

# **PAYCHECK PROTECTION PROGRAM**

- SEC 1102 OF CARES ACT -

// AS OF 3-26-20 //



# // PAYCHECK PROTECTION PROGRAM //

## A FEW OBSERVATIONS:

- \$349 billion loan program for small businesses
  - 100% federal guarantee
  - Loans will be made through FDIC insured banks
  - Loans made from 2/15/20 – 6/30/20
  - Non-recourse against individual, shareholder, member or partner (unless used for unauthorized purposes - see below)
  - No personal guarantees or collateral required
  - No fees shall be collected from borrower
  - Removes requirement that borrower has ability to obtain credit elsewhere
  - Portion not forgiven (see below) will have maturity not more than 10 years.
  - Interest shall not exceed 4%
  - Payments can be deferred for 6 months up to a year - guidance will be issued w/in 30 days
  - May be able to be combined with SBA Economic Disaster Loan but more guidance is needed
  - No prepayment penalties

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## A FEW DETAILS:

- Who qualifies as “eligible recipient”:
  - Small business concerns, non-profit organizations, other groups who have 500 employees or less (full-time, part-time or other basis)
  - Sole proprietorships, independent contractors and eligible self-employed individuals
  - Certain other industries as defined in Section 1102
  - Small business concerns must have experienced as a result of COVID-19:
    - Supply chain disruptions
    - Staffing challenges
    - Decrease in gross receipts or customers
    - A closure

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## A FEW DETAILS:

- How can the proceeds be used?
  - Authorized uses include:
    - Payroll Costs (inc salaries, commissions, etc.)
    - Health Insurance Benefits
    - Interest on mortgage obligations - no pre-payments or payment of principal
    - Interest on any other debt obligations incurred before covered period
    - Rent
    - Utilities

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## A FEW DETAILS:

- How is the loan amount determined?
  - Lesser of average total monthly payments for payroll (details below) for 1 year period before loan was made by 2.50 or \$10,000,000
  - What is included in payroll?
    - Salaries, wages, commissions, tips, separation or other comp.
    - Payments for vacation, parental, family, medical or sick leave
    - Benefits inc health insurance and retirement
    - Payment of state and local tax assessed on compensation
    - Sum of payments of any compensation to sole proprietor or independent contractor that is not more than \$100,000 in 1 year prorated to the covered period
  - What is not included?
    - Compensation in excess of annual salary of \$100,000 prorated to covered period
    - Qualified sick or family leave for which credit is allowed under Families First Act

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## A FEW DETAILS:

- What are the Forgiveness provisions?
  - Subject to certain limitations, the amount forgiven is the principal amount spent over the 8 weeks following the loan origination on:
    - Payroll Costs
    - Interest on Covered Mortgage Obligations
      - Liability of borrower
      - Mortgage on real or personal property
      - Incurred before 2/15/20
    - Rent under lease in force before 2/15/20
    - Utilities for which service began before 2/15/20
  - Treated as cancellation of debt income; however, does not appear taxable

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## A FEW DETAILS:

- What are the forgiveness limitations?
  - May not exceed principal amount of loan
  - Will be reduced if there is a reduction on the number of employees
    - Multiply the potential exclusion amount noted (i.e. spent on eligible uses) by:
      - Average Full time equivalent (FTE) per month during covered period (8 weeks after origination)  
  
divided by either (at borrower discretion):
        1. Average monthly FTE from 2/15/19-6/30/19 or
        2. Average FTE from 1/1/20 - 2/29/20
  - May also be reduced if a 25% reduction in total salary of any employees (with annualized wages less than \$100,000) during the covered period (8 weeks after origination)
  - Will be required to provide supporting documentation (i.e. payroll tax filings, check stubs, etc) to qualify for forgiveness.