COVID-19: Financial Assistance Programs

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4 SECTION 4 – OTHER FINANCIAL RESOURCES

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Section 1 – Keeping American Workers Paid and Employed Act

The Coronavirus Aid, Relief, and Economic Security Act (*CARES Act*) was passed by the House of Representatives yesterday and signed into law by the President later in the day.

1.1 The Paycheck Protection Loan Program

$349 billion is provided by this program which covers the period February 15, 2020 through June 30, 2020 and greatly expands SBA loan eligibility. The loan program will allow businesses suffering due to the coronavirus outbreak to borrow money for a variety of qualified costs related to employee compensation and benefits, including (i) payroll costs, (ii) continuation of health care benefits, (iii) employee compensation (of those making less than $100K), (iv) mortgage interest obligations, (v) rent, (vi) utilities and (vii) interest on debt incurred before the covered period.

The legislation greatly expands the number of businesses (including non-profits) that are eligible for SBA loans and raises the maximum amount for such a loan by 2.5 x the average total monthly payroll costs, or up to $10 million. The interest rate may not exceed 4%.

Companies that employ no more than 500 employees (or a greater number based on the size standard applicable to the industry) may be eligible. Certain companies in the Accommodation and Food Services Industry (NAICS Code 72) may be eligible if they have no more than 500 employees per physical location. In most cases, the number of employees is counted together with all affiliates.

The program waives affiliation rules for any business with less than 500 employees in the Accommodation and Food Services Industry, certain franchise businesses and small businesses that receive financing through the Small Business Investment Company Act. Affiliation rules otherwise apply to determine eligibility. It also waives the credit available elsewhere, personal guaranty and collateral requirements.

For eligibility purposes, it requires lenders to determine whether a business was operational on February 15, 2020, and had employees for whom it paid salaries and payroll taxes, or a paid independent contractor.

All or a portion of the loan may be forgivable and debt service payments may be deferred for up to 1 year.

1.2 Loan Forgiveness

The borrower under the Paycheck Protection Program shall be eligible for loan forgiveness equal to the amount spent by the borrower during an 8-week period after the origination date on (i) rent, (ii) payroll costs for workers making less than $100K, (iii) interest on a mortgage, and (iv) utility payments. The amount forgiven may not exceed the principal of the loan.

This is to incentivize companies to retain employees by reducing the amount forgiven proportionally by any reduction in employees retained compared to the prior year.

To encourage employers to rehire any employees who have already been laid off due to the COVID-19 crisis, borrowers that re-hire workers previously laid off will not be penalized for having a reduced payroll at the beginning of the period.

The Paycheck Protection Loan Program is the most important provision in the CARES Act for small businesses.

1.3 Minority Business Development Agency

This provision empowers the Department of Commerce, through the Minority Business Development Agency, to provide grants to minority business centers and minority chambers of commerce to provide education, training and advising related to accessing federal resources.

1.4 United States Treasury Program Management Authority

The Department of the Treasury, consulting with the Small Business Administration and the Chairman of the Farm Credit Administration is to establish criteria to allow other lenders to participate in the Paycheck Protection Program, so long as such participation does not threaten the safety and soundness of the lender, as determined in consultation with the relevant federal banking agencies. This provision allows the SBA to expand the network of banks, credit unions and lenders that can issue these loans.

1.5 Emergency Economic Injury Disaster Loans ("EIDLs")

For the period between January 31, 2020 and December 31, 2020 (the "covered period") EIDL eligibility is greatly expanded to include any business with not more than 500 employees operating under a sole proprietorship or as an independent contractor, and any cooperative, ESOP and tribal small business concern with not more than 500 employees. The number of employees is determined together with affiliates.

Furthermore, EIDLs may be approved solely on the bases of an applicant's credit score or by use of alternative methods to gauge the applicant's ability to repay. Additionally, applicants may request an advance of up to $10,000 within three days after the Administrator receives the application, subject to verification that the entity is eligible under this program. The advance may be used for any allowable purposes under §7(b)(2) of the Small Business Act and is not subject to repayment, even if the loan request is ultimately denied.

Importantly, the CARES Act waives: (1) the requirement of personal guarantees for loans up to $200,000, (2) the requirement that the applicant must be in business for a year (but must be in operation on January 31, 2020), and (3) the credit elsewhere test.

1.6 Subsidy for Certain Loan Payments

For loans under §7(a) of the Small Business Act, Title V of the Small Business Investment Act, and for loans made by an intermediary using §7(m) loans or grants, the Administrator shall pay the principal, interest, and fees owed for loans in regular servicing status for any such loans, whether on deferment or not, that were made before the enactment of the Act for the following 6-month period, and for any such loans that were made between the date of enactment of the Act and six months from such date. This does not apply to Payroll Protection loans or EIDL loans which have separate subsidy and repayment requirements.

The payments shall be made not later than 30 days from when the first payment is due and shall be applied such that the borrower is relieved of any obligation to pay that amount. The Administrator shall coordinate with relevant banking agencies to request that lenders not be required to increase reserves because of these payments.

The Administrator will waive limits on the maximum loan maturities for loans given deferral and extended maturity during the year following enactment. The Administrator will extend lender site visit requirement timelines as necessary because of COVID-19, to within 60 days of a non-default adverse event, and 90 days of a default. $17 billion is appropriated for the foregoing.

Section 2 – Relief for Workers Affected by Coronavirus Act

2.1 Unemployment Insurance Provisions

The CARES Act greatly expands the availability of, amount of, and the duration of unemployment benefits.

2.2 Eligibility

The law expands the scope of individuals who are eligible for unemployment benefits, including those who are furloughed or out of work as a direct result of COVID-19, self-employed or gig workers, and those who have exhausted existing state and federal unemployment benefit provisions.

The only individuals expressly excluded from coverage are those who have the ability to telework with pay and those who are receiving paid sick leave or other paid benefits (even if they otherwise satisfy the criteria for unemployment under the new law).

2.3 Administration of Benefits

Benefits are administered by each state and upon the state's written agreement with the Secretary of Labor to provide the specific benefits. States that enter into such an agreement with the Secretary of Labor will be reimbursed in whole or in part for the cost of the benefits plus administrative expenses.

2.4 Types of Benefits Provided

The law provides an increase of $600 per week in the amounts customarily available for unemployment under state law. This increase applies for unemployment payments made from the date of the law's enactment through July 31, 2020 (approximately four months).

States can agree to provide pandemic emergency unemployment compensation to individuals who have either exhausted all of the benefits available to them under existing state and federal law or who are not otherwise eligible for benefits under existing state and federal law. Individuals must be able and available to work and actively seeking work, unless they are unable to do so as a result of COVID-19 illness, quarantine, or movement restriction.

States can agree to waive the waiting period for receipt of benefits so that individuals do not experience gaps in income.

The federal government will temporarily fund short-time compensation under existing state plans. States that do not yet have short-time compensation plans in place may agree to implement a plan, provided that employers who enter into short-time compensation plans must be required to pay to the state half of the short-time compensation paid under the plan

2.5 Time Periods for Expanded Benefits

The law provides unemployment benefit assistance to covered individuals who are not otherwise entitled to benefits under existing state or federal law for weeks of unemployment, partial unemployment, or inability to work caused by COVID-19 during the period January 27, 2020 through December 31, 2020. This includes any waiting periods for benefits under applicable state law.

The total benefit may not extend beyond 39 weeks (including any unemployment benefits or extended benefits received under existing state or federal law), unless, after the law is enacted, the duration of extended benefits is extended, in which case the total benefit may extend beyond 39 weeks by that same additional period of extended benefits.

The $600 weekly benefit increase will be applicable to weekly payments made through the end of July 2020.

Section 3 - Economic Stabilization and Assistance to Severely Distressed Sectors

This section of the CARES Act provides the Secretary of the Treasury with the authority to make loans or loan guarantees to states, municipalities, and eligible businesses and loosens a variety of regulations created in the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Economic Stabilization Act of 2008, and others.

3.1 Coronavirus Stabilization Act of 2020

The Specified Treasury Loan Program will provide direct loans, loan guarantees, and other investments (including purchases of obligations or other interests both directly from issuers and in secondary markets). The Secretary of the Treasury is required to publish procedures for application to participate in the program within 10 days from enactment of the CARES Act. We will be watching for the issuance of the procedures. Below are the some of the provisions of the Act.

3.2 Emergency Relief and Taxpayer Protections

The Act authorizes the Treasury Secretary to make up to $500 billion worth of loans and loan guarantees to eligible businesses, states, and municipalities. No more than $25 billion can be loaned to passenger air carriers, no more than $4 billion to air cargo carriers, and no more than $17 billion to businesses important to maintaining national security. The remainder is to be used to support lending to eligible businesses, states, and municipalities. The term "eligible business" includes passenger air carriers or any other business that has not already received adequate economic relief in the form of loans or loan guarantees under other provisions of the Act. Therefore, $454 billion will be eligible for other businesses.

Businesses that receive loans through these Federal Reserve programs are prohibited from paying dividends or repurchasing stock (or other outstanding equity interests) while the loan or loan guarantee is outstanding, as well as for the 12 months following repayment. These businesses are subject to the same employee compensation restrictions as listed for air carriers, air cargo carriers, and businesses deemed important to maintaining national security (summarized below and found in Section 4004). Although the Treasury Secretary can waive these restrictions, he must identify and explain the rationale for such waivers in testimony before Congress.

Businesses that receive loans or loan guarantees through these Federal Reserve programs can only make loans (or other advances) to business that are created or organized and have the majority of their employees based in the United States. Transfers to subsidiaries and affiliates incorporated outside the United States are prohibited.

The Act directs the Treasury Secretary to establish a program to provide low-interest loans for eligible businesses (including nonprofit organizations) with between 500 and 10,000 employees. Although these loans will require no repayment for at least six months, businesses and non-profit organizations seeking this support must provide a good-faith certification that they meet the following criteria:

1. The company intends to maintain at least 90 percent of their current workforce;
2. The company will not pay dividends or repurchase stock (or other equity securities);
3. The company will not outsource or offshore jobs during the loan period or two years thereafter;
4. The company will not abrogate existing collective bargaining agreements with labor unions; and
5. The company will remain neutral regarding current or future union organizing activity.

3.3 Limitation on Certain Employee Compensation

The Act also imposes certain compensation caps for officers and employees at companies receiving loans or loan guarantees. Under these caps, officers or employees that received $425,000 or more in total compensation in 2019 will have their future compensation capped at the amount they received that year. This cap applies while the loan or loan guarantee is in effect, as well as to the 12 consecutive months after the loan or loan guarantee is no longer outstanding. The same restriction also applies to severance payments or other compensation received upon termination from businesses participating on the loan and loan guarantee programs.

Additional caps apply for officers and employees whose total compensation exceeded $3,000,000 in 2019. Under the Act, these individuals may receive compensation up to $3,000,000 plus 50 percent of the excess over $3,000,000 of the total compensation received by the officer or employee in 2019.

3.4 Credit Protection During COVID-19

The Act requires that furnishers who agree to account forbearance, or agree to modified payments with respect to an obligation or account of a consumer that has been impacted by COVID-19, report such obligation or account as "current" or as the status reported prior to the accommodation during the period of accommodation (unless the consumer becomes current) if the consumer complies with the modified agreement.

Such credit protection is available beginning January 31, 2020 and ends 120 days after the date the national emergency declaration related to the coronavirus is terminated.

3.5 Foreclosure Moratorium and Consumer Right to Request Forbearance

The Act prohibits foreclosures on all federally-backed mortgage loans for a 60-day period beginning on March 18, 2020 and provides up to 180 days of forbearance for borrowers who have experienced a financial hardship related to the COVID-19 emergency.

Applicable mortgages include those purchased by Fannie Mae and Freddie Mac, insured by HUD, VA, or USDA, or directly made by USDA.

3.6 Forbearance of Residential Mortgage Loan Payments for Multifamily Properties with Federally Backed Loans

The Act provides up to 90 days of forbearance for multifamily borrowers with a federally backed multifamily mortgage loan who have experienced a financial hardship.

Borrowers receiving forbearance may not evict or charge late fees to tenants for the duration of the forbearance period.

Applicable mortgages include loans to real property designed for five or more families that are purchased, insured, or assisted by Fannie Mae, Freddie Mac, or HUD.

3.7 Temporary Moratorium on Eviction Filings

For 120 days beginning on the date of enactment, landlords are prohibited from initiating legal action to recover possession of a rental unit or to charge fees, penalties, or other charges to the tenant related to such nonpayment of rent where the landlord's mortgage on that property is insured, guaranteed, supplemented, protected, or assisted in any way by HUD, Fannie Mae, Freddie Mac, the rural housing voucher program, or the Violence Against Women Act of 1994.

Section 4 – Other Financial Resources

4.1 U.S. Small Business Administration (SBA) Economic Injury Disaster Loans in Iowa

On March 21st, the U.S. Small Business Administration (SBA) issued a disaster declaration for the State of Iowa beginning January 31, 2020. This declaration allows pandemic-impacted small businesses to apply for SBA Economic Injury Disaster Loans. These loans are working capital loans of up to $2 million to help small business, agricultural cooperatives, and most private, non-profit organizations or all sizes meet their ordinary and necessary financial obligations that cannot be met as a direct result of the disaster. These loans may be used to pay fixed debts, payroll, accounts payable and other bills that can't be paid because of the disaster's impact. The interest rate is 3.75% for small businesses. The interest rate for non-profits is 2.75%. If you are interested in this loan program, we can assist you in the application process.

4.2 Iowa Small Business Relief Grant Program & Tax Deferral

On March 23, Governor Reynolds announced the launch of a new Iowa Small Business Relief Program to provide financial assistance to small businesses economically impacted by the COVID-19 pandemic. The program offers grants ranging from $5,000-$25,000, in addition to offering a deferral of sales and use or withholding taxes due and waiver of penalty and interest to eligible businesses. Funds can be used to assist eligible businesses in maintaining operations or reopening business following the COVID-19 pandemic. Funds may not be used to pay debts incurred prior to March 17, 2020

If you are interested in this program, **the application deadline is Tuesday, March 31 at 12PM (noon).**

The website for more information about this program and the application requirements is located at https://www.iowaeconomicdevelopment.com/reliefgrants. We would be happy to assist you in this application process.

4.3 COVID-19 Targeted Small Business (TSB) Sole Operator Fund

A fund has been created to support TSB with zero employees that have been economically impacted by the COVID-19 pandemic. The program offers eligible small businesses grants up to $10,000 to businesses that are single owners with no employees that are also TSB certified, or have an application submitted to the Iowa Economic Development Authority (IEDA) by April 10, 2020 to become TSB certified.

To be eligible for a TSB Sole Operator Fund grant, eligible businesses must:

(A) Be experiencing business disruption due to the COVID-19 pandemic; and

(B) Be a Targeted Small Business or have an application in process by April 10, 2020 to become certified as a Targeted Small business in accordance with Chapter 52 of Iowa Code.; and

(C) Be a single owner business with no employees, or a corporation with only one owner and no employees; and

(D) Verify that Targeted Small Business income is the primary source of income for the business owner

To be eligible for TSB Certification, businesses must be:

(A) Located in the state of Iowa; and

(B) Operating for a profit; and

(C) Make less than $4 million in gross income, computed as an average of the preceding three fiscal years; and

(D) Majority owned (51% or more), operated and managed by a female, individual with minority status, service disabled veteran or individual with a disability

The website for more information about this program and the application requirements is located at https://www.iowaeconomicdevelopment.com/Entrepreneurial/TSB. We would be happy to assist you in this application process.

4.4 Other Financial Resources

In recent days, additional grant sources have come to light as a result of the pandemic and there are sure to be more in the future. Here are some of those that have been announced:

1. Facebook's $100 million Pledge
   Facebook has pledged to distribute funds to 30,000 small businesses across 30 countries. There are no details to date regarding how the program will work, but details will be provided soon on their website at https://www.facebook.com/business/boost/grants.

2. James Beard Foundation Food and Beverage Industry Relief Fund
   https://www.jamesbeard.org/relief

3. Opportunity Fund Small Business Relief Fund
   https://www.opportunityfund.org/assistance-for-small-business-owners-affected-by-covid-19/

4. Restaurant Workers' Community Foundation COVID-19 Emergency Relief Fund
   https://www.restaurantworkerscf.org/covid19faq

5. MusiCares COVID-19 Relief Fund for Entertainers and Musicians
   https://www.grammy.com/musicares/get-help/covid-19-relief-fund-faq

6. Fundera
   https://www.fundera.com/blog/small-business-grants