

Summary of COVID-19 Related Loan Options

(updated as of April 8, 2020)



Summary Chart of EIDL, PPL and DEED Loans

	Economic Injury Disaster Loan (EIDL)	Paycheck Protection Program Loan (PPPL)	DEED (Minnesota)
Loan Amount	<p>Maximum loan size of \$2,000,000</p> <p>Applicants can request an advance emergency grant of up to \$10,000 from the SBA.</p>	<p>Maximum loan size of \$10,000,000</p> <p>The loan is an amount equal to the sum of:</p> <p>(i) 2.5 times the average monthly payroll costs in the 12 months prior to the loan origination date or the 2019 calendar year* plus</p> <p>(ii) the amount of an SBA economic injury disaster loan made during the period beginning January 31, 2020, and ending on the date which the covered loan may be refinanced under the PPP.</p> <p>Payroll costs do not include payments made to independent contractors or sole proprietors.</p> <p>* Seasonal businesses use the 12 weeks prior to the covered period, or the amount between March 1, 2019, and June 30, 2019, or, if they were not in business from Feb 15, 2019 through June 30, 2019, the average monthly payments from Jan 1, 2020, to Feb 29, 2020.</p>	<p>Between \$2,500 and \$35,000. Amount will be based on the applicant's economic interest and financial need.</p>

Rate	3.75% for businesses, 2.75% for nonprofits	1% for all borrowers. ¹	Interest free.
Term	Up to 30 years	Up to two years. ² There are no prepayment penalties or fees.	Paid back monthly over five years. The emergency loan must be repaid if financing is received subsequent to loan approval.
Deferment	Loan payments are deferred for one year.	Loan payments will be deferred for six months but interest will accrue during this period.	First payment is deferred six months.
Use	<p><u>Permitted Use of Loan Proceeds</u></p> <ul style="list-style-type: none"> • Payroll costs, including benefits • Fixed debts (e.g., mortgage, rent, lease) • Accounts payable • Other bills that could have been paid had the disaster not occurred. <p><u>Limitations</u></p> <p>The loan is not intended to replace lost sales or profits, or for expansion. The loan proceeds cannot be used to pay down long-term debt.</p>	<p><u>Permitted Use of Loan Proceeds</u></p> <ul style="list-style-type: none"> • Payroll costs, including benefits; • Costs related to the continuation of group health care benefits during periods of paid sick, medical or family leave, and insurance premiums; • Interest on mortgage obligations incurred before February 15, 2020, on any mortgage in effect prior to February 15, 2020 (excludes mortgage prepayments and principal payments); • Rent under lease agreements in effect before February 15, 2020; • Utilities, for which service began before February 15, 2020; • Interest on other debt obligations incurred before February 15, 2020; and • Refinancing an SBA EIDL loan made between January 1, 2020, and April 3, 2020.** 	<p><u>Impermissible Use of Loan Proceeds</u></p> <ul style="list-style-type: none"> • Provide a loan to a related business. • Refinance debt that existed at the time of the COVID-19 peacetime emergency declaration.

¹ The CARES Act provides for an interest rate not to exceed four percent, while the Treasury Department's April 2, 2020, Interim Final Rule provides for a one percent fixed rate. The Treasury Department indicated that the Interim Final Rule will control in the event of a conflict with the CARES Act.

² The CARES Act provides for 10-year maturity, while the Treasury Department's April 2, 2020, Interim Final Rule notes that loans are due in two years. The Treasury Department indicated that the Interim Final Rule will control in the event of a conflict with the CARES Act.

	<p><u>Permitted Use of Emergency Grant</u></p> <ul style="list-style-type: none"> • Providing paid sick leave to employees unable to work due to the direct effect of COVID-19; • Maintaining payroll to retain employees during business disruptions or substantial slowdowns; • Maintaining payroll to retain employees during business disruptions or substantial slowdowns; • Meeting increased costs to obtain materials unavailable from the applicant's original source due to interruptions 	<p>** 75% of the loan proceeds must be used for "payroll costs." The percentage used for payroll costs would include any refinanced EIDL amounts.</p> <p><u>Payroll Costs Cap</u></p> <p>Payroll costs are capped at \$100,000 on an annualized basis for each employee. This cap applies to cash compensation only and not to non-cash benefits which include (i) employer contributions to defined-contribution retirement plans, (ii) payments for group health care coverage and (iii) payment of state and local taxes assessed on compensation of employees.</p> <p><u>Included in Payroll Costs</u></p> <ul style="list-style-type: none"> • Salaries, wages, commissions or tips; • Employee benefits including (i) costs for vacation, parental, family, medical, or sick leave, (ii) allowance for separation or dismissal, (iii) payments required for the provisions of group health care benefits including insurance premiums and (iv) payment of any retirement benefit; • State and local taxes assessed on compensation; and/or • For a sole proprietor or independent contractor: wages, commissions, income or net earnings from self employment (capped, see above). <p><u>EIDL Refinancing</u></p> <ul style="list-style-type: none"> • Borrowers who received an SBA EIDL loan from Jan. 31, 2020, through April 3, 2020 may still apply for a PPP loan. • Borrowers who used the proceeds of that EIDL loan to cover payroll costs can still apply 	
--	---	---	--

		<p>for a PPP loan, but must refinance the EIDL loan with PPP loan proceeds.</p> <ul style="list-style-type: none"> • Proceeds from any advance up to \$10,000 on the EIDL loan will be deducted from the loan forgiveness amount on the PPP loan. <p><u>Misuse of Loan Proceeds</u></p> <ul style="list-style-type: none"> • Borrowers who use PPP funds for unauthorized purposes will be directed to repay those amounts. • Borrowers who knowingly use the funds for unauthorized purposes will be subject to additional liability, such as fraud charges. • If a shareholder, member, or partner of a borrower uses PPP funds for unauthorized purposes, the SBA will have recourse against such individual for unauthorized use. 	
Is the Loan Forgivable?	<p>Loans amounts</p> <p><u>Emergency Grant</u> If received, there is no obligation to repay the \$10,000 emergency grant if the funds are used for permitted purposes (see above). If the borrower is able to secure a PPP loan, the \$10,000 grant will be subtracted from the forgiveness amount.</p>	<p>The loan is completely forgivable, up to the amount of the loan proceeds are used for the following expenses (as each are defined above) that are paid or incurred within the eight weeks after the lender makes the first disbursement of the loan to the borrower (such disbursement must occur within 10 calendar days from the date of loan approval):</p> <ul style="list-style-type: none"> • Payroll costs; • Interest on mortgage obligations; • Rent; and • Utilities <p><u>Reduction in Loan Forgiveness</u> The amount of any loan forgiveness will be reduced in the event of:</p> <ul style="list-style-type: none"> • Reduction in the number of full-time equivalent 	<p>Up to 50% of a loan may be forgiven if the DEED Commissioner approves and the business remains operating in the community at substantially the same levels for two years following loan disbursement.</p>

		<p>employees during the covered period through June 30, 2020; or</p> <ul style="list-style-type: none"> • Reductions in employee wages (in excess of 25% for any employee that made less than \$100,000 annualized in 2019). <p><u>Re-Hiring</u> Borrowers have until June 30, 2020, to restore their full-time employment and salary levels for any changes made between February 15, 2020, and April 26, 2020.</p> <p><u>Payroll Costs Cap</u> Payroll costs are capped at \$100,000 on an annualized basis for each employee. At least 75% of the forgiven amount must have been used for payroll.</p> <p><u>Documentation</u> To request loan forgiveness, the borrower must submit a request to the lender that is servicing the loan, which will include, among other things, details and documentation of the uses of the loan.</p>	
Eligibility	<p>Any of the following may apply for a EIDL loan:</p> <ul style="list-style-type: none"> • An entity with 500 or fewer employees; • Cooperatives, ESOPS and tribal small businesses with fewer than 500 employees; • Sole proprietors • Independent contractors • Most private nonprofits 	<p>Any of the following may apply for a PPP loan:</p> <ul style="list-style-type: none"> • Any business with 500 or fewer employees*** whose principal place of residence is in the United States; • Any business that meets the applicable size standard for the employees for the industry provided by the SBA; • A sole proprietor, independent contractor or self-employed individual (application process opens April 10, 2020); • A small business concern that meets the SBA small business industry-specific standards for number of 	<p>Any of the following existing small businesses (whatever the form of their organization) may apply for a loan from DEED:</p> <ul style="list-style-type: none"> • Restaurants, food courts, cafes, coffeehouses and other places of public accommodation offering food or beverage for on-premises consumption, excluding institutional or in-house food

	<p><u>Incorporation/Formation of Entities</u> Any entity applying for a loan must have been in business since January 31, 2020.</p> <p><u>Affiliation Rules</u> Affiliation rules under the Small Business Act may require a small business to aggregate its employees and the employees of all other companies the business controls or has the power to control.</p>	<p>employees; or</p> <ul style="list-style-type: none"> • A business that meets the SBA alternative size standard for small business concerns, which is met if (1) maximum tangible net worth of the business is not more than \$15 million; and (2) the average net income after Federal income taxes (excluding any carry-over losses) of the business for the two full fiscal years before the date of the application is not more than \$5 million. <p>*** Employees includes individuals employed on a full-time, part-time or other basis. Independent contractors do not count as employees for purposes of loan calculations. Similarly, household employees, such as nannies or housekeepers, cannot be counted as employees.</p> <p><u>Affiliation Rules</u> Other than an accommodation and food service sector (NAICS codes beginning with 72), franchises that have been assigned SBA franchisor identifier codes and businesses that receive financial assistance from a Small Business Investment Company, the affiliation rules for SBA loan still apply.³ There are other loan programs available for businesses with 500-10,000 employees, but those programs are yet to be detailed by Treasury.</p> <p><u>Incorporation/Formation of Entities</u> Any entity applying for a loan must have been in business since February 15, 2020, and paid taxes on its employees or independent contractors.</p>	<p>cafeterias that serve residents, employees, and clients of businesses, child care facilities, hospitals and long-term care facilities;</p> <ul style="list-style-type: none"> • Bars, taverns, brew pubs, breweries, microbreweries, distilleries, wineries, tasting rooms, clubs and other places of public accommodation offering alcoholic beverages for on-premises consumption; • Hookah bars, cigar bars and vaping lounges offering their products for on-premises consumption; • Theaters, cinemas, indoor and outdoor performance venues and museums; • Gymnasiums, fitness centers, recreation centers, indoor sports facilities, indoor exercise facilities, exercise studios, and spas tanning establishments, body art establishments, tattoo parlors, piercing parlors, businesses offering massage therapy or similar body work, spas, salons, nail salons, cosmetology salons, esthetician salons, advanced
--	---	---	--

³ There remains considerable ambiguity surrounding how the SBA will interpret these rules for purposes of this program

		<p><u>Ineligible Businesses</u></p> <ul style="list-style-type: none"> • If the borrower is engaged in any activity that is illegal under federal, state or local law; • A household employer (individuals who employ household employees such as nannies or housekeepers); • If an owner of 20 percent or more of the equity of the borrower is incarcerated, on probation, on parole; presently subject to an indictment, criminal information, arraignment or other means by which formal criminal charges are brought in any jurisdiction; or has been convicted of a felony within the last five years; or • If the borrower, or any business owned or controlled by the borrower or the borrower’s owners, has ever obtained a direct or guaranteed loan from SBA or any other Federal agency that is currently delinquent or has defaulted within the last seven years and caused a loss to the government. • Other ineligible businesses include, with a few exceptions, businesses engaged in lending, passive businesses, life insurance companies, businesses located in a foreign country or owned by undocumented aliens, businesses selling through a pyramid plan, businesses engaged in legal gambling activities, businesses that restrict patronage, government owned businesses, businesses that promote religion, businesses owned by an SBA lender or affiliate, business providing prurient sexual material, businesses primarily engaged in political or lobbying activities, and speculative businesses. 	<p>practice esthetician salons, eyelash salons and barber shops. This includes, but is not limited to, all salons and shops licensed by the Minnesota Board of Cosmetologist Examiners and the Minnesota Board of Barber Examiners;</p> <ul style="list-style-type: none"> • Amusement parks, arcades, bingo halls, bowling alleys, indoor climbing facilities, skating rinks, trampoline parks and other similar recreational or entertainment facilities; and • Country clubs, golf clubs, boating or yacht clubs, sports or athletic clubs and dining clubs. <p><u>Ineligible Businesses</u></p> <p>Loans cannot be provided to businesses that:</p> <ul style="list-style-type: none"> • Derive income from passive investments without operational ties to operating businesses; • Primarily generate income from gambling activities; • Generates any part of its income from adult-oriented activities; or • Have no current or historical
--	--	---	---

			financial statements
Restrictions on Business	<p>Up to \$200,000 can be approved without a personal guarantee.</p> <p>No collateral is required for loans of \$25,000 or less. For loans of more than \$25,000, a general security interest in the business assets will be used for collateral (instead of real estate).</p> <p>Borrowers must allow the SBA to review its tax records.</p>	<p>Employee and compensation levels must generally be maintained (see the Forgiveness section for limited exceptions).</p> <p>There is no personal guarantee requirement.</p> <p>No collateral is required to be pledged for the loan.</p>	<p>Upon placing the loan, 10% of the loan must be paid to the lender for the purpose of financing administrative costs.</p> <p>The borrower must be willing to provide collateral or personal guarantee for at least 20% of loan.⁴</p> <p>The business must:</p> <ul style="list-style-type: none"> • Be current on financial obligations as of March 1, 2020; • Have been operating in Minnesota long enough to demonstrate financial viability; and • Be unable to qualify for a standard loan through a bank, credit union or nonprofit lending organization.

Fredrikson & Byron, P.A. is providing this information as a service to clients and related parties for educational purposes only. This document should not be relied upon as legal advice or to create a client-attorney relationship. Readers of this document should not act upon this information without seeking advice from professional advisors. Additionally, this information is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding any U.S. federal, state or local tax penalties that may be imposed on such person.

⁴ It is unclear whether the State of Minnesota will require the loans be collateralized or guaranteed.