

COVID-19

FEDERAL AND STATE LOANS, GRANTS, UNEMPLOYMENT INSURANCE, AND LEAVE

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Prepared with assistance from the Illinois Retail Merchants Association.

U.S. Small Business Administration (SBA) Economic Injury Disaster Loans (EIDLs)

The U.S. Small Business Administration (SBA) is offering designated states and territories low-interest federal disaster loans for working capital to small businesses suffering substantial economic injury as a result of the Coronavirus (COVID-19).

For comprehensive information please click [here](#).

What businesses are eligible to apply?

SBA's Economic Injury Disaster Loans (or working capital loans) are available to small businesses, small agricultural cooperatives, small aquaculture businesses and most private non-profit organizations. This includes:

- Businesses directly affected by the disaster;
- Businesses that offer services directly related to the businesses in the declaration; and
- Other businesses indirectly related the industry that are likely to be harmed by losses in their community

Examples of eligible industries include but are not limited to the following: hotels, recreational facilities, charter boats, manufacturers, sports vendors, owners of rental property, restaurants, retailers, souvenir shops, travel agencies, and wholesalers.

What is the criteria for a loan approval?

Credit History: Applicants must have a credit history acceptable to SBA.

Repayment: SBA must determine that the applicant business has the ability to repay the SBA loan.

Eligibility: The applicant business must be physically located in a declared county and suffered working capital losses due to the declared disaster, not due to a downturn in the economy or other reasons. An applicant's economic presence alone in a declared area does not meet this requirement. The physical presence must be tangible and significant. Merely having a P.O. Box in the disaster area would not qualify as a physical presence.

How much money is available?

Eligible entities may qualify for loans up to \$2 million. The interest rates for this disaster are 3.75 percent for small businesses and 2.75 percent for nonprofit organizations with terms up to 30 years. Eligibility for these working capital loans are based on the size (must be a small business) and type of business and its financial resources.

How may the loan funds be used?

These working capital loans may be used to pay fixed debts, payroll, accounts payable, and other bills that could have been paid had the disaster not occurred. The loans are not intended to replace lost sales or profits or for expansion.

What are the collateral requirements?

Economic Injury Disaster Loans over \$25,000 require collateral. SBA takes real estate as collateral when it is available. SBA will not decline a loan for lack of collateral, but requires borrowers to pledge what is available.

Illinois Small Business Emergency Loan Fund

DCEO and the Illinois Department of Financial and Professional Regulation (IDFPR) are establishing the Illinois Small Business Emergency Loan Fund to offer small businesses low interest loans of up to \$50,000.

Businesses located outside of the City of Chicago with fewer than 50 workers and less than \$3 million in revenue in 2019 will be eligible to apply. Successful applicants will owe nothing for six months and will then begin making fixed payments at a below market interest rate for the remainder of a five-year loan term.

Beginning on Friday, March 27th, interested businesses will be able to express interest at a form that will be posted [here](#).

Who is eligible?

Small businesses located outside of the City of Chicago with fewer than 50 workers and less than \$3 million in revenue in 2019 can apply.

What can loan funds be used for?

Loans can be used to support working capital.

How do businesses apply?

Businesses will be able to complete an interest form on this web page on Friday, March 27, 2020.

How much money is available?

Businesses can receive up a low interest loan of up to \$50,000 with a 5 year repayment period with no payments due for the first six months.

How soon will businesses receive funds?

Eligible businesses will be invited to submit a full application beginning on April 1. Once submitted, we will strive to make a loan decision within 10 days, and make funds available within two days of receiving bank information from a business.

Downstate Small Business Stabilization Program

To support small businesses in downstate and rural counties across Illinois, DCEO is repurposing \$20 million in CDBG funds to stand up the Downstate Small Business Stabilization Program. This Fund will offer small businesses of up to 50 employees the opportunity to partner with their local governments to obtain grants of up to \$25,000 in working capital. These grants will be offered on a rolling basis.

Who is eligible?

Local governments can apply on behalf of businesses with 50 employees or less. Only units of local government recognized by the Illinois Constitution and able to support economic development activities on a sufficient scale are eligible to apply for Economic Development grant funding. This includes cities, villages, and counties. Municipalities must not be a HUD direct Entitlement community or be located in an urban county that receives "entitlement" funds. A map of eligible areas of the state can be accessed [here](#), see "Staff Contact Information."

Ineligible Communities:

Communities receiving an annual allocation directly from HUD on an entitlement (formula) basis are not eligible to apply for the State's CDBG funding. In 2019, Illinois had 33 metropolitan cities and eight urban counties named as Entitlements. They are:

- Metropolitan Cities: Arlington Heights, Aurora, Berwyn, Bloomington, Champaign, Chicago, Cicero, Danville, DeKalb, Des Plaines, Elgin, Evanston, Hoffman Estates, Joliet, Kankakee, Moline, Mount Prospect, Naperville, Normal, Oak Lawn, Oak Park, Palatine, Pekin, Peoria, Rantoul, Rock Island, Rockford, Schaumburg, Skokie, Springfield, Urbana, Waukegan
- Urban Counties: Cook, DuPage, Kane, Lake, Madison, McHenry, St. Clair, Will

What can grants be used for?

Grants can be used to support working capital.

How do businesses apply?

Businesses in the eligible areas should work with their local governments to submit applications. Application materials will be posted to the DCEO website on Friday, March 27, 2020.

How much money is available?

Grants of up to \$25,000 per business will be available.

How soon will businesses receive funds?

DCEO's goal is to execute grants within 30 days of application receipt, after which funds will be accessible.

Table of Small Business Size Standards
Matched to
North American Industry Classification System Codes

This table lists small business size standards matched to industries described in the North American Industry Classification System (NAICS), as modified by the Office of Management and Budget, effective January 1, 2017. The latest NAICS codes are referred to as NAICS 2017.

The size standards are for the most part expressed in either millions of dollars (those preceded by "\$") or number of employees (those without the "\$"). A size standard is the largest that a concern can be and still qualify as a small business for Federal Government programs. For the most part, size standards are the average annual receipts or the average employment of a firm.

The list may be found [here](#).

H.R. 6201 Families First Coronavirus Response Act

Congress passed and the President Donald Trump has signed the [H.R. 6201 Families First Coronavirus Response Act](#). It includes a federal paid leave mandate AND expands the Family and Medical Leave Act (FMLA).

The FMLA expansion and paid leave mandate are outlined below:

Emergency Family and Medical Leave Expansion Act

Employer Threshold: Employers with fewer than 500 employees.

Covered Employee: An employee who has been employed for at least 30 days by the employer is eligible for the new leave entitlement.

FMLA Paid Leave Mandate: Requires all employers to provide employees paid leave because of a **"qualifying need related to a public health emergency"**.

The first 10 days for which an employee takes the "emergency" FMLA leave may consist of unpaid leave. However, an employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave provided by the employer in lieu of this unpaid leave, including utilizing the two weeks of mandated Emergency Paid Sick Leave outlined below. The remainder of emergency FMLA leave taken by an employee must be paid leave provided by the employer. **Therefore, a covered employer must provide at least 10 weeks of qualifying paid emergency FMLA leave to a covered employee.**

Qualifying Need Related to Public Health Emergency: An employee may only take the "emergency" FMLA leave if the employee is unable to work (or telework) due to a need to care for the employee's child if the child's school or place of care has been closed due to a public health emergency.

Public Health Emergency: is an emergency with respect to COVID-19 declared by a federal, state, or local authority.

Employer Pay Calculation: FMLA Paid leave must be at least two-thirds of an employee's regular rate of pay and reflect the number of hours an employee would otherwise be normally scheduled to work. The paid leave shall not exceed \$200 per day and \$10,000 in the aggregate.

Special Rules for Certain Employers: An employer with fewer than 50 employees is not subject to a private right of action brought by an employee under the FMLA's civil enforcement provisions, including for damages and attorney's fees.

Regulatory Relief for Certain Employers: The Secretary of Labor is given the authority to issue regulations for good cause to exempt employers with fewer than 50 employees from

the requirements of FMLA Paid Leave if such requirements would jeopardize the viability of the business as a going concern.

Employee Positions: Employers with fewer than 25 employees are not required to restore the employee to their position upon completion of emergency FMLA leave if: (1) the position does not exist due to economic conditions caused by the public health emergency; (2) the employer makes reasonable efforts to restore the employee to an equivalent position; and, (3) an equivalent position does not become available in the following year.

Expiration of FMLA Paid Leave: These requirements expire on December 31, 2020.

Emergency Paid Sick Leave Act

Employer Threshold: Employers with fewer than 500 employees.

Covered Employee: All employees because of a qualifying need related to a coronavirus public health emergency.

Emergency Paid Sick Leave Requirement:

The employer shall immediately provide each employee two weeks of paid sick leave to the extent that the employee is unable to work (or telework) because of the following reasons related to COVID-19:

1. The employee is subject to a federal, state, or local quarantine or isolation order;
2. The employee has been advised by a health care provider to self-quarantine;
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
4. The employee is caring for an individual to which points 1 or 2 apply;
5. The employee is caring for a child if the child's school or place of care has been closed due to COVID-19 precautions; or,
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretaries of Labor and the Treasury.

Compensation for Care of Family Members: With respect to any paid sick time used by an employee for the care of a family member described in points 4-6 above, required compensation is two-thirds of the employee's regular rate of pay.

Pay Calculations: An employee is entitled to the equivalent of two weeks of paid sick leave. For part-time and hourly employees, this equals the number of hours such employee works on average over a two-week period. For full-time employees, this equals 80 hours. Paid leave shall not exceed \$511 per day and \$5,110 in the aggregate for uses

described in points 1-3, and \$200 per day and \$2,000 in the aggregate for uses described in points 4-6.

Carryover: Paid sick leave shall not carry over from one year to the next.

Leave Sequencing: An employer may not require an employee to use existing paid leave provided by the employer before the employee uses this two weeks of paid leave.

Employer Exemptions: The Secretary of Labor is given the authority to issue regulations for good cause to exempt businesses with fewer than 50 employees from the requirements of the above point 5 when the imposition of such requirements would jeopardize the viability of the businesses as a going concern.

Expiration of Emergency Paid Sick Leave: These requirements expire on December 31, 2020.

Employer Tax Credits

H.R. 6201 provides for employer tax credits to offset the costs associated with the paid public health emergency leave and sick leave required for employees.

Payroll Tax Credit: The bill provides a refundable tax credit worth 100 percent of qualified public health emergency leave wages (as provided by Division C) and qualified paid sick leave wages (as provided by Division E) paid by an employer for each calendar quarter through the end of 2020. The tax credit is allowed against the tax imposed under the employer portion of Social Security and Railroad Retirement payroll taxes.

Credit Amount: The bill allows employers to take tax credits for qualified public health emergency leave wages and qualified sick leave wages.

Credit Amount for Public Health Emergency Leave Wages. The amount of qualified public health leave wages taken into account for each employee is capped at \$200 per day and \$10,000 for all calendar quarters.

Credit Amount for Sick Leave Wages. In instances when an employee receives paid sick leave because they are subject to a quarantine or isolation order, have been advised by a health care provider to self-quarantine, or are experiencing coronavirus symptoms and seeking medical diagnosis, the amount of qualified sick leave wages taken into account for each employee is capped at \$511 per day.

In instances when an employee receives paid sick leave because they are caring for another individual or child or because they are experiencing another substantially similar illness (as specified by HHS) the amount of qualified sick leave wages taken into account for each employee is capped at \$200 per day.

In determining the total amount of an employer's qualified sick leave wages paid for a calendar quarter, the total number of days that the employer can take into account with respect to a particular employee for that quarter may not exceed 10 days minus the number of days taken into account for that employee for all previous quarters.

Credit for Health Plan Expenses. Under the bill, the public health emergency leave and paid sick leave credits would be increased to include amounts employers pay for the employee's health plan coverage while they are on leave. Specifically, the bill allows for the credit amounts to be increased by the amount of the employer's group health plan expenses that are "properly allocated" to the qualified emergency leave and sick leave wages. Health plan expenses are "properly allocated" to qualified wages if made on a pro rata basis (among covered employees and periods of coverage).

Refundability of Excess Credit: The amount of the paid sick leave credit that is allowed for any calendar quarter cannot exceed the total employer payroll tax obligations on all wages for all employees. If the amount of the credit that would otherwise be allowed is so limited, the amount of the limitation is refundable to the employer.

Limitation on Tax Credits: Employers may not receive the tax credit if they are also receiving a credit for paid family and medical leave under the 2017 Tax Cuts and Jobs Act (P.L. 115-97). Employers would instead have to include the credit in their gross income.

Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”)

On March 25, 2020, the Senate unanimously passed (96-0) the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), commonly known as “Phase Three” of coronavirus economic relief. The CARES Act provides much needed stimulus to individuals, businesses, and hospitals in response to the economic distress caused by the coronavirus (COVID-19) pandemic. On March 27, 2020, the House of Representatives passed the CARES Act by voice vote. President Trump signed the bill into law that same day.

Keeping American Workers Paid and Employed Act

I. Paycheck Protection Program

- The Paycheck Protection Loan Program, at a price tag of \$349 billion, covers the period February 15, 2020 through June 30, 2020 and greatly expands SBA loan eligibility. The loan program will allow businesses suffering due to the coronavirus outbreak to borrow money for a variety of qualified costs related to employee compensation and benefits, including (i) payroll costs, (ii) continuation of health care benefits, (iii) employee compensation (of those making less than \$100K), (iv) mortgage interest obligations, (v) rent, (vi) utilities and (vii) interest on debt incurred before the covered period.
- The legislation greatly expands the number of businesses (including non-profits) that are eligible for SBA loans and raises the maximum amount for such a loan by 2.5 x the average total monthly payroll costs, or up to \$10 million. The interest rate may not to exceed 4%.
- Companies that employ no more than 500 employees are (or a greater number based on the size standard applicable to the industry) may be eligible. Certain companies in the Accommodation and Food Services Industry (NAICS Code 72) may be eligible if they have no more than 500 employees per physical location. In most cases, the number of employees is counted together with all affiliates.
- Waives affiliation rules under 13 C.F.R. 121.103 for any business with less than 500 employees in the Accommodation and Food Services Industry, certain franchise businesses and small businesses that receive financing through the Small Business Investment Company Act. Affiliation rules otherwise apply to determine eligibility.
- Waives the credit available elsewhere, personal guaranty and collateral requirements.
- For eligibility purposes, requires lenders to determine whether a business was operational on February 15, 2020, and had employees for whom it paid salaries and payroll taxes, or a paid independent contractor. (This is likely to be interpreted to replace the determination of repayment ability which is not possible during the crisis.)
- All or a portion of the loan may be forgivable and debt service payments may be deferred for up to 1 year.

- II. Entrepreneurial Development
 - Provides funding to educate small businesses and their employees regarding (i) Federal resources available during this time, (ii) Hazards of COVID-19 and (iii) best practices around teleworking to prevent the spread of COVID-19.

- III. State Trade Expansion Program
 - Allows for federal grant funds appropriated to support the State Trade Expansion Program (STEP) in FY 2018 and FY 2019 to remain available for use through FY 2021.

- IV. Waiver of Matching Funds Requirement under the Women's Business Center Program
 - Eliminates the non-federal match requirement for Women's Business Centers for a period of three months.

- V. Loan Forgiveness
 - Establishes that the borrower under the Paycheck Protection Program shall be eligible for loan forgiveness equal to the amount spent by the borrower during an 8-week period after the origination date on (i) rent, (ii) payroll costs for workers making less than \$100K, (iii) interest on a mortgage, and (iv) utility payments. The amount forgiven may not exceed the principal of the loan.
 - Incentivizes companies to retain employees by reducing the amount forgiven proportionally by any reduction in employees retained compared to the prior year.
 - To encourage employers to rehire any employees who have already been laid off due to the COVID-19 crisis, borrowers that re-hire workers previously laid off will not be penalized for having a reduced payroll at the beginning of the period.

- VI. Minority Business Development Agency
 - Empowers the Department of Commerce, through the Minority Business Development Agency, to provide grants to minority business centers and minority chambers of commerce to provide education, training and advising related to accessing federal resources.

- VII. United States Treasury Program Management Authority
 - The Department of the Treasury, consulting with the Small Business Administration and the Chairman of the Farm Credit Administration shall establish criteria to allow other lenders to participate in the Paycheck Protection Program, so long as such participation does not threaten the safety and soundness of the lender, as determined in consultation with the relevant federal banking agencies.

VIII. Emergency Economic Injury Disaster Loans (“EIDLs”)

- For the period between January 31, 2020 and December 31, 2020 (the “covered period”) EIDL eligibility is greatly expanded to include any business with not more than 500 employees operating under a sole proprietorship or as an independent contractor, and any cooperative, ESOP and tribal small business concern with not more than 500 employees. The number of employees is determined together with affiliates.
- Furthermore, EIDLs may be approved solely on the bases of an applicant’s credit score or by use of alternative methods to gauge the applicant’s ability to repay. Additionally, applicants may request an advance of up to \$10,000 within three days after the Administrator receives the application, subject to verification that the entity is eligible under this program. The advance may be used for any allowable purposes under §7(b)(2) of the Small Business Act and is not subject to repayment, even if the loan request is ultimately denied.
- Importantly, the CARES Act waives: (1) the requirement of personal guarantees for loans up to \$200,000, (2) the requirement that the applicant must be in business for a year (but must be in operation on January 31, 2020), and (3) the credit elsewhere test.
- Establishes that an emergency involving Federal primary responsibility determined to exist by the President under Section 501(b) of the Stafford Disaster Relief and Emergency Assistance Act qualifies as a new trigger for EIDLs.
- Importantly, the CARES Act waives: (1) the requirement of personal guarantees for loans up to \$200,000, (2) the requirement that the applicant must be in business for a year (but must be in operation on January 31, 2020), and (3) the credit elsewhere test.

IX. Subsidy for Certain Loan Payments

- For loans under §7(a) of the Small Business Act, Title V of the Small Business Investment Act, and for loans made by an intermediary using §7(m) loans or grants, the Administrator shall pay the principal, interest, and fees owed for loans in regular servicing status for any such loans, whether on deferment or not, that were made before the enactment of the Act for the following 6-month period, and for any such loans that were made between the date of enactment of the Act and six months from such date. This does not apply to Payroll Protection loans or EIDL loans which have separate subsidy and repayment requirements.
- The payments shall be made not later than 30 days from when the first payment is due and shall be applied such that the borrower is relieved of any obligation to pay that amount. The Administrator shall coordinate with relevant banking agencies to request that lenders not be required to increase reserves because of these payments.
- The Administrator will waive limits on the maximum loan maturities for loans given deferral and extended maturity during the year following enactment. The Administrator will extend lender site visit requirement timelines as necessary because of COVID-19, to within 60 days of a non-default adverse event, and 90 days of a default. \$17 billion is appropriated for the foregoing.

X. Bankruptcy

- Section 1182(1) of Title 11 is amended to define “debtor” as persons engaged in commercial or business activities and their affiliates (excluding persons who primarily own single asset real estate) that have aggregate, noncontingent, liquidated secured and unsecured debts (at the date of petition filing or the order for relief) of \$7,500,000 or less (excluding debts owed to affiliates or insiders), half or more of which arose from those activities.
- Exempt from this new definition are any members of a group of affiliated debtors that has aggregate, noncontingent, liquidated secured and unsecured debts over \$7,500,000 (excluding debt owed to affiliates or insiders); corporations subject to 1934 Act reporting requirements; and affiliates of an issuer under the 1934 Act.
- National Emergency Act payments for COVID-19 by the President are exempted from “current monthly income” and “disposable income” when determining the power of courts to approve debtor plans rejected by trustees or claim holders.
- Debtors that have experienced material financial hardship due to COVID-19 can modify a plan confirmed prior to this Act’s enactment date if approved after notice and hearing, but only if that plan doesn’t provide payments more than seven years after the first payment was due under the original plan, and follows requirements of 1322(a)-(c) and 1325(a). This modification terminates one year after the enactment of this Act.

Assistance for American Workers, Families, and Businesses

I. Unemployment Insurance Provisions

- The law expands the scope of individuals who are eligible for unemployment benefits, including those who are furloughed or out of work as a direct result of COVID-19, self-employed or gig workers, and those who have exhausted existing state and federal unemployment benefit provisions.
 - The only individuals expressly excluded from coverage are those who have the ability to telework with pay and those who are receiving paid sick leave or other paid benefits (even if they otherwise satisfy the criteria for unemployment under the new law).
- Administration of Benefit
 - The benefits are administered by each state and upon the state’s written agreement with the Secretary of Labor to provide the specific benefits. States that enter into such an agreement with the Secretary of Labor will be reimbursed in whole or in part for the cost of the benefits plus administrative expenses
- Types of Benefits Provide
 - The law provides an increase of \$600 per week in the amounts customarily available for unemployment under state law. This increase applies for unemployment payments made from the date of the law’s enactment through July 31, 2020 (approximately four months).

- States can agree to provide pandemic emergency unemployment compensation to individuals who have either exhausted all of the benefits available to them under existing state and federal law or who are not otherwise eligible for benefits under existing state and federal law. Individuals must be able and available to work and actively seeking work, unless they are unable to do so as a result of COVID-19 illness, quarantine, or movement restriction.
 - States can agree to waive the waiting period for receipt of benefits so that individuals do not experience gaps in income.
 - The federal government will temporarily fund short-time compensation under existing state plans. States that do not yet have short-time compensation plans in place may agree to implement a plan, provided that employers who enter into short-time compensation plans must be required to pay to the state half of the short-time compensation paid under the plan
- Time Periods for Expanded Benefits
 - The law provides unemployment benefit assistance to covered individuals who are not otherwise entitled to benefits under existing state or federal law for weeks of unemployment, partial unemployment, or inability to work caused by COVID-19 during the period January 27, 2020 through December 31, 2020. This includes any waiting periods for benefits under applicable state law.
 - The total benefit may not extend beyond 39 weeks (including any unemployment benefits or extended benefits received under existing state or federal law), unless, after the law is enacted, the duration of extended benefits is extended, in which case the total benefit may extend beyond 39 weeks by that same additional period of extended benefits.
 - The \$600 weekly benefit increase will be applicable to weekly payments made through the end of July 2020.
 - Protections Against Fraud and Overpayment
 - Any fraudulent intent or misrepresentations to obtain payments to which an individual is not entitled will result in ineligibility for any other unemployment compensation benefits under the new law as well as criminal prosecution. Overpayments may be clawed back by the state agencies.
 - Social Security Treatment
 - The additional unemployment compensation provided is not considered “income” for purposes of Medicaid and CHIP.

II. Business Provisions

- Employee Retention Credit for Employer Subject to Closure Due to COVID-19
 - Eligible employers will receive a credit against applicable employment taxes for each calendar quarter in an amount equal to 50% of the qualified wages with respect to each employee. The amount of qualified wages taken into account for each eligible employee, however, will not exceed \$10,000 per calendar quarter and the credit will not exceed the applicable employment taxes owed for such calendar quarter. The aforementioned credit is not applicable if the employer is also taking advantage of the small business interruption loan.
 - An eligible employer is defined as any employer: (i) which was carrying on a trade or business during calendar year 2020, and (ii) with respect to any calendar quarter for which, (a) the operation of their trade or business was fully or partially suspended due to governmental order as a result of COVID-19, or (b) the calendar quarter is within the period beginning with (1) the calendar quarter after December 31, 2019 for which gross receipts for the calendar quarter are less than 50% of the gross receipts for the same calendar quarter of the prior year and the ending with (2) the calendar quarter following the first calendar quarter beginning after the calendar quarter described in (1) for which gross receipts of the employer are greater than 80% gross receipts for the same calendar quarter in the prior year.
- Delay of Payment of Employer Payroll Taxes
 - The CARES Act will allow for most employers to defer paying their share of applicable employment taxes from the time the CARES Act is signed into law through December 31, 2020. Half of this deferred amount would be due on December 31, 2021 and the other half by December 31, 2022.
- Modifications for Net Operating Losses (“NOL”)
 - There will generally be a temporary repeal of taxable income limitation including (i) in the case of a taxable year beginning before January 1, 2021, the aggregate of the net operating loss (“NOL”) carryovers to such year, plus the NOL carrybacks to such year, and (ii) in the case of a taxable year beginning after December 31, 2020, the sum of (a) the aggregate amount of NOLs arising in taxable years beginning before January 1, 2018, carried to such taxable year, plus (b) the lesser of (1) the aggregate amount of NOLs beginning after December 31, 2017, carried to such taxable year, or (2) 80% of the excess of certain taxable income.
 - In the case of any NOL arising in a taxable year beginning after December 31, 2017, and before January 1, 2021, whereby (i) such NOL will be a net operating loss carryback to each of the five (5) taxable years preceding the taxable year of such loss and (ii) certain rules applicable to farming losses and insurance companies shall not apply. There are additional rules that apply specifically to “real estate investment trusts” and life insurance companies.

- Modification of Limitation on Losses for Taxpayers Other Than Corporations
 - For any taxpayer other than a corporation:
 - For a taxable year beginning after December 31, 2017 and before January 1, 2026, subsection (j) (relating to a limitation on excess farm losses of certain taxpayers) would not apply; and
 - For any taxable year beginning after December 31, 2020 and before January 1, 2026, any excess business loss of the taxpayer for the taxable year will not be allowed.
 - In regard to treatment of capital gains and losses for purposes of calculating “excess business losses”:
 - Deductions for losses from sales or exchanges of capital assets will not be taken into account.
 - The amount of gains from sales or exchanges of capital assets taken into account will not exceed the lesser of (1) the capital gain net income determined by taking into account only gains and losses attributable to a trade or business, or (2) the capital gain net income.
 - The amendments made in the aforementioned section shall apply to taxable years beginning after December 31, 2017.
- Modification of Credit for Prior Year Minimum Tax Liability of Corporations
 - The corporate alternative minimum tax (AMT) was repealed as part of the Tax Cuts and Jobs Act, but corporate AMT credits were made available as refundable credits over several years, ending in 2021.
 - The CARE Act accelerates the ability of companies to recover those AMT credits, permitting companies to claim a refund now and obtain additional cash flow during the COVID-19 emergency.
- Modification of Limitation on Business Interest
 - The CARES Act temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns, by increasing the 30-percent limitation (as imposed under the Tax Cuts and Jobs Act) to 50 percent of taxable income (with adjustments) for 2019 and 2020. As businesses look to weather the storm of the current crisis, this provision will allow them to increase liquidity with a reduced cost of capital, so that they are able to continue operations and keep employees on payroll.
- Qualified Improvement Property
 - The CARES Act enables businesses, especially in the hospitality industry, to write off immediately costs associated with improving facilities instead of having to depreciate those improvements over the 39-year life of the building. The provision, which corrects an error in the Tax Cuts and Jobs Act, not only increases companies’ access to cash flow by allowing them to amend a prior year return, but also incentivizes them to continue to invest in improvements as the country recovers from the COVID-19 emergency.

- Temporary Exception from Excise Tax for Alcohol Used to Produce Hand Sanitizer
 - For distilled spirits removed after December 31, 2019 and before January 1, 2021, such distilled spirits will be free of tax for use in or contained in hand sanitizer produced and distributed in a manner consistent with any guidance issued by the FDA related to the outbreak of COVID-19.

- Emergency Paid Sick Leave Minimums
 - Employers may, but are not required to, pay any more than:
 - \$511 per day or \$5,110 in the aggregate for each employee when taking emergency paid sick leave if the employee is subject to a federal, state or local quarantine or isolation order related to COVID-19, the employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19, or the employee is experiencing symptoms of COVID-19 and seeking medical diagnosis; or
 - \$200 per day or \$2,000 in the aggregate for each employee when taking emergency paid sick leave if the employee is caring for an individual who is subject to a federal, state or local quarantine order, or is caring for an individual who has been advised to self-quarantine due to concerns related to COVID-19, the employee is caring for the employee's son or daughter, if the child's school or childcare facility has been closed or the child's care provider is unavailable due to COVID-19 precautions, or the employee is experiencing any other substantially similar condition specified by HHS in consultation with the Department of the Treasury and the Department of Labor.

- Advance Refunding of Payroll Credits for Required Paid Sick Leave and Required Paid Family Leave
 - Employers can apply a credit in the amount calculated under subsection (a) of section 7001 or 7003 of the Family First Coronavirus Response Act, subject to the limitations placed by subsection (b) of section 7001 and 7003, both calculated through the end of the most recent payroll period in the quarter. In anticipation of a credit, the credit may be advanced according to forms and instructions to be provided by the Secretary of Labor. The Act ensures employers that the Secretary of Treasury shall waive any penalty under section 6656 of the Internal Revenue Code of 1986 for failure to make a deposit of the tax imposed under section 3111 (a) or 3221(a) of such Code if failure was due to anticipation of credit allowed.

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

The Coronavirus Aid, Relief, and Economic Securities Act provides the Secretary of the Treasury with the authority to make loans or loan guarantees to states, municipalities, and eligible businesses and loosens a variety of regulations created in the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Economic Stabilization Act of 2008, and others.

I. Coronavirus Stabilization Act of 2020

- **Emergency Relief and Taxpayer Protections**
 - The Act authorizes the Treasury Secretary to make up to \$500 billion worth of loans and loan guarantees to eligible businesses, states, and municipalities. No more than \$25 billion can be loaned to passenger air carriers, no more than \$4 billion to air cargo carriers, and no more than \$17 billion to businesses important to maintaining national security. The remainder is to be used to support lending to eligible businesses, states, and municipalities. The term “eligible business” includes passenger air carriers or any other business that has not already received adequate economic relief in the form of loans or loan guarantees under other provisions of the Act.
 - Businesses that receive loans through these Federal Reserve programs are prohibited from paying dividends or repurchasing stock (or other outstanding equity interests) while the loan or loan guarantee is outstanding, as well as for the 12 months following repayment. These businesses are subject to the same employee compensation restrictions as listed for air carriers, air cargo carriers, and businesses deemed important to maintaining national security (summarized below and found in Section 4004). Although the Treasury Secretary can waive these restrictions, he must identify and explain the rationale for such waivers in testimony before Congress.
 - Businesses that receive loans or loan guarantees through these Federal Reserve programs can only make loans (or other advances) to business that are created or organized and have the majority of their employees based in the United States. Transfers to subsidiaries and affiliates incorporated outside the United States are prohibited.

- The Act directs the Treasury Secretary to establish a program to provide low-interest loans for eligible businesses (including nonprofit organizations) with between 500 and 10,000 employees. Although these loans will require no repayment for at least six months, businesses and non-profit organizations seeking this support must provide a good-faith certification that they meet the following criteria:
 - The company intends to maintain at least 90 percent of their current workforce;
 - The company will not pay dividends or repurchase stock (or other equity securities);
 - The company will not outsource or offshore jobs during the loan period or two years thereafter;
 - The company will not abrogate existing collective bargaining agreements with labor unions; and
 - The company will remain neutral regarding current or future union organizing activity.
- Limitation on Certain Employee Compensation
 - The Act also imposes certain compensation caps for officers and employees at companies receiving loans or loan guarantees. Under these caps, officers or employees that received \$425,000 or more in total compensation in 2019 will have their future compensation capped at the amount they received that year. This cap applies while the loan or loan guarantee is in effect, as well as to the 12 consecutive months after the loan or loan guarantee is no longer outstanding. The same restriction also applies to severance payments or other compensation received upon termination from businesses participating on the loan and loan guarantee programs.
 - Additional caps apply for officers and employees whose total compensation exceeded \$3,000,000 in 2019. Under the Act, these individuals may receive compensation up to \$3,000,000 plus 50 percent of the excess over \$3,000,000 of the total compensation received by the officer or employee in 2019.

Illinois COVID-19 and Unemployment Benefits

Unemployment benefits may be available to some individuals whose unemployment is attributable to COVID-19. IDES recently adopted emergency rules to try to make the unemployment insurance system as responsive to the current situation as possible.

I. Employees

What is Unemployment Insurance (UI)?

In general, UI provides temporary income maintenance to individuals who have been separated from employment through no fault of their own and who meet all eligibility requirements, including the requirements that they be able and available for work, register with the state employment service and actively seek work. [Click here for more information.](#)

What determines if I'm able to work?

An individual is considered able to work if he or she is mentally and physically capable of performing a job for which a labor market exists.

What determines if I'm available for work?

To be considered available for work, an individual cannot impose conditions on the acceptance of work if those conditions essentially leave him or her with no reasonable prospect of work.

What determines if I'm actively seeking work?

An individual is considered to be actively seeking work if he or she is making an effort that is reasonably calculated to return the individual to work.

What if I'm temporarily laid off because the place where I work is temporarily closed because of the COVID-19 virus?

An individual temporarily laid off in this situation could qualify for benefits as long as he or she was able and available for and actively seeking work. Under emergency rules IDES recently adopted, the individual would not have to register with the employment service. He or she would be considered to be actively seeking work as long as the individual was prepared to return to his or her job as soon the employer reopened.

What if I quit my job because I am generally concerned over the COVID-19 virus?

An individual who leaves work voluntarily without a good reason attributable to the employer is generally disqualified from receiving UI. The eligibility of an individual in this situation will depend on whether the facts of his or her case demonstrate the individual had a good reason for quitting and that the reason was attributable to the employer. An individual generally has a duty to make a reasonable effort to work with his or her employer to resolve whatever issues have caused the individual to consider quitting.

What if I'm confined to my home 1) because a licensed physician has diagnosed me as having COVID-19 or 2) because I must stay home to care for my spouse, parent or child, whom a medical professional has diagnosed as having COVID-19 or 3) because of a government-imposed or government-recommended quarantine?

An individual in any of those situations would be considered to be unemployed through no fault of his or her own. However, to qualify for UI, he or she would still need to meet all other eligibility requirements, including the requirements that the individual be able and available for work, registered with the state employment service and actively seeking work from the confines of his or her home. The individual would be considered able and available for work if there was some work that he or she could perform from home (e.g., transcribing, data entry, virtual assistant services) and there is a labor market for that work.

What if I leave work because my child's school has temporarily closed, and I feel I have to stay home with the child?

Ordinarily, an individual who left work to address child care needs would be considered to have left work voluntarily and would generally be disqualified from receiving UI, unless the reason for leaving was attributable to the employer. However, the fact that all schools statewide have temporarily closed in response to the COVID-19 virus presents a unique situation in which it is unlikely a parent whose child cannot stay home alone has a ready alternative to staying home with the child himself/herself. Under the current circumstances, someone who left work to care for the child could be considered as unemployed through no fault of his or her own; in that case, to qualify for UI, the individual would still need to meet all other eligibility requirements, including the requirements that the individual be able and available for work, registered with the state employment service and actively seeking work from the confines of his or her home. The individual would be considered able and available for work if there was some work that he or she could perform from home (e.g., transcribing, data entry, virtual assistant services) and there is a labor market for that work.

I have exhausted my rights to UI. Will additional benefits be available because of the COVID-19 situation?

At this point, no additional UI is available to individuals who have already received the full 26 weeks' worth of benefits for their current benefit years.

II. Employers

If an employee receives unemployment benefits as a result of COVID-19, will the employer's unemployment contribution rate increase?

At this time, no further guidance has been issued. Until such time, normal procedures will be followed. In general, the contribution rate of an experience rated employer is based, in part, on the amount of unemployment benefits paid to the employer's former employees.

Potential Closure or Layoff

Rapid Response Services are available to employers who are planning or have gone through a permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster, that results in mass job dislocation. The State Dislocated Worker Unit coordinates with [employers](#) to provide on-site information to workers and employers about employment and retraining services designed to help participants retain employment when feasible, or obtain re-employment as soon as possible. For more information, visit [Rapid Response Services for Businesses](#) or contact your local Illinois workNet Center.

Illinois Federal Stimulus Package Unemployment Benefits

The federal government recently enacted legislation to address the dramatic economic crisis brought on by COVID-19, including an unemployment benefits expansion. While this will financially help unemployed Illinoisans in the months to come, not everyone will be eligible for all the benefits contained in the package, and some benefits will not begin immediately. Please do not call to inquire about these new federal programs.

How will this affect Illinois unemployment benefits?

Once the stimulus package has been implemented in Illinois, individuals receiving unemployment benefits will receive an additional \$600 each week above what they would receive in regular unemployment benefits until July 31, 2020. This will not be retroactively applied to unemployment benefits received in the past. In many cases, individuals will also be eligible for more weeks of unemployment above the 26 weeks provided under regular unemployment rules. Both of these benefits will be applied automatically if you qualify.

What do I do if I have already received my maximum benefits?

Some individuals who have received their entire 26 weeks of regular unemployment benefits may be eligible for more weeks of benefits under the stimulus package. If you have exhausted your benefits, or you are close to exhausting your benefits, we are finalizing the process to continue benefits under the stimulus package. Details will be available as soon as we have received further guidance from the US Department of Labor.

I am self-employed. Do I qualify under the new federal unemployment program?

Under regular unemployment rules, the incomes of self-employed workers, freelancers, and independent contractors are not subject to unemployment taxes and so typically these individuals are not eligible for unemployment benefits. The stimulus package creates a new, temporary program to help people who lose this type of work as a direct result of the current public health emergency. IDES will provide information about how to apply for this benefit as soon as it is finalized.

Treasury Department and the Internal Revenue Service today launched the Employee Retention Credit

The Treasury Department and the Internal Revenue Service today launched the Employee Retention Credit, designed to encourage businesses to keep employees on their payroll. The refundable tax credit is 50 percent of up to \$10,000 in wages paid by an eligible employer whose business has been financially impacted by COVID-19.

Does my business qualify to receive the employee retention credit?

The credit is available to all employers regardless of size, including tax-exempt organizations. There are only two exceptions: State and local governments and their instrumentalities and small businesses who take Small Business Loans.

Qualifying employers must fall into one of two categories:

1. The employer's business is fully or partially suspended by government order due to COVID-19 during the calendar quarter
2. The employer's gross receipts are below 50 percent of the comparable quarter in 2019. Once the employer's gross receipts go above 80 percent of a comparable quarter in 2019 they no longer qualify after the end of that quarter.
3. These measures are calculated each calendar quarter.

How is the credit calculated?

The amount of the credit is 50 percent of qualifying wages paid up to \$10,000 in total. Wages paid after March 12, 2020, and before January 1, 2021 are eligible for the credit. Wages taken into account are not limited to cash payments, but also include a portion of the cost of employer provided health care.

How do I know which wages qualify?

Qualifying wages are based on the average number of a business's employees in 2019.

Employers with less than 100 employees: If the employer had 100 or fewer employees on average in 2019, the credit is based on wages paid to all employees, regardless if they worked or not. If the employees worked full time and were paid for full time work, the employer still receives the credit.

Employers with more than 100 employees: If the employer had more than 100 employees on average in 2019, then the credit is allowed only for wages paid to employees who did not work during the calendar quarter.

I am an eligible employer. How do I receive my credit?

Employers can be immediately reimbursed for the credit by reducing their required deposits of payroll taxes that have been withheld from employees' wages by the amount of the credit.

Eligible employers will report their total qualified wages and the related health insurance costs for each quarter on their quarterly employment tax returns or Form 941 beginning with the second quarter. If the employer's employment tax deposits are not sufficient to cover the credit, the employer may receive an advance payment from the IRS by submitting Form 7200, Advance Payment of Employer Credits Due to COVID-19.

Eligible employers can also request an advance of the Employee Retention Credit by submitting Form 7200.

Where can I find more information on the employer retention credit and other covid-19 economic relief efforts?

Updates on the implementation of this credit, a fact sheet and other information can be found on the [Coronavirus page](#) of IRS.gov.