



FINANCIAL RESOURCES FOR U.S. BUSINESSES FROM THE CARES ACT

BODMAN PLC

**JOSEPH R. MORRISON
DARREN J. BURMANIA
ADAM S. WEINER**

bodman

WELCOME

- Welcome
- COVID-19 Response Team Introduction
- Bodman's COVID-19 Resources Webpage
(<http://www.bodmanlaw.com/practices/covid-19-response-team>)
- Bodman is endeavoring to stay on top of the fast moving developments associated with the COVID-19 pandemic, related government action and the impacts on our clients.

AGENDA

- Status on Major Federal and State Legislation to Date
- Review of Major Financial Resources for Businesses
 - Grants
 - Loan Programs
 - Industry-specific & other relief
- Review of Resources for Michigan Business
 - SBA Loans
 - Economic Injury Disaster Loans (EIDL) for Michigan Businesses and Tax Exempt Organizations

No Q&A during the Webinar but please reach out to us with questions by emailing info@BodmanLaw.com and we will connect you with an attorney that can assist.

STATUS ON MAJOR FEDERAL LEGISLATION

- Multiple Bills at the Federal level
 - Initial legislation focused on activating emergency resources (\$2.5B in February followed by the \$8.3B Coronavirus Preparedness & Response Act)
 - March 18th – Families First Coronavirus Response Act
 - Focused on providing those impacted with paid sick leave and expanded unemployment benefits, business tax credits, and free COVID-19 testing; and increasing Medicaid funding
 - March 27th (?) – CARES Act (~\$2.2T, ~10% of U.S. GDP)
 - Largest financial assistance package in modern American history

STATUS ON MAJOR FEDERAL LEGISLATION

- CARES Act highlights include
 - ~\$375B (~1.8% of GDP) in the form of a forgivable small business program to pay wages or other necessities
 - ~\$500B (2.4% of GDP) for loans and loan guarantees to keep credit markets open with \$450B allocated to Treasury and Fed actions
 - ~\$250B (1.2% of GDP) for individual cash assistance
 - ~\$250B for expansion of unemployment insurance programs
 - ~\$150B (0.7% of GDP) in state/local budget aid
 - Additional aid to hospitals, health care agencies and other related efforts

STATUS ON MAJOR STATE LEGISLATION

- Multiple Bills in Michigan have been adopted, are pending approval or pending Governor Whitmer's Signature, including:
 - Allocation of \$210M+ for COVID-19 response efforts
 - Disaster loan programs
 - Requirements for insurance coverage for COVID-19-related costs
- Updates found at:
<https://www.ncsl.org/research/health/state-action-on-coronavirus-covid-19.aspx>

RESOURCES FOR BUSINESSES: GRANTS

- Emergency SBA grant program of up to \$10B
 - For small businesses and nonprofits
 - Emergency advance loan of up to \$10,000 against an Economic Injury Disaster Loans (EIDL) within 3 days of an application
- **Use of Advanced Funds:** Any allowable use of an EIDL loan, including maintaining payroll, provide sick leave related to COVID-19, and costs due to interruptions in supply chain
- **Repayment:** Applicants are not required to repay any amount of the advance, even if subsequently denied an EIDL

RESOURCES FOR BUSINESSES: FEDERAL LOAN PROGRAMS

- SBA 7(a) Loans – Paycheck Protection Program
 - Bank originated loans backed by SBA guarantees
 - For small businesses (up to 500 employees) in an amount of up to 2.5 months of payroll up to \$10M
 - Low interest rate (~4%) with up to one year payment deferral
 - Loan term of up to 30 years
 - Forgiveness pro rates for the number of employees retained between February 15 and June 30, 2020
 - Eligibility concern: aggregation of affiliates (investors)

RESOURCES FOR BUSINESSES: FEDERAL LOAN PROGRAMS

- SBA loan forgiveness has been funded
 - Companies should consult current lender
- Multiple Treasury Programs are being funded to either lend directly to or purchase debt directly from the issuer

RESOURCES FOR BUSINESSES: INDUSTRY-SPECIFIC & OTHER RELIEF

- Airlines / Air Carriers - \$32B
 - \$25B in air carrier worker support and a tax holiday from certain excise taxes, along with other loan and funding for airports and aviation related businesses.
 - \$4B in similar support for air cargo operations
- Aerospace / defense (Boeing & related cos.) - \$17B
- Industry-specific loan and grant program have strings
 - Restrictions on stock buyback, executive compensation
 - Employment level requirements during and after loan/grant period

RESOURCES FOR BUSINESSES: INDUSTRY-SPECIFIC & OTHER RELIEF

- General Tax Payment & Timing Relief
 - Delays in estimated business tax payments to increase liquidity (originally due on April, June and September 15th to October 15th)
 - Businesses would be permitted to carry back net operating losses (NOLs) up to five years to offset profits from prior years -- potential to generate past year cash refunds
- Beneficial Payroll Tax Changes
 - Certain employers are eligible for a 50% refundable credit against payroll tax liability of the first \$10,000 in wages per employee. If the employer has more than 100 full-time employees, the credit is limited to employees who are currently not providing services to the employer because of COVID-19 causes. The credit is effective for wages that are paid after March 12, 2020 and before January 1, 2021.
 - Deferral of payment of the employer share of Social Security taxes and 50% of self-employment taxes attributable to wages paid during 2020. 50% of the deferred amount would be due on December 31, 2021 and the other 50% on December 31, 2022.
 - Increase limitation on interest deductions imposed by the Tax Cuts and Jobs Act from 30% to 50% of adjusted taxable income, for tax years beginning in 2019 and 2020.

RESOURCES FOR BUSINESSES: INDUSTRY-SPECIFIC & OTHER RELIEF

- Joint Federal Reserve & FDIC Guidance to financial institutions:
 - “encouraging financial institutions to work constructive with borrowers affected by COVID-19”
 - Modifications in good faith “based on the response to COVID-19 to borrowers who were current prior to any relief granted” will not be categorized as trouble debt restructurings
 - Examples: payment deferrals, fee waivers, extensions of repayment or other insignificant delays in payment
- bodman**

RESOURCES FOR MICHIGAN BUSINESS: WHAT IS THE DISASTER LOAN PROGRAM?

- COVID-19 determined to be a qualifying event for Economic Injury Disaster Loans (EIDL) for businesses and private non-profits in declared zones
- Michigan small businesses were approved for SBA loans under the EIDL declaration on March 19, 2020
- Loan Application: <https://disasterloan.sba.gov/ela/>

EIDL ELIGIBILITY CRITERIA

- The EIDL will provide up to \$2 million in financial assistance if a small business suffers *substantial economic injury* as a *direct result* of the declared disaster
- **Substantial Economic Injury/Direct Result:**
 - The business is unable to meet its obligations and to pay its ordinary and necessary operating expenses as a direct result of COVID-19
- Loan amount limited to the amount of economic injury (less business interruption insurance) from COVID-19

EIDL ELIGIBILITY CRITERIA

■ Are you considered a small business?

- Employee amount can range from 250 to 1,500 employees
- Size standards vary based on North American Industry Classification System (NAICS) Code or the annual revenue
 - To determine eligibility based on employee and revenue metrics, use :
<https://www.sba.gov/document/support--table-size-standards>

■ Other criteria

- May not be eligible if you have other available funds (cash flow or reserves available)
- Religious and charitable organization, casinos, racetracks and other businesses that receive more than 1/3 of their annual gross revenue from gambling activities are not eligible

EIDL ELIGIBILITY CRITERIA

■ Waived Requirements

- No requirement that business unable to obtain other credit
- No requirement that loans/advances less than \$200k have a PG
- No requirement that entity be in business for at least 1 year prior to disaster

■ Credit History

- Applicant must have a credit history acceptable to the SBA-determined on a case-by case basis – approval based solely on the applicant's credit score without requiring a tax return

WHAT CAN THE FUNDS BE USED FOR?

- Working capital loans can be used for:
 - fixed debts, payroll, accounts payable, employee sick leave, and other bills that cannot be paid because of the disaster's impact
- Working capital loans cannot be used for:
 - refinancing, expansion, payment of dividend or other disbursements to owners (except as related to their performance of services for the business) or infrastructure improvements

EIDL WHAT ARE THE LENDING CRITERIA?

- **Collateral:**
 - Loans greater than \$25,000 generally require collateral
 - However, the SBA will not reject an application for EIDLs solely on the basis of a lack of collateral
- **Insurance:** The SBA may require the application to obtain or maintain insurance to protect both the SBA and applicant

WHAT ARE THE TERMS OF THE LOAN?

■ Interest rate:

- Fixed 3.75% for small businesses; 2.75% for nonprofits

■ Repayment:

- Long-term repayment available for up to 30 years – determined based on ability to repay
- Repayment is deferred for the first 12 months, but interest does accrue during the deferral time; payments on existing EIDLs have automatically been deferred through December 31, 2020
- There is no penalty for prepayment

■ Loan Timeline:

- Must apply within 9 months after the date of declaration – **APPLY NOW**
- ~3 weeks for the SBA to make its decision (current major delays)

HOW SHOULD YOU PREPARE TO APPLY FOR THE LOAN?

■ Gather the following information:

- Most recent federal tax return
- Year-end Profit and Loss statement
- A current year to date Profit and Loss statement
- Monthly break down of sales figures
- Note: Prepare with these items with an emphasis on how COVID-19 has impacted your revenue. You may want to break down financials on a weekly basis to show an accurate impact

■ Become familiar with necessary SBA Forms:

- Completed SBA loan application (SBA Form 5 or SBA Form 5C)
- Tax Information Authorization (IRS Form 4506T)
- Schedule of Liabilities (SBA Form 2202)
- Personal Financial Statement (SBA Form 413)
- Monthly sales figures (SBA Form 1368)
- All forms are available at: <https://disasterloan.sba.gov/ela/Information/PaperForms>

ADDITIONAL INFORMATION

- **Reconsideration if loan is denied:** Yes, applications will be reconsidered if additional information is provided – for example if the loan is turned down because of insufficient income, the applicant owner can add a co-borrower
- **Withdrawn application:** If your loan is approved, but you withdraw your application, you have six (6) months to reactivate your approved loan

ADDITIONAL RESOURCES- MICHIGAN'S SMALL BUSINESS RELIEF PROGRAM

- Will provide both grants and loans to small businesses affected by the COVID-19 starting around April 1, 2020
- Total Support: Up to \$20 million, \$10 million in loans and \$10 million in grants
- Companies must show a loss of income in order to receive a grant or loan
- Companies may apply for **both** the Michigan Small Business Relief Program and EIDL, but must disclose if they are receiving an SBA loan under EIDL

ADDITIONAL RESOURCES- MICHIGAN'S SMALL BUSINESS RELIEF PROGRAM (GRANTS)

- **Grants:** Available for up to \$10,000 to certain small businesses
- **Eligibility:**
 - Company that provides support to impacted employees, is located in a downtown district or high impact corridor or has 50 employees or less, or is a company that provides services to companies outlined in the Executive Order and requires additional employees to support to companies or employees impacted by the Executive Order.
 - Fewer than 50 employees
 - Can demonstrate a need for working capital to support payroll expenses, rent, mortgage payments, utility expense, or other similar expenses that occur in the ordinary course of business
 - Can demonstrate a loss of income as a result of COVID-19 outbreak
- **Use of Funds:** Working capital to support payroll expenses, rent, mortgage payments, utility expenses, or other similar expenses that occur in the ordinary course of business

ADDITIONAL RESOURCES- MICHIGAN'S SMALL BUSINESS RELIEF PROGRAM (LOANS)

- **Loans:** Available for between \$50,000 - \$200,000 – for licensed SBA not-for-profit institutions and small businesses
- **Eligibility**
 - Company is in an industry outlined in Executive Order 2020-9, demonstrates it is otherwise affected by COVID-19 or is a company that provides goods and services to companies in the first two categories
 - Fewer than 100 employees
 - Can demonstrate a need for working capital to support payroll expenses, rent, mortgage payments, utility expenses, or other similar expenses that occur in the ordinary course of business
 - Can demonstrate it is unable to access credit through alternative sources
 - Can demonstrate a loss of income as a result of Executive Order 2020-9

ADDITIONAL RESOURCES- MICHIGAN'S SMALL BUSINESS RELIEF PROGRAM (LOANS)

- Collateral: No collateral is required to obtain a loan
- Interest Rate: 0.25%
- Repayment: Interest only for 60 months, followed by a fully amortizing 60 month term. No penalty for prepayment of loan
- Use of Funds: Working capital to support payroll expenses, rent, mortgage payments, utility expenses, or other similar expenses that occur in the ordinary course of business

ADDITIONAL RESOURCES- MICHIGAN'S SMALL BUSINESS RELIEF PROGRAM

The applications are not available yet but, once available, the application can be found at:

<https://www.michiganbusiness.org/covid19/>

CONTACT INFORMATION

Joseph Morrison

jmorrison@bodmanlaw.com 734-930-2492

Darren J. Burmania

dburmania@bodmanlaw.com 616-205-3313

Adam S. Weiner

aweiner@bodmanlaw.com 313-392-1076

bodman

DISCLAIMER

Copyright 2020 Bodman PLC. Bodman has prepared this for informational purposes only. This message or the information contained herein is not intended to create, and receipt of it does not evidence, an attorney-client relationship. Readers should not act upon this information without seeking professional counsel. Individual circumstances or other factors might affect the applicability of conclusions expressed herein.