

GILL RAGON OWEN

ATTORNEYS

425 W. Capitol Ave, Suite 3800, Little Rock, AR 72201

www.gill-law.com • (501) 376-3800

DECEMBER 2020 COVID-19 RELIEF PACKAGE

Last night, Congress overwhelmingly approved a \$900 billion Covid-19 relief package. The bill now heads to the White House, where the president is expected to sign the bill into law. The relief package was added to a \$1.4 trillion resolution that funds the government through September 2021. The full text of the 5,593-page appropriations act is available [here](#). Among the key provisions of this legislation are an expanded Paycheck Protection Program (“PPP”), \$600 direct payments to individuals with income below a certain threshold, expanded unemployment benefits, and billions for coronavirus vaccine distribution. The bill did not include liability protections for business or large grants to state and local governments.

Key Provisions

1. Paycheck Protection Program

The relief package includes \$284 billion to the SBA for forgivable PPP loans and allocates \$20 billion to provide Economic Injury Disaster Loan (EIDL) Grants in low-income communities, along with \$15 billion of funding dedicated to live venues, independent movie theaters, and cultural institutions.

a. Second Draw Loans

Businesses who previously received a PPP Loan can seek a second loan of up to \$2 million, provided the business has:

- No more than 300 employees;
- Has used or will use the full amount of the first PPP loan;
- Can demonstrate a reduction in gross revenue of at least 25% in any 2020 quarter compared with the same quarter in 2019.

Second-time borrowers will be eligible to borrow an amount equal to 2.5 times their average monthly payroll costs. However, applicants in the accommodation and food services industries, as defined by the SBA, are eligible for 3.5 times their average monthly payroll.

b. First-Time Borrowers

The bill permits first-time loans to borrowers from the following groups:

- Businesses with fewer than 500 employees;
- Sole proprietors, independent contractors, and eligible self-employed individuals;
- Not-for-profits, including churches; and
- Accommodation and food services operations (those with NAISC codes starting with 72) with fewer than 300 employees per physical location.

Borrowers who returned all or part of a previous PPP loan may reapply for the maximum amount available. The second round of PPP funding also makes loans available to 501(c)(6) organizations such as chambers of commerce, visitors’ bureaus, and “destination marketing organizations.”

c. Forgiveness Requirements

Borrowers must still spend at least 60% of the funds on payroll to receive full forgiveness. The remaining 40% may be spent on eligible costs such as mortgage interest, rent, and utility payments. The bill expands forgivable expenses to include PPE and other gear to protect workers, supplier

costs, operations expenditures, and property damage due to public disturbances during 2020.

d. Simplified Forgiveness Application

The new relief bill creates a simplified application process for loans of \$150,000 or less. A borrower shall receive forgiveness if the borrower submits a signed certification—not more than one page in length—including a description of the number of employees the borrower was able to retain because of the loan, the estimated amount of the loan spent on payroll, and the total amount of the loan. The SBA must create this simplified application within 24 days of the bill’s enactment and may not require additional materials unless necessary to substantiate revenue loss. Borrowers must retain relevant records related to employment for four years and other records for three years, as the SBA may review and audit to check for fraud.

Borrowers are no longer required to deduct EIDL advances from forgiveness amounts.

e. Tax Deductibility of Expenses

The legislation clarifies that businesses that received PPP loans may take tax deductions for business expenses covered by forgiven loans. Previous IRS guidance stated that such expenses could not be deducted. The bill provides that “no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income provided” by Section 1106 of the CARES Act.

2. Expanded Unemployment Benefits

The relief package includes \$120 billion to provide unemployment benefits of \$300 per week from December 26 until March 14, 2021, operating roughly the same as the previous \$600 per week benefits included in the CARES Act. The legislation also extends the Pandemic Unemployment Assistance (“PUA”) program, which provides unemployment benefits to self-employed individuals, and expands coverage for self-employed, gig workers, and other nontraditional employees. The program also extended the Pandemic Emergency Unemployment Compensation (“PEUC”) program, which provides additional weeks of unemployment after state benefits are exhausted.

3. Direct Stimulus Payments to Certain Individuals

Much like the CARES Act, this relief package includes direct payments to individuals below certain income thresholds. Individuals making up to \$75,000 per year will receive \$600 economic impact payments (\$1,200 for couples making below \$150,000), and a \$600 payment for each child dependent. The bill also clarified that any individual who was alive for part of 2020 is eligible for the first and second payment, reversing previous Treasury guidance requiring estates to return payments made after an individual’s death. Treasury Secretary Stephen Mnuchin said the payments could be deposited into Americans’ accounts by the end of the year.

4. Emergency Rental Assistance and Eviction Moratorium Extension

The legislation extends the CDC eviction moratorium through January 31, 2021. For more information on the moratorium, see our previous [newsletter](#).

The bill includes \$25 billion for rental assistance, with each state receiving a minimum of \$200 million. These funds will be disbursed to states, and tenants will apply for aid through state or local relief organizations. Renters will be eligible if their household income is below 80% of the area median income and a household member has qualified for unemployment benefits, has lost income due to Covid-19, or can show that they are at risk of losing their home. Landlords and utilities can be paid directly by state and local governments provided that tenants have signed off on the application. If landlords refuse the funds, renters can apply and receive the funds and pay their

landlords. Renters can receive up to 12 months of assistance, or 15 months if it is “necessary” to keep them in their home.

5. Provider Relief Fund

The bill included \$3 billion for the provider relief fund. HHS will be required to distribute 85 percent of the grants through an application process that prioritizes financial losses. The bill also changed how providers can calculate revenue for provider relief grants. Hospitals can now calculate lost revenue by comparing budgeted or actual revenue for 2020. This tweak is expected to allow more funding.

6. Other Key Provisions

The relief package includes various other funding provisions not fully addressed in this newsletter. This includes billions in transportation funding, going to airlines, highway construction, and rail. The bill also includes \$82 billion for public and private K-12 schools and colleges (\$54.3 billion for public schools, \$22.7 billion to public and private higher education, \$1.7 billion for minority-serving colleges and universities). States will receive \$22.4 billion for testing, tracing, and Covid-19 mitigation programs. \$10 billion has been allocated for grants to child-care providers and \$250 million for the Head Start program. We will update our website as more information becomes available.

For more information on this legislation, please review our Covid-19 Resources page here: <https://www.gill-law.com/covid-19-resources/#>