



AGENT ALERT

What you should know about applying for a Small Business Administration (SBA) Economic Injury Disaster Loan or Paycheck Protection Program Loan

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The application period recently opened for the Paycheck Protection Program offered through the Small Business Administration. Demand for this product has been heavy as businesses around the country brace for COVID-19's economic fallout. This Agent Alert provides information on the PPP, as well as the SBA's Economic Injury Disaster Loan program. We encourage you to review this information and share it with those who may benefit from these types of assistance.

1. Where do I apply

You can apply at your local bank that offers SBA loans or you can apply online or check the status of your application, visit <https://disasterloan.sba.gov/ela>. The SBA can also be contacted at 1-800-659-2955. To search some of the different options for disaster assistance, this link has helpful information on various programs. <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options>.

Many banks that are not SBA-approved lenders are offering similar loan programs. If you are interested in applying for a loan, you may wish to contact your bank soon to learn about their offerings.

2. Eligibility requirements and loan terms are drastically changing

To avoid confusion, this alert will briefly touch on the two primary loan programs that apply to title companies: the Paycheck Protection Program (PPP) loan and the Economic Injury Disaster Loan (EIDL). The EIDL program has been limited to small businesses or private, non-profit organizations with an acceptable credit score that cannot receive sufficient funding from traditional sources. For example, if your business has an open line of credit, any potential disaster loan amount would be reduced by the amount available under that line of credit. EIDL loans are traditionally capped at \$2 million with interest rates not to exceed 4% and loan terms up to 30 years. EIDL loans do require collateral in most instances, with one possible exception for smaller loan amounts, typically under \$25,000.

The PPP is a new program that is limited to the COVID-19 disaster declaration through the recently passed CARES Act. It has specific requirements that could make some or all of the loan forgivable. The CARES Act has temporarily changed nearly every facet of the eligibility requirements, and even more changes may come in the near future.

Some of the proposed changes include: (1) raising the loan amount cap from \$2 million to \$10 million; (2) waiving some of the collateral requirements as well as other requirements regarding fees and personal guarantees traditionally mandated; (3) deferral of loan payments for up to six months; and (4) partial loan forgiveness under certain circumstances. These are just a fraction of the potential changes the EIDL and PPP programs may see in the near future.

3. Expect processing delays and confusion with the new PPP program

When a disaster declaration is made, EIDL loans are traditionally only available to eligible small business located in the specific counties and parishes included in the disaster declaration. However, the COVID-19 outbreak has impacted the entire nation. This means that *all* U.S. states and territories are included in the declaration, and all small businesses or private, non-profit organizations in the U.S. states and territories that suffer economic injury are eligible to apply for an EIDL or PPP Loans. As a result, the SBA has been inundated with record numbers of loan applications. Typically, the SBA tries to make a determination on each loan application within two or three weeks; under the current circumstances, the actual determination period is unknown. Keep these time frames in mind when determining at which point in time to submit your application.

The earlier you submit your application, the earlier your application will be processed in the deluge of applications. Note that even if you receive approval for an EIDL or PPP, you do not have to accept a distribution until you are ready to commit to the loan, if ever.

4. Expect delays in distribution (this is not like traditional financing)

One of the biggest misconceptions of SBA disaster loans is that it is just like working with a traditional lender. Many are surprised to learn that loans in this program are not always designed to be distributed in one lump sum, although that can be requested if the borrowing business chooses to wait that long. The program's philosophy is to get some money to local businesses as quickly as possible to keep them afloat *while* the loan conditions are being met. As those conditions are satisfied, more partial disbursements are made until the loan is fully funded.

However, with the exceptionally high number of potential loans generated from damages by COVID-19, borrowers should expect increased time between disbursements as it will take the agency longer to process submitted documents. The best way to minimize time between disbursements is to (1) submit your application early; (2) execute and submit documents as quickly as possible; and (3) consistently ask the agency how you can help speed the process.

Here are some suggestions you can make that may help expedite the process: Will the SBA and your jurisdiction allow for electronic signatures?



What documents can be faxed or scanned in versus being sent by mail? If a fax or scan is permitted, what identifying information needs to be included to ensure it reaches the appropriate person or department?

5. Do not be surprised if the SBA contacts you regarding your loan at strange hours

With the massive increase in these types of loans all across the country, many of the agency's employees will be working long, strenuous hours attempting to keep up with the needs of potentially struggling businesses. Employees may work well into the night and also on weekends. Be honest in communicating the best and worst times to reach you. If you are willing and able to work with the agency even during odd hours, your application review and disbursement schedule will likely progress faster. Fair warning though: if you tell an agency employee that you are willing to take phone calls as late as nine o'clock at night, be prepared to receive phone calls at nine o'clock at night. The person working on your loan could very well be in the office that late and beyond.

6. FAQ's on PPP and EIDL Loans

<https://www.fghwlaw.com/covid-19-sba-loan/>

This link will take you to a Frequently Asked Questions page from the law firm of Farrow-Gillespie Heath Witter LLP. Attorney Ellen Williamson authored the Q&A. She spent several years early in her career with the Small Business Administration Office of Disaster Assistance as liaison with federal law enforcement in the investigation and prosecution of disaster loan fraud. She earned a J.D. from SMU Dedman School of Law.