Small Business Loans

This Title amends the Small Business Act (SBA), which, among other things, generally authorizes the Small Business Administration to make loans to small businesses for certain purposes. The SBA allows the Administration to provide loans directly or in cooperation with the private sector through agreements to participate on an immediate or deferred/guaranteed basis.

The bill would amend the SBA, for the period from February 15, 2020 to June 30, 2020 (covered period), to provide loans – with 100% federal-government participation – to additional businesses, up to a maximum, for operational costs, including payroll, health benefits (and insurance premiums), etc.

Loan Term Overview

The Administrator may guarantee covered loans under the same terms, conditions, and processes as a loan made under section (a) (loans to small business concerns) of the SBA. No collateral or personal guarantee shall be required for a loan. The interest rate on the loans is the maximum rate in effect on February 15, 2020 for SBA small business loans. There will be no subsidy recoupment fee associated with the loans.

Eligible Loan Recipients

In addition to "small business concerns" as currently defined under current SBA, eligible businesses include:

Any business concern, nonprofit organization (excluding those that receive Medicaid funds), or veterans’ organization if it employs not more than the greater of:

- 500 employees; or
- If applicable, the size standard in number of employees established by the Administration for the industry in which the business concern, nonprofit organization, or veteran’s organization operates.

For businesses with more than one location, if it employs 500 or fewer employees per physical location and falls within the "accommodation and food services" sector (Sector 72) under the North American Industry Classification System (NAICS), the business is eligible to receive a loan.

SBA regulations on entity affiliations are waived for the covered period for:

- Businesses in Sector 72 under the NAICS with 500 or fewer employees.
- Businesses with franchisor identifier codes; and
- Any business that receives financial assistance from a licensed small business investment company.

Sole proprietors, independent contractors, and eligible self-employed individuals (as defined in Congress’s last COVID-19 bill, the Families First Coronavirus Response Act) also may receive loans.
Loan Maximum, Borrower Requirements and Eligibility, and Permissible Uses for Loan Dollars

The maximum loan amount is the lesser of:

- 2.5 times average total monthly payroll costs incurred in the one-year period before the loan is made (or for seasonal employers the average monthly payroll costs for the 12 weeks beginning on February 15, 2019, or from March 1, 2019 to June 30, 2019).
- For businesses that were not in existence during the period from February 15, 2019 to June 30, 2019 – 2.5 times the average total monthly payroll payments from January 1, 2020 to February 29, 2020; or
- $10 million.

Borrowers must fulfill certain requirements to obtain loans under the program, including:

- Making a good-faith certification of the need for the loan to continue operations during the COVID-19 emergency; and
- Maintain an average monthly number of full-time equivalent employees that is not less than the average number during the periods described in the loan maximum section above.

Businesses may use the loans for:

- Payroll costs
  - Includes: compensation to employees, such as salary, wage, etc.; paid leave; severance payments; payment for group health benefits, including insurance premiums; retirement benefits; state and local payroll taxes; and compensation to sole proprietors or independent contractors (including commission-based compensation) up to $100,000 in one year, prorated for the covered period;
  - Excludes: individual employee compensation above $100,000 per year, prorated for the covered period; certain federal taxes; compensation to employees whose principal place of residence is outside of the US; and sick and family leave wages for which credit is allowed under the Families First COVID-19 relief package;
- Group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums.
- Salaries, commissions, or similar compensations.
- Mortgage and rent payments.
- Utilities; and
- Interest on any other debt obligations incurred before the covered period.

The Treasury Secretary has the authority to extend authority to additional private sector players (beyond those already eligible under the SBA) to make loans under this program. Participating lenders are entitled to reimbursement of 5% of the balance of the financing outstanding at the time of disbursement of the loan.

In evaluating eligibility of borrowers, a lender shall consider whether the borrower:
• Was operating on February 15, 2020 and had employees or independent contractors for whom the borrower paid; and
• Is substantially impacted by public health restrictions related to COVID-19.

Businesses that receive a loan under this program may not receive a disaster loan under section (b)(2) of the SBA for the same purpose (but if a business already has a SBA disaster loan from the period between February 15, 2020 and March 31, 2020, it may still seek relief under this program).

Finally, the loans qualify for the bill's broader loan forgiveness provisions. Specifically, indebtedness is forgiven (considered canceled indebtedness and excluded from gross income) in an amount (not to exceed the principal amount of the loan) equal to the following costs incurred and payments made during the covered period:

• Payroll costs.
• Interest payments on covered loan obligations.
• Covered rent obligations; and
• Covered utility payments.