

Summary of Key Provisions in the Coronavirus Aid, Relief, and Economic Security (CARES) Act*

Written March 25, 2020

Small Business “Paycheck Protection Program”

- Provides \$350 billion to support loans through a new Paycheck Protection Program for:
 - Small employers with 500 employees or *fewer*, as well as those that meet the current Small Business Administration (SBA) size standards;
 - Restaurant and hospitality businesses with fewer than 500 employees per location;
 - Self-employed individuals and “gig economy” individuals; and
 - Certain nonprofits, including 501(c)(3) organizations and 501(c)(19) veteran organizations, and tribal business concerns with under 500 employees.
- The size of the loans would equal 250 percent of an employer’s average monthly payroll. The maximum loan amount would be \$10 million.
- Covered payroll costs include salary, wages and payment of cash tips (up to an annual rate of pay of \$100,000); employee group health care benefits, including insurance premiums; retirement contributions; and covered leave.
- Cost of participation in the program would be reduced for both borrowers and lenders by providing fee waivers, an automatic deferment of payments for one year, and no prepayment penalties.
- Loans would be available immediately through more than 800 existing SBA-certified lenders, including banks, credit unions and other financial institutions, and SBA would be required to streamline the process to bring additional lenders into the program.
- The Treasury Secretary would be authorized to expedite the addition of new lenders and make further enhancements to quickly expedite delivery of capital to small employers.
- Increases the maximum loan amount for SBA Express loans from \$350,000 to \$1 million. Express loans provide borrowers with revolving lines of credit for working capital purposes.

Unemployment Insurance Provisions

Sections 2102-2106:

The CARES Act includes assistance for unemployment as a result of COVID-19 for a broad swath of individuals. To be covered, an individual must not be eligible for regular compensation or extended benefits under state or federal law and cannot be receiving paid sick leave or other paid leave benefits.

- Covered individuals are otherwise able to work and available for work within the meaning of applicable State law, except the individual is unemployed, partially unemployed, or unable or unavailable to work for a wide range of COVID-19 related reasons (including illness, caring for a family member, school closures, inability to reach the place of employment, quarantines, place of employment is closed, or had to quit their job, among other reasons).
- Coverage is for weeks of unemployment, partial unemployment, or inability to work due to COVID-19 beginning on or after January 27 and ending on or before December 31, 2020.
- Benefit duration is generally limited to 39 weeks.

- Benefit amount is tied to the state's regular unemployment compensation rate plus \$600 (the Federal Pandemic Unemployment Compensation). States cannot reduce their regular benefit amount as it was in effect under state law as of January 1, 2020.
- Under the agreements laid out in the bill, the federal government will:
 - Reimburse states for the Federal Pandemic Unemployment Compensation (the \$600) plus any additional administrative expenses.
 - Provide full temporary full funding for the first week of compensable regular unemployment (due to the requirement states waive the one week waiting period).

Section 2107 – Pandemic Emergency Unemployment Compensation

- For individuals who've exhausted regular state and federal UC in the benefit year and are able, available and actively seeking work, a 100% federal funded benefit kicks in.
 - The individuals receive the state's regular benefit amount plus the \$600. But in this case, the federal government pays the whole thing.
 - This would be for people who lost their jobs prior to COVID and exhausted benefits or for people who were impacted by COVID and exhausted the 39 weeks if this crisis stretches out for a very prolonged period of time.
 - Provides states flexibility to waive the work requirements due to COVID-19 illness, quarantine, or movement restrictions.

Short-time Compensation Programs

- Establishes grants for short-time compensation programs and provides federal technical assistance.

Business Tax Provisions

The bill includes several tax provisions that the NRF has worked for to provide retailers with additional liquidity and help offset the cost of retaining employees during this period of economic decline.

- Correction of an error in the 2017 Tax Act on improvements made to stores and restaurants, allowing retailers to amend returns and get refunds for taxes overpaid in 2018 and 2019.
- Allow businesses to carryback losses from 2018, 2019 and 2020 to previous 5 years and get refunds against taxes paid in profitable years.
- Delay payroll taxes due for 2020 – pay 50% in 2021 and 50% in 2022.
- Provide a 50% refundable payroll tax credit for employers whose businesses have been fully or partially suspended due to government limitation on commerce or whose businesses have experienced a 50% decline in gross receipts.
- Allow greater deductibility of interest expenses incurred.

Healthcare

- Required coverage without cost sharing of coronavirus services and vaccine by all health insurance and group health plans.
- Safe Harbor for Telehealth Services – promotes telehealth services by providing a safe harbor to protect against loss of high deductible plan status.
- Enables the use of an HSA or FSA for the purchase of over-the-counter medicines and

supplies without a prescription (ACA prohibition).

- Health and Human Service Extenders: these are the Medicare and Medicaid extenders originally set to expire on May 22. These provisions have now been extended until November 30.

Labor Provisions

Union-related Provisions

- Under the loan facility for small and mid-sized businesses (500-10,000 employees), loan recipients:
 - Cannot abrogate an existing collective bargaining agreement for term of the loan plus two years after repayment.
 - Must remain neutral in any union drive during the term of the loan.

Leave Provisions

- There are a few leave-related provisions in the CARES Act, primarily technical corrections to the COVID-II leave mandates for employers with *fewer* than 500 employees.
 - Strengthens limitations on the benefit caps for the COVID II paid leave mandates.
 - Provides DOL with investigative authority.

Borrowing Authority for the United States Postal Service

- Provides \$10 billion of borrowing authority for the USPS to respond to effects of coronavirus.
 - Treasury Department sets the terms of the loan and has the ability to only provide the loan as needed in the event that costs or revenues continue to suffer as a result of coronavirus.
 - Must be used for operating expenses.
 - Cannot be used to pay any outstanding debt.
- USPS shall prioritize the delivery of postal products for medical and emergency purposes.
- USPS may establish temporary delivery points, as deemed necessary, in order to protect USPS employees and individuals receiving deliveries.

Price-Gouging Protection

The CARES Act in final form does not have price-gouging protections included in it. It is expected that a price-gouging provision could be enacted at a later time, possibly when Congress takes up COVID-19 phase 4 legislation.

*Source of summary: National Retail Federation. Please visit [Congress.org](https://www.congress.org) to access the legislation and other details.