

# THE CARES ACT

## What's in the law for nonprofits?

On Friday, March 27th, the House of Representatives unanimously passed and President signed into law [the Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#), a \$2 trillion economic stimulus law intended to provide immediate relief for individuals, nonprofits, businesses, and state and local governments. The CARES Act is the third law enacted in response to the coronavirus (COVID-19) pandemic.

### WHAT'S IN THE LAW FOR NONPROFITS

The CARES Act will provide significant funding for governments, businesses, hospitals, schools, social support programs, and more. Below are key provisions of sector-wide interest to charitable nonprofit organizations.

**Paycheck Protection Program Loans** (emergency SBA 7(a) loans): Creates an emergency loan program providing loans of up to \$10 million for eligible nonprofits and small businesses, permitting them to cover costs of payroll, operations, and debt service, and provides that the loans will be forgiven in whole or in part under certain circumstances. *Section 1102 of the CARES Act.*

- **General Eligibility:** Available to entities that existed on or before February 15, 2020 and had paid employees or paid independent contractors.

- **Nonprofit Eligibility:** Available for charitable nonprofits with 500 or fewer employees (counting each individual – full time or part time and not just FTEs). The law does not disqualify nonprofits that are eligible for payments under Title XIX of the Social Security Act (Medicaid), but does require that employees of affiliated nonprofits may be counted toward the 500 employee cap, depending on the degree of control of the parent organization.

- **No Personal Guarantee:** No personal guarantee or collateral will be required in securing a loan.

- **Loan Amount:** The lesser of \$10 million or 2.5 times the average total monthly payroll (including benefits) costs from the one-year period prior to the date of application.

- **Loan Use:** Loan funds can be used to make payroll and associated costs, including health and retirement benefits, facilities costs, and debt service.

- **Loan Forgiveness:** Employers that maintain employment for the eight weeks after the origination of the loan, or rehire employees by June 30, will be eligible to have the loans forgiven, essentially turning the loan into a grant. *Section 1106.*

**Economic Injury Disaster Loans** (EIDL): Creates emergency grants for eligible nonprofits and other applicants with 500 or fewer employees enabling them to receive checks for \$10,000 within three days. *Section 1110.*

**Self-Funded Nonprofits and Unemployment:** Only reimburses self-funded nonprofits for half of the costs of benefits provided to their laid-off employees. *Section 2103.*

**Charitable Giving Incentive:** Creates a new above-the-line deduction (universal or non-itemizer deduction that applies to all taxpayers) for total charitable contributions of up to \$300. The incentive applies to cash contributions made in 2020 and can be claimed on tax forms next year. *Section 2204.* The law also lifts the existing cap on annual contributions for those who itemize, raising it from 60 percent of adjusted gross income to 100 percent. For corporations, the law raises the annual limit from 10 percent to 25 percent. Food donations from corporations would be available to 25 percent, up from the current 15 percent cap. *Section 2205.*

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**Employee Retention Payroll Tax Credit:** Creates a refundable payroll tax credit of up to \$5,000 for each employee on the payroll when certain conditions are met. The entity had to be an ongoing concern at the beginning of 2020, experienced a whole or partial shutdown, and had seen a drop in revenue of at least 50 percent in the first quarter compared to the first quarter of 2019. The availability of the credit would continue each quarter until the organization's revenue exceeds 80 percent of the same quarter in 2019. For tax-exempt organizations, the entity's whole operations must be taken into account when determining eligibility. Notably, employers receiving Paycheck Protection Program loans would not be eligible for these credits. *Section 2301.*

**Delayed Payment of Payroll Taxes:** Allows employers to delay payment of the employer portion payroll taxes in 2020; payable in equal halves at the end of 2021 and 2022. *Section 2301.*

**Economic Stabilization Fund:** Creates a loan and loan guarantee program for industries like airlines to keep them solvent through the crisis. It sets aside \$454 billion for "eligible business" which is defined as "a United States business that has not otherwise received economic relief in the form of loans or loan guarantees provided under" the legislation. It is expected, but unclear, whether charitable nonprofits qualify under that definition for stabilization loans. **Mid-sized nonprofits** and businesses that have between 500 and 10,000 employees are expressly eligible for loans under this provision. Although there is no loan forgiveness provision in this section, the mid-size business loans would be charged an interest rate of no higher than two percent and would not accrue interest or require repayments for the first six months. Nonprofits accepting the mid-size business loans must retain at least 90 percent of their staff at full compensation and benefits until September 30. *Section 4003.*

### Other Significant Provisions

**Direct Payments** to adults of \$1,200 or less and \$500 per child (\$3,400 for a family of four) to be sent out in weeks. The amount of the payments phases out based on earnings of between \$75,000 and \$99,000 (\$150,000 / \$198,000 for couples). *Section 2201.*

**Expanded Unemployment Insurance:** Includes coverage for workers who are furloughed, gig workers, and freelancers. Increases payments by \$600 per week for four months on top of what state unemployment programs pay. *Section 2104.*

**Amendments to the New Paid Leave Mandates:** Lowers the amounts that employers must pay for paid sick and family leave under the **Families First Coronavirus Response Act**\* (enacted March 19) to the amounts covered by the refundable payroll tax credit - i.e., \$511 per day for employee sick leave or \$200 per day for family leave. *Sections 3601 and 3602.*

**Significant Spending:** The law also calls for large infusions of cash to the following sectors:

- \$150 billion for a state, tribal, and local Coronavirus Relief fund
- \$130 billion for hospitals
- \$30 billion for education
- \$25 billion for transit systems

### Legislative Resources

- Coronavirus Aid, Relief, and Economic Security (CARES) Act [Legislative Text](#)
- [Section-by-Section Summary of the CARES Act](#)



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