

Publications

Senate Passes Phase III of the Federal Coronavirus Relief Legislation

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Following days of often tense negotiations, the United States Senate has passed the third phase of federal coronavirus relief legislation, the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), which will provide \$2 trillion in economic aid to individuals and businesses impacted by the coronavirus public health emergency. Speaker Pelosi has announced that the House will vote to approve the Senate's bill on Friday, with President Trump signing it into law soon thereafter.

The first two phases of relief legislation—the March 6th Coronavirus Preparedness and Response Supplemental Appropriations Act and the March 18th Families First Coronavirus Response Act—provided immediate funds for public health measures and expanded FMLA and paid sick leave for impacted workers, respectively (find more information on those bills in [this alert](#)). Phase III, the largest economic relief package in American history, will provide direct relief to individuals, small businesses, the health care system, state and local governments, and essential industries severely impacted by the current economic downturn.

As might be expected, this \$2 trillion, 620-page bill is incredibly detailed and touches nearly every aspect of the American economy. This update broadly summarizes the primary sections of the CARES Act, but readers should contact their Vorys attorney or watch for future updates to learn more details on specific sections of the bill.

Title I - Keeping American Workers Employed and Paid Act

Title I of the CARES Act creates a \$349 billion Paycheck Protection Program (PPP), through which the Small Business Administration (SBA) will make or guarantee loans of up to \$10 million to eligible entities. Eligible entities include businesses, nonprofit organizations, veterans organizations, or Tribal concerns that employ either less than 500 employees or less than the employee size standard set by the SBA for the borrower's particular industry. The bill specifically provides that eligible borrowers include sole-proprietors, independent contractors,

and other self-employed individuals. The PPP streamlines the typical loan process by permitting additional lenders to participate, simplifying eligibility standards, expediting approvals, and eliminating collateral and credit requirements.

Borrowers may use the PPP loan to cover items such as payroll support, insurance premiums, mortgage premiums, and other specified debt obligations. Loan amounts spent on payroll costs, mortgage interest, rent, or utilities during the 8-week period following the origination date of the loan may be forgiven, but the forgiveness amount is reduced if the borrower has certain reductions in employees or salaries as compared to the previous year. The PPP also sets guidelines for the repayment terms of funds not used for purposes that would result in forgiveness of the loan. This program would be retroactive to February 15, 2020 to help bring workers who may have already been laid off back onto payrolls.

Other significant provisions in Title I include language encouraging lenders to defer payments on existing SBA loans for six months, and providing \$17 billion to subsidize six months worth of principal, interest, and fees on existing loans. Title I also provides \$10 billion for Emergency EIDL grants and expands eligibility for such grants during 2020, and provides funds to Small Business Development Centers and the Minority Business Development Agency to provide counseling, training, and education on SBA resources available during the coronavirus emergency.

Title II - Assistance for American Works, Families, and Businesses

Title II of the CARES Act creates a temporary Pandemic Unemployment Assistance (PUA) Program that runs through December 31, 2020 to provide payments to those not normally eligible for unemployment assistance (self-employed, independent contractors, etc.) who are unable work because of COVID-19. It also significantly expands unemployment benefits by, among other things, providing an additional \$600 per week in unemployment benefits for up to four months, paying for the first week of unemployment benefits for states that waive the typical one week waiting period, and providing additional benefits payments after state unemployment benefits expire.

Title II also provides for a \$1,200 tax rebate to be paid per adult individual and \$500 per child, subject to adjusted gross income limitations as calculated on 2019 tax returns if already filed, and 2018 tax returns if not. It also waives early withdrawal penalties for certain distributions from qualified retirement accounts, waives minimum distribution rules for defined plans and IRAs for 2020, makes modifications regarding charitable giving deductions, and permits employers to pay portions of an employee's student loans tax-free.

Title II also provides a series of tax and financial relief provisions for businesses. These provisions include an employee retention credit of 50% on up to \$10,000 of wages paid by employers experiencing a closure (whose employees are furloughed) or significant decline in gross receipts due to COVID-19, deferments of Social Security tax payments, expanded ability to use NOLS, and additional deductions and write-offs that businesses may claim on their 2020 tax returns.

Title III - Supporting America's Health Care System in the Fight Against the Coronavirus

Title III of the CARES Act focuses on supporting and providing relief for the health care system, students and workers impacted by COVID-19, and expanding telehealth services.

Subtitle A contains the health provisions and 1) addresses supply shortages by permitting the Strategic National Stockpile to stockpile medical supplies and providing liability protection to manufacturers of PPE and ventilators to incentivize production; 2) provides access to health care for COVID-19 patients by providing no-cost diagnostic testing and access to any vaccine developed; 3) provides support for vaccine research and development; and 4) reauthorizes health care workforce training programs.

Subtitle B provides relief for college students and student loan borrowers impacted by COVID-19. For example, it defers all student loan payments, principal and interest, for six months for all federally owned loans and permits the Secretary of Education to modify all use of funds restrictions on institutional grant programs so recipients can repurpose funds for COVID-19 relief efforts.

Subtitle C limits the FMLA's paid leave amounts and emergency paid sick leave for employees impacted by COVID-19. Subtitle D (i) expands access to telehealth services by expanding the list of providers who can provide telehealth services, relaxing place-of-service limitations, and increasing reimbursement rates; and also (ii) increases Medicare coverage reimbursement for COVID-19 related treatment. Subtitle E addresses other aspects of the Medicare and Medicaid programs, generally extending time-limited funding increases and delaying certain planned reimbursement cuts. Other provisions in Title III expands funding for community health centers and the National Health Services Corps.

Title IV - Economic Stabilization and Assistance to Severely Distressed Sectors of the United States Economy

Title IV of the CARES Act is intended to provide financial stabilization and assistance to the economy.

Subtitle A, the Coronavirus Economic Stabilization Act of 2020 (CESA), provides \$500 billion to the Treasury Department's Exchange Stabilization Fund for loans and other funding for businesses impacted by COVID-19. Of that \$500 billion, \$46 billion is allocated for direct lending to passenger and cargo air carriers and businesses important for maintaining national security with the remaining \$454 billion reserved for loans, loan guarantees, and other investments to eligible businesses, states, and municipalities.

Recipients of any direct lending under the CESA are subject to various requirements and restrictions, including prohibitions on stock buybacks and paying dividends for a certain period of time and requirements to maintain current staffing levels to the extent practicable. A Special Inspector General for Pandemic Recovery may conduct audits and investigations into these loans and a Congressional Oversight Commission will be created to oversee the implementation of CESA's provisions.

CESA also provides protections for individuals by prohibiting certain evictions and foreclosures for a period of time after CESA's enactment when federally-backed mortgages are involved, and provides a 180 day payment forbearance period for borrowers with a federally-backed mortgage. Moreover, entities that agree to an account forbearance or agree to modified payments as a result of COVID-19 impacts must report those account as "current" to any credit reporting agency.

Title V – Coronavirus Relief Funds

Finally, Title V provides \$150 billion to states, territories, and tribal governments “to use for expenditures incurred due to the public health emergency with respect to COVID-19 in the face of revenue declines[.]”

Division B – Emergency Appropriations

Division B of the bill includes \$339,855 billion in emergency appropriations. This includes \$117 billion for hospitals and veteran care, \$5 billion for FEMA disaster relief fund, \$16 billion for the strategic national stockpile, \$4.3 billion for the Centers for Disease Control, and \$1 billion for vaccines, therapeutics, diagnostics, & other medical needs.

Contact Us

Vorys is actively monitoring these developments and has put a team in place to assist you in navigating the myriad issues related to these stimulus measures. To see the team, [click here](#).

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Vorys COVID-19 Task Force

Vorys attorneys and professionals are counseling our clients in the myriad issues related to the coronavirus (COVID-19) outbreak. We have also established a comprehensive COVID-19 Task Force, which includes attorneys with deep experience in the niche disciplines that we have been and expect to continue receiving questions regarding coronavirus. Learn more and see the latest updates from the task force at vorys.com/coronavirus.