

CARES Act – An Overview

The CARES Act Division A (Emergency Discretionary Appropriations)

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- \$250 billion set aside for direct payments to individuals and families (with most American adults receiving \$1,200 and most children \$500)
- \$377 billion in small business loans
- \$260 billion in unemployment insurance benefits
- \$500 billion in loans for distressed companies.
- \$150 billion to assist states and localities
- \$150 billion for hospitals to invest in equipment and infrastructure

DIVISION A

Business Provisions

Government Loans for Struggling Industries & Related Transparency Measures (Title IV)

- Defines “Eligible Business” as a U.S. business that has not otherwise received adequate economic relief in the form of loans or loan guarantees provided under this Act.
- Provides \$500 billion to Treasury’s Exchange Stabilization Fund to provide loans, loan guarantees and other investments.
 - Direct lending is allocated as follows:
 - \$25 billion for passenger air carriers and related businesses,
 - \$4 billion for cargo air carriers, and
 - \$17 billion for businesses important to maintaining national security.
 - \$454 billion is available for Federal Reserve loans, loan guarantees, and investments to eligible businesses, states, and municipalities.
- Lending must meet several criteria, including:
 - Alternative financing is not reasonably available to business
 - Loan is sufficiently secured or made at an interest rate that reflects the risk of the loan, and if possible, not less than an interest rate based on market conditions for comparable obligations before the COVID-19 outbreak,
 - Loan shall not exceed five years.
 - No stock buybacks or dividends for the length of any loan provided by the Treasury for one year after the loan was paid,
 - Must retain 90% of workers till September 30, 2020,
 - Must certify that the company is U.S.-domiciled and its employees are predominantly located in the U.S., and
 - Loan cannot be forgiven.
- Includes restrictions on any increases to executive compensation.
 - Employees making over \$3 million in 2019 would be prohibited from earning more than \$3 million plus 50% of the amount their 2019 compensation that exceeded \$3 million.
 - Prohibits recipients from increasing the compensation of any officer whose total compensation exceeds \$425,000 until one year after the loan is paid.

- Protects collective bargaining agreements.
- Requires real-time public disclosure of Treasury transactions in the loan program, including terms of loans, investments or other assistance to corporations.
- Prohibits businesses controlled by the President, Vice President, Members of Congress, and heads of Executive Departments from getting loans or investments from the program.
- Creates a Treasury Department Special Inspector General for Pandemic Recovery to provide oversight of the program.
- Creates a Congressional Oversight Commission, with subpoena power, to enhance legislative oversight.
- In addition to the transparency measures in the Treasury loan program, the bill creates a Pandemic Response Accountability Committee through the Council of Inspectors General on Integrity and Efficiency to enhance government-wide protection and oversight.

Other Aviation Industry Provisions (Title IV)

- \$25 billion in grants for the passenger air carriers.
- \$4 billion in grants for the cargo aviation industry.
- \$3 billion in grants for aviation industry contractors.
- Companies are prohibited from stock buybacks and dividends for the entire life of the grant plus one year.
- Also Includes restrictions on any increases to executive compensation.
 - Pay above \$425,000 is frozen for two years.
 - Employees making over \$3 million in 2019 would be prohibited from earning more than \$3 million plus 50% of the amount their 2019 compensation that exceeded \$3 million.
- Collective bargaining agreements are protected.
- Health care benefits are expanded for airline contract workers.
- Repeals federal excise taxes collected in relation to commercial aviation.

Payroll Tax Credit (Title II, Subtitle C)

- Provides a refundable payroll tax credit for 50% of wages paid by employers to employees during the 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. Credit is based on qualified wages paid to the employee.
- Employers and self-employed individuals can 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.

Paid Leave (Title III, Subtitle C)

- Creates a limitation on paid leave stating an employer shall not be required to pay more than \$200 per day and \$10,000 in the aggregate for each employee.
- Creates a limitation stating an employer shall not be required to pay more than \$511 per day and \$5,100 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.

- Ensures that federal contractors who cannot perform work at their duty-station or telework because of the nature of the job due to COVID-19, continue to get paid.

Other Business Provisions (Title II, Subtitle C)

- Provides that net operating losses (NOL) arising in a tax year beginning in 2018, 2019, or 2020 can be carried back five years. Also temporarily removes the taxable income limitation to allow an NOL to fully offset income.
- Fixes cost recovery for investments in Qualified Improvement Properties, which will allow businesses that made these investments in 2018 and 2019 to receive tax refunds now.
- Modifies the loss limitation applicable to pass-through businesses and sole proprietors so they can utilize excess business losses and access cash flow.
- Accelerates the ability for companies to recover Alternative Minimum Tax credits, permitting companies to claim a refund now.
- Temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns by increasing the 30% limitation to 50% taxable income (with adjustments) for 2019 and 2020.
- Enables businesses (particularly retail establishments, restaurants, and hotels) to write off immediately costs associated with improving facilities instead of having to depreciate those improvements over the 39-year life of the building. This provision corrects an error in the Tax Cuts and Jobs Act.
- Prohibits foreclosures on all federally-backed mortgage loans for a 60-day period beginning on March 18, 2020. (Title IV)

Small Business Assistance (Title I)

- Includes \$350 billion in loan forgiveness grants to small businesses and non-profits to maintain existing workforce and pay for expenses like rent, mortgage, and utilities.
- Size of the loans would equal 250% of an employer's average monthly payroll. The maximum loan amount would be \$10 million.
- Loans would be available immediately through more than 800 existing SBA-certified lenders, including banks, credit union, and other financial institutions.
- 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.
- Also includes sole-proprietors, independent contractors, and other self-employed individuals as eligible for loans.
- Includes \$17 billion for Small Business Administration (SBA) to cover six months of payments for small businesses with existing SBA loans.
- Requires SBA to pay all principal, interest, and fees on all existing SBA loan products for six months.
- Includes \$265 million for grants to SBA resource partners, including Small Business Development Centers and Women's Business Centers, to offer counseling, training, and related assistance to small businesses.
- Expands eligibility for entities suffering economic harm due to COVID-19 to access SBA's Economic Injury Disaster Loans.

Unemployment

Unemployment Insurance (Title II, Subtitle A)

- Creates a temporary Pandemic Unemployment Assistance program through December 31, 2020 to provide payment to those not traditionally eligible for unemployment benefits (self-employed, independent contractors, those with limited work history, and others).
- Provides payment to states to reimburse nonprofits, government agencies, and Indian tribes for half of the costs they incur through December 31, 2020 to pay for unemployment benefits.
- Includes an additional \$600 per week payment to each recipient of unemployment insurance or Pandemic Unemployment Assistance for up to four months. (Laid off workers currently qualify for up to 26 weeks of unemployment insurance and benefit levels vary by state.)
- Provides an additional 13 weeks of federally-funded unemployment insurance benefits through December 31, 2020 to help those who remain unemployed after weeks of state unemployment benefits are no longer available.
- Provides funding to support “short-time compensation” programs, where employers reduce employee hours instead of laying off workers and the employees with reduced hours receive a pro-rated unemployment benefit. Also applies to states that choose to implement a “short-time compensation” program, but funding will be at a 50% rate.
- Provides states with temporary, limited flexibility to hire temporary staff, re-hire former staff, or take other steps to quickly process unemployment claims.
- Includes funding for Labor Department Inspector General oversight of the program.

Cash to Americans through Direct Payments and Retirement Provisions

Direct Payments to American Workers, (Title II, Subtitle B)

- Cash payments to working class are \$1,200 (\$2,400 married), with an additional \$500 cash payment available per child.
- Full payment is available for Americans making up to \$75,000 (individuals) and \$150,000 (married). This applies even for those who have no income, as well as those whose income comes entirely from non-taxable means-tested benefit programs, such as SSI benefits.
- The value decreases and then phases out completely for those making over the full payment income cap. Rebate amount is reduced by \$5 for each \$100 that a taxpayer’s income exceeds the phase-out threshold. Complete phase-out occurs with incomes exceeding \$99,000 for single filers and \$146,500 for head of household filers with one child, and \$198,000 for joint filers with no children.

Retirement Accounts (Title II, Subtitle B)

- Those that are subject to mandatory minimum distributions from their retirement accounts would be able to keep their capital invested instead of being required to cash out to draw on that capital without penalty, which would be suspended for 2020.

- Waives the 10% penalty on coronavirus-related early distributions from 401(k)s and IRAs, which applies to distributions made at any time during 2020.

Health Care

“Marshall Plan” for Health Care Systems (Title III, Subtitles A and D)

- Clarifies that the Strategic National Stockpile can stockpile medical supplies, such as testing swabs.
- Provides permanent liability protection for manufacturers of respirators.
- Requires FDA to prioritize and expedite the review of drug applications and inspections to prevent a drug shortage.
- Requires drug manufacturers to submit more information when there is an interruption in supply and to maintain contingency plans to ensure a backup supply of products.
- During a public health emergency, clarifies that medical device manufacturers are required to submit information about a device shortage upon request of FDA.
- Clarifies all testing for COVID-19 is to be covered by private insurance plans (without cost-sharing).
- Provides free coverage of a COVID-19 vaccine (without cost-sharing) within 15 days.
- Provides \$1.32 billion in supplemental funding to community health centers for testing and treating of COVID-19.
- Reauthorizes grant programs that promote the use of telehealth technologies. Includes significant language to expand telehealth access, such as insurance coverage, rural telehealth access, Medicare reimbursement for services, and others.
- Reauthorizes rural health care services programs.
- Allows nurse practitioners and physicians’ assistants to be able to prescribe home health services.
- Allows patients to use HSAs and FSAs to buy over-the-counter medicines tax-free without a prescription.
- Supports the healthcare workforce, including reauthorization of health professions workforce programs, education and training related to geriatrics, and nursing workforce development.
- Removes barriers to allow the Biomedical Advanced Research and Development Authority (BARDA) to partner with private sector on research and development and to allow BARDA to expedite diagnostics and vaccines.

Medicare and Medicaid Provisions (Title III)

- Allows for accelerated Medicare payments.
- Creates a 20 percent add on payment for inpatient treatment.
- Increases payments for the work component of physician fees in areas where labor cost is determined to be lower than the national average through December 1, 2020.
- Extends funding for quality measure endorsement input, and selection increased to \$20 million for each of the years 2020 and 2021.
- Extend funding for beneficiary outreach and counseling related to low-income programs through November 30, 2020.

- Increases Medicare Access to Post-Acute Care.
- Delays scheduled reductions in Medicaid disproportionate share hospital payments through November 30, 2020.
- Extends the Medicaid Community Mental Health Services demonstration that provides coordinated care to patients with mental health and substance use disorders, through November 30, 2020.

Education

Education (Title III, Subtitle B)

- Provides emergency support to local school systems and higher education institutions to support ongoing functionality during the crisis.
- Authorizes the Education Department to defer payments on current HBCU Capital Financing loans during the national emergency period.

Student Loans (Title II, Subtitle B; Title III, Subtitle B)

- Requires the Secretary to defer student loan payments, principal, and interest for six months, without penalty to the borrower for all federally owned loans.
- Provides federal loan protections and Pell grant protections for students who dropped out of school as a result of COVID-19.
- Includes tax relief to encourage employers to implement student loan repayment programs. This excludes up to \$5,250 in qualifying student loan repayments paid by the employer on behalf of the employee from income for income tax purposes.

Other

State and Local Expenditures Fund (Title V)

- Creates a \$150 billion fund, with a small-state minimum of \$1.5 billion.
- Assists States, Tribes, and local governments that must pay for new expenses related to COVID-19 response.
- Tribes are allotted \$8 billion.

Postal Service (Title VI)

- Provides \$10 billion of borrowing authority for the USPS to respond to effects of coronavirus while preserving the authority of the Treasury to set the terms of the loan.