15, 2020 and ending June 30, 2020. Loans may be made to businesses, nonprofit organizations, veteran organizations, or Tribal businesses that employ not more than 500 employees (includes those employed on a full-time, part-time, or other basis. This includes individuals who operate as a sole proprietorship or as an independent contractor and eligible self-employed individuals. Includes businesses that employ not more than 500 employees per physical location with NAICS code beginning with 72 (Accommodation and Food Services.)
- Max loan is the lesser of average total monthly payroll costs of one year period before date loan is made (if seasonal employer it's the average total monthly payments for payroll for the 12 week period starting February 15, 2019 or March 1, 2019 and ending June 30, 2019) multiplied by 2.5 plus the outstanding amount of existing loans as of January 31, 2020.
  - For businesses not in existence on February 15, 2019 and ending June 30<sup>th</sup> the sum of the average total monthly payments by the applicant for payroll costs between January 1, 2020 and ending on February 29, 2020 multiplied by 2.5 plus the outstanding amount of existing loans as of January 31, 2020.
- Loans may be used for: 1. payroll costs; 2. costs related to continuation of group health care benefits during the periods of paid sick, medical, or family leave and insurance premiums; 3. Employee salaries, commissions, or similar compensations; 4. Payments of interest on mortgage obligations; 5. Rent; 6. Utilities; 7. Interest on debt obligations that were incurred before the covered period.
- Businesses should have been in operation on February 15, 2020 and had employees for which they paid salaries and payroll taxes.
- Those applying for loans shall make a good faith certification that due to economic conditions the loan will support ongoing operations, will be used to retain workers and maintain payroll, that eligible recipients do not have applications pending with the federal government for the same purpose/duplicative amounts, and that during the period starting February 15, 2020 and ending on December 31, 2020 that eligible recipients have not already received an amount for the same or duplicative purposes.
- Waives fees for loans. The requirement that unable to obtain credit elsewhere doesn't apply. Eliminates requirement for personal guarantee or collateral.
- Loans have max maturity of 10 years and the interest rate may not exceed 4%.
- Payment on loans including payment of principle, interest, and fees is deferred for a period of not less than 6 months and not more than 1 year.
- Loans are eligible to be sold on the secondary market, and the Small Business Administration may not collect a fee to do so.
- Small Business Administration shall reimburse lenders authorized to make loans at a rate of: 5% for loans for up to \$350K, 3% for loans of more than \$350K and less than \$2M, and 1% for loans of over \$2M.
- No prepayment penalty for any payment on a covered loan

#### Entrepreneurial Development

- Provides financial assistance in the form of grants to resource partners to provide education, training, and advising to covered small businesses that have experienced as a result of COVID-19 supply chain disruptions, staffing challenges, a decrease in gross receipts or customers, or a closure.
- The administration must award 80% of funds shall be awarded pursuant to a formula negotiated by the trade association and the administration.
- 20% of the funds must be awarded to women's business centers pursuant to a process established by the Administration in consultation with recipients of assistance.
- Grants do not require matching funds.

- Allows the Administration to provide grants to associations representing resource partners to establish a single centralized hub for COVID 19 including an online platform that consolidates resources and info across multiple federal agencies for small businesses, a training program to education resource partner counselors. Requires report to congress within 6 months and annually on programs and services provided.

#### State Trade Expansion Program

- Continues appropriations for grants under state trade expansion program for FFY 2018 or FFY 2019 through the end of FFY 2021.
- The Administrator shall reimburse any recipient of assistance for financial losses relating to a foreign trade mission or trade show exhibition that was cancelled due to COVID-19.

#### Waiver of Matching Fund required under the Women's Business Center Program

- Waives requirement relating to obtaining cash contributions from non-Federal sources for the Women's Business Center Program.

#### Loan Forgiveness

- Eligible recipient is eligible for forgiveness of an indebtedness on a covered loan in an amount equal to the sum of the following costs incurred and payments made during the covered period (aka - week period beginning the date of origination of the loan): 1. Payroll costs; 2. Any interest paid on mortgage obligations; 3. Rent payments; 4. Any covered utility payment.
- Requires within 90 days after the date of forgiveness is determined the Administrator shall remit the amount of forgiveness plus interest.
- Allows lenders to report to the Administrator an expected forgiveness amount on a loan or pool of covered loans. Requires the administrator to purchase the forgiveness amount within 15 days.
- Loan forgiveness is reduced by the average number of full time equivalent employee per month employed by the eligible recipient during the covered period by, at the election of the borrower, the average number of FTEs per month employed during February 15, 2019 and ending June 30, 2019 or the average FTEs for the period beginning January 1, 2020 and ending February 29, 2020.
- For income tax purposes excludes forgiveness amounts from gross income.

#### Direct Appropriations

- For FFY 2020 appropriates \$349M for the small business administration business loans program account to be available through FFY 2021
- \$25M for small business administration – office of inspector general to be available through FFY 2024
- \$265M for small business administration entrepreneurial development programs
- \$10M for Dept of Commerce Minority Business Development Agency to provide technical assistance to small business concerns
- \$10M for small business administration Emergency EIDL Grants
- \$17M for small business administration business loans program account
- \$25M for Dept of Treasury Departmental Offices and salaries expenses
- \$100M for guarantees of trust certificates of the secondary market through FFY 21
- Requires report no later than 180 days to congress with detailed expenditure plan for using amounts appropriated

#### Minority Business Development Agency

- Allows the agency to provide grants to minority business centers and minority chambers of commerce to provide education, training and advising to minority business centers and as it related to COVID-19 risks and resources.
- No matching funds required and the agency shall jointly develop metrics and goals with minority business centers and chambers of commerce. Requires report to congress within 6 months and annually on the programs and services developed.

### Treasury Program Management Authority

- Requires the Dept of Treasury in consultation with the Administrator and Chairman of Farm Credit Administration to establish criteria for insured depository institutions, insured credit unions, institutions of the farm credit system, and other lenders that do not already participated in lending under programs of the Administrator to participate in the paycheck protection program to provide loans until the date that the national emergency for COVID-19 expires.
- Secretary may issue regulations and guidance including allowing additional lenders to originate the loans and establishing terms and conditions.

### Emergency EIDL Grants

- A business with not more than 500 employees, any individual who operates a sole proprietorship, with or without employees, or as an independent contractor; a cooperative with not more than 500 employees; an ESOP with not more than 500 employees may request an advance of not more than \$10K for providing paid sick leave to employees unable to work, maintain payroll, meet increased costs due to interrupted supply chains, rent or mortgage payments, and repaying obligations due to revenue losses. Loans may be approved based solely on the credit score and shall not require a tax return.
- Applicants are not required to repay any advance provided.

## **Title II: Assistance for American Workers, Families, and Businesses**

### Pandemic Unemployment Assistance

- Individual not eligible for regular compensation or extended benefits under state or federal law including those that have exhausted regular UI benefits excluding those who have the ability to telework with pay or receive paid sick leave/benefits are eligible for UI benefits from the secretary for work missed due to COVID-19 through December 31, 2020.
- Benefit is a max of 39 weeks but may be extended by the number of weeks by which benefits are extended.
- Requires secretary to establish process for making assistance for weeks on or after 1/27/2020 and before enactment of the act.
- Removes any waiting period for UI benefits.
- Reimburses states 100% for the total amount of assistance provided and any additional administrative expenses. Payable as an advance or by way of reimbursement as determined by secretary.
- Appropriates amount necessary to fund the program.

### Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations

- Allows Secretary of Labor to issue guidance to allow states to interpret UI laws in a manner than would provide max flexibility for reimbursing employers as it relates to timely payments and assessment of penalties and interest.
- Reimburses governmental entities and nonprofit organizations for amounts paid into the state unemployment fund between March 13, 2020 and December 31, 2020.
- Appropriates the amount necessary to do so.

### Emergency increase in UI Benefits

- Allows states to enter into agreements with the Secretary of Labor to increase the max amount payable to the amount allowed under state law plus an additional amount of \$600
- Reimburses states for the cost and appropriates the funds.
- Applies to weeks of unemployment beginning the date on which the agreement is entered into and before July 31, 2020.
- Requires repayment from individuals who falsely received UI dollars.
- Requires amount of monthly UI income to individuals to be disregarded for the purposes of the Medicaid and CHIP programs.

#### Full Federal funding of first week for states with no waiting week

- States may enter into agreement with secretary of labor for amount equal to 100% of total amount of regular compensation paid to individuals for their first week of regular unemployment and any additional admin expenses if states waive the one week waiting period.

#### Pandemic UI Compensation

- Allows states to enter into agreement with secretary of labor to provide payments of pandemic UI compensation to individuals who exhausted all rights to regular UI benefits.

#### Other UI provisions

- Requires states to be paid up to 100% of the amount of short term compensation paid under the program, capped at 26 times the amount of regular compensation under the state law payable to such individual for a week of total unemployment.
- Requires grants to states that enact short time compensation programs for the purposes implementation or improved administration of such programs. Appropriates \$100M for this purpose.
- Waives 7 day waiting period for benefits under railroad unemployed insurance act and appropriates \$50M. Enhances benefits as well.
- Provides \$25M to US DOL for audits, investigations, and other oversight activities.

#### Subtitle B- Rebates and Other Individual Provisions

- Allows for tax year 2020 as a tax credit an amount up to \$1,200 plus an amount equal to the product of \$500 multiplied by the number of qualifying children of the taxpayer. Reduced by 5% for taxpayers with AGI over \$150K in case of joint return, \$112,500 in case of health of household, or \$75,000 in the case of any other taxpayer.
- Excludes retirement income for individuals in CY 2020 impacted by COVID-19 to automatically be included as taxable income over a three-year taxable period.
- Temporarily waives minimum distribution rules for certain retirement plans and accounts.
- For tax years beginning in 2020, provides above the line deduction for charitable contributions not to exceed \$300 of qualified charitable contributions made by an eligible individual who do not itemize deductions during the tax year. For corporations any deduction may not exceed the excess of 25% of the taxpayer's taxable income over the amount of all other charitable contributions otherwise allowed.

#### Subtitle C – Business Provisions

- Allows as a refundable tax credit against employment taxes for each calendar quarter an amount equal to 50% of the qualified wages with respect to each employee of the employer. The amount of qualified wages for any an employee may not exceed \$10K.
- Delays payment of employer payroll taxes through December 31, 2020, and spread 50/50 over the next 2 calendar years.
- Modifications of net operating losses and carrybacks.
- Modifications on losses for taxpayers other than corporations for any taxable year beginning after December 31, 2017, and before January 1, 2026 (relating to limitation on excess farm losses of certain taxpayers) shall not apply, and for any taxable year beginning after December 31, 2020, and before January 1, 2026, any excess business loss of the taxpayer for the taxable year shall not be allowed.”
- Modifies credit for prior year minimum tax liability of corporations.
- Provides temporary exception from excise tax for alcohol used to produce hand sanitizer.

### **Title III – Supporting America's Health Care System in the Fight Against the Coronavirus**

#### Part I – Addressing Supply Shortages and Part II - Access to Health Care for Covid-19 Patients

- Amends Families First Coronavirus Act by requiring all providers of diagnostic tests for Covid-19 to make public the cash price for the test on their internet website for purposes of requiring testing to be covered by group health and insurance policies.
- Requires group health plans and insurance policies to cover any qualifying coronavirus preventive services within 15 days of the service qualifying under the CDC at no cost to the plan participant.
- Appropriates \$1.3B to community health centers for the detection, prevention, diagnosis, and treatment of Covid-19.
- Provides liability protection for health care providers who provide volunteer services during the public health emergency.
- Provides funding flexibility between the Older Americans Act and congregate meal funding. Expands the definition of "homebound" to include those social distancing.
- Reauthorizes the Healthy Start (infant mortality) program until FY2025.

#### Part III – Innovation and Part IV – Health Care Workforce

- Annually appropriates \$233M through FY 2025 for the reauthorization of health care workforce programs aimed at faculty development and training for practitioners.
- Annually appropriates \$40.7M through FY 2025 for the Geriatrics Workforce Enhancement Program.
- Annually appropriates \$138M for the Nurse Corp Loans program.

#### Subtitle B – Education Provisions

- Waives the non-federal matching requirement (up to 25%) of the Supplemental Educational Opportunity Grants from public higher education institutions.
- Allows universities to waive the "amount of need calculation" when awarding an emergency financial aid grant. The grant may not exceed the maximum Pell Grant.
- Holds students harmless who are unable to complete their work study obligation for all or part of the academic year during a qualifying emergency.
- Provides federal student loan flexibility for students who do not complete a semester of school due to a qualifying emergency.
- Provides that the duration limit of the Pell Grant program may not consider a semester of school not completed due to a qualifying emergency.
- Cancels a borrower's student loan repayment obligation for the portion of a loan associated with a semester the student withdraws due to a qualifying emergency.
- Provides broad waiver authority for state educational agencies.
- Suspends federal student loan payments (including interest) through September 30, 2020.
- Allows a teacher's partial year of teaching (due to Covid-19) count as a full year for purposes of Teacher Loan Forgiveness.

#### Subtitle C – Labor Provisions

- Clarifies that the maximum FMLA reimbursement is \$511 per day and \$5,110 in total for employees taking leave due to a local quarantine or isolation order, self-quarantine, or showing symptoms of Covid-19, and is \$200 per day and \$2,000 in total for those caring for family.
- Allows an employee who was laid off before March 1, 2020 to be eligible for FMLA if they are rehired by the employer so long as they worked for the employer for at least 30 days prior to being laid off.
- Allows companies more time to meet their funding obligation for pension plans by delaying payments due during 2020 until January 1, 2021. Delayed contributions would be owed with interest.
- Allows federal agencies to reimburse contractors for paid sick leave provided to their employees even if the contractor is unable to complete their work under the contract due to Covid-10.

#### Subtitle D – Finance Committee

- Allows high-deductible health plans to exclude deductibles for telehealth and remote care services for plan years beginning before January 1, 2022.
- Allows for the purchase of menstrual care products from HAS.
- Requires CMS to pay for telehealth services for Medicare participants.
- Increases Medicare reimbursement for inpatient covid-19 payments by 20%.
- Waves deductible requirements for a Covid-19 vaccination for Medicare participants.
- Expands the types of hospitals eligible to receive accelerated Medicare payments.

#### Subtitle E – Health and Human Services Extenders

- Appropriates \$7.5M for Area Agencies on Aging.
- Appropriates \$337.5M for the Money Follows the Person Rebalancing Demonstration Program within Medicaid.
- Delays Medicaid DSH reductions until December 1, 2020.

#### Subtitle F – Over-the-Counter Drugs

- Creates an 18-month market exclusivity incentive for new over the counter medicines.

### **Title IV: Economic Stabilization and assistance to be severely distressed sectors of the US economy**

#### Subtitle A: Coronavirus Economic Stabilization Act of 2020

- Allows the secretary of the treasury to make loans, loan guarantees, and other investment supports to eligible businesses including an air carrier or US business that has not received adequate economic relief in the form of loans or loan guarantees. Losses incurred directly or indirectly as a result of the coronavirus as well as states and municipalities. The aggregate amount may not exceed \$500B.
  - Not more than \$25B shall be available to make loans and loan guarantees to passenger air carriers, eligible businesses, and approved to perform inspection, repair, placement, overhaul services or ticket agents
  - Not more than \$4B for cargo air carriers
  - Not more than \$17B for businesses critical to maintaining national security
  - Not more than \$454B plus any other used amount shall be used for guarantees to and programs or facilities established by the Board of Governors of the Federal Reserve System to provide liquidity for the financial system that supports lending to eligible businesses, states or municipalities.
- Eligible businesses must maintain its employment levels as of March 24, 2020 to the extent practicable and may not reduce its employment levels by more than 10% from the levels on such date.
- The secretary of transportation may require air carriers receiving loans or loan guarantees to maintain scheduled air transportation services as deemed necessary.
- Provides aviation excise tax holiday and kerosene aviation excise tax holiday on date of enactment of act and ending on January 1, 2021.
- Provides a temporary lending limit waiver ending the sooner of the termination of the national emergency period or December 31, 2020.
- Provides temporary relief for community banks.
- Provides temporary relief from troubled debt restructurings for the period beginning March 1, 2020 and ending the sooner of December 31, 2020 or the date that is 60 days after the national emergency period ends.
- Provides optional temporary relief for insured deposit institutions, bank holding companies, or any affiliates from complying with the Financial Accounting Standards Board Accounting Standards Update No 2016-13 including the current expected credit losses during the period of the enactment of this act and ending the earlier of the date on which the national emergency terminates or December 31, 2020.
- Non-applicability of restrictions on the Economic Stabilization Fund during national emergency.
- Creates a special inspector general for the pandemic recovery within the Dept of Treasury.
- Creates a Congressional Oversight Commission within the legislative branch to conduct oversight of the implementation of the subtitle.
- Provides for credit protection during COVID-19.

- Provides a foreclosure moratorium and consumer right to request forbearance.
- Provides a temporary moratorium on eviction filings for residential and housing properties.

#### Subtitle B – Air Carrier Worker Support

- Provides pandemic relief for aviation workers in the form of financial assistance for employee wages, salaries, and benefits in the amount of \$25B for passenger air carriers, \$4B for cargo air carriers, and \$3B for contractors.
- Sets up procedures for providing payroll support from the secretary of treasury. The total appropriation under the subtitle is \$32B.
- Requires within 10 days after date of enactment of Act the secretary make initial payments to air carriers and contractors that submit requests for financial assistance.
- To be eligible, air carriers or contractors must enter into agreements with the secretary that prohibits involuntary furloughs and reducing pay rates and benefits until September 30, 2020; through September 30, 2021 ensures that neither air carrier purchase an equity security of an air carrier nor prohibits the payment of dividends or capital distributions. Provides pay restrictions for those employees who made over \$425K in CY 2019.

#### **Title V and Title VI Coronavirus Relief Fund**

- Appropriates \$150B for making payments to states, tribal governments, and units of local governments (with populations exceeding 500K).
  - \$3B is allocated for DC, and US territories.
    - \$8B is allocated to tribal governments.
  - A local unit's distribution is allocated from the state's distribution.
  - Each state's allocation is based on its proportionate share of the total non-DC and territory population.
  - Each state shall receive no less than \$1.25B.
  - 45% of a state's funds are set aside for local governments. Any remaining funds are returned to the state.
  - Funds may be used for expenditures incurred due to Covid-19, were not accounted for in the most recently passed budget, and were incurred between March 1, 2020 and December 30, 2020.
- Appropriates \$35M to the Office of Inspector General for the oversight and recoupment of misused funds related to the \$150B.
- Allows the US Postal Service to borrow up to \$10B.

#### Division B - Emergency Appropriations for Coronavirus Health Response and Agency Operations

- Provides a variety of appropriations for federal agencies and programs, we are still reading through them but they include the following.
- Appropriates the following:
  - \$9.5B to the Department of Agriculture
  - \$750K to the Office of Inspector General
  - \$55M to the Animal and Plant Health Inspection Service
  - \$45M for Agricultural Marketing Services
  - \$33M for Food Safety and Inspection Services
  - \$3M to the Farm Service Agency
  - \$20.5M to the Rural Business Program Account
  - \$25M to the Distance Learning, Telemedicine, and Broadband Program
  - \$8.8B for Child Nutrition Programs
  - \$15.8B for the Supplemental Nutrition Assistance Program (SNAP)
    - \$15.5B shall be placed in reserve
    - \$100M distributed to food distribution programs on Indiana reservations.
    - \$50M for facility improvements and equipment upgrades.
    - \$200M for US territories

- \$450M for the Commodity Assistance Program
- \$4M to the Foreign Agricultural Service
- \$80M to the Food and Drug Administration
- \$1.5B to the Economic Administration
- \$6M for Scientific and Technical Research and Services
- \$60M to the National Institute of Standards and Technology
  - \$50M shall be made available for the Hollings Manufacturing Extension Partnership
  - \$10M shall be made available for the National Network for Manufacturing Innovation
  - \$20M to the National Oceanic and Atmospheric Administration
  - \$2M for Justice Information Sharing Technology
  - \$2M to the Office of Inspector General
  - \$3M for salaries and expenses of US attorneys
  - \$15M to the US Marshals Service
  - \$20M to the Federal Bureau of Investigation
  - \$15M to the Drug Enforcement Administration
  - \$100M to the Federal Prison System
  - \$850M for State and Local Law Enforcement Assistance to be distributed to state and local departments
  - \$60M to the National Aeronautics and Space Administration
  - \$75M to the National Science Foundation
  - \$50M for Payment to the Legal Services Corporation
  - \$300M for fishery participants
  - \$746M to the National Guard, Army
  - \$482M to the National Guard, Air Force
  - \$160M to the US Army
  - \$360M to the US Navy
  - \$90M to the US Marine Corp
  - \$155M to the US Air Force
  - \$48M to the US Army Reserve
  - \$186M to the Army National Guard
  - \$75M to the Air National Guard
  - \$827M for the "Operation and Maintenance, Defense-Wide"
  - \$1B for the Defense Production Act Purchases
  - \$1.45B for Defense Working Capital Funds
    - \$475M for the Navy
    - \$475 for the Air Force
    - \$500M for the Defense-Wide Working Capital Fund