

116<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 7010

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IN THE SENATE OF THE UNITED STATES

JUNE 1, 2020

Received

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## 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.

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—

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

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

12 “(B) is able to document an inability to re-  
13 turn to the same level of business activity as  
14 such business was operating at before February  
15 15, 2020, due to compliance with requirements  
16 established or guidance issued by the Secretary  
17 of Health and Human Services, the Director of  
18 the Centers for Disease Control and Prevention,  
19 or the Occupational Safety and Health Admin-  
20 istration during the period beginning on March  
21 1, 2020, and ending December 31, 2020, re-  
22 lated to the maintenance of standards for sani-  
23 tation, social distancing, or any other worker or  
24 customer safety requirement related to COVID-  
25 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.

18 **SEC. 5. EMERGENCY DESIGNATION.**

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

22 (b) DESIGNATION IN SENATE.—In the Senate, this  
23 Act is designated as an emergency requirement pursuant  
24 to section 4112(a) of H. Con. Res. 71 (115th Congress),

1 the concurrent resolution on the budget for fiscal year  
2 2018.

Passed the House of Representatives May 28, 2020.

Attest:                    CHERYL L. JOHNSON,  
*Clerk.*