

UPDATED APRIL 8, 2020 COVID-19 SMALL BUSINESS RELIEF LOANS



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BMD Business Crisis Response Team

Economic Action Plan for Clients

Our legal and business crisis response team has collaborated with lending institutions in Ohio and Florida to advise small businesses with regard to the loans available due to the COVID-19 health and economic crisis. There are several loan options that may work for you, they are described below. We have also added a section for Frequently Asked Questions.

PAYCHECK PROTECTION LOAN (PPL)

- Purpose: Working capital to keep your business operating during COVID-19
- Use of Funds: Working capital, including payroll expenses, mortgage interest payments, rent and utilities, interest on debts that were incurred prior to February 15, 2020
- Amount: Up to \$10MM or 2.5x business's average monthly payroll, whichever is less
- Rate: 1.0% Fixed
- Structure: Deferred payments for 6 months, maximum of 2 year term, no prepayment penalty
- Forgiveness: Up to 100% of eligible expenses paid with loan funds during the 8 weeks following closing, subject to compliance with program requirements
- Eligibility: Employers with 500 employees or less, with certain exceptions based on NAICS code
- Timing: Applications opened on April 3, 2020 for business and sole proprietorships; April 10, 2020 for independent contractors and self-employed individuals.
- Features: No collateral or guarantor support required
- SBA's affiliation rules apply, with limited exceptions

ECONOMIC INJURY DISASTER LOANS (EIDL)

- Purpose: To supplement lost revenue on account of COVID-19
- Use of Funds: Payroll expenses, fixed debts, accounts payable, other expenses
- Amount: Up to \$2MM
- Rate: 3.75% or 2.75% for non-profits
- Structure: Up to 30 years
- Forgiveness: None
- Features: Guarantor support and any available collateral required
- Collateral required for loans in excess of \$25,000; Personal Guarantees required for loans in excess of \$200,000 by owners
- Business must have been in operation as of January 31, 2020
- \$10,000 grant is available within 3 days (which will not need repaid so long as borrowers follow the guidelines)
- How to Apply: [sba.gov/disaster](https://www.sba.gov/disaster)

SBA TRADITIONAL 7A

- Purpose: New money for recovery, purposes unrelated to COVID-19
- Use of Funds: Refinance of current debts, purchase and refinance of real estate, new money for purchases of equipment or software, working capital, business acquisitions, business improvements, support for startups that don't qualify for disaster assistance
- Amount: Up to \$5MM
- Rate: SBA market rates
- Structure: Up to 25 years
- Forgiveness: None
- Features: Guarantor support and any available collateral required

PAYCHECK PROTECTION LOAN

SBA Guaranteed COVID-19 Small Business Relief Loan



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LOAN AMOUNT UP TO 2.5 X MONTHLY PAYROLL



FOR BUSINESSES AND NONPROFITS WITH 500 OR FEWER EMPLOYEES



OPPORTUNITY FOR COMPLETE LOAN FORGIVENESS



PAYMENTS DEFERRED FOR UP TO 6 MONTHS

HOW DOES IT WORK?

- Loan is 100% SBA guaranteed
- Must apply by June 30, 2020
- Loan amount is lesser of 2.5x average monthly payroll costs or \$10 million
- No collateral or personal guarantees required
- No payments required for up to six months
- 1.0% fixed interest rate
- Loan forgiveness available for loan proceeds applied to eligible payroll costs, mortgage interest, rent payments and utilities during the 8 week period following loan origination.

HOW CAN THE PROCEEDS BE USED?

Working capital costs, which include:

- Payroll costs, rent payments, interest payments, and utilities
- Cost related to the continuation of group health care benefits during periods of paid sick, medical, or family leave and insurance premiums
- Refinance of an SBA Disaster Loan (EIDL) that was made between the period of January 31, 2020 and the date of the loan application for the PPL loan

WHO IS ELIGIBLE?

- Must have been in operation on February 15, 2020 and had employees for whom salaries and payroll taxes were paid or independent contractors
- Small businesses, as well as any other businesses or Section 501(c)(3)) with 500 or fewer employees; certain industries have higher thresholds
- Sole proprietors, self-employed individuals and independent contractors are be eligible

WHAT'S NEXT?

Be application-ready by gathering the following information:

- 2019 and 2020 year-to-date monthly profit and loss statement
- 2019 and 2020 year-to-date payroll reports
- State income, payroll, and unemployment insurance filings
- TAX ID/EIN and complete ownership information

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SMALL BUSINESS RELIEF LOAN FAQ'S

- When should I apply for the PPP? PPP is first come, first served. Businesses should be applying now, sole proprietorships and independent contractors can start applying April 10th.
- Which form should I use to apply for the PPP? SBA Form 2483. However, the current version of the form is marked "SBA Form 2483 (04/20)" in the lower left hand corner. See attached.
- For the purposes of calculating the amount of my PPP loan, does the cap on employee compensation in excess of \$100,000 annual apply to employee benefits of monetary value? No, the exclusion of compensation in excess of \$100,000 annually applies only to cash compensation, not to non-cash benefits (i.e., employer contributions to defined-benefit or defined-contribution retirement plans; payment for the provision of employee benefits consisting of group health care coverage, including insurance premiums; and payment of state and local axes assessed on compensation of employees).
- How do I maximize my forgiveness under PPP? Must use the loan proceeds for the permitted uses (i.e., payroll costs, mortgage interest, rent and utilities), and not more than 25% may be attributable to non-payroll costs.
- Can payments to independent contracts be included in my business's calculation of PPP loan amount? No.
- Can I apply for more than one PPP loan? No.
- Can I use the PPP to refinance a SBA EIDL loan? Yes, if the SBA EIDL loan was made between 1/31/2020 and 4/3/2020.
- Does my EIDL loan affect my eligibility for PPP? No. If the EIDL loan was not used for payroll costs, it does not affect eligibility for a PPP loan. If the EIDL loan was used for payroll costs, the PPP loan must be used to refinance the EIDL loan.
- How does the "advance" up to \$10,000 on the EIDL loan affect my forgiveness under PPP? The amount of the advance will be deducted from the loan forgiveness amount on the PPP loan.
- Can I use e-signatures or e-consents if there are multiple owners of my business? Yes.
- What happens if I misuse my PPP funds? A borrower will have to repay the amounts, and if the misuse was knowingly, the borrower will be subject to additional liability, including fraud. If the misuse is by a shareholder, member or partners, the SBA will have recourse against the shareholder, member or partner.



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FAQ'S CONTINUED - CONSIDERATIONS FOR INDEPENDENT CONTRACTORS/SOLE PROPRIETORS/SELF-EMPLOYED

- Applications open for independent contractors, self-employed individuals, and sole proprietors on April 10, 2020.
- An independent contractor, self-employed individual, or sole proprietor must have been in business as of February 15, 2020 to be eligible to apply.
- Payroll costs include the sum of payments of any compensation to or income of or net earnings of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation. Payroll costs cannot exceed \$100,000 in 1 year, as prorated for the covered period.
- For a majority of these applicants, their payroll costs will be their net self-employment income (income less business expenses).
- Documents needed for application submission: payroll tax filings reported to the IRS, Forms 1099-MISC, and income and expenses from the sole proprietorship.
- If these are not available, you must provide bank records.
- Loans can be used to cover payroll costs related to the continuation of group health care benefits, employee salaries, payments of interest on any mortgage obligation, rent, utilities, and interest on any other debt obligations that were incurred before the covered period.
- Loans are subject to a six-month payment deferment (interest accruing) and loan forgiveness.

For questions or more information, please contact your primary BMD attorney and they will be happy to assist in developing an economic relief action plan for your business.