

# **CARES Act: Provisions for Small Businesses and their Employees**

Federal Resources for Orange County's Small Businesses

April 16, 2020

Hosted by the **Orange County Industrial Development Agency**



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# Introduction and Agenda

## Introduction

- **Orange County IDA:** Laurie Villasuso, Chief Executive Officer
- **18<sup>th</sup> Congressional District:** Honorable Sean Patrick Maloney, House of Representatives
- **McAllister & Quinn:** Chris Fish, Vice President; Jake Parduhn, Director of Federal Affairs; Casey Newell, Research Analyst

## Agenda

- Opening remarks from Representative Maloney
- Small Businesses Administration (SBA) Loan Programs in the CARES Act
- Navigating SBA-qualified lending in Orange County
- Unemployment and paid leave provisions in the CARES Act
- Q&A session and closing remarks

# Opening Remarks: Representative Maloney

For feedback, questions, and any assistance with the SBA and the federal government, please feel free to get in touch with the Representative's staff:

## **New York 18<sup>th</sup> District Office**

123 Grand Street

2<sup>nd</sup> Floor

Newburgh, New York 12550

(845) 561-1259

# Statement on SBA Developments

- **The Paycheck Protection Program**

- i. When you can expect your loan after you've been approved.
- ii. How and in what increments you can expect to receive your loan.
- iii. What you need to report and how to report it.
- iv. What the government is doing to address non-participating qualified lenders.
- v. Finding qualified lenders that are accepting new customers.

- **Economic Injury Disaster Loans**

- i. Updated \$1,000/per employee advance standard.
- ii. Issues completing the application process online.

- **Next Steps and what you can expect**

## CARES Act SBA Loan Programs: Highlights and Observations

- Economic stimulus package (CARES Act, Public Law 116-136) included over **\$350 billion** for SBA loan guarantees, subsidies, and other small business resources.
- **Two primary loan programs:** Paycheck Protection Program (PPP) and the Economic Injury Disaster Loan (EIDL) Program
- As of today, new PPP loans are no longer being processed due to funding resources being depleted. The EIDL program is also no longer accepting new applications due to funding restraints.
- Congress and the Administration are now working to provide an **additional \$250 billion** for the Paycheck Protection Program (PPP).

# Overview of CARES Act SBA Loan Programs

- **SBA “Paycheck Protection Program” (PPP) 7 (a) Loan Program:**
  - **Federal Government’s Mission:** Provide capital to cover the cost of retaining employees.
  - **Overview:** Newly authorized Paycheck Protection Program (PPP) makes loans of up to \$10M available to qualified small businesses and nonprofits. PPP loans are intended to be **forgivable** if the borrower maintains employees and complies with requirements. Congress has provided \$349 billion for this program.
  - **Applying:** Simple application process. Processes are being put in place to handle volume of applications. Loan applications have been processed starting on April 3<sup>rd</sup>.
  
- **SBA Economic Injury Disaster Loan (EIDL) Program:**
  - **Federal Government’s Mission:** Quick infusion of cash to cover your expenses right now.
  - **Overview:** An additional \$10 billion for Economic Injury Disaster Loans. Since there is a national emergency declared, every location in the U.S. is eligible. This would also authorize the SBA to advance as much as \$10,000 to existing and newly eligible disaster loan recipients within three days of receiving their applications.
  - **Applying:** Small businesses can apply for EIDL right now. EIDL has a live application on the SBA’s website.

# SBA 7 (a) Loan Program

## “Paycheck Protection Program”

- **Who is the Lender?** A financial institution that is SBA qualified for PPP loans, SBA guarantees the loan.
- **What is the potential amount of the loan?** Maximum loan size is \$10 million. Total loan amount calculation: 250% of your average monthly payroll costs. Payroll costs are capped at \$100,000 on an annualized basis for each employee.
- **What are allowable loan usages?** Payroll costs, healthcare benefits, insurance premiums, utility payments, and interest (but not principal) on mortgages, rent, or other debt obligations incurred prior to February 15, 2020.
- **Loan Rate and Term?** 2 years, 1% fixed rate.
- **Collateral/Personal Guarantee Required?** No collateral or personal guarantee is required.
- **Eligibility?** Small businesses (500 employees or less), non-profits: 501(C)(3) and 501(C)(19), self-employed, independent contractors, Veteran’s Orgs. SBA Affiliation Rules apply in most cases.

# SBA 7 (a) Loan Program “Paycheck Protection Program”

- **Is there a loan forgiveness program?**
  - Yes –the amount spent by the borrower during an **8-week period** after the disbursement of the loan on: payroll costs, healthcare benefits, insurance premiums, utility payments, and interest (but not principal) on mortgages, rent, or other debt obligations initiated prior to February 15, 2020.
  - Payroll costs (compensation/benefits) are **capped at \$100,000** on an annualized basis for each employee.
  - Not more than **25 percent** of the loan forgiveness amount may be attributable to nonpayroll costs.
  - The amount forgiven will be **reduced proportionally** by any reduction in full-time employees and employee compensation (>25%) compared to the prior year. Reductions in the number of employees/compensation until April 26<sup>th</sup> will generally be ignored to the extent that reductions are reversed by June 30, 2020. SBA will issue further guidance.
- **What happens after loan forgiveness?** Loan amounts not forgiven are carried forward as an ongoing loan with max terms of 2 years, at a fixed interest rate of 1%.
- **Can I get more than one PPP 7 (a) loan?** No, an entity is limited to one PPP loan.
- **Can I get other SBA loans?** It is possible, but subsequent loans would have to be for different purposes (ex. cannot pay for payroll costs with two different SBA loans).

# SBA Economic Injury Disaster Loan and Grant (EIDL) Program

- **Who is the Lender?** Small Business Administration (SBA).
- **What is the potential amount of the loan?** Maximum loan size is \$2 million. Applicants who apply may request an advance of \$1,000 per employee, ranging up to \$10,000 from the SBA. Advance will be distributed within 3 days. The advance does not need to be repaid under any circumstance.
- **What are allowable loan usages?** Most financial obligations and operating expenses that could have been met had the disaster (COVID-19) not occurred.
- **Loan Term and Rate?** Up to 30 years, 3.75% for businesses, 2.75% for non-profits annual rate.
- **Eligibility?** Small businesses and private non-profits with 500 or fewer employees, including: Sole proprietorships, Independent contractors, Cooperatives and employee owned businesses, Tribal small businesses. Must have been in operation since January 31, 2020.
- **Collateral/Personal Guarantee Required?** Yes, for loans greater than \$200,000, owners of more than 20% of the business, managing members of LLCs, have to provide a personal guarantee. However, no liens will be taken against real estate owned by the guarantor. The SBA will place a lien against the assets of the business as collateral.

# SBA Economic Injury Disaster Loan and Grant (EIDL) Program

- **Loan Deferment?** One year after the loan origination date (interest is accrued during the deferment).
- **Loan forgiveness program?** No, loan forgiveness only applies to the PPP.
- **Can I get an EIDL and/or a PPP loan?** Yes - if you've already received an EIDL unrelated to COVID-19 or you receive a COVID-19 related EIDL between January 31, 2020 and June 30, 2020, you may also apply for a PPP loan. If you ultimately receive a PPP loan or refinance an EIDL into a PPP loan, any advance amount received under the EIDL Grant Program would be subtracted from the amount forgiven in the PPP. However, you cannot use your EIDL for the same purpose as your PPP loan.

# How to Apply for the SBA PPP 7 (a) and EIDL Loan Programs?

## How long are these loans available?

- **PPP:** Loans are available through June 30, 2020.
- **EIDL:** Loans are available through September 30, 2020. Reverts back to original program requirements after.

## Can I apply now?

- **PPP:** Yes - Starting April 3, 2020, small businesses and sole proprietorships can apply, April 10th for self-employed/independent contractors. Link to Application Form: <https://www.sba.gov/document/sba-form--paycheck-protection-program-ppp-sample-application-form>. Must include documentation as is necessary to establish eligibility such as payroll processor records, payroll tax filings, or Form 1099-MISC, or income and expenses from a sole proprietorship.
- **EIDL:** Yes - to apply for an EIDL online, please visit <https://disasterloan.sba.gov/ela/> Your SBA District Office is an important resource when applying for SBA assistance.

## How long will the loan application process take?

- **PPP:** Varies by financial institution, some entities have already been approved for PPP.
- **EIDL:** Yes - to apply for an EIDL online, please visit <https://disasterloan.sba.gov/ela/> Your SBA District Office is an important resource when applying for SBA assistance.

## Key Eligibility Consideration – SBA Affiliation Rules

**For purposes of the determining the number of employees of an applicant for SBA loans, the applicant is considered together with its affiliates. Four tests for affiliation.**

- **Affiliation based on ownership:** a concern is an affiliate of an individual, concern, or entity that owns or has the power to control >50 percent of the concern's voting equity. SBA will deem a minority shareholder to be in control if they can block actions by the Board of Directors.
- **Affiliation arising under stock options, convertible securities, and agreements to merge:** In determining size, SBA considers stock options, convertible securities, and agreements to merge (including agreements in principle) to have a present effect on the power to control a concern.
- **Affiliation based on management:** Affiliation arises where the CEO or President of the applicant concern (or other officers, managing members, or partners who control the management of the concern) also controls the management of one or more other concerns.
- **Affiliation based on identity of interest:** Affiliation arises when there is an identity of interest between close relatives (same industry, same geographic area).

\*\*\*If the SBA rules that affiliation exists, applicants can provide evidence showing the contrary. For full review of SBA Affiliation Rules, please consult the following link: [Click Here](#)

# Loan Program Recap and Differences Between Loan Programs

## Key Takeaways:

- SBA has two primary loan programs they will use for small business loan relief.
  - PPP is geared primarily toward equipping small businesses with funding to keep people employed. PPP is a new iteration of the 7 (a) Loan Program, can be forgiven, and is administered directly through a lender. Currently accepting applications.
  - EIDL is geared primarily toward quick funding infusion for small businesses for operating costs. Broader allowable usage. EIDL applications are currently live and loans are administered directly through SBA.
- Potential to have multiple loans (one EIDL and one PPP). In any case, you cannot use two SBA loans to pay for the same thing (no double-dipping).
- If your small business requires more than payroll assistance urgently, EIDL might be more appropriate (could potentially be a larger loan for some small businesses, broader allowable usage, \$10k advance).

# Unemployment Insurance Funding for State Governments

## **Expanded Eligibility:**

- Expands eligibility for unemployment benefits by providing up to 39 weeks (additional 13 weeks) of unemployment benefit assistance for those who are unemployed or partially unemployed as a result of COVID-19.
- Extends eligibility for COVID-19-related benefits to individuals who otherwise would not be eligible for regular unemployment compensation (self-employed/independent contractors).

## **Increased Benefits:**

- Individuals who receive unemployment compensation will also receive an additional \$600 per week on top of ordinary state-authorized weekly benefits. This enhanced benefit is available only until July 31, 2020.

## **State Work Share Programs:**

- Reimburses states 100% of the funds paid to employees who are working reduced hours in accordance with a state authorized short-term compensation or work share program.

## **Employer Responsibilities:**

- No specific responsibilities with respect to new employee relief provisions. However, state law may impose other employer obligations in regards to unemployment claims.

# Paid Leave Provisions

## Expanded Family Medical Leave Act (FMLA) Leave:

- Eligible employees may take **up to 12 weeks** of job-protected FMLA leave where they are unable to work/telework because they need to care for a son or daughter if their school or place of care has been closed, or their child-care provider is unavailable.
- First two weeks of FMLA leave are unpaid, employers must pay the employee two-thirds of the employee's regular rate of pay for each day of FMLA leave taken thereafter, **capped at \$200 per day, and \$10,000 in the aggregate.**
- Employers should request and keep documentation as if dealing with a typical FMLA request. This documentation is also important if the employer plans to **claim tax credit** under the FFCRA.

## Emergency Paid Sick Leave:

- All full-time employees regardless of length of employment are entitled to take **80 hours** paid sick leave immediately. Part-time employees are pro-rated.
- New sick leave amounts **are in addition to and not in place of** any other statutorily provided or employer-provided sick leave benefits. Employers must permit employees to use COVID-19-related sick leave before other sick leave.
- Employers are required to pay an employee at **regular rate** of pay up to a cap of **\$511 per day and \$5,110 in the aggregate** for sick leave use and at **2/3 of regular rate** capped at **\$200 per day and \$2,000 in the aggregate** for sick leave for caring for others.
- **Employers must post in the workplace.** A template notice will be provided by the Department of Labor.

# Tax Credits for Emergency FMLA Leave and Paid Sick Leave and FFCRA Resources

## Tax Credits:

- FFCRA provides a refundable tax credit equal to 100% percent of qualified paid leave benefits paid by an employer subject to certain caps.
- Applicable tax credits also extend to amounts paid or incurred to maintain health insurance coverage

## Who does this apply to?

- All businesses and non-profits with 500 employees or less (businesses with less than 50 employees can apply for a hardship waiver).

## Resources:

- **Link to DOL FFCRA FAQs:** <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>
- **Link to DOL FFCRA Guidance:** <https://www.dol.gov/agencies/whd/pandemic>

# Resources in Orange County: SBA Offices

## **SBA New York District Office**

26 Federal Plaza, Suite 3100, New York

(212) 264-4354

## **SBA Mid-Hudson Business Development Center**

94 Marys Avenue, Kingston

(845) 802-9150

Link to SBA PPP Guidance Document: [\(Click Here\)](#)

# SBA-Qualified PPP 7(a) Lenders

## Orange-based Lenders

ConnectOne Bank  
Empire State Bank  
Hanmi Bank  
Hudson Valley FCU  
Hyperion Bank  
Rhinebeck Bank

## Statewide Lenders

1st Constitution Bank  
Alma Bank

## Statewide Lenders

Bank of America  
Bank of Hope Bank of the West  
Bank of Rhode Island  
Bank United National Association  
Bankwell Bank  
BCB Community Bank  
Berkshire Bank  
Byline Bank  
Capital One National Association  
Cathay Bank

## Statewide Lenders

Celtic Bank Corp  
Citibank  
Citizens Bank National Association  
City National  
Coastal States Bank  
Cross River Customers Bank  
East West Bank Financial Resources FCU  
FinWise Bank  
First Bank

# Resources in Orange County: Qualified Lenders

## Statewide Lenders

First Home Bank  
HSBC Bank USA  
National Association  
Independence Bank  
JPMorgan Chase Bank  
KeyBank National Association  
Lakeland Bank  
Live Oak Banking Co.  
Manufacturers and Traders Trust  
Metro City Bank

## Statewide Lenders

Mission Valley Bank  
New Bank  
New Millennium Bank  
Newtek Small Business Finance Inc  
New York Business Development Corp.  
NOA Bank  
Noah Bank  
North State Bank  
Pacific City Bank

## Statewide Lenders

Pacific Premier Bank  
Patriot Bank National Association  
Pacific Western Bank  
People's United Bank National Association  
PNC Bank  
National Association Radius Bank  
ReadyCap Lending Royal Business Bank  
Santander Bank National Association

# Resources in Orange County: Qualified Lenders

## Statewide Lenders

Savoy Bank

Seacoast Bank

Spirit of Texas

Stearns Bank National  
Association

TD Bank National Association

United Community

United Midwest Savings Bank

Webster Bank National  
Association

## Statewide Lenders

Wells Fargo Bank National  
Association

Woori America Bank

## Questions and Closing Remarks

- Please submit any questions that you currently have via the webinar **question chat box at the bottom of your webinar dialog**
- For any outstanding or future questions, please contact Sarah Wilson at [swilson@the-accelerator.com](mailto:swilson@the-accelerator.com)
- A recording of this webinar will be posted on Orange County IDA's website at [ocnyida.com](http://ocnyida.com)
- Join us 9:00am EST next Thursday, April 23, for our next webinar- **Adapting Your Business in the Coronavirus Era**