



Paycheck Protection Program Flexibility Act New Rules on Forgiveness

BULLETIN PPP (UPDATED)

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On June 5, 2020, President Trump signed legislation (H.R. 7010) enacting the Paycheck Protection Program Flexibility Act (PPPFA) which amends the CARES Act's Payroll Protection Program (PPP). Key changes affecting employers include the following:

- The covered period during which borrowers must spend the PPP funds received is expanded to 24 weeks (from eight weeks) or December 31, 2020, whichever is earlier. This is effective immediately and applicable to all loans as if the language was part of the original CARES Act.
- The date when workers must be rehired is extended to December 31, 2020 (originally June 30, 2020).
- The PPPFA relaxes rehiring requirements by adding a loan forgiveness exemption based on employee availability from February 15 through December 31, 2020. During this time, loan forgiveness will be determined without regard to a proportional reduction in the number of full-time equivalent employees if the borrower can document in good faith that:
 - The employer is unable to rehire former employees as reported on February 15, 2020 and is also unable to hire similarly qualified employees for unfilled positions by December 31, 2020; or\
 - The employer is unable to return to their pre-COVID-19 level of business activity (prior to February 15, 2020) because of federal safety and health requirements (issued from March 1, 2020 through December 31, 2020) for sanitation, social distancing, or any other worker or customer COVID-19-related safety requirement.
- Businesses now have five years to repay a loan and the first payment will be deferred for six months after a forgiveness determination. This is only applicable to loans made on or after June 5, 2020.
- The allocation of funds that must be used for gross payroll wages and state taxes is modified to require borrowers to spend 60 percent of the loan on payroll and then 40 percent can be used for other expenses (the prior allocation was 75 percent payroll and 25 other expenses).
- Employers may delay paying employer payroll taxes for Social Security through December 31, 2020. The bill strikes wording in the Cares Act that bars business owners who receive forgiveness on their PPP loans from deferring their payroll taxes. Taxes incurred in 2020 are to be paid in two installments: Half is owed by December 31, 2021, and the other half by December 31, 2022.

The Small Business Association and Treasury Department is expected to release detailed guidance on the PPPFA and more.