(CARES Act)





On March 27, 2020, President Donald Trump signed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) providing approximately \$2 trillion in emergency relief and economic stimulus intended to combat the effects of the coronavirus pandemic. The bill's provisions include cash payments to individuals, expanded unemployment benefits, assistance and relief to business, states, local governments, airports and transit, among other support.

We understand that many economic development professionals are working to address the concerns of their businesses and communities as they also plan for recovery and may not have the time to delve into the details of the nearly 900 pages of text. We are pleased to provide you this thorough summary of local economic development and related provisions with references and links to the actual bill sections so that you may more quickly see how the Act can assist you during these challenging times.

Appreciation is extended to CALED's Strategic Legislative Advisor Dan Carrigg for his work reviewing the bill and providing the summary. Dan is a private consultant with extensive experience in legislative analysis, policy development, and California's economic development laws based on a 30-year career working on legislation which include prior positions as a legislative committee consultant in the state Capitol, policy analyst and advocate for a state agency, and legislative director for the League of California Cities.

On behalf of the CALED staff and Board of Directors, we are committed to working with you to help California communities and their local economic development efforts to remain resilient and to recovery.

#### About CALED

CALED is the premier statewide professional economic development organization dedicated to advancing its members' ability to achieve excellence in delivering economic development services to their communities and business clients.

Economic development is the creation of wealth from which community benefits are realized. It is more than a jobs program, it's an investment in growing your economy and enhancing the prosperity and quality of life for all residents.

The California Association for Local Economic Development is a private, not-forprofit membership organization. Permission to share our work product, "Economic Development Provisions of CARES Act" is granted provided credit is given to CALED.

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## How to use this overview

In our review of the CARES Act, we used House Bill 748 as the source document. As such, you will see that we have referenced page numbers so you can find the language delineating the provision in order to get more information.

HR 748 can be viewed and downloaded at https://www.appropriations.senate.gov/imo/media/doc/FINAL%20FINAL%20CARES%20ACT.pdf

The CARES Act explains how to allocate funds with key guidelines, but does not necessarily go into detail regarding how the funding will actually be distributed. Many agencies are working on rule-making or other processes to effectively deploy their programs. Where available, we have linked to those programs and instructions.

As more information is developed, we will update this overview to include that detail. If you have questions, feel free to contact the CALED Team.

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## Introduction

## HR 748 of 2020 Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

Major Provisions Applicable to Business, Community and Economic Development



## Individual Cash Grants, Mortgage Forbearance, Eviction Protection, Access to Retirement Funds

- Provides cash payments (in the form of a credit against tax in 2020) of up to \$1,200 for individuals, \$2,400 for married couples and \$500 per child. Income limits are \$75,000 for an individual, \$112,500 for head of household, and \$150,000 for a couple. Partial awards are available for those with incomes above these amounts (reduction is calculated by multiplying 5% by the additional income), which effectively caps all payments for those individuals exceeding \$99,000 and couples exceeding \$198,000. Payments will be allocated (via direct deposit or check) by the Internal Revenue Service based upon adjusted gross income listed in most recent tax return. Social security recipients will also receive checks. Additional conditions include:
  - Payments cannot exceed net tax liability, but with a minimum of \$600 for individuals and \$1,200 for couples.
  - Per-child amounts are fixed at \$500.
  - Nonresident aliens, charitable trusts, and persons claimed as dependents are not eligible. ► (HR 748 P. 144-157)
- Authorizes a borrower (1-4 residential units) with a federally-backed mortgage, as defined, experiencing a financial hardship, directly or indirectly related to the virus, to request and receive forbearance for up to 180 days from a mortgage servicer. This request may be extended at the request of the borrower for an additional 180 days. During the forbearance period no additional interest, fees or penalties shall accrue beyond what would be otherwise paid by the borrower. Imposes a 60-day moratorium on foreclosures by servicers of federally-backed mortgages beginning March 18, 2020, unless the property is vacant or abandoned.
   (HR 748 P. 567-570)
- Authorizes owners of multifamily property with a federally backed mortgage, who were current on payments as of February 1, 2020, experiencing a financial hardship, directly or indirectly related to the virus, to request and receive a 30-day forbearance from the mortgage servicer, which may be extended for two additional 30-day periods at the request of the borrower. Additional protection from evictions apply to properties receiving forbearance. ► (HR 748 P. 570-574)

- Establishes a 120-day moratorium for evictions of tenants from "covered dwellings," defined to include single-family and multi-family housing with federally-backed mortgage loans, commencing on the effective date of the Act. Additional conditions and limitations apply. ► (HR 748 P. 574-578)
- Provides flexibility related to access to retirement funds, between January 1, 2020 and December 31, 2020, for a coronavirus-related distribution, as defined, by allowing those under 59.5 years old to withdraw or borrow up to \$100K from retirement accounts without incurring a penalty. Taxes must still be paid on the amounts withdrawn which can be averaged over three years. Suspends the minimum distribution requirement applicable to those over 70.5 years old for the 2020 calendar year.



## **Unemployment Assistance**

- Provides robust unemployment assistance to individuals who are not otherwise eligible for unemployment benefits if they self-certify that they are otherwise able to work, but are unable to due to a variety of factors related to the impact of the virus on themselves, their families, and their potential employers. Individuals with minimal work history are also eligible. The federal government will provide to these individuals, via reimbursement to the states, for up to 39 weeks, an amount equal to the minimum weekly amount they could receive from their state (with a federal minimum of 50 percent of average weekly compensation as defined by CFR 20, Sec. 625.6), plus \$600 in additional federal pandemic compensation. ▶ (HR 748 P. 84-96)
- Authorizes states to enter into an agreement with the Secretary of Labor, which would provide an additional \$600 per week in unemployment benefits to individuals above the weekly amount they are otherwise entitled to under state law. This compensation would be provided between the date the state signs the agreement and July 31, 2020. States that waive or agree to waive the oneweek waiting period, will be entitled to reimbursement of the state's portion of unemployment benefits for that week. Reimbursements for states that have short-term compensation programs are also available. ▶ (HR 748 P. 98-140)

To learn more about unemployment assistance in California, check out California Employment Development Department:

https://edd.ca.gov/about\_edd/coronavirus-2019.



# Emergency Loans for Businesses, States and Municipalities

- Provides \$500 billion in loans, loan guarantees and other investments through the Secretary of the Treasury for emergency assistance to eligible businesses, states, and municipalities, as follows:
  - \$25 billion for airlines and related businesses.
  - \$4 billion air cargo carriers.
  - \$17 billion to businesses "critical to maintaining national security."
  - \$454 billion to be allocated to loans, loan guarantees and other investments, programs and facilities established by the Board of Governors of the Federal Reserve (The FED) system to support lending by eligible businesses, states, and municipalities by:
    - Purchasing obligations directly from issuers.
    - Purchasing obligations on the secondary market.
    - Making loans, including loans secured by collateral.
  - The FED is provided wide latitude in determining the terms and conditions associated with its activities and is required to make application information within 10 days of enactment.
     Loans are anticipated to be for five years or less.
    - The following conditions apply to loan recipients:
    - A prohibition from purchasing stock or paying dividends for one year following issuance of the loan.
    - A requirement to maintain all employees as of March 24, 2020, through September 30, 2020, and not reduce the amount more than 10 percent.
    - A requirement that the entity assisted be created or organized under the laws of the United States or have the majority of its employees located in the country.
    - Caps on increases to executive compensation for some loans.
    - Additional details governing loan conditions, as specified.
       (HR 748 P. 510-532)

- Provides a "tax holiday" on the application of federal excise tax on aviation fuels from the date of enactment until January 1, 2021. While the statute does not mention state and local taxes on aviation fuel, it presumably could be interpreted to apply to local taxes as well. > (HR 748 P. 532-533)
- Provides a financial backstop through December 31, 2020, to any losses from money market accounts for the Treasury's Money Market Guarantee Program, capped at the amount in shareholders accounts on the day before the announcement of the guarantee (unclear what day this is). > (HR 748 P. 543-544)
- Establishes an Office of Inspector General of Pandemic Recovery within the Department of Treasury, charged with providing rigorous oversight of recovery expenditures, programs and other efforts, and make quarterly reports to Congress. A Special Inspector General shall be appointed by the President with the advice and consent of the Senate. ► (HR 748 P. 547-555)
- Prohibits the President, heads of executive departments, members of Congress and their families, as defined, from participating or benefitting in programs financed by the Act if they have a controlling interest (own more than a 20% equity stake) in an entity. (HR 748 P. 555-558)
- Establishes a congressional oversight committee.
  - ► (HR 748 P. 558-564)



# Loans for Small Businesses, Non-Profits and Individuals

- Provides \$349 billion of additional financial assistance under the "Paycheck Protection Program" to small businesses and non-profits (including tribal entities and veteran's organizations) with fewer than 500 employees (includes full-time and part-time), and sole proprietors and independent contractors. Note: the language also refers to "size standards in number of employees" established by the Administration based upon the entity and industry in which it operates. It is unclear, whether this language caps the total employees in some instances, and/or allows the Administration to selectively exceed the threshold.
- Loans are available through the Small Business Administration and lenders (banks and credit unions) during the "covered period" between February 15, 2020 through June 30, 2020.
- Loans up to \$10 million are available. For a business or non-profit, the maximum amount of a loan is determined by:
  - The applicant's average total monthly payments for payroll, mortgages, rent, healthcare, retirement benefits, and other expenses, as defined, incurred during the one-year period before the loan is made and multiplying that amount by 2.5. Average payroll for a seasonal employer shall be based upon payroll either between February 1 or March 1 (as determined by the applicant) and June 30, 2019. Eligible salaries cannot exceed \$100,000 per year, prorated over the covered period.
  - Income for a sole proprietor, independent contractor or selfemployed individual can include salary, wage, commissions, tips, cash and other compensation. Eligible salary cannot exceed \$100,000 per year, prorated over the covered period.
  - Proceeds of the loan can be used for a wide variety of expenses including salaries, rent, mortgages, utilities, health care, debt service and other expenses.
  - Administration approved lenders are delegated to make these loans and are required to consider two factors: the borrower was in operation on February 15, 2020, and had employees for whom the borrower paid salaries and payroll taxes, or paid independent contractors via a 1099 form. During

- the covered period, any otherwise applicable fees are not collected.
- Recipients must sign a good faith certification committing to use funds for intended purposes. No collateral, personal guarantee or proof of effort to obtain credit elsewhere is required.
- Payments of interest and principal on the loans may be deferred for 6 to 12 months, and interest cannot exceed four percent. Loans have a term of 10 years from date of application for loan forgiveness. The Administration will reimburse lenders for loan issuance according to a schedule based upon loan amount. Additional federal guarantees are provided to support purchase of loans on secondary market.
- An employer may be eligible for forgiveness from the total loan amount for the amounts expended on payroll, mortgages, rent and utilities over an eight-week cover period from the origin date of a covered loan. The amount forgiven may be reduced based upon various factors including employee retention. ▶ (HR 748 Program Details P. 9-32, Loan Forgiveness P. 41-52, Designation of Lenders, Banks and Credit Unions P. 61-66, Administration Support of Covered Loans P. 73-77).

To learn more about the Paycheck Protection Program and other Treasury Programs, check out the US Department of the Treasury:

https://home.treasury.gov/cares



# Other Changes to Small Business Administration Programs

- Provides additional flexibility for applicants under SBA's
   Economic Injury Disaster Loan (EIDL) Program, during
   a covered period between January 31, 2020, and December
   31, 2020, which include waiving various rules and matching
   requirements, and authorizing a \$10,000 non-refundable advance
   to specified eligible applicants within three days.
  - ► (HR 748 P. 66-72)
- Appropriates an additional \$562 million to the SBA's Disaster Loans Program Account for the cost of direct loans and administrative expenses. (HR 748 P. 675-676)
- Authorizes \$265 million to the SBA to provide grants to "resource partners," defined as either a small business development center or women's business center, to assist and provide education, training and advising to "covered small business concerns" which are experiencing various impediments to their business due to the coronavirus. Grants can be used for a wide variety of purposes. Eighty percent of funds shall be awarded to small business development centers and twenty percent to women's business centers. Grants are also allowed for resource partner associations to establish centralized hubs of information. No matching funds are required. ▶ (HR 748 P. 32-40)
- Provides \$10 million to the SBA to provide grants to minority business centers and chambers of commerce for education, training and advising minority business enterprises.
   (HR 748 P. 55-61)
- Requires SBA to provide resources and services in the 10 most common spoken languages other than English. ►(HR 748 P. 73)
- Waives matching fund requirements for women's business centers. > (HR 748 P. 41)

To learn more on these types of loans, check out Small Business Administration:

https://www.sba.gov/funding-programs/disaster-assistance



## General Business Assistance

- Provides tax credits of 50 percent of qualified wages not to exceed \$10,000 to offset employment taxes for employers including nonprofits impacted by the virus, as described. This credit applies to wages paid between March 12, 2020 and January 1, 2021. Employers receiving a "covered loan" under the SBA's Paycheck Protection program authorized by this Act are not eligible. This credit does not apply to governmental agencies.
  - ► (HR 748 P. 178-188)
- Delays the applicable date for employers to submit payroll taxes owed between the date of enactment of this Act (March 26, 2020), and January 1, 2021. The term "employer" is not defined in this provision. Public agencies should also review this provision for potential applicability. The amounts deferred shall be repaid over two years (50 percent each year) due by December 31, 2021, and December 31, 2022. This option does not apply to an employer receiving debt forgiveness under a "covered loan" under the SBA's Paycheck Protection program. ▶ (HR 748 P. 189-193)

To learn more about what the State of California Franchise Tax Board is doing for business taxes:

https://www.ftb.ca.gov/about-ftb/newsroom/covid-19/extensions-to-file-pay.html

- Modifies numerous provisions applicable to net operating losses, carrybacks, business interest, partnerships and other matters, with special provisions for real estate investment trusts, insurance companies, and farms. Many changes are applicable as of December 31, 2017. These provisions should be thoroughly reviewed by businesses for tax reduction opportunities.
  - ► (HR 748 P. 193-212)

- Caps employer costs under the Emergency Paid Sick Leave Act (HR 6201, signed by the President on March 18, 2020) at no more than \$511 per day and \$5,110 in the aggregate for those employees directly affected by the virus, and at \$200 per day and \$2,000 in the aggregate for those who are taking leave to assist family members or are otherwise ill with similar symptoms but do not have the virus. Clarifies that the existing cap (\$200 per day, and \$10,000 in aggregate) for leave under the Emergency Family and Medical Leave Expansion Act applies to each individual. Modifies provisions affecting tax credits to employers that offset the costs of required paid family leave, including the potential to advance receipt of the credits. ▶ (HR 748 P. 349-355)
- Authorizes contributions to single employer defined benefit plans to be deferred with accrued interest until January 1, 2021.
  - ►(HR 748 P. 356-357)



## Banking-Related Provisions

- Authorizes the Federal Deposit Insurance Corporation working in coordination with the National Credit Union Administration Board to establish a debt guarantee program effective through December 31, 2020. (HR 748 P. 533-535)
- Adds non banked financial holding companies, as defined, to laws that allow a waiver of existing limits to total permitted outstanding debts to any person to exceed (either 10 or 15 percent) of total unimpaired capital or surplus when such loans are approved by the Comptroller of the Currency. This amendment applies from the date of enactment and expires on the sooner of the removal of the declaration of emergency, or December 31, 2020. ► (HR 748 P. 536-537)
- Establishes a temporary leverage ratio of eight percent for community banks, and provides that they shall have a reasonable grace period to meet such requirement. This amendment applies from the date of enactment and expires on the sooner of the removal of the declaration of emergency, or December 31, 2020.
   (HR 748 P. 537-539)
- Authorizes a financial institution to modify loans affected by the Coronavirus, that would otherwise be deemed troubled debt restructuring, including not applying generally accepted accounting principles, between March 1, 2020 and December 31, 2020, or 60 days after removal of the emergency declaration.
   (HR 748 P. 539-542)

- Provides banks and credit unions temporary relief from existing applicable accounting standards regarding credit losses between March 13, 2020, and December 31, 2020, or the date of the termination of the emergency declaration.
  - ► (HR 748 P. 542-543)
- Provides some additional liquidity flexibility for credit unions, including expanding the borrowing ratio from 12 to 16 times capital stock and surplus, during the period the date of enactment through December 31, 2020. (HR 748 P. 544-546)
- Provides that secondary market guarantees on trust certificates for the federal Export Import Bank shall not exceed \$100 billion during the period between enactment and September 30, 2021.
   (HR 748 P. 54)



# Funding to Address Various Community and Business Impacts

- Appropriates \$5 billion to the Department of Housing and Urban Development for community development, of which \$2 billion in Community Development Block Grants is to be allocated, within 30 days of enactment, to local agencies per the formula used for FY 2020 allocations. An additional \$1 billion is to be distributed to states and US Territories. States are required to allocate funds to local jurisdictions in consideration of various virus-related factors within 45 days of enactment. The Secretary of HUD is authorized to allocate the remaining \$2 billion directly to states and individual local government in consideration of various virus-related factors. ▶ (HR 748 P. 857-862)
- Appropriates \$4 billion in homeless funding to the Department of Housing and Urban Development. \$2 billion shall be distributed, within 30 days of enactment, to local agencies per existing formulas used for FY 2020. HUD is authorized to allocate the remaining \$2 billion, within 90 days of enactment, directly to states and local agencies based upon a formula developed with consideration of various virus-related factors.

   (HR 748 P. 852-867)
- Appropriates \$14.432 billion to the Veterans Administration for medical services, which are defined to include the support of veterans who are homeless or at risk of being homeless.
   (HR 748 P. 798-799)
- Appropriates \$1.5 billion to the Economic Development
   Administration, through September 30, 2022, for disaster
   economic recovery activities and economic adjustment assistance
   related to the virus. > (HR 748 P. 620-621)
- Appropriates \$345 million to the Department of Labor for training and employment services to replace grant funds that have been obligated to areas impacted by the virus. > (HR 748 P. 726)
- Appropriates \$1.250 billion for tenant-based rental assistance for public housing and Section 8 rental housing vouchers. An additional \$865 million is appropriated for public housing operations. Appropriates an additional \$1 billion to assist owners and operators with project-based rental assistance, including an

- additional \$50 million for housing for the elderly and \$15 million for housing for persons with disabilities.
- (HR 748 P. 845-851, and P.867-872)
- Appropriates \$65 million for Housing Opportunities for Persons with AIDS. ► (HR 748 P. 855-857)
- Provides \$9.5 billion to the Secretary of Agriculture to address issues a wide range of businesses (can include restaurants, farmers markets, schools, agriculture, etc.) involved in food production, delivery and supply. > (HR 748 P. 609)
- Appropriates \$75 million (each) to the National Endowment for the Arts and the National Endowment for the Humanities, of which 40 percent is required to be distributed as grants to states and regional organizations, and 60 percent allocated as direct grants. Authorizes matching funding requirements to be waived.
   (HR 748 P. 723-725)
- Provides \$20.5 million to assist rural businesses through the Rural Business Program Account and \$25 million for the Distance Learning, Telemedicine and Broadband Program. A provision on P.617, however, appears to cap administrative costs at three percent associated with carrying out a loan, loan guarantee, and grant activities associated with "funds made available to the Rural Development area of this title."
  - ► (HR 748 P. 612-613 and 617)
- Appropriates \$100 million, through September 30, 2021, for additional grants for rural broadband deployment through the Department of Agriculture. The Statute references "a pilot program established under Section 779 of Public Law 115-141."
   This cross-reference proved difficult to trace, making the specific program referenced at this point unclear. (HR 748 P. 619)
- Appropriates \$3.45 billion to the Centers for Disease Control, of which \$1.5 billion is to be allocated to states and local agencies for a wide variety of virus-related health activities, which includes mitigation, preparedness and response. (HR 748 P. 728-730)

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- Appropriates \$3.5 billion to the states to supplement block grant funding for childcare for low income families. Funds may be used to provide continued payments to providers impacted by the virus, including continuing paying salaries of staff.
  - ►(HR 748 P. 736-737)
- Appropriates \$50 million to assist manufacturers through the
  Hollings Manufacturing Extension Partnership, and \$10 million
  to the National Network for Manufacturing Innovation for virusrelated impacts and activities. A related section of the Act on P.
  631 relieves some cost-sharing requirements under the Hollings
  Manufacturing Extension Partnership.
  - ► (HR 748 P. 622-623 and P. 631)
- Appropriates \$300 million to the Department of Commerce that
  may be used to offset financial impacts on fishery participants,
  defined to include communities, tribes, aquaculture businesses
  and others that suffer more than a 35 percent financial loss
  compared to the average of the prior five years, or suffer impacts
  on subsistence, cultural and ceremonial activities.
  - ► (HR 748 P. 638-639)
- Provides additional flexibility with the use of funds allocated in 2019 under the Workforce Innovation and Opportunity Act (including administrative costs, statewide response and local boards) for rapid response responding to a qualifying emergency.
  - ► (HR 748 P. 341-343)



## Assistance to Local Governments

- Provides \$150 billion in economic relief to states, tribal governments and localities, as follows:
  - \$138 billion allocated among the 50 states to offset expenses related to the emergency, with a minimum amount of \$1.250 billion for each state. The remainder of the funds will be distributed pro rata based upon state population. City and county governments serving more than 500,000 people may request a direct allocation to be reduced from their state's portion. There does not appear to be any requirement for states to further distribute these funds to smaller units of local government. Oversight provisions are also included.
  - \$8 billion to tribes.
  - \$3 billion to be dispersed to US Territories and Washington D.C. (HR 748 P. 598-606)
- Appropriates \$10 billion in various grants in aid to airports.
   (HR 748 P. 832-836)
- Appropriates \$25 billion in transit infrastructure grants.
   (HR 748 P. 839-841)
- Appropriates \$850 million in local law enforcement grants through the Edward Byrne Memorial Justice Assistance Grants program. The grants will be allocated using the formula from FY 2019; the language also stipulates that these grants will not be subject to the special restrictions and conditions that were applied in 2018, which forbid interference with federal law enforcement.
   (HR 748 P. 627-628)
- Provides federal reimbursement to governmental entities for amounts paid in into the State unemployment fund, for a period between March 13, 2020, and December 31, 2020.
   (HR 748 P. 96-98)
- Authorizes payroll tax deferrals for employers. Public agencies should review this option for potential applicability.
   (HR 748 P. 189-193)

- Authorizes \$400 million in election security grants for the 2020 federal election cycle. ► (HR 748 P. 668-669)
- Appropriates \$100 million in Firefighter Assistance Grants for protective supplies and equipment, \$200 million for Emergency Management Performance Grants, and \$200 million for the Emergency Food and Shelter Program. > (HR 748 P. 703)



## Miscellaneous

- Appropriates \$45 billion into a disaster relief fund at FEMA, subject to future expenditures. (HR 748 P. 702-703)
- Appropriates \$27 billion to a public health and emergency services fund for a wide array of health and medical response and preparation activities. (HR 748 P. 743-752)
- Extends existing grants made available in FY 2018 and 2019 under the State Trade Expansion Program through FY 2021.
   Provides for reimbursement of recipients for financial losses related to the cancellation of a foreign trade mission or trade show exhibition solely due to a virus-related public health emergency.
   (HR 748 P. 40)
- Defines "menstrual care products" under IRS Code as paid for medical care. This makes them "qualified medical expenses" under health savings accounts, and may also have the effect of permanently exempting from state and local sales taxes.
  - ► (HR 748 P. 364-366)

The California Association for Local Economic Development (CALED) supports a network of more than 700 members whose combined talents and expertise are a valued resource for communities in search of economic development opportunities as well as growing and retaining existing businesses. We developed this overview to assist California's economic developers in leading their economies on the path to recovery from the impacts of the Coronavirus Pandemic.