



March 27, 2020

Summary: *Coronavirus Aid, Relief, and Economic Security (CARES) Act*

The third federal stimulus package - the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* – provides about \$2 trillion to individuals, businesses and states, in further response to the coronavirus pandemic. This is in addition to two previous stimulus packages passed by Congress in as many weeks – the first, a \$8.3 billion measure geared towards further developing a vaccine for the virus, and the second, which passed last week, aimed at greater access to paid sick leave for workers as well as increased testing for the virus.

Highlights of the CARES Act include:

- \$150 billion to aid state, local and tribal governments;
- \$500 billion for loans and assistance to companies and state and local governments, including \$29 billion for U.S. airlines and related businesses. Additional funds would be provided to aviation workers;
- Payments of up to \$1,200 for individual taxpayers, and \$500 per child, phased out when incomes exceed \$75,000 for individuals and \$150,000 for couples who file jointly;
- An additional \$600 per week for those receiving unemployment benefits;
- And, \$349 billion in low-interest small business loans, some of which will be forgiven.

Sections 1102 and 1106 of Title I in Division A seem most applicable and relevant to the fly fishing industry. There are some other provisions in other titles that may be peripherally relevant (unemployment insurance, labor related programs like paid sick leave, etc.) but I chose to focus on small business relief, which is what you and I have talked most about over the last week or so.

**DIVISION A – KEEPING WORKERS PAID AND EMPLOYED, HEALTH CARE SYSTEM ENHANCEMENTS,
AND ECONOMIC STABILIZATION**

TITLE I—KEEPING AMERICAN WORKERS PAID AND EMPLOYED ACT

This Title includes \$349 billion for providing small businesses forgivable loans to small businesses. The Small Business Administration would provide the loans through its existing 7(a) program in

amounts equal to 2.5 months of payroll, with a maximum loan of \$10 million. As long as the borrower uses the loan to cover payroll, interest on debt, rent or utilities, the loans would be forgiven.

Section 1102. Paycheck Protection Program (PPP)

This section, among other things:

- Sets a maximum interest rate of four percent (4%) and ensures borrowers are not charged any prepayment fees.
- Allows complete deferment of 7(a) loan payments for at least six (6) months and not more than a year.
- Provides an authorization level of \$349 billion for the 7(a) program through December 31, 2020.
- Defines eligibility for loans as a small business, 501(c)(3) nonprofit, a 501(c)(19) veteran's organization, or Tribal business concern described in section 31(b)(2)(C) of the Small Business Act with not more than 500 employees, or the applicable size standard for the industry as provided by SBA, if higher.
- Includes sole-proprietors, independent contractors, and other self-employed individuals as eligible for loans.
- Defines the covered loan period as beginning on February 15, 2020 and ending on June 30, 2020.
- Establishes the maximum 7(a) loan amount to \$10 million through December 31, 2020.
- The loan amount is tied to payroll costs incurred by the business to determine the size of the loan.
- Specifies allowable uses of the loan include payroll support, such as employee salaries, paid sick or medical leave, insurance premiums, and mortgage, rent, and utility payments.
- For eligibility purposes, requires lenders to determine whether a business was operational on February 15, 2020 and had employees for whom it paid salaries and payroll taxes, or a paid independent contractor, instead of determining repayment ability.
- Provides a limitation on a borrower from receiving this assistance and a SBA Economic Injury Disaster Loan (EIDL) for the same purpose.
 - But it does allow a borrower who has an EIDL loan unrelated to COVID-19 to apply for a PPP loan, with an option to refinance that loan into the PPP loan.
 - The emergency EIDL grant award (see below) of up to \$10,000 would be subtracted from the amount forgiven under the Paycheck Protection Program.
- Requires eligible borrowers to make a good faith certification that:
 - The loan is necessary due to the uncertainty of current economic conditions caused by COVID-19;
 - They will use the funds to retain workers and maintain payroll, lease, and utility payments; and
 - Are not receiving duplicative funds for the same uses from another SBA program.
- Waives both borrower and lender fees for this program.
- Waives collateral and personal guarantee requirements under this program.

Section 1106. Loan Forgiveness

This section, among other things:

- Establishes that the borrower shall be eligible for loan forgiveness equal to the amount spent by the borrower during an 8-week period after the origination date of the loan on:
 - payroll costs;
 - interest payment on any mortgage incurred prior to February 15, 2020;
 - payment of rent on any lease in force prior to February 15, 2020; and
 - payment on any utility for which service began before February 15, 2020.
- Amounts forgiven may not exceed the principal amount of the loan.
- Eligible payroll costs do not include compensation above \$100,000 in wages.
- Forgiveness on a covered loan is equal to the sum of the following payroll costs incurred during the covered 8-week period compared to the previous year or time period, proportionate to maintaining employees and wages:
 - Payroll costs **plus** any payment of interest on any covered mortgage obligation (which shall not include any prepayment of or payment of principal on a covered mortgage obligation) **plus** any payment on any covered rent obligation + and any covered utility payment.
- Canceled indebtedness resulting from this section will not be included in the borrower's taxable income.
- Any loan amounts not forgiven at the end of one year is carried forward as an ongoing loan with terms of a max of 10 years, at max 4% interest.

Section 1110. Emergency EIDL Grants

This section, among other things:

- Expands eligibility for access to Economic Injury Disaster Loans (EIDL) to include any individual operating as a sole proprietor or an independent contractor during the covered period (January 31, 2020 to December 31, 2020), among other entities.
 - Private non-profits are also eligible for both grants and EIDLs.
- During the covered period, allows SBA to approve and offer EIDL loans based solely on an applicant's credit score, or use an alternative appropriate alternative method for determining applicant's ability to repay.
- Establishes an Emergency Grant to allow an eligible entity who has applied for an EIDL loan due to COVID-19 to request an advance on that loan, of not more than \$10,000, which the SBA must distribute within 3 days.
- Outlines that advance payment may be used for providing paid sick leave to employees, maintaining payroll, meeting increased costs to obtain materials, making rent or mortgage payments, and repaying obligations that cannot be met due to revenue losses.

Section 1112. Subsidy for Certain Loan Payments

- Requires the SBA to pay the principal, interest, and any associated fees that are owed on the covered loans for a six-month period starting on the next payment due.
 - Loans that are already on deferment will receive six months of payment by the SBA beginning with the first payment after the deferral period.
 - Loans made up until six months after enactment will also receive a full 6 months of loan payments by the SBA.
- Defines a covered loan as an existing 7(a) (including Community Advantage), 504, or microloan product.

- Paycheck Protection Program (PPP) loans are not covered.

TITLE II—ASSISTANCE FOR AMERICAN WORKERS, FAMILIES, AND BUSINESSES

This Title covers unemployment insurance, rebates and individual provisions, and business provisions.

Subtitle C – Business Provisions

Section 2301. Employee retention credit for employers subject to closure due to COVID-19

- Provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees 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.
 - The refundable payroll tax credit is based on qualified wages paid to the employee.
 - For employers with *greater than* 100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to the COVID-19- related circumstances described above.
 - For eligible employers with *100 or fewer* full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order.
 - The credit is provided for the first \$10,000 of compensation, including health benefits, paid to an eligible employee.
 - The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020.

Section 2302. 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 they otherwise are responsible for paying to the federal government with respect to their employees.
 - Employers generally are responsible for paying a 6.2-percent Social Security tax on employee wages.
 - The provision requires that the deferred employment tax be paid over the following two years, with half of the amount required to be paid by December 31, 2021 and the other half by December 31, 2022.

Section 2306. Modification of limitation on business interest

- Temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns, by increasing the 30-percent limitation to 50 percent of taxable income (with adjustments) for 2019 and 2020.

DIVISION B - EMERGENCY APPROPRIATIONS FOR CORONAVIRUS HEALTH RESPONSE AND AGENCY OPERATIONS

TITLE V

This Title includes \$1.82 billion for additional resources to government agencies to support small businesses, among other things, including:

- \$562 million for SBA's Economic Injury Disaster Relief Loans (EIDL) Program.
 - This program is dependent on SBA declaring a disaster for a certain location, and only businesses in those locations may apply.
 - SBA had declared a qualifying disaster in all 50 states, the District of Columbia, Puerto Rico and U.S. Virgin Islands.
 - Small businesses throughout the country and territories are therefore eligible.