

OVERVIEW OF THE SMALL BUSINESS COMEBACK ACT HR 7671

Executive Summary:

The Small Business Comeback Act, HR 7671, was introduced by Congressmen Filemon Vela (D-TX) and Lance Gooden (R-TX) on July 20. The bill provides streamlined and tailored federal support for businesses in sectors impaired by the COVID-19 national emergency. Relief is targeted to help businesses retain and rehire employees, maintain worker benefits, and continue or resume economic activity during the declared national emergency, to the extent they are impaired by adverse business conditions arising from closure or curtailment orders. The bill is focused on supporting the most vulnerable businesses in impaired sectors and includes strong anti-abuse protections.

Purposes:

- Offset operating expenses for businesses and non-profits most impacted by COVID-19 for up to four months, supporting their ability to retain and rehire their employees, with benefits, and to provide resources to help them meet critical operating expenses until they can restore normal operations.
- Protect individuals unable to work because of COVID-19 exposure or illness.
- Prioritize compensation for businesses most impacted by the COVID-19 pandemic: small businesses, including independently owned franchises, women-owned and minority-owned businesses, and businesses that operate in rural and underserved areas.
- Complement and expand on the assistance provided under the CARES Act.

Program Administration:

- Creates a streamlined relief fund managed by a Special Administrator who is appointed by the Secretary of the Treasury. The program is organized under the Treasury Department.
- Expedites support to businesses through accelerated processes, leveraging private sector support for application filing, compensation determination, payment, and auditing.
- Mandates a simple-to-file and auditable electronic application form in multiple languages.
 - Form requires information on impairment and known collateral sources.
 - Formula-based compensation to support payroll and benefits, as well as operating expenses (such as utilities, rent, and interest expenses).
- Interim applications for relief may be filed after the bill's enactment but before regulations are established without using the required form but submitting the necessary information.
- Provides strict schedules for the Administrator to report to Congress and strong oversight and auditing by the Treasury Secretary and a Special Inspector General, with accountability to a Congressional Oversight Board.
- Authorizes advance appropriations for the program's operation.

Recovery Compensation:

- Provides compensation of up to a lesser of 4 months of operating expenses or \$50,000,000.

- The compensation is designed to be for an amount necessary to maintain continuity of operations. The bill contemplates awards for monthly expenses not covered by continuing revenue or funds from collateral sources.
- To the extent the application seeks lost revenue, the formula for funding is based on a look-back of 18 months of revenue, excluding lost profits.
- Businesses may seek interim relief for a portion of the monthly compensation award before the program is fully implemented. The amount of the interim award runs up to 75% of the ultimate monthly compensation award, depending on the size of the payments eligible for reimbursement.
- The bill limits compensation to entities in “impaired sectors” as defined by the Special Administrator. No guidance is provided as to these sectors and the expectation is that most sectors are impacted.
- Prioritizes assistance to the most vulnerable and impaired businesses, including businesses in disadvantaged and rural areas, and women and minority-owned businesses.

Eligibility and Limits on Use of Funds:

- The bill is expansive in making U.S. businesses eligible for compensation. In addition to for-profit entities, it includes a wide range of non-profit entities, veteran and tribal organizations. Eligible organizations also include sole proprietorships, self-employed individuals, and independent contractors.
- U.S. businesses receiving compensation must pledge to retain 90% of the employees on the payroll at the time of application and rehire 75% of all employees on the payroll at the beginning of the national emergency within four months of the end of the emergency.
- Businesses must pledge to compensate those employees exposed at work or who have tested positive for COVID-19, at full compensation and benefits.
- Although the award may be based operating expense or lost revenue, the bill limits the use of funds received from the program to payroll and benefits, and specified operating expenses, including insurance payments, rent or mortgage payments, specified loan obligations and taxes.
- Bars businesses receiving funds from stock repurchases or dividends for a year after participation in the program, and from using funds to compensate employees for earnings above \$100,000.

Timeline:

- Expedited program formation timed to address the national emergency. Award determinations are to be made within 30 days. Checks are to be issued within 5 days of a payment determination.
- Provides for a “final netting” or reconciliation for any applicant receiving funds within 6 months of concluding participation in the program.
- The program can be temporarily extended or renewed by the Secretary of the Treasury for recurrences of the COVID-19 pandemic.