

## House Democrats Propose Significant Changes to Paycheck Protection Program in New \$3 Trillion Stimulus Bill

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May 14, 2020

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Update: On Friday, May 15, 2020, the House passed H.R. 6800 (the “HEROES Act” for short) by a vote of 208-199.

In a new \$3 trillion stimulus bill (**H.R. 6800**) introduced in the House of Representatives on May 12, House Democrats proposed various measures to fight the impact of the COVID-19 pandemic on the economy, including several changes to the Small Business Administration’s (“SBA”) Paycheck Protection Program (“PPP”). A vote on the bill in the House is expected on Friday, May 15. However, Republicans strongly oppose the bill and, even if passed by the House, it is not expected to pass the Senate.

A summary of various changes to the PPP proposed by H.R. 6800 is below:

- Expands availability of PPP loans, assuming allocated funds are not exhausted, through December 31, 2020 (an extension from June 30, 2020).
- Expands period in which PPP loan proceeds could be spent on eligible expenses through December 31, 2020 (an extension from June 30, 2020).
- Expands the period during which the payment of eligible expenses are totaled for forgiveness purposes from 8 weeks to the earlier of 24 weeks or December 31, 2020.
- Allows PPP funds spent on interest on debt obligations and the amount of any refinanced Economic Injury Disaster Loan to be included in the forgiveness amount.
- Extends deadline to eliminate reductions in full-time equivalent employee levels or employee salaries from June 30, 2020 to December 31, 2020.
- Provides that a borrower’s forgiveness amount will not be reduced due to full-time equivalent employment numbers if, prior to December 31, 2020, the business is unable to rehire a former employee or demonstrates an inability to find similarly qualified employees.
- Prohibits the SBA Administrator from limiting the non-payroll portions of a forgivable PPP loan.
- Sets a minimum maturity of 5 years for the repayment of PPP loans.
- Provides that interest on PPP loans shall be calculated on a non-compounding, non-adjustable basis.[i]
- Requires borrowers to submit veteran status, gender, race, and ethnicity information for employees when applying for forgiveness.
- Waives affiliation rules for nonprofits and certain radio stations, newspapers, and television broadcasting companies.
- Allows certain radio stations, newspapers, and television broadcasting companies to receive PPP loans so long as individual physical locations of such companies do not exceed SBA size standards.
- Makes ineligible any business with a 20% or greater owner who has been convicted of a felony of financial fraud or deception during the 5-year period preceding the date on which the business applies for the PPP loan.
- Provides that arrests or convictions of owners (other than for a financial fraud or deception felony) owning 20 percent or more of a business do not disqualify the business from the PPP unless such owner is currently incarcerated.

While this bill appears unlikely to become law, it does highlight potential changes to the PPP that Congress may be considering. Our [Corporate & Business](#) team will continue to monitor legislation related to the PPP and will provide updates as events unfold.

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[i] The payment of “interest on any other debt obligations that were incurred before the covered period” is an allowable use of PPP proceeds under the CARES Act, but such payments are not currently included in the forgiveness calculation. This bill modifies the CARES Act to allow such payments to be included in the forgiveness calculation. Note that the payment of interest on any covered mortgage obligation is also an allowable expense, and a forgivable expense, under the CARES Act. This bill does not change that.

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*Disclaimer: This Alert is a summary of H.R. 6800’s proposed changes to the CARES Act’s Paycheck Protection Program loans under Section 7(a)(36) of the Small Business Act, 15 U.S.C. 636(a)(36), and the forgiveness of such loans. H.R. 6800 is not and has not been signed into law. The bill faces opposition by Republicans and is not expected to pass the Senate. It is unclear which changes proposed by H.R. 6800, if any, will become law.*

*We are here to help answer specific questions and offer advice on your options. Please contact any member of our Corporate & Business Group to discuss.*

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