

## U.S. Senate Approval of the CARES Act



March 2020 »

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The **Coronavirus Aid, Relief and Economic Security Act**, also known as the *CARES Act* (HB 748) provides emergency assistance and healthcare response for individuals, families and businesses affected by COVID-19. The CARES Act was finally approved in the U.S. Senate on March 25, 2020 and is now pending consideration from the U.S. House of Representatives.

As it applies to Puerto Rico, the CARES Act expands the scope of loans available to small businesses under the Small Business Act and allows loan forgiveness if the employer complies with certain requirements. The current bill also grants recovery rebates to individuals, allows for the deferment of the employer's social security tax portion and estimated federal income tax payments and provides a credit for the retention of employees during the emergency. The labor provisions reiterate already existing limitations applicable to payments made to employees taking the Emergency FMLA Leave or the Emergency Paid Sick Leave provided in the Families First Coronavirus Response Act (FFCRA) and increase unemployment benefits.

The CARES Act also contains significant funding for public health and social services, as well as other related provisions, which will be summarized in a separate Client Alert.

### FINANCIAL SERVICES PROVISIONS

#### *Small Business Interruption Loans*

Companies with fewer than 500 employees are eligible for a loan made under Section 7(a) of the Small Business Act (the "7A Loan") for up to \$10 million.

Accommodation and food services businesses that employ no more than 500 employees per physical location will be eligible.

Self-employed individuals are eligible.

Expands the use of the 7A Loan to allow for the following expenses: payroll support (sick, parental, vacation or medical leave), employee salaries, health care and retirement benefits, payment of state or local taxes on compensation, mortgage payments, rent, utilities and any other debt incurred before February 15, 2020 through December 31, 2020 (the "Covered Period").

#### *Relaxed Eligibility Requirements for 7A Loans*

For eligibility purposes, the business will only be required to have been operational on February 15, 2020, substantially impacted by COVID-19 and continued paying salaries and payroll taxes to its employees.

Waives the "credit elsewhere", collateral and personal guarantee requirements.

Maximum maturity of 10 years and interest rate not to exceed 4%.

Waives borrower and lender fees for 7A Loans.

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Allows for complete deferment of 7A Loan payments for not more than one year.

Increases Government guarantee of 7A Loans to 100% through December 31, 2020.

### [7A Loan Forgiveness](#)

Borrowers will also be able to achieve loan forgiveness for the value of the cost of payroll, mortgage, rent and costs related to debt obligations for the 8-week period after the loan origination date. The loan forgiveness amount will be allowed to be excluded from the borrower's gross income for income tax purposes.

The amount of loan forgiveness will decrease by the number of employees laid off and/or any reduction in compensation. (payroll costs shall not include compensation that exceeds certain amounts and qualified Emergency Paid Sick Leave and/or Emergency FMLA Leave wages for which a credit was allowed under the FFCRA.

## **RELIEF FOR INDIVIDUALS, FAMILIES AND BUSINESSES**

### [Individuals and Families](#)

#### Recovery Rebates

Granting of direct payment of up to \$1,200 (\$2,400 married filing jointly) to eligible individuals.

Amount to be increased by \$500 for every child.

Eligible individuals include individuals with a 201

8 adjusted gross income of up to \$75,000 (\$112,500 for head of households and \$150,000 for married filing jointly).

The rebate will be reduced by \$5 for every \$100 a taxpayer's income exceeds the phaseout threshold.

The rebate is completely phased out for single taxpayers with income exceeding \$99,000 (\$198,000 for married filing jointly).

### [Businesses](#)

#### Postponement of Deadlines

Allows corporations to postpone estimated federal tax payments due after the date of the enactment of the CARES Act until October 15, 2020.

Allow employers and self-employed individuals to defer the payment of the employer's share of the Social security (6.2%) they are otherwise responsible for paying to the federal government with respect to their employees applicable from the date of the enactment of the CARES Act until December 31, 2020. The deferred employment tax must be paid over the following 2 years. Half must be paid by December 31, 2021 and the other half by December 31, 2022.

#### Employee Retention Credit

Provides a credit against the employer's share 6.2% social security payroll taxes of any business that is forced to suspend or close its operations due to the COVID-19 emergency but that continues to pay its employees during the shutdown.

A business is eligible to receive this credit if: (1) the operation of the business was fully or partially closed during any quarter of the year 2020 because of an order of the applicable authority resulting from the COVID-19 emergency or (2) the business remained open but during any quarter of the year 2020, the gross receipts of the business were less than 50% of what they were for the same quarter in the year 2019.

For each eligible quarter, a business will be entitled to a credit against its 6.2% social security employer's share equal to 50% of the qualified wages, as defined by the CARES Act, paid to each employee during the eligible quarters until December 31, 2020.

## **LABOR AND EMPLOYMENT PROVISIONS**

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Limitation on Emergency FMLA Leave. Creates a limitation stating that an employer shall not be required to pay more than \$200 per day and \$10,000 in the aggregate for each employee that takes this leave.

Limitation on Emergency Paid Sick Leave. Creates a limitation stating an employer shall not be required to pay more than \$511 per day and \$5,110 in the aggregate for sick leave or more than \$200 per day and \$2,000 in the aggregate to care for a quarantined individual or child for each employee under this section.

Exempted Employers with Fewer than 50 Employees. Expands the authority for the Secretary of Labor to regulate to exempt small businesses with fewer than 50 employees from paid leave provisions in the section.

Payroll Loans. The Act provides employers with fewer than 500 employees loans that can be used to pay their employees' wages for eight (8) weeks. Any portion of the loan used to pay wages for up to 8 weeks will be forgiven. Refer to Financial Services Section for details.

Unemployment Benefits. Provides new unemployment benefits that will be paid by the federal government for up to \$600 weekly for up to 4 months, plus the amounts that are currently paid by the local governments and which start at \$200. The Act also provides that applications for unemployment compensation and assistance with the application process will be available in person, by phone, or online.

Rehired Employees. Allows an employee who was laid off by an employer March 1, 2020, or later to have access to Emergency FMLA Leave in certain instances if they are rehired by the employer. Employee would have had to work for the employer at least 30 days prior to being laid off.

#### **ASSISTANCE TO SEVERLY DISTRESSED SECTIONS OF THE US ECONOMY**

The Department of the Treasury is authorized to extend economic stabilization loans sufficiently collateralized to severely stressed businesses impacted by the coronavirus.

To aid financial markets, the Department of the Treasury regains the ability to guarantee money market mutual funds.

For any questions or inquiries regarding this topic do not hesitate to contact us at [info@oneillborges.com](mailto:info@oneillborges.com) or your prime contact attorney at O'Neill & Borges.

Please refer to our web site [www.oneillborges.com](http://www.oneillborges.com).

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