

DE COVID-19 Tracker | Special Edition: PPP Loan Forgiveness and Best Practices and CARES Act 2.0 DRAFT – 5.12.20

PPP Loans

The new Paycheck Protection Program (“PPP”) loans provided under the CARES Act have been included in two rounds of funding from Congress to date. Dialogue continues into the development of CARES.20 for additional support for these loans. The overall requirements and structure of the program are clear: borrowers have eight (8) weeks to use the funds appropriately to meet the criteria for loan forgiveness or face repayment. Borrowers successfully turned to their credit unions, as popular community institutions, to access funds. Credit unions, as lenders, must now make the decision on forgiveness of these loans. Most credit unions begin processing forgiveness applications at seven weeks from fund disbursement.

Yet the regulations around the PPP loan program have been changing constantly since the CARES Act was passed and will likely continue to do so. Furthermore, it is a common complaint about the program that businesses do not want to use the funds to pay their employees to do nothing and want to wait until they reopen or have further certainty about the emergency. This is a valid concern that makes sense, but this requirement can only change by legislative action.

The Association continues to try to assist members in tracking the regulations and guidance closely, together with offering best practices wherever possible. Below, please find three resources to help credit unions prepare for the next steps with PPP loans and navigate the uncertain field of loan forgiveness.

[PPP - Frequently Asked Questions](#) - 5.12.20

[PPP Loan Forgiveness Tracker Spreadsheet](#) (*download spreadsheet at bottom left of screen*)

[Small Business Administration PPP Best Practices and Checklist](#) - 5.12.20

CARES ACT 2.0 DRAFT

Moments ago, the Democratic leadership in the U.S. House of Representatives introduced **The Heroes Act**, a \$3 trillion package that would provide financial support to the healthcare system and provide a range of economic relief for businesses, as well as for families and individuals impacted by the crisis. The bill is over 1,800 pages in length.

The full bill text may be found at:

<https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/documents/Heroes%20Act%20Bill%20Text.pdf>

A title by title summary may be found at: <https://www.politico.com/f/?id=00000172-09a9-dc3e-aff6-0dbd032c0000>

Additional information will be sent shortly by the Association about key provisions relating to credit unions. An early read reveals that, at this time, neither the member business loan cap nor a moratorium on overdrafts were addressed in the first draft. Key highlights of provisions included are:

Sec. 104. Protection of 2020 Economic Impact Payments. Protects Economic Impact Payments from any form of transfer, assignment, execution, levy, attachment, garnishment, legal process, bankruptcy or insolvency law, and any other means of capture prohibited for payments made under Chapter 7 Subchapter 2 of the Social Security Act.

Sec. 203. Protecting renters and homeowners from evictions and foreclosures. ▪ This section extends and expands the eviction moratorium and foreclosure moratorium in the CARES Act to include all renters and homeowners, improves the forbearance provided under the CARES Act, and specifies the loan modifications and loss mitigation that should be available to homeowners following a moratorium to prevent any homeowner from facing a lump sum payment that they cannot afford.

Sec. 402. Restrictions on collections of debt during a national disaster or emergency. ▪ This legislation provides a temporary moratorium on consumer debt collection during this COVID-19 crisis, and for 120 days thereafter.

Sec. 403. Repayment period and forbearance for consumers. ▪ This section ensures reasonable forbearance and repayment options for consumers when payments resume following the moratorium provided by Section 402, including simply maintaining the same payment schedule by extending the maturity by the same period of time payments were suspended under Section 402.

Sec. 404. Credit facility. ▪ This section provides creditors access to a Federal Reserve facility to receive a low- interest, long-term loan where payments would be deferred until a borrower resumes making payments to the creditor pursuant to the debt collection moratorium and forbearance provided in this title.

Sec. 405. Protection of 2020 recovery rebates. ▪ This section would prohibit the garnishment, withholding or reduction of COVID19 stimulus payments by financial institutions to pay other debts.

Sec. 501. Payments for private education loan borrowers as a result of the COVID-19 national emergency. ▪ This section extends existing CARES Act student loan payment and consumer protections, such as debt collection prohibitions, to private loan borrowers, who are currently not covered by the CARES Act, and provides up to \$10,000 in debt relief to be applied to a private student loan. The Treasury Department will make monthly payments on behalf of the borrower up to \$10,000 until September 2021.

Sec. 502. Additional protections for private student loan borrowers. ▪ As Treasury will be making payments on behalf of borrowers under this title, this section requires private student servicing companies that receive funds to offer income driven repayment plans, and payments or forbearance under this title will not impact applicable State statutes of limitation. Furthermore, this section instructs Treasury to apply any unused portion of the up to \$10,000 forgiveness amount to any remaining outstanding private loan balance when borrower payments resume.

Sec. 603. Credit facility. ▪ This section provides creditors access to a Federal Reserve facility to receive a low- interest, long-term loan where payments would be deferred until a borrower resumes making payments to the creditor pursuant to the debt collection moratorium and forbearance provided in this title.

Sec. 606. SAFE Banking. ▪ This section would allow cannabis-related legitimate businesses, that in many states have remained open during the COVID-19 pandemic as essential services, along with their service providers, to access banking services and products, as well as insurance. This section also requires reports to Congress on access to financial services and barriers to marketplace entry for potential and existing minority-owned cannabis related legitimate businesses.

Sec. 701. Community Development Financial Institutions Fund. • This section authorizes an emergency appropriation of \$5 billion to the Community Development Financial Institutions (CDFI) Fund, of which \$1.5 billion would be set aside for minority-owned lenders, including minority depository institutions (MDIs), to support small businesses, minority-owned businesses and underserved communities.

Protection Against Discriminatory Treatment of Homeowners in Bankruptcy. Ensures that homeowners in bankruptcy are eligible for mortgage forbearance or other COVID-19 mortgage assistance.

Expanded use of minority credit unions.