

Suspend the Rules and Pass the Bill, H.R. 7010, With an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

116TH CONGRESS
2D SESSION

H. R. 7010

To amend the Small Business Act and the CARES Act to modify certain provisions related to the forgiveness of loans under the paycheck protection program, to allow recipients of loan forgiveness under the paycheck protection program to defer payroll taxes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2020

Mr. PHILLIPS (for himself, Mr. ROY, Mr. UPTON, Mr. FITZPATRICK, Mr. ROUDA, Mr. HARRIS, Mr. KILDEE, Ms. SCHRIER, Mr. WELCH, Mr. BRINDISI, Mr. PAPPAS, Mrs. WALORSKI, Ms. MENG, Mr. JOYCE of Ohio, Ms. TORRES SMALL of New Mexico, Mr. BERGMAN, Mr. SCHWEIKERT, Mr. LAMALFA, Mr. KRISHNAMOORTHY, Mr. BERA, Ms. HERRERA BEUTLER, Mr. VAN DREW, Miss RICE of New York, Mr. DUNN, Mr. O'HALLERAN, Ms. CASTOR of Florida, Mr. DEUTCH, Ms. STEFANIK, Mr. RYAN, Ms. MCCOLLUM, Mr. COURTNEY, Mr. KILMER, Mr. JOYCE of Pennsylvania, Mr. WRIGHT, Mr. KING of New York, and Mr. CURTIS) introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Small Business Act and the CARES Act to modify certain provisions related to the forgiveness of loans under the paycheck protection program, to allow recipients of loan forgiveness under the paycheck protec-

tion program to defer payroll taxes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Paycheck Protection
5 Program Flexibility Act of 2020”.

6 **SEC. 2. MATURITY FOR LOANS WITH REMAINING BALANCE**
7 **AFTER APPLICATION OF FORGIVENESS.**

8 (a) IN GENERAL.—Section 7(a)(36)(K)(ii) of the
9 Small Business Act (15 U.S.C. 636(a)(36)) is amended
10 by inserting “minimum maturity of 5 years and a” before
11 “maximum maturity”.

12 (b) EFFECTIVE DATE; APPLICABILITY.—The amend-
13 ment made by this section shall take effect on the date
14 of the enactment of this Act and shall apply to any loan
15 made pursuant to section 7(a)(36) of the Small Business
16 Act (15 U.S.C. 636(a)(36)) on or after such date. Nothing
17 in this Act, the CARES Act (Public Law 116–136), or
18 the Paycheck Protection Program and Health Care En-
19 hancement Act (Public Law 116–139) shall be construed
20 to prohibit lenders and borrowers from mutually agreeing
21 to modify the maturity terms of a covered loan described
22 in subparagraph (K) of such section to conform with re-
23 quirements of this section.

1 **SEC. 3. AMENDMENTS TO PAYCHECK PROTECTION PRO-**
2 **GRAM LOAN FORGIVENESS.**

3 (a) EXTENSION OF COVERED PERIOD.—Section
4 7(a)(36)(A)(iii) of the Small Business Act (15 U.S.C.
5 636(a)(36)(A)(iii)) is amended by striking “June 30,
6 2020” and inserting “December 31, 2020”.

7 (b) FORGIVENESS.—Section 1106 of the CARES Act
8 (Public Law 116–136) is amended—

9 (1) in subsection (a), by striking paragraph (3)
10 and inserting the following:

11 “(3) the term ‘covered period’ means, subject to
12 subsection (l), the period beginning on the date of
13 the origination of a covered loan and ending the ear-
14 lier of—

15 “(A) the date that is 24 weeks after such
16 date of origination; or

17 “(B) December 31, 2020;”;

18 (2) in subsection (d)—

19 (A) in paragraph (5)(B), by striking “June
20 30, 2020” each place it appears and inserting
21 “December 31, 2020”; and

22 (B) by adding at the end the following new
23 paragraphs:

24 “(7) EXEMPTION BASED ON EMPLOYEE AVAIL-
25 ABILITY.—During the period beginning on February
26 15, 2020, and ending on December 31, 2020, the

1 amount of loan forgiveness under this section shall
2 be determined without regard to a proportional re-
3 duction in the number of full-time equivalent em-
4 ployees if an eligible recipient, in good faith—

5 “(A) is able to document an inability to re-
6 hire individuals who were employees of the eligi-
7 ble recipient on February 15, 2020;

8 “(B) is able to document an inability to
9 hire similarly qualified employees for unfilled
10 positions on or before December 31, 2020; or

11 “(C) is able to document an inability to re-
12 turn to the same level of business activity as
13 such business was operating at before February
14 15, 2020, due to compliance with requirements
15 established or guidance issued by the Secretary
16 of Health and Human Services, the Director of
17 the Centers for Disease Control and Prevention,
18 or the Occupational Safety and Health Admin-
19 istration during the period beginning on March
20 1, 2020, and ending December 31, 2020, re-
21 lated to the maintenance of standards for sani-
22 tation, social distancing, or any other worker or
23 customer safety requirement related to COVID—
24 19.

1 “(8) LIMITATION ON FORGIVENESS.—To re-
2 ceive loan forgiveness under this section, an eligible
3 recipient shall use at least 60 percent of the covered
4 loan amount for payroll costs, and may use up to 40
5 percent of such amount for any payment of interest
6 on any covered mortgage obligation (which shall not
7 include any prepayment of or payment of principal
8 on a covered mortgage obligation), any payment on
9 any covered rent obligation, or any covered utility
10 payment.”; and

11 (3) by adding at the end the following new sub-
12 section:

13 “(1) APPLICATION TO CERTAIN ELIGIBLE RECIPI-
14 ENTS.—An eligible recipient that received a covered loan
15 before the date of enactment of this subsection may elect
16 for the covered period applicable to such covered loan to
17 end on the date that is 8 weeks after the date of the origi-
18 nation of such covered loan.”.

19 (c) EXTENSION OF DEFERRAL PERIOD.—Section
20 7(a)(36)(M) of the Small Business Act (15 U.S.C.
21 636(a)(36)(M)) is amended—

22 (1) in clause (ii)(II), by striking “for a period
23 of not less than 6 months, including payment of
24 principal, interest, and fees, and not more than 1
25 year.” and inserting the following: “, including pay-

1 ment of principal, interest, and fees, until the date
2 on which the amount of forgiveness determined
3 under section 1106 of the CARES Act is remitted
4 to the lender.”;

5 (2) in clause (iii), by striking “for a period of
6 not less than 6 months, including payment of prin-
7 cipal, interest, and fees, and not more than 1 year.”
8 and inserting the following: “, including payment of
9 principal, interest, and fees, until the date on which
10 the amount of forgiveness determined under section
11 1106 of the CARES Act is remitted to the lender.”;
12 and

13 (3) by adding at the end the following new
14 clause:

15 “(v) RULE OF CONSTRUCTION.—If an
16 eligible recipient fails to apply for forgive-
17 ness of a covered loan within 10 months
18 after the last day of the covered period de-
19 fined in section 1106(a) of the CARES
20 Act, such eligible recipient shall make pay-
21 ments of principal, interest, and fees on
22 such covered loan beginning on the day
23 that is not earlier than the date that is 10
24 months after the last day of such covered
25 period.”.

1 (d) EFFECTIVE DATE; APPLICABILITY.—The amend-
2 ments made by this section shall be effective as if included
3 in the CARES Act (Public Law 116–136) and shall apply
4 to any loan made pursuant to section 7(a)(36) of the
5 Small Business Act (15 U.S.C. 636(a)(36)) or section
6 1109 of the CARES Act.

7 **SEC. 4. DELAY OF PAYMENT OF EMPLOYER PAYROLL**
8 **TAXES.**

9 (a) IN GENERAL.—Section 2302(a) of the CARES
10 Act (Public Law 116–136) is amended by striking para-
11 graph (3).

12 (b) EFFECTIVE DATE; APPLICABILITY.—The amend-
13 ments made by this section shall be effective as if included
14 in the CARES Act (Public Law 116–136) and shall apply
15 to any loan made pursuant to section 7(a)(36) of the
16 Small Business Act (15 U.S.C. 636(a)(36)) or section
17 1109 of the CARES Act.