

Paycheck Protection Program Loan Forgiveness Legislative Summary

June 3rd the Senate passed the Paycheck Protection Program Flexibility Act of 2020 (H.R. 7010). H.R. 7010 contains a number of provisions that make the PPP more flexible and that make complete forgiveness of the PPP loan more likely for more, if not most, qualified PPP loan borrowers. Among other changes, H.R. 7010 provides:

- The earlier of a 24-week period or the period ending December 31, 2020 to spend the PPP loan proceeds in order to receive loan forgiveness (the “covered period”). The covered period begins with the funding of the loan. The CARES Act provided an eight-week covered period.
- Amendment of the limitation of 25 percent of loan proceeds being applied to qualifying non-payroll costs. This limitation was imposed by the Small Business Administration. The new limitation in the bill is 40 percent for such costs. *Note well that it appears that under H.R. 7010 the 40 percent limit is a cliff: a borrower must spend at least 60 percent of the PPP loan on total payroll costs or none of the loan will be forgiven. Senators Marco Rubio and Susan Collins indicated that technical tweaks could be made to the bill to restore the sliding scale that was being used by the SBA under the 25 percent cap rule.*
- Extension of the June 30 safe-harbor rehiring date until December 31, 2020. There are other favorable changes to the workforce reduction limits on forgiveness.
- A minimum maturity of five years for the PPP Loan.
- Elimination of the exception to the deferral of payment of certain payroll taxes provided in the CARES Act. Even if the PPP loan is completely forgiven, H.R. 7010 provides that payment of the subject payroll taxes can be deferred until December 31, 2021 (50 percent payment) and December 31, 2022 (50 percent payment).

June 30, 2020 remains the deadline for applying to receive a PPP loan.

Source: Huselton, Morgan & Maultsby