

SCORE NAPLES COVID-19 LEGAL ISSUES UPDATE

**Resources and Information for Small Businesses
and Entrepreneurs**

June 13, 2020

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OVERVIEW

- ▶ **Update on Payroll Protection Program and Emergency Injury Disaster Loans**
 - ▶ **Since April 24 Paycheck Protection Program and Health Care Enhancement Act (PPPHCEA) aka Son of CARES and PPP Flexibility Act**
 - ▶ **Small Business Debt Relief and Other Relief**
- ▶ **Foreclosures and Evictions in Florida**
- ▶ **Mortgage Loan Forgiveness, Forbearance and Modifications**
- ▶ **Guidelines for Reopening Businesses**

PAYROLL PROTECTION PROGRAM - PPP

- ▶ **\$310 billion in additional funding in PPPHCEA**
- ▶ **H.B. 7010 PPP Flexibility Act – signed into law June 5, 2020**
- ▶ **Significant changes to PPP**
- ▶ **Based on average monthly payroll times 2.5, maximum \$10 million**
- ▶ **Businesses fewer than 500 employees (with exceptions)**
- ▶ **No personal guarantees or collateral**
- ▶ **Must certify that loan was needed to sustain business**

PAYROLL PROTECTION PROGRAM – CHANGES AS OF JUNE 5, 2020 PART 1

- ▶ **H.B. 7010 PPP Flexibility Act – signed into law June 5, 2020 Major Changes to PPP**
- ▶ **Extend the covered period for loan forgiveness from eight weeks after the date of loan disbursement to 24 weeks after the date of loan disbursement, providing greater flexibility to qualify for loan forgiveness. Borrowers who have already received PPP loans retain the option to use an eight-week covered period.**
- ▶ **Lower the requirements that 75 percent of a borrower’s loan proceeds must be used for payroll costs and that 75 percent of the loan forgiveness amount must have been spent on payroll costs during the 24-week loan forgiveness covered period to 60 percent for each of these requirements. If a borrower uses less than 60 percent of the loan amount for payroll costs during the forgiveness covered period, the borrower will continue to be eligible for partial loan forgiveness, subject to at least 60 percent of the loan forgiveness amount having been used for payroll costs.**
- ▶ **Provide a safe harbor from reductions in loan forgiveness based on reductions in full-time equivalent employees for borrowers that are unable to return to the same level of business activity the business was operating at before February 15, 2020, due to compliance with requirements or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to worker or customer safety requirements related to COVID-19.**

PAYROLL PROTECTION PROGRAM – PPP – CHANGES AS OF JUNE 5, 2020 PART 2

- ▶ Provide a safe harbor from reductions in loan forgiveness based on reductions in full-time equivalent employees, to provide protections for borrowers that are both unable to rehire individuals who were employees of the borrower on February 15, 2020, and unable to hire similarly qualified employees for unfilled positions by December 31, 2020.
- ▶ Increase to five years the maturity of PPP loans that are approved by SBA (based on the date SBA assigns a loan number) on or after June 5, 2020.
- ▶ Extend the deferral period for borrower payments of principal, interest, and fees on PPP loans to the date that SBA remits the borrower's loan forgiveness amount to the lender (or, if the borrower does not apply for loan forgiveness, 10 months after the end of the borrower's loan forgiveness covered period).
- ▶ *In addition, the new rules will confirm that June 30, 2020, remains the last date on which a PPP loan application can be approved.*

ECONOMIC INJURY DISASTER LOAN AND GRANTS - EIDL

- ▶ **Additional \$50 billion for loans and \$10 billion in grants in PPPHCEA**
- ▶ **No funding remaining as loans in queue already have taken up all new funding**

FLORIDA EMERGENCY BRIDGE LOAN PROGRAM

- ▶ **Originally \$50 million**
- ▶ **Loans up to \$50,000, or \$100,000 with exceptions**
- ▶ **38,000 applications**
- ▶ **1,000 loans granted**
- ▶ **Out of funding**

OTHER PROGRAMS

- ▶ **SBA Disaster Loan Relief**

- ▶ SBA will cover principal and interest on current 7(a) loans for six months

- ▶ **Employee retention tax credit**

- ▶ Refundable payroll tax credit designed to encourage employers to keep employees can be applied to \$10,000 in wages. Covers 50% of wages per employee, giving employers a total credit of up to \$5,000 for each employee they retain.
- ▶ Effective for wages paid after March 13, 2020 and before December 31, 2020
- ▶ Not available to those with PPP loan

- ▶ **Payroll Tax Deferral**

- ▶ Defer employer share of Social Security taxes but must pay later
- ▶ PPP Recipients can defer payment
- ▶ The deferred deposits of the employer's share of Social Security tax must be deposited by the following dates (referred to as the "applicable dates") to be treated as timely (and avoid a failure to deposit penalty):
 - ▶ On December 31, 2021, 50 percent of the deferred amount; and
 - ▶ On December 31, 2022, the remaining amount.

EXECUTIVE ORDER– FORECLOSURES/EVICTIONS

- ▶ **Florida Executive Order 20-94 issued April 2, 2020, extended by Executive Order 20-137 until July 1, 2020**
- ▶ **Suspends and tolls any statute providing for a mortgage foreclosure cause of action for 45 days**
- ▶ **Suspends and tolls any statute providing for an eviction cause of action**
 - ▶ **SOLELY as it relates to non-payment of rent by RESIDENTIAL tenants due to the Covid-19 emergency for 45 days**
- ▶ **Nothing relieves the individual from their obligation to pay rent or mortgage payments**

MORTGAGE RELIEF OPTIONS

- ▶ **Contact the Servicer/Lender**
- ▶ **CARES Act Relief**
 - ▶ **Federally Backed Mortgages**
 - ▶ Lender may NOT foreclose on you until after June 30, 2020
 - ▶ You need to determine if federally backed
 - ▶ Right to request a forbearance for 180 days, plus another 180 days
 - ▶ You must request
 - ▶ Terms of forbearance repayment varies by type of loan
 - ▶ **Loans not federally backed**
 - ▶ Servicers are working with people – case by case basis

REOPENING YOUR BUSINESS GUIDELINES

PART 1 – PHASE 2

- **CDC – Florida Department Of Health – Best practices**
- **CDC FAQ Page**
<https://www.cdc.gov/coronavirus/2019-ncov/community/general-business-faq.html>
- **Florida Covid-19 Resource Homepage**
<https://www.flgov.com/covid-19>
- **Florida Executive Orders**
 - **Current Order Executive Order 20-139 enters Phase 2 of reopening.**

REOPENING YOUR BUSINESS GUIDELINES

PART 2 – PHASE 2

➤ Recommendations Executive Order 20-139:

- All persons in Florida are encouraged to follow appropriate social distancing and safety protocols issued by the CDC and OSHA. The direction to follow such protocols, and those additional protocols listed below in this section, is guidance and not enforceable under section 252.47, Florida Statutes.
- A. Senior citizens and individuals with a significant underlying medical condition are strongly encouraged to avoid crowds and take measures to limit the risk of exposure to COVID-19.
- B. All persons in Florida are encouraged to avoid congregating in groups larger than 50 persons.
- C. All persons who work in long-term care facilities should be tested for COVID19 on a routine basis.
- D. In-store retail businesses, including gyms and fitness centers, should maintain appropriate social distancing and sanitation protocols.

REOPENING YOUR BUSINESS GUIDELINES

PART 2 – PHASE 2

- **Liability concerns will be important**
- **Recommended that each business follow guidelines as set out by state and CDC, even if not mandatory.**
- **Best practices are a tool to prevent liability.**
- **Liability releases should state who the parties are, what type of activity are the parties being released from, whether there is liability release for all future action, only known actions, or from some specific liability. The release must be signed by all parties. It should state that the parties signing the release agree to its terms and intend to be bound by it.**

FLORIDA COURTS UPDATE

- **No jury trials in Florida until at least July**
- **Local hearings are going virtual**
- **Courthouse open, but only for people with business in the courthouse**
- **Collier and Lee Counties – masks are required in the courthouse**

QUESTIONS?

THANK YOU!

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