

Paycheck Protection Program Flexibility Act of 2020 (H.R. 7010)

- › Minimum loan maturity of 5-years
 - › Effective date of enactment for any loan made on or after such date;
 - › Previously 2-years
- › [Application] Covered period for loans ends 12/31/2020;
 - › Previously 06/30/2020
 - › This effectively extends the Safe Harbor for both FTE and Salary/Wages through 12/31/2020
 - › This effectively allows borrowers, that have not already done so, to apply for a PPP Loan through 12/31/2020
- › [Payroll/Business expenses] Covered period is 24-weeks from funding date OR 12/31/2020, whichever is sooner;
 - › Previously 8-weeks for both the Covered Period and the Alternative Payroll Covered Period
 - › There is no clarification if a borrower can use a covered period somewhere between the 8-week and 24-week period
- › Exemption based on employee availability
 - › 02/15/2020 – 12/31/2020 shall not impact forgivable amounts if;
 - In good faith, inability to rehire employees previously employed on 02/15/2020; and
 - Inability to hire similarly qualified employees for unfilled positions on or before 12/31/2020; or
 - Can document inability to return to the same level of business activity compared to activity before 02/15/2020 due to compliance with requirements established or guidance issued by HHS, CDC or OSHA from 03/10/2020 – 12/31/2020 regarding sanitation, social distancing or any other worker or customer safety requirement related to COVID-19
- › PPP Loan utilization is at least 60% for payroll costs and no more than 40% for eligible business expenses;
 - › Previously it was 75%/25%
- › New subsection “(1) Application to certain eligible recipients – An eligible recipient that received a covered loan before the date of enactment of this subsection may elect for the covered period applicable to such covered loan to end on the date that is 8-weeks after the date of the origination of such covered loan.”
 - › This allows the borrower to still choose the prior 8-week Covered Period rather than the new 24-week Covered Period.
- › Deferral of principal, interest and fees until forgiveness is remitted to the lender;
 - › Previously the deferral was 6 month
- › If a borrow does not apply for forgiveness, the deferral is 10-months after 12/31/2020
- › Deferral of employer’s portion of Social Security Taxes is allowed EVEN IF forgiveness is given under PPP;
 - › Previously employers were only allowed to defer until PPP loan forgiveness was approved by the lender