

Paycheck Protection Program Flexibility Act (PPPFA)

To address some flaws in the original PPP (Paycheck Protection Program) program created under the CARES Act, the Senate passed the Paycheck Protection Program Flexibility Act on June 3, 2020.

PPPFA changes the amount of loan needed for payroll to 60%

- The original version of the program required businesses to spend at least 75% of the loan on payroll. The PPPFA reduces the amount of the loan needed to be spent on payroll from 75% to 60%.
- There are no changes to the list of expenses eligible for forgiveness. It still includes rent, mortgage interest, utilities and interest on loans.

PPPFA extends time to use funds from 8 to 24 weeks

- Businesses that were shut down by government mandate complained that spending the funds during an 8-week period was not necessarily prudent.
- The change now gives business owners until the end of 2020 to spend the funds.

Deadline to rehire workers pushed to 12/31/20

- Small business owners were concerned they may not be open by the original June 30, 2020 date for employee salaries to count towards loan forgiveness.
- The law does not change the payroll calculation for the forgivable amount. Compensation eligible for forgiveness is still capped at \$100,000 and employer owners and contractors are capped at \$15,385.

PPPFA eases rehire requirements

- The new law extends the rehire date to 12/31/20 and adds additional exceptions for a reduced head count.
- Under the previous law, the only exception to the rule was if an employer could document in writing an attempt to rehire an employee who rejected the offer. Otherwise, the business had to rehire the same number of full-time employees by the deadline.
- The new law allows loan forgiveness on payroll amounts if the business:
 - Is unable to rehire an individual who was an employee of the eligible recipient on or before 2/15/20
 - Is able to show an inability to hire similarly qualified employees on or before 12/31/20
 - Is able to show an inability to return to the same level of business activity as before 2/15/20

Repayment term extended from 2 to 5 years

- Businesses will now have 5 years to repay any unforgiven portion of the loan at 1% interest.
- The first payment will be deferred for six months after the SBA makes a determination on forgiveness.
- PPPFA also allows borrowers to take advantage of the CARES Act provision allowing deferment of the employer's payroll taxes for Social Security.

SBA loan audits still possible

- The SBA still has the right to audit any loan at its discretion to determine if "the borrower may be ineligible for a PPP loan, or may be ineligible to receive the loan amount or loan forgiveness amount claimed by the borrower.