



**H.R. \_\_\_\_\_ : XXXXXXXX**

**Section 1: Short title of the Division**

1. The “PPP and EIDL Enhancement Act of 2020”

**Section 3: Table of Contents**

1. Table of contents of the Act.

**Section 3: Definitions**

1. Clarifies the definitions of Administration and Administrator

**Section 4: Effective Date**

1. Makes the provisions applicable as of the date of enactment

**Title I – Funding for the Paycheck Protection Program**

**Section 101: Funding for the PPP**

1. Creates three distinct set-asides for targeted relief for the smallest businesses, struggling non-profits, and second loans to the hardest hit businesses:
  - a. At least 10% of remaining and future funding for loans to businesses with 10 or fewer employees, sole proprietors and the self-employed, and for loans less than \$250,000 to businesses located in LMI areas.
  - b. Up to 30% of remaining and future funding for non-profit organizations of all sizes and types, including housing cooperatives to be allowed to take first-time PPP loans, with strict limits on lobbying activity and a prohibition on using PPP proceeds to pay lobbyists.
  - c. Up to 50% of remaining and future funding for the secondary PPP loan program that provides second loans to small businesses with less than 200 employees and a 25% reduction in revenue year-over-year due to the pandemic.
2. Creates a set aside of 25%, up to \$15 billion, of remaining funding for distribution by community lenders, specifically CDFIs, CDCs, MDIs, and microloan intermediaries.
  - a. This is independent of the small business set aside – all lenders will have to abide by the small business set aside, including these.
3. Mandates returned funding is also required to go toward the small business set aside.

### **Section 103: Direct Appropriations**

1. \$8 billion for carrying out section 407, which provides payment and interest relief to all physical loan and pre-COVID EIDL borrowers.
2. \$1 billion for carrying out section 501, which creates an SBIC seed fund.
3. \$1 billion for carrying out sections 603 and 607, which increase guarantees on 7a loans and reduce fees on 7a and 504 loans.
4. \$57 million for carrying out section 605, to fund additional microloan technical assistance and loan making.
5. \$15 billion for carrying out section 618, which creates a Small business local relief program.
6. \$10 billion for carrying out section 619, which creates the SBA grant program for independent live venue operators.

## **Title II – Modifications to the Paycheck Protection Program**

### **Section 201: Extension of covered periods**

1. Allows for section 1106 of the CARES Act forgiveness covered period to align with use of the loan by borrowers
  - a. Clarifies that the covered period is defined by a period, selected by the borrower, between 8 and 24 weeks so that the forgiveness calculation that uses the term “covered period” aligns properly. Currently it is a hard 24 weeks and requires administrative guidance to calculate properly.
  - b. Clarifies that a borrower can apply for forgiveness as soon as the covered period is over, their loan has been spent, and they have the documents to substantiate they can comply with the requirements of the program.

### **Section 202: P4 loans (second PPP loans)**

1. Creates a Prioritized PPP loan product to give second PPP loans of up to \$2 million to certain small entities.
2. Targeted to businesses with less than 200 employees that have suffered demonstrably quarterly revenue losses of at least 25 percent. Also creates an application processing priority for very small businesses.
3. Excludes publicly traded entities from being eligible for the secondary loans.
4. Places limits on businesses with more than 1 physical location.

### **Section 203: Streamlined forgiveness of small-dollar loans**

1. Creates a 3-tier system, based on loan size, to allow for simplified forgiveness for loans under \$150,000.
  - a. Under \$50,000 borrower only need to certify to the Administration they have met the requirements of the program for forgiveness AND must keep documentation available to substantiate in the event the Administration audits the loan.
  - b. From \$50,000 to \$150,000 borrowers must submit the certification to their lender via a simplified forgiveness application AND must keep documentation available to substantiate in the event the Administration audits the loan.

- c. Loans over \$150,000 are governed by the current documentation submission process.
2. Provides for the voluntary submission of demographic data, even if they borrower uses a streamlined forgiveness process.

**Section 204: Eligibility of certain organizations under PPP**

1. Restricts the compensation of registered lobbyists as permissible uses of PPP loans
2. Clarifies the definition of housing cooperatives as eligible entities for PPP loans
3. Expands the definition of nonprofits to include all nonprofits no matter their size or type of nonprofit, with a revenue reduction requirement for nonprofits larger than 500 employees.
  - i. 501(c)(3) with under 500 employees remain under current rules
  - ii. 501(c)(3) with over 500 employees must meet a revenue test, similar to that of the secondary loan program
  - iii. Other 501(c) entities under 500 employees must meet the lobbying restrictions
  - iv. Other 501(c) entities over 500 employees must meet the lobbying restrictions and the revenue test
4. Expands PPP loans to destination marketing organizations (DMOs), small, local news broadcast entities; and certain quasi-public venues eligible
5. Makes critical access hospitals, regardless of bankruptcy status, eligible for a PPP loan.

**Section 205: Limits the aggregate loan amount to \$10 million for businesses with more than one location**

6. Prevents eligible recipients with more than one location from receiving more than \$10 million in total PPP loans across all those locations.

**Section 206: Expands list of allowable uses of proceeds and forgiveness**

1. Allows PPE, supplier costs, and costs related to property damage from public disturbances to be eligible costs
2. Allows PPE expenses, supplier costs, and property damage costs from public disturbances to be forgiven and harmonizes 1102 and 1106 for expenses that are eligible for forgiveness.

**Section 207: Streamlined documentation for sole proprietors and the self-employed**

1. Allows more flexibility for the Administration to accept documentation beyond those enumerated in the CARES Act to determine eligibility for sole proprietors and the self-employed.

**Section 208: Prohibition on publicly traded businesses and foreign entities**

1. Excludes publicly traded entities from being eligible for PPP loans.
2. Excludes businesses that are 51 percent or more foreign owned, controlled, and managed from receiving a PPP loan.

**Section 209: Seasonal Employer flexibility period**

3. Expands the seasonal period to any 12-weeks between February and December 2019, expanding beyond just the “spring” 2019 season (Feb-April) or “early summer” (March – June) in the law.

**Section 210: Makes EIDL loans that got refinanced into PPP nonrecourse**

1. Ensures applicants cannot be held liable if they didn’t understand they had recourse against them at the time they took the PPP and EIDL loans after a refinancing.

**Section 211: Credit elsewhere clarification**

1. Clarifies that prior to enactment the current “no credit elsewhere test” remains in place; going forward for loans greater than \$350,000 will apply the 7(a) credit elsewhere test.

**Section 212: Prohibits duplicative payroll amounts**

1. Technical correction to clarify payroll amounts

**Section 213: Ensuring PPP loan requirements extend for the life of the loan**

1. Clarifies that (1) fee waivers; (2) credit elsewhere waiver; (3) personal guarantee waiver; and (4) deferral eligibility continues past the covered period and attaches for the life of the PPP loan

**Section 214: Preserving simple interest on loans**

1. Clarifies that interest on PPP loans can only be calculated on a simple basis, not compounding.

**Section 215: Timely payment of reimbursements to lenders by SBA**

1. Clarifies that payment is due 5 days after the loan is “reported” disbursed.
2. Also clarifies that agent fees shall be paid by lenders only when they have a contractual relationship with the agent.

**Section 216: Eligibility for small businesses to receive both PPP and EIDL for different purposes**

1. Technical correction to clarify the ability of a small business to be eligible for both PPP and EIDL loans, even beyond the enactment of the CARES Act.

**Section 217: Reapplication and Modification of PPP loans**

1. Provides that if a borrower returned or cancelled a loan, or did not take the full amount they were offered, this provision would allow them to either
  - a. In the case of a returned or cancelled loan, reapply for a new loan.
  - b. In the case of a reduced loan, modification to increase the loan amount.

**Section 218: Treatment of Certain Criminal Convictions**

1. Alleviates burdens to borrowers deemed ineligible due to prior criminal history.

**Title III – Tax Provisions**

### **Section 301: Coordination between PPP and ERTC**

1. Permits qualified wages to be taken into consideration for purposes of the ERTC if a PPP loan is not forgiven.

## **Title IV – Economic Injury Disaster Loan Program Reform**

### **Section 401: Sense of Congress**

1. Sense of Congress that businesses remain harmed by the ongoing pandemic and may not be able to make payments and therefore, encourages the SBA Administrator to reduce the interest rate on EIDL loans, offer deferments up to 4 years on payments of interest and principal, and use discretion to provide relief to the hardest hit small businesses that received or will receive direct loans from the SBA under the EIDL program.

### **Section 402: Explanations of fully or partially declined loan or grant**

1. Requires the Administrator to publish a description of the rules pertaining to a loan made under this section so that they are clear and easy to understand and immediately provide a loan applicant such description upon receiving a loan.
2. Mandates the Administrator provide all applicants of a loan or advance that was fully or partially denied a complete written application of the reason for the denial, establish a dedicated phone and email correspondence system to respond to inquiries, and sets forth a procedure for obtaining necessary information before deeming an application denied due to incomplete information.
3. Creates a submission process for applicants to submit additional information through a loan officer rather than the appeals process.

### **Section 403: Modifications to emergency EIDL grants**

1. Creates an opt-out, rather than an opt-in for the EIDL grants to ensure that a business does not have to submit two applications. Gives the business the ability to decline the grant.

### **Section 404: Data Transparency**

1. Requires weekly reports to be published on the SBA's website that contains:
  - a. The number of applications received, processed, approved, and rejected
  - b. The number and dollar amount of the approved loans
  - c. The ID number or other indicator showing the order in which applications were received and processed
  - d. Data pertaining to voluntarily disclosed demographic, geographic, annual revenue size, employee size, business structure, and industry information.
  - e. Agricultural loans made
  - f. Average economic injury suffered for both approved and rejected loans.
2. Mandates a report within 30 days to Congress describing the steps the SBA took to verify applicant existence on January 31, 2020.
3. Sense of Congress expressing the need for SBA's compliance with the oversight duties of the Committees on Small Business and Appropriations of both the House and Senate to report on relief programs and approaching lapse of funding in such program.

#### **Section 405: SBA Lifeline Grant Program**

1. Creates a lifeline grant program for small businesses with 50 or fewer employees and that have suffered an economic loss of at least 30%.
  - a. Businesses applying for an EIDL loan can request such grant from the SBA
  - b. Firms can receive the lesser of: 1) working capital needed for 180 days under the current EIDL calculations or \$50,000.
  - c. Loan proceeds can be used in the same way as a Covid EIDL loan, to repay PPP or EIDL loans, and investments required to implement business continuity strategies during the pandemic.
  - d. Grants will be approved first for applicants located in low-income communities, veteran-owned businesses, or businesses controlled by an economically disadvantaged individual or a socially disadvantaged individual.
2. Authorizes \$40 Billion to provide such grants with \$20 Billion set aside for use by businesses located in low-income communities, veteran-owned businesses, entities controlled by an economically disadvantaged individual or a socially disadvantaged individual, and entities affected by the Canadian border closure.

#### **Section 406: Modifications to the EIDL**

1. For new borrowers:
  - a. Prevents the SBA from imposing loan caps that are less than the program's statutory \$2 million loan size.
  - b. Alleviates burdens to borrowers deemed ineligible due to prior criminal history.
2. For existing borrowers:
  - a. Allows current EIDL borrowers to modify their loan to seek additional funds up to the \$2 million maximum loan size.

#### **Section 407: Principal & Interest relief for existing and new disaster loans**

1. Creates a principal and interest payment program for existing and new physical disaster loans, and EIDL loans made prior to Feb. 15, 2020.

#### **Section 408: Training**

1. Requires the Administrator shall develop and implement a plan to train any staff responsible for implementing or administering the loan program established under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) on specific responsibilities with respect to such program.
  - a. Such plan shall be submitted to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate.

#### **Section 409: Outreach Plan**

1. Requires the Administrator to submit to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate an outreach plan to clearly communicate program and policy changes to all offices of the Administration, small business development centers, women's business centers, chapters of the Service Corps of Retired Executives, Veteran Business Outreach Centers,

Minority Business Development Agency, Members of Congress, congressional committees, small business concerns, and the public.

**Section 410: Report on Best Practices**

1. Within 60 days, SBA must submit a report to Congress on best practices to administer the EIDL program.

**Section 411: Extension of Administrative funds availability**

1. Amends section 1107 to extend the use of appropriated funds through December 31, 2021.

**Title V – Micro-SBIC and Equity Investment Enhancement**

**Section 501: Micro-SBIC program**

1. Establishes new Micro-SBIC license requiring less than 1/6 of private capital compared to conventional SBICs (a significant barrier to entry), offers priority in licensing for women and minority investors, and incentives for investments in underserved small businesses.
2. Establishes \$5 billion Micro-SBIC Seed Investment Program for Micro-SBICs who decline leverage and opt to make equity-only investments, half of which must be made in underserved small businesses.
3. Authorizes \$1 Billion

**Title VI – Miscellaneous**

**Section 601: Repeal of language regarding EIDL advances and PPP forgiveness**

1. Repeals section 1106(e)(6) of the CARES Act which erroneously removed the amount of an EIDL advance from the PPP forgiveness calculation.

**Section 602: Clarifying and extending of P&I relief (CARES sec. 1112)**

1. Extends the P&I relief to either 6, 12, or 18 months depending on certain loan criteria.
  - a. Extends loan payment relief for an additional 6 months for regular 7(a) and 504 loans made prior to the pandemic.
  - b. Extends loan payment relief an additional 12 months for Microloan and Community Advantage loans.
  - c. Extends loan payment relief for an additional 6 months for hard-hit borrowers with other 7(a) and 504 loans in sectors that experienced a 5-15% employment loss from February-June 2020: manufacturing, real estate, retail trade, professional and business services, health care and social assistance, transportation and warehousing, administrative and waste services, information, other services, and mining.
  - d. Extends loan payment relief an additional 12 months to the hardest-hit borrowers with other 7(a) and 504 loans in sectors that experienced at least a 15% employment loss from February-June 2020: Educational services; arts, entertainment, and recreation; and accommodation and food services.

2. Clarifies that for new 7a, 504, or microloans, the 12 months of P&I relief does not start until the loans is fully disbursed.
3. Gives discretion to the Administrator to revise extensions
  - a. If the SBA projects that appropriations provided for the debt relief program are insufficient to fund the extensions provided for in the previous sections, the Administrator may develop a plan to proportionally reduce the number of months provided in each extension provided for in the previous sections.
  - b. The Administrator must present the plan to Congress and the data that informs the decisions.
4. Clarifies eligibility and increases program integrity
  - a. Clarifies that SBA payments should be made on any loan approved before the applicable deadline and that debt relief payments should be made only once the loan is fully disbursed, and without regard to the date on which the loan is fully disbursed.
  - b. Mandates that new loans must have a maturity of at least 48 months to qualify for the benefit.
  - c. Any business or applicant may only receive the new loan benefit once.
  - d. The SBA shall write rules to guard against abuse or excessive and unintended program use by lenders or borrowers, as determined by the Administrator
5. Increases reporting and outreach by mandating SBA place program information on its website, conduct outreach to all borrowers, report monthly to Congress on program spending, and use funds to educate lenders, borrowers, SBA district offices, and resources partners about the program.

**Section 603: 7(a) recovery loan modifications**

1. Increase loan guarantees on 7a.

**Section 604: Flexibility in deferral of payments on 7(a) loans**

1. Creates parity between bank-held and secondary market-owned 7a loans to seek up to a 1-year deferral.
2. Requires SBA to buy back loans if investors refuse to provide the extend deferral.

**Section 605: Microloan recovery assistance**

1. Enhances the microloan program to increase access to micro capital and technical assistance under the program for businesses impacted by the COVID-19 pandemic.

**Section 606: 504 program enhancements**

1. Permanently increases manufacturing debentures to \$6.5 million.
2. Creates reciprocity for refinancing between 504 and 7a programs

**Section 607: 7(a) and 504 program fee waivers**

1. Waives lender and borrower fees for both the 7(a) and 504 programs.

**Section 608: 8(a) extension**

1. Requires Administrator to allow businesses in the 8(a) program to seek an enrollment extension of 1 year.

2. Requires rules to be drafted to carry out this section within 15 days.

**Section 609: Report on Minority, Women, and Rural Lending**

1. Requires SBA to issue a report within 90 days examining the state of minority, women, rural business lending through SBA's access to capital programs, as well as providing Congress with recommendations to improving access for these groups.

**Section 610: Comprehensive guidance issuance deadlines**

1. Within 7 days, the SBA shall set up a process for accepting forgiveness applications
  - a. There is still no way for lenders and borrowers to submit.
2. Within 7 days, the SBA shall issue a comprehensive compilation of rules and guidance related to the administration of the PPP.
3. Before a P4 loan can be made, SBA and Treasury must issue complete program guidance.
  - a. This would push the Agency to put out fuller guidance before allowing P4 loans to go forward.

**Section 611: Regular data reporting**

1. Codifies that the two datasets provided by SBA on Monday, July 6, to Congress and the public, shall be updated on a monthly basis, which includes forgiveness data.

**Section 612: Conflicts of Interest prohibition for CARES Act programs**

- Inserts the PPP, SBA P&I relief, and EIDL Advance programs into the section 4019 conflicts of interest prohibition.
- Prevents the President, Vice President, Heads of Executive Branch agencies, and Members of Congress from receiving small business assistance under the CARES Act.

**Section 613: Inclusion of SCORE and VBOCs in CARES Act outreach efforts and emergency funding**

1. Provides \$10 million each to the SCORE and VBOC programs for COVID-19 related entrepreneurial support.
2. Funds are drawn from the \$240 million originally provided to the SBDC program.

**Section 614: Clarification of use of CARES Act funds for SBDCs**

1. Clarifies that SBDC CARES Act funding is supplemental funding, instead of a separate funding pot because SBA is treating CARES Act funding as separate and distinct from the funds provided through regular annual appropriations. As a result, SBDCs are forced into a situation where they must essentially keep two sets of books - CARES Act and Core.

**Section 615: Funding for the SBA Office of the Inspector General**

1. Amends section 1107 to allow the SBA OIG to remove the FY 2024 deadline on their \$25 million supplemental appropriation and allow it to be used "until expended."

**Section 616: Extension of Waiver of matching Funds for the Women's Business Center program**

1. Extends the CARES Act waiver from 3-months after enactment to the end of the calendar year to account for the ongoing pandemic that was not contemplated when the Act was enacted.

**Section 617: GAO access to SBA information and databases**

1. Allows GAO to gain access to SBA data to conduct oversight and reviews.

**Section 618: Small Business Local Relief Program**

1. Establishes a state and local grant program in the Department of Treasury and administered through the SBA.
2. Provides \$15 Billion in funding to states and local governments to provide grants to small businesses through a network of community-based partners.
3. Funding shall be used for purposes of a small business emergency fund and providing support to organizations that provide technical assistance to small firms.
4. Relief is targeted to small businesses with 20 or fewer employees or businesses with 50 or fewer if they are located in low-income neighborhoods.

**Section 619: Grants for Independent Live Venue Operators (H.R. 7806, Save our Stages Act or the SOS Act)**

1. Authorizes \$10 Billion for the SBA to make grants to eligible live venue operators, producers, promoters, or talent representatives to address the economic effects of the COVID-19 pandemic on certain live venues.
2. The SBA may make an initial grant of up to \$12 million dollars to an eligible operator, promoter, producer, or talent representative; and a supplemental grant that is equal to 50% of the initial grant.
3. Such grants shall be used for specified expenses such as payroll costs, rent, utilities, and personal protective equipment.