



# Family First Program and SBA Paycheck Protection Program

**Blackhawk** Bank

MEMBER FDIC  EQUAL HOUSING LENDER

# Welcome

**David K. Adkins**

PRESIDENT & CEO, BLACKHAWK BANK  
COO, BLACKHAWK BANCORP, INC.



# Human Resources

**Jeanine Woyner**  
VICE PRESIDENT HUMAN RESOURCES



# Families First Coronavirus Response Act

## Common Elements

- Effective Date
  - “Not later than 15 days after the date of enactment.”
  - 15 days after March 18 is April 2, 2020
  - DOL FAQ states that effective date is April 1
- Sunset Date - December 31, 2020
- Covered Employers - Fewer than 500 employees

# Families First Coronavirus Response Act

## “Regular Rate of Pay”

- “The regular rate of pay used to calculate your paid leave is the average of your regular rate over a period of up to six months prior to the date on which you take leave.”
- “The regular rate” includes other pay such as commissions, shift differentials, and piece rates.
- “If you have not worked for your current employer for six months, the regular rate used to calculate your paid leave is the average of your regular rate of pay for each week you have worked for your current employer.”
- Employers can compute the regular rate of pay for an employee “by adding all compensation that is part of the regular rate over the above [6 month] period and divide that sum by all hours actually worked in the same period.”

# Families First Coronavirus Response Act

## “Regular Rate of Pay”

- Amount of Weekly Leave – Part-Time Employees
- Based on the number of hours the “employee works, on average, over a 2-week period.”
- If the part-time employee’s schedule varies from week to week, use a six-month average to calculate the average daily hours
- If not been employed for at least six months, use the number of hours agreed upon that the employee would work upon hiring.

# Emergency Family and Medical Leave Expansion Act

- Covered Employers- Fewer than 500 employees
- Eligible Employee- Employee employed at least 30 calendar days

**Qualifying Event:** due to a “Public Health Emergency”, employee is unable to work or telework due to a need to care for a child under the age of 18:

- Child’s school closed; or
- Child’s daycare closed or unavailable
- Public Health Emergency.” An emergency with respect to COVID–19 declared by a Federal, State, or local authority.

# Emergency Family and Medical Leave Expansion Act

## Amount of Leave - 12 weeks total:

### First Two Weeks of Leave

- May consist of unpaid leave
- However, an employee may elect to substitute any accrued vacation leave, personal leave, medical or sick leave for this unpaid leave
- Can dovetail with two weeks of Emergency Paid Sick Leave as discussed later

### Last 10 Weeks of Leave

- Paid leave
- 2/3s of an employee's "regular rate of pay" for the number of hours the employee would normally work
- Capped at a maximum of \$200 per day and \$10,000 total

# Emergency Family and Medical Leave Expansion Act

## **Reinstatement Rights: same as under general FMLA leave – same or substantially similar position**

Exception for employers with fewer than 25 employees:

- The employee's position does not exist after the leave ends because of economic or operating conditions caused by the public health emergency
- Employer must make reasonable efforts to restore to an equivalent position
- If efforts fail, then for one year thereafter, the employer makes reasonable efforts to restore the employee to an equivalent position

## **Relation to Other FMLA Leaves: Employees do not receive additional FMLA leave under the Act**

- Total FMLA for all purposes limited to 12 weeks in a 12-month period
- Example: an employee has used 4 weeks of FMLA leave for a serious health condition  
He/she only has 8 weeks remaining for paid FMLA or other FMLA purposes in a 12 month period

# Emergency Paid Sick Leave Act

- Covered Employers - Fewer than 500 employees and covered by the FLSA
- Eligible Employee - All employees (full-time and part-time) regardless of tenure

# Emergency Paid Sick Leave Act

## **Qualifying Events: An employee is unable to work or telework due to COVID-19 related issues**

1. Employee subject to quarantine or isolation order by federal, state or local government.
2. Employee advised to self-quarantine by health-care provider.
3. Employee experiencing symptoms and seeking a medical diagnosis.
4. Employee caring for an individual subject to a quarantine or isolation;  
or who has been advised by a health care provider to self-quarantine.
5. Employee caring for child whose school or daycare provider is closed or unavailable.
6. Employee experiencing substantially similar conditions as specified by the Secretary of Health and Human Services.

# Emergency Paid Sick Leave Act

## Amount of Leave – Full-Time Employees

- 80 hours
- Note that “Full-time” is not defined. What does your employee handbook say?

## Amount of Leave – Part-Time Employees

- Based on the number of hours the employee on average works over a two week period, as discussed previously.

## Amount of Pay -

- If leave is due reasons **#1-3** listed previously (employee’s own quarantine, self-quarantine or symptoms), 100% of an employee’s regular rate of pay capped at \$511 per day and \$5,110 total.
- If leave is due reasons **#4-6** listed previously (care for others, school closures or HHS reason), 2/3’s of an employee’s regular rate of pay capped at \$200 per day and \$2,000 total.

# Emergency Paid Sick Leave Act

## Employer Sick Leave Policies

- An employee may use emergency paid sick time before other paid leaves.
- Employers may not require an employee to use other employer provided paid leave provided before the employee uses emergency paid sick time.
- This likely means that emergency paid sick leave must be paid in addition to (but not on top of) other paid sick time benefits available to the employee.

### ***Employer Notice:***

***Dept Of Labor has prepared a model employee notice. Employers must post this notice.***

# Emergency Paid Sick Leave Act

## Employer Prohibitions

- Employer may not discharge, discipline or discriminate against employees who take emergency paid sick leave.
- Employer may not require employees to look for or find replacement employees to cover the hours during which the employee is using the paid sick time.
- Violations punishable under the FLSA.

## Timing Issues

- Paid sick leave and expanded family and medical leave requirements are not retroactive.
- If you give an employee paid leave for a reason identified in the Emergency Paid Sick Leave Act prior to the Act going into effect, the employee will still be entitled to paid full entitlement of paid sick leave effective beginning on April 1, 2020.
- Note: There are also timing issues related to the tax credit.

# Tax Credit Issues

## Statutory Provisions

- Employer entitled to a credit against an employer's Social Security tax equal to 100% of "qualified sick leave" and "qualified family leave wages."
- These "qualified" wages are wages "required to be paid by reason" of the Act.
- Wages paid pursuant to employer PTO or similar voluntary policies are not "qualified wages" for which a credit is available.

## Statutory Provisions

- Per statute, credit only applies "to wages paid with respect to the period beginning on a date selected by the Secretary of the Treasury (or the Secretary's delegate) which is during the 15-day period beginning on the date of the enactment of this Act, and ending on December 31, 2020."
- Therefore wages paid before the date selected by the Secretary of the Treasury are ineligible for the credit.

# Tax Credit Issues

## Statutory Provisions

- Other credit for “qualified health plan expenses.”
- Eligible employers are entitled to a tax credit based on the costs to maintain health insurance coverage for the eligible employee during the leave period.

## IRS Announcement - March 20, 2020

- Eligible employers who pay qualifying sick or FMLA leave retain an amount of payroll taxes equal to the amount of qualifying sick and FMLA paid, rather than deposit them with the IRS.
- If payroll taxes are insufficient to cover paid qualified leave, employers will be able file a request for an accelerated payment from the IRS.
- The IRS expects to process these requests in two weeks or less.

# Tax Credit Issues

## IRS Announcement - March 20, 2020 - Example

- An eligible employer paid \$10,000 in qualified sick leave and was required to deposit \$8,000 in payroll taxes.
- The employer could use the entire \$8,000 of payroll taxes in order to make qualified leave payments and file a request for an accelerated credit for the remaining \$2,000.
- The IRS has released extensive guidance on the refundable tax credits, including 66 FAQ questions.

<https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs>

# Leave Summary

## NEW Emergency Paid Sick Leave

- Two weeks paid leave
- Employer with fewer than 500 employees
- **For quarantine order:**  
Self-quarantine, symptoms
- Full pay up to \$511/day, \$5110 max
- **For child care:** caring for others, other HHS reason
- Full Pay up to \$200/day, \$2000 max



## Tax Credits

- First available – TBD
- Credit against FICA
- May retain all payroll taxes



## NEW FMLA Public Health Leave

- 12 weeks total job protected leave
- 10 weeks paid leave
- 2/3 pay with max of \$200/day and \$10k total
- Eligibility - 30 calendar days of employment
- For employee unable to work or telework to care for child (under 18) with closed school or no daycare due to public health emergency
- Employer with fewer than 500 employees

## Family Medical Leave Act (FMLA)

- 12 weeks
- Eligibility 1 year and 1250 hours
- Serious health conditions
- Unpaid, Job Protected Leave
- Birth adoption child

www.dol.gov

# EMPLOYEE RIGHTS

## PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

### ▶ PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- $\frac{2}{3}$  for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at  $\frac{2}{3}$  for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

### ▶ ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

### ▶ QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

- |   |   |
|---|---|
| <ol style="list-style-type: none"><li>1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;</li><li>2. has been advised by a health care provider to self-quarantine related to COVID-19;</li><li>3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;</li><li>4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);</li></ol> | <ol style="list-style-type: none"><li>5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or</li><li>6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.</li></ol> |
|---|---|

### ▶ ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



WAGE AND HOUR DIVISION  
UNITED STATES DEPARTMENT OF LABOR

For additional information  
or to file a complaint:  
**1-866-487-9243**  
TTY: 1-877-889-5627  
[dol.gov/agencies/whd](https://www.dol.gov/agencies/whd)



WH1422 REV 03/20

  
**Blackhawk** Bank

# SBA Solutions: EIDL and PPP

**David K. Adkins**

PRESIDENT & CEO, BLACKHAWK BANK  
COO, BLACKHAWK BANCORP, INC.



# Differences between the SBA's EIDL and PPP

## Economic Injury Disaster Loans (EIDL)

- Eligible for Small Businesses (typically less than 500 employees and includes not-for-profits, independent contractors, and other businesses typically excluded from SBA).
- EIDL's are lower interest rate loans, typically with principal and interest deferment available for up to 4 years. These loans are meant to help cover expenses which otherwise could have been met had the disaster not occurred, including payroll and other operating expenses.
- EIDL's are applied for directly with the Small Business Administration (SBA) at <https://covid19relief.sba.gov/#/>

# Differences between the SBA's EIDL and PPP

## Coronavirus Aid, Relief, and Economic Security (CARES) Act - Paycheck Protection Program (PPP)

- In order to qualify for Paycheck Protection Program (PPP), a business must have less than 500 employees and be affected by the coronavirus. Businesses in certain industries may have more than 500 employees if they meet the SBA's size standards for those industries.
- PPP is designed to incentivize companies to keep employees on staff. It is expected to move cash more quickly than the SBA's other program, for faster economic relief.
- Application for these loans are made through Blackhawk Bank or other SBA approved lenders
- There is a portion of these loan proceeds which could be forgivable



DETAILS ARE  
SUBJECT TO CHANGE

# PPP – Eligible businesses

You may be eligible if you are:

- A small business with fewer than 500 employees (includes full-time, part-time and other status)
- A small business that otherwise meets the SBA's size standard
- A 501(c)(3) with fewer than 500 employees
- An individual who operates as a sole proprietor
- An individual who operates as an independent contractor
- An individual who is self-employed who regularly carries on any trade or business
- A Tribal business concern that meets the SBA size standard
- A 501(c)(19) Veterans Organization that meets the SBA size standard. In addition, some special rules may make you eligible:
  - If you are in the accommodation and food services sector (NAICS 72), the 500-employee rule is applied on a per physical location basis
  - If you are operating as a franchise or receive financial assistance from an approved Small Business Investment Company the normal affiliation rules do not apply



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# PPP - What will lenders be looking for?

SBA lenders are directed to consider whether a borrower was in operation before February 15, 2020 and had employees for whom they paid salaries and payroll taxes or paid independent contractors.

The borrower must certify in good faith to the following:

- the uncertainty of current economic conditions makes the loan request necessary to support ongoing operations
- the borrower will use the loan proceeds to retain workers and maintain payroll or make mortgage, lease, and utility payments
- the borrower does not have an application pending for a loan duplicative of the purpose and amounts applied for here
- from Feb. 15, 2020 to Dec. 31, 2020, the borrower has not received a loan duplicative of the purpose and amounts applied for here

Note: There is an opportunity to fold emergency loans made between January 31, 2020 and date of PPP application. If you are an independent contractor, sole proprietor, or self-employed individual, lenders will also be looking for certain documents such as payroll tax filings, Forms 1099-MISC, and income and expenses from the sole proprietorship.



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# Details on the PPP to date...

- Loans can be up to 2.5x the borrower's average monthly payroll costs, not to exceed \$10 million
- Loan maximum maturity is 2 years
- Interest rate on all loans is 0.50%
- 75% of the forgiven amount must have been used specifically for payroll
- There is a \$349 billion funding cap on the program



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# When Can Businesses Apply?

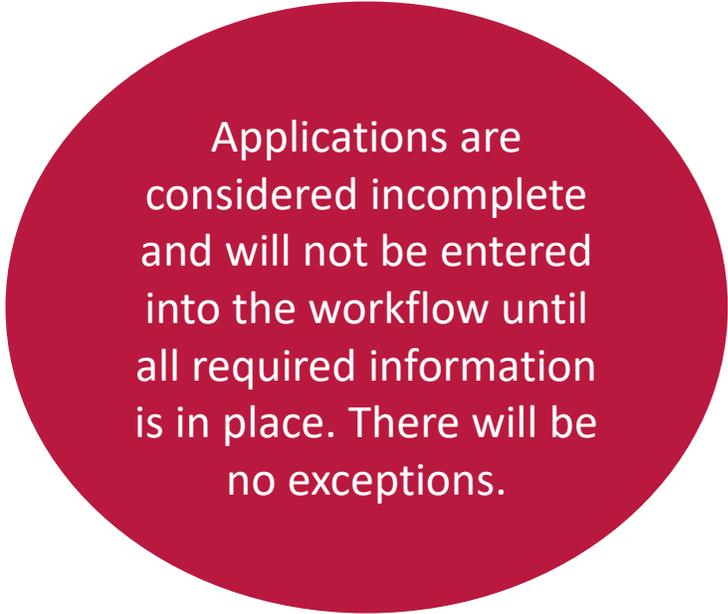
- **Start date is Friday, April 3**

For small businesses and sole proprietors

- **Start date is Friday, April 10**

For independent contractors and self-employed

- **[SBAApplication@blackhawkbank.com](mailto:SBAApplication@blackhawkbank.com)**



Applications are considered incomplete and will not be entered into the workflow until all required information is in place. There will be no exceptions.

# Blackhawk Bank has three application requirements

1. Completed SBA Application (SBA Form 2483)
2. Completed Blackhawk Bank spreadsheet – supports maximum loan amount calculation and projected loan forgiveness amount calculation.
3. Payroll cost summary and supporting documentation\* for the period 4-1-2019 through 3-31-2020.

**\*Supporting payroll documentation is defined as journal-level detail for the whole 12 months.**



**DETAILS ARE  
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# Loan Amount Calculation

CARES Act			
Paycheck Protection Program			
Maximum Loan Amount			
<i>Represents the maximum amount a qualified borrower may apply for.</i>			
		Last 12 Months	Average Monthly
<b>Maximum Loan Amount:</b>			
Payroll Costs:*			
Salaries, wages, commissions, vacation and sick pay (not to exceed \$100K per employee) other than qualified sick or family leave		\$ -	\$ -
Group Health Insurance		\$ -	\$ -
Retirement Benefit Costs		\$ -	\$ -
State/Local Taxes on Employee Compensation (i.e., employer U.C. tax)		\$ -	\$ -
Self-Employed Income (and subcontractors) not to exceed \$100K per year per self-employed prorated for the period February 15, 2020 to June 30, 2020		\$ -	\$ -
			\$ -
			2.5
<i>Subtotal</i>		<i>a)</i>	\$ -
<b>MAXIMUM LOAN AMOUNT [Lesser of a) or \$10 million]</b>		<b><i>b)</i></b>	<b>\$ -</b>

# Loan Forgiveness Calculation

Paycheck Protection Program			
Projected Loan Forgiveness Calculator			
<i>Maximum amount a qualified borrower MAY have forgiven.</i>			
<b>Costs Incurred During the "Covered" Period (8 weeks following loan origination):</b>			
Payroll Costs (defined on Amount Calc tab)			\$ -
Earnings from Self-Employment (if applicable)			\$ -
Rent			\$ -
Utilities			\$ -
Interest on Covered Mortgages/Loans (on real or personal property)			\$ -
<b>Tentative Loan Forgiveness (before required reductions)</b>			<b>\$ -</b>
<b>LESS: Required Reductions in Loan Forgiveness:</b>			
Number of Employees:			
Monthly Average Full Time Equivalent ("FTE") Employees for the Covered Period (8 weeks following origination of the covered loan)**		-	
Lesser of (at borrower's choice):			
Monthly Average FTE's for the period February 15 to June 30, 2019	-		
Monthly Average FTE's for the period January 1 to February 29, 2020**	-	-	
% Reduction		#DIV/0!	#DIV/0!
Compensation Reduction:			
Individual Employee Compensation Reduction in Excess of 25% Compared to the Most Recent Full Quarter Before Origination of Loan***			
			\$ -
Total Projected Reductions:		c)	#DIV/0!
<b>TOTAL PROJECTED LOAN FORGIVENESS [lesser of b) or c) above]</b>		d)	#DIV/0!

# How might the loan forgiveness work?

A borrower could be eligible for loan forgiveness equal to the amount the borrower spent on the following items during the 8-week period beginning on the date of the origination of the loan and pending SBA approval:

- Payroll costs (using the same definition of payroll costs used to determine loan eligibility)
- Interest on the mortgage obligation incurred in the ordinary course of business
- Rent payments
- Payments on utilities (electricity, gas, water, transportation, telephone, or internet)
- For borrowers with tipped employees, additional wages paid to those employees
- All costs must be documented, certified by borrower, and approved by bank

Loan forgiveness cannot exceed the principal amount of the loan and may be subject to change



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# PPP Application Process

## **Blackhawk Bank will utilize email to facilitate the PPP application process**

- On Friday, April 3<sup>rd</sup> the Bank will email business clients the SBA application, the calculations spreadsheet and specific instructions
- Applicants will email the Bank the completed application, spreadsheet and supporting payroll docs
- Applicants will be notified via email if application is accepted or rejected
- If rejected, the applicant will be told what is missing, incomplete, or incorrect, and must resubmit the completed applications, spreadsheet and payroll docs
- If accepted, the application will enter underwriting
- The next email an applicant receives will confirm loan approval by the SBA

# PPP Application Process

- After approval, the application will enter pre-closing processing
- Applicant will receive an email requesting confirmation of a future date when loan documents and instructions will be emailed to you
- Applicant must deliver signed loan documents to the Bank
- Upon acceptable review of loan documents, loan proceeds will be deposited into the applicant's account and applicant

**We need your help! To make sure our process is as efficient as possible and so we may help as many customers as possible, please refrain from inquiring about your application status. We will email you.**

# Other Opportunities for Assistance

## *Northern Illinois Community Development Corporation (NICDC)*

- The NICDC has put together an emergency loan fund to help businesses in Winnebago County, Illinois meet short term cash needs
- This program will make loans up to \$50,000
- This program is intended to provide quick funding for businesses that have applied for SBA Disaster Relief funding
- For Additional Information or to Make Application: Contact the Rockford Local Development Corporation at 815-987-8675 or e-mail Andrew Jury [Andrew@rldc.us](mailto:Andrew@rldc.us) or John Phelps [John@rldc.us](mailto:John@rldc.us)

# Other Opportunities for Assistance

*Illinois Department of Commerce and Economic Development*

<https://www2.illinois.gov/dceo/SmallBizAssistance>

*Wisconsin Economic Development Corporation*

<https://wedc.org/programs-and-resources/covid-19-response>

# Contact Information

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VICE PRESIDENT HUMAN RESOURCES

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# Time for Q and A

