116th Congress 2d Session

H. R. 7010

AN ACT

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.
Be it enacted by the Senate and House of Represen-
tatives of the United States of America in Congress assembled,
 SECTION 1. SHORT TITLE.

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

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

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

(b) Effective Date; Applicability.—The amendment made by this section shall take effect on the date of the enactment of this Act and shall apply to any loan made pursuant to section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)) on or after such date. Nothing in this Act, the CARES Act (Public Law 116–136), or the Paycheck Protection Program and Health Care Enhance-
ment Act (Public Law 116–139) shall be construed to prohibit lenders and borrowers from mutually agreeing to modify the maturity terms of a covered loan described in subparagraph (K) of such section to conform with re-
quirements of this section.
SEC. 3. AMENDMENTS TO PAYCHECK PROTECTION PROGRAM LOAN FORGIVENESS.


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

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

“(3) the term ‘covered period’ means, subject to subsection (l), the period beginning on the date of the origination of a covered loan and ending the earlier of—

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

“(B) December 31, 2020;”;

(2) in subsection (d)—

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

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

“(7) Exemption Based on Employee Availability.—During the period beginning on February 15, 2020, and ending on December 31, 2020, the
amount of loan forgiveness under this section shall
be determined without regard to a proportional re-
duction in the number of full-time equivalent em-
ployees if an eligible recipient, in good faith—

“(A) is able to document—

“(i) an inability to rehire individuals
who were employees of the eligible recipi-
ent on February 15, 2020; and

“(ii) an inability to hire similarly
qualified employees for unfilled positions
on or before December 31, 2020; or

“(B) is able to document an inability to re-
turn to the same level of business activity as
such business was operating at before February
15, 2020, due to compliance with requirements
established or guidance issued by the Secretary
of Health and Human Services, the Director of
the Centers for Disease Control and Prevention,
or the Occupational Safety and Health Admin-
istration during the period beginning on March
1, 2020, and ending December 31, 2020, re-
lated to the maintenance of standards for sani-
tation, social distancing, or any other worker or
customer safety requirement related to COVID–
19.
“(8) Limitation on forgiveness.—To receive loan forgiveness under this section, an eligible recipient shall use at least 60 percent of the covered loan amount for payroll costs, and may use up to 40 percent of such amount for any payment of interest on any covered mortgage obligation (which shall not include any prepayment of or payment of principal on a covered mortgage obligation), any payment on any covered rent obligation, or any covered utility payment.”; and

(3) by adding at the end the following new subsection:

“(l) Application to certain eligible recipients.—An eligible recipient that received a covered loan before the date of enactment of this subsection may elect for the covered period applicable to such covered loan to end on the date that is 8 weeks after the date of the origination of such covered loan.”.

(c) Extension of deferral period.—Section 7(a)(36)(M) of the Small Business Act (15 U.S.C. 636(a)(36)(M)) is amended—

(1) in clause (ii)(II), by striking “for a period of not less than 6 months, including payment of principal, interest, and fees, and not more than 1 year.” and inserting the following: “, including pay-
ment of principal, interest, and fees, until the date
on which the amount of forgiveness determined
under section 1106 of the CARES Act is remitted
to the lender.”;

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

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

“(v) Rule of Construction.—If an
eligible recipient fails to apply for forgive-
ness of a covered loan within 10 months
after the last day of the covered period de-
defined in section 1106(a) of the CARES
Act, such eligible recipient shall make pay-
ments of principal, interest, and fees on
such covered loan beginning on the day
that is not earlier than the date that is 10
months after the last day of such covered
period.”.
(d) Effective Date; Applicability.—The amendments made by this section shall be effective as if included in the CARES Act (Public Law 116–136) and shall apply to any loan made pursuant to section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)) or section 1109 of the CARES Act.

SEC. 4. DELAY OF PAYMENT OF EMPLOYER PAYROLL TAXES.

(a) In General.—Section 2302(a) of the CARES Act (Public Law 116–136) is amended by striking paragraph (3).

(b) Effective Date; Applicability.—The amendments made by this section shall be effective as if included in the CARES Act (Public Law 116–136) and shall apply to any loan made pursuant to section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)) or section 1109 of the CARES Act.

SEC. 5. EMERGENCY DESIGNATION.

(a) In General.—This Act is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(g)).

(b) Designation in Senate.—In the Senate, this Act is designated as an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress),
the concurrent resolution on the budget for fiscal year 2018.


Attest:

Clerk.
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