



Final Summary of Provisions in CARES Package Most Relevant to ICSC

ECONOMIC PROVISIONS

LOAN PROGRAM

Small Business “Paycheck Protection Program”

- New \$349 billion SBA lending program, modeled on existing 7(a) program, with 100% government guarantee (as opposed to 75% guarantee for 7(a) loans).
- Eligibility:
 - Small businesses as defined by SBA size standards (generally up to 500 employees, but up to 1,500 employees depending on the sector and certain sectors are based on revenue).
 - Businesses in the Accommodation and Food Services Sector (NAICS Code 72) are eligible with up to 500 employees at each location. Code 72 is limited to restaurants and accommodations (hotels).
 - Non-profits with fewer than 500 employees who are 501(c)3s and do not receive Medicaid funding.
 - Sole proprietors, the self-employed, and independent contractors.
- Regulatory Streamlining: SBA’s standard “no credit elsewhere” test is waived and non SBA-lenders approved by Treasury and SBA can provide loans.
- Maximum Loans: Generally monthly payroll costs for 2 ½ months, not to exceed \$10 million. Payroll costs exclude compensation paid to individuals, including the self-employed, in excess of \$100,000 a year.
- Requirements: The employer certifies that they will maintain their average full-time equivalent employment, with incentives to re-hire if employees have been furloughed.
- Loan Forgiveness: The borrower shall have a portion of their loan forgiven in the amount equal to their payroll costs (not including costs for compensation in excess of \$100,000 annually), interest payments on mortgages, rent payments, and utility payments between February 15 and June 30, 2020. Loan forgiveness will be reduced if the borrower reduces employment by a ratio similar to their reduction in employment or if borrower reduces salaries and wages by more than 25%.
- Banks that already participate as SBA lenders will administer by making these low interest rate loans, expected to be tied to the maximum interest rate for SBA loans as February 15, 2020. There are protections against reselling the loan. The bill also excuses banks who make loans under this program from certain accounting and loss reserve requirements, thereby freeing up funds for additional lending.
- Borrowers who receive Small Business Interruption Loans are not eligible to receive SBA Economic Injury Disaster Loans (EIDLs).

Economic Stabilization and Assistance to Severely Distressed Sectors

- Treasury is working through the guidance already and may have it prepared within 5 days. The bill says Treasury must publish procedures for applications and the minimum requirements within 10 days of enactment.
- The large loan program is designed for larger impacted businesses or those that do not otherwise qualify for the SBA loan and where continued operations are otherwise jeopardized. Provides direct loans being subject to an annualized interest rate that is not higher than 2 percent per annum.
- For the first 6 months after any such direct loan is made, there is no principal or interest due or payable. That may be extended at Treasury Secretary's discretion.
- Requires the Treasury Department and Federal Reserve to publish for the public to see every seven days which companies and entities gain financing through Treasury's lending of the bailout funds.
- Businesses that take money from the government will have to wait until at least a year after they've paid it back to buy their own stock or pay dividends to shareholders.
- Borrowers have to try to maintain staffing at March 24 levels, with a prohibition on reducing employment by more than 10 percent.
- Executives of big companies, meanwhile, will face restrictions on their compensation, including bonuses.
- Treasury Secretary Mnuchin has the power to waive any of these restrictions but must testify before Congress on the reasons for any waiver.

BANKING PROVISIONS

Latest version gives the Federal Deposit Insurance Corp. expanded authority to guarantee bank accounts and ease key lending regulations.

The bill would give the FDIC greater authority to back-up accounts, including by guaranteeing business transaction accounts. The FDIC previously used the transaction account authority in the 2008 financial crisis to shore-up confidence in accounts used for payroll and other business purposes.

The bill would make it easier for small banks to take advantage of streamlined capital requirements that Congress ordered regulators to establish in 2018 through the community bank leverage ratio.

The legislation would also rework accounting rules that banks have warned could inhibit lending.

It would allow banks to postpone compliance with the Current Expected Credit Losses (CECL) standard, which requires lenders to immediately account for potential losses when they issue loans, tying up more of their capital. They would have until the end of the coronavirus public health emergency ends or Dec. 31, whichever is earlier.

Another section of the bill would ease accounting rules to make it easier for banks to restructure the Troubled Debt Ratio (TDR) without taking a significant hit to their capital. Regulatory relief from accounting standards for loan modifications related to COVID-19 made by banks.

TAX PROVISIONS

Individual Tax Relief

- **2020 Recovery Rebates for Individuals**

Provides up to \$1,200 for individuals; \$2,400 for married couples. Those amounts increase by \$500 for every child. The rebate phases out for incomes over \$75,000 (single) and \$150,000 (married).

Business Tax Relief

- **Qualified Improvement Property (QIP) technical correction**

Fixes an error in the Tax Cuts and Jobs Act (TCJA) that required tenant improvements to be depreciated over the 39-year life of the building. The fix is retroactive to 2018.

- **Employee retention credit for employers subject to closure due to COVID-19.** The provision provides a refundable payroll tax credit for 50 percent of wages paid during the COVID-19 crisis. The credit is available to employers whose (1) operations were fully or partially suspended, due to a COVID-19-related shut-down order, or (2) gross receipts declined by more than 50 percent when compared to the same quarter in the prior year.

- **Delay of Payment of Employer Payroll Taxes**

Allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax. The bill requires that the deferred employment tax be paid over the following two years.

- **5-year Net Operating Loss (NOL) Carryback**

Provides that a loss from 2018, 2019, or 2020 can be carried back five years and removes the 80% taxable income limitation to allow an NOL to fully offset income.

- **Suspension of the Limitation on Losses from Pass-through Businesses**

Allows all losses from a pass-through business to offset other sources of an individual's income, suspending a new rule imposed in the TCJA [IRC section 461(l)].

- **Acceleration of Recovery of Corporate AMT credits**

- **Relaxation of Business Interest Deduction Limits**

Increases the 30-percent limitation to 50 percent of taxable income for 2019 and 2020.

- **More Money for a Longer Period for More Workers:** Makes benefits more generous by adding a \$600/week across-the-board payment increase through the end of July. In addition,

for those who need it, the bill provides an additional 13 weeks of benefits beyond what states typically allow.

- **Temporary Provisions:** The expansion in unemployment benefits expires at the end of 2020 in recognition of the temporary nature of this challenge.

UNEMPLOYMENT BENEFITS

- **Includes \$250 billion to Expand Unemployment Benefits:** Provides economic relief and much-needed support for workers by making a significant investment in unemployment benefits.
- **Unemployment Benefits for More Americans:** Makes sure self-employed and independent contractors, like Uber drivers and gig workers, can receive unemployment during the public health emergency. The bill also includes support to state and local governments and nonprofits so they can pay unemployment to their employees.
- **More Money for a Longer Period for More Workers:** Makes benefits more generous by adding a \$600/week across-the-board payment increase through the end of July. In addition, for those who need it, the bill provides an additional 13 weeks of benefits beyond what states typically allow.
- **Temporary Provisions:** The expansion in unemployment benefits expires at the end of 2020 in recognition of the temporary nature of this challenge.

For questions, please contact gpp@icsc.com.



Dear Eric,

The impact of COVID-19 and the required health and safety actions being taken by public authorities is having a dramatic impact upon the nation's economy. Understandably, all of us are concerned about the short- and long-term damage being done to our industry, individual businesses and personal financial situations. ICSC has been actively engaged in the public policy arena, and in the media, to ensure our collective voice is heard as public officials craft legislative and regulatory responses to this historic crisis. A summary of what has occurred, as well as likely next steps, are outlined below.

Actions Taken

As all of you know, last night, the U.S. Senate passed the Coronavirus Aid, Relief, and Economic Security (**CARES**) Act. Passage in the U.S. House is expected by the end of the week. The act is 880 pages long and focused on the U.S. economy broadly and workers. It includes, among other things, loan programs for both small and large businesses, corporate and individual tax relief and enhanced unemployment insurance benefits. While this represents a positive step forward, we expect future packages to be debated and passed at the federal, state and municipal levels both during and after this crisis. An outline of the key provisions of the CARES Act is available [here](#) and below is a summary of a few of these key provisions:

- **Small Business Paycheck Protection Program**

The CARES Act includes a \$325 billion small business loan program designed for businesses having fewer than 500 employees to be administered through the Small Business Administration (SBA). The maximum amount of the loan is the lesser of a multiple of 2.5x payroll or \$10 million. Under certain conditions, there are aspects of the loan that qualify for forgiveness. The deadline to apply for the small business loan program is June 30, 2020, and details are expected to be issued soon and accessible at [SBA.gov](#). ICSC plans to host a webinar to discuss these provisions.

- **Large Business Loan Program and Credit Facility**

A second loan program has been established for larger businesses that do not otherwise qualify for the small business offering. While the total value of this program is \$500 billion, after the deduction for amounts directed to airlines and industries designated for national security, there is \$425 billion available. It is expected that this amount will be leveraged significantly and potentially provide up to \$4 trillion in financial support. Loans must be secured, for a term of not more than 5 years, and subject to an annualized interest rate that is not higher than 2 percent per annum. For the first six

months after any direct loan is made, there is no principal or interest due or payable. That may be extended at the Treasury Secretary's discretion. While the loan is outstanding, stock repurchases are prohibited by borrowers, who are also required to maintain existing employment to the extent practical and abide by limits imposed on executive compensation. The U.S. Treasury is working through the guidance and is required to publish procedures for applications and the minimum requirements within 10 days of the bill's passage by the House.

- **Corporate Tax Provisions**

There are a number of provisions providing corporate tax relief. These include extension of NOL carrybacks for five years, delay of employer payroll taxes, correction of qualified improvement property depreciation back to 15 years, employee retention credits, relaxation of business interest deductions and employee retention credits.

- **Individual Tax Relief**

Recovery rebates of up to \$1,200 for individuals (phase out beginning at \$75,000 annual income) or \$2,400 for married couples (phase out beginning at \$150,000 annual income), each increased by \$500 for every child.

- **Enhanced Unemployment Benefits**

Unemployment benefits by adding a \$600/week across-the-board payment increase through the end of July, 2020. In addition, for those who need it, the bill provides an additional 13 weeks of benefits beyond what states typically allow. The expansion in unemployment benefits expires at the end of 2020 in recognition of the temporary nature of this challenge. Benefits should be accessible via a state's unemployment insurance website.

- **Banking Provisions**

The Federal Deposit Insurance Corp (FDIC) has provided expanded authority to guarantee bank accounts and ease lending regulations. The Act also allows banks to postpone compliance with the Current Expected Credit Losses standard and ease accounting rules to make it easier for banks to restructure Troubled Debt Ratio without taking a hit to capital and regulatory relief from accounting standards for loan modifications.

In addition to the CARES Act, the Federal Reserve has also taken extraordinary actions in reaction to the crisis. These include cutting the Federal Fund rate to 0%, implementing a Security Purchase Program (inclusive of CMBS), backstopping money market mutual funds, lending directly to security firms, banks and corporations, relaxing regulatory requirements and restarting the Term Asset-Backed Securities Loan Facility (TALF). The specifics on these programs can be found at [federalreserve.gov](https://www.federalreserve.gov).

Immediate Next Steps

We know many of you are in the midst of negotiation with tenants, landlords and banks regarding lease and mortgage obligations. **While ICSC cannot provide guidance to members concerning legal contracts, we will continue to aggregate industry data relevant to the crisis on the Coronavirus Information & Resource Center at [icsc.com](https://www.icsc.com).**

The unprecedented size of today's jobless claims illustrates the extraordinary challenge facing our industry and country. ICSC will continue to work day and night to represent our industry as new legislation and regulatory actions are debated. In addition to ongoing efforts to increase access to liquidity and ease regulatory requirements, we are also specifically advocating for the inclusion of CMBS in the restarted TALF program. We also are actively working with other organizations and key stakeholders to advocate for programs and relief measures, such as a business interruption fund.

Our commitment to our industry is unwavering. Thank you for your membership and ICSC will continue to actively communicate to you.

We wish you continued safety and health.

Sincerely,

Tom McGee
President & CEO
ICSC

Dan Hurwitz
ICSC Chairman
Founder & CEO
Raider Hill Advisors



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