

PPP Flexibility Act is Enacted

June 8, 2020

On June 5, the President signed the PPP Flexibility Act. As first described in Buchalter's previous [Alert](#), this new law creates the following adjustments to PPP requirements:

- For loans entered into on or after the date the Act became law, the minimum repayment period is to be extended from 2 years to 5 years. For loans prior to that date, the borrower and lender may agree to extend the loan term to 5 years.
- Lowers the amount that borrowers must utilize for payroll costs from 75% to 60%.
- Triples the 8-week forgiveness period to 24 weeks.
- In some instances, the deferral period for payment of interest, principal and fees to the lender is changed to:
 - If a borrower obtains loan forgiveness, the date on which the amount of loan forgiveness is remitted to the lender.
 - If a borrower does not apply for forgiveness within 10 months of the covered period (which would be extended to 24 weeks under the bill), the deferral period for payment of principal and interest is extended to 10 months after the end of the covered period.
- The CARES Act prohibition on borrowers utilizing payroll tax deferments is eliminated.
- The requirements for avoiding reduction in forgiveness by rehiring of employees or hiring of new employees have changed:
 - During the period beginning on February 15, 2020, and ending on December 31, 2020, the amount of loan forgiveness shall be determined without regard to a proportional reduction in the number of full-time equivalent employees if an eligible recipient, in good faith
 - (A) is able to document (i) an inability to rehire individuals who were employees of the eligible recipient on February 15, 2020; and (ii) an inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020; or
 - (B) is able to document an inability to return to the same level of business activity as such business was operating before February 15, 2020, due to compliance with requirements established or guidance issued by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration during the period beginning on

March 20, 2020, and ending December 31, 2020, related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19.

The text of the Act may be found [HERE](#).

Buchalter's team of SBA PPP experts can help you understand these ever-changing program requirements.



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