

New Federal Law Eases PPP Forgiveness Requirements

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More lenient conditions for loan forgiveness under the Paycheck Protection Program (PPP) are on the way as a result of a new federal law amending the PPP.

The newly approved federal Paycheck Protection Program Flexibility Act of 2020 will amend certain provisions of the PPP related to the forgiveness of the PPP loans authorized under the CARES Act. The new law will provide additional flexibility for borrowers to obtain forgiveness under PPP loans as follows:

The covered period has been extended from 8 to 24 weeks. The CARES Act initially provided that funds received under the PPP loan program must be expended within 8 weeks to be eligible for forgiveness. The new law extends this time period to 24 weeks, allowing borrowers additional time to spend the proceeds of the PPP loans (but not later than December 31) and remain eligible for forgiveness.

The 75/25 rule is replaced with a 60/40 rule. The Small Business Administration initially required that no more than 25% of the forgiven amount of the PPP loan could be for non-payroll expenses. The update increases the amount of non-payroll expenses that can be forgiven from 25% to 40%. However, to achieve any loan forgiveness, at least 60% of PPP loan proceeds must be spent on payroll expenses.

All new PPP loans will carry a five-year maturity. The CARES Act originally provided that all PPP Loans must be repaid in two years. While this amendment only takes effect on the date of the bill's enactment, lenders are not prohibited from agreeing to modify the maturity terms of PPP loans previously received.

Allows recipients of PPP loans to also receive payroll tax deferment. Employers that received a PPP loan were specifically prohibited from taking advantage of the payroll tax deferral options provided in the CARES Act, but the new law removes the CARES Act restriction for employers who receive PPP loan forgiveness from deferring payroll taxes incurred between March 27, 2020, and December 31, 2020.

The time period to rehire employees has been extended to December 31, 2020. Under the CARES Act, any failure to rehire employees by June 30, 2020, would cause a proportionate reduction in loan forgiveness. The extension of this date to December 31, 2020, allows employers additional time to rehire employees, addressing the concern that many businesses are still required to be shut down due to state requirements.

A safe harbor was created for businesses that are required to open at limited capacity. This new amendment codifies the SBA safe harbor for borrowers who can document that they attempted, but were unable, to rehire similarly qualified employees. This provision also provides that forgiveness will not be reduced for a borrower that can document an inability to return to the same level of business activity as prior to February 5, 2020, due to social distancing or customer safety requirements.

If you have any questions about these changes, please contact anyone in the [Barley Snyder Business](#)

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