

In The News

Small-Business Owners Are Anxious Despite Federal Aid: A Q&A With Munsch Hardt's David Roth

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Texas Lawyer

The Coronavirus Aid, Relief, and Economic Security (CARES) Act allocated \$350 billion to help small businesses keep workers employed amid the pandemic and economic downturn. Despite full loan forgiveness for self-employed borrowers, many are now questioning whether they can survive the storm.

With ongoing uncertainties about the application process itself, many borrowers are frustrated and worried about their status, says David R. Roth, a shareholder with Munsch Hardt Kopf & Harr.

Texas Lawyer recently spoke with Roth about the CARES Act and what small-business owners need to know about the program.

After a rough start, how is the CARES Act doing now?

David R. Roth: The total authorized by Congress is now \$650 billion, after the first \$350 billion quickly ran out. However, applications slowed down after the second allocation of \$300 billion was approved. I believe that was largely caused by signals from the SBA and the Treasury Department that borrowers would be carefully scrutinized, and their “need” for a PPP Loan would be subject to criticism and second-guessing. Subsequently, the SBA tried to calm borrowers with less aggressive guidance. And Congress passed the PPPFA, easing requirements on borrowers significantly. In any event, the original deadline for applications passed on June 30, with \$129 billion still available and unborrowed. Last Sunday, July 5, the application deadline was extended until Aug. 8.

Can you tell me about the kinds of people who are at risk?

After some bad publicity early on, the SBA seems focused on larger borrowers who receive loans for more than \$2 million, and who appear to have ready access to other funding. At first, the guidance focused on public companies, and later the SBA clarified that private companies with easy access to other funding should be concerned, as well. Beyond that, most borrowers who had good-faith reasons to be uncertain about their financial futures, and used the money to preserve jobs should be fine.

What steps should self-employed borrowers be taking?

The SBA has made several efforts to reduce the burden on self-employed borrowers. After some confusing early guidance that left self-employed borrowers uncertain about whether they could qualify at all, the SBA has made it clear that self-employed borrowers who can document past income can borrow under the program. There is also an “easy” form issued by the SBA especially for self-employed individuals, independent contractors, or sole proprietors who had no employees at the time of the PPP loan application to seek loan forgiveness. Assuming they had qualifying 2019 income, these borrowers can seek forgiveness for up to \$20,833 in payroll expenses.

Where can they get more information about the CARES Act and are there any alternative federal or state programs that help self-employed borrowers?

The best source of information is the SBA website. Our law firm, Munsch Hardt, has also published several helpful analysis documents on **our website**. There are also state, county and local programs that seek to help very small borrowers, but many of these quickly ran out of funds.

Why should they take advantage of these programs when the economy is slow to reopen?

All qualifying businesses should take advantage of these programs, especially if the economy is slower to reopen. Under amendments to the CARES Act, borrowers can now use these funds over a 24-week period, and still seek forgiveness of their loans. The underlying purpose of the CARES Act programs is to keep as many people employed for as long as possible.

How long will these programs last?

The deadline for applications is Aug. 8, 2020, and the funds must be used by Dec. 31, 2020.

What other advice can you give?

Make sure you are talking with your accounting, tax and legal advisors and sharing information with them regarding the challenges your business faces. In addition to the direct assistance programs, there are tax deferrals and other relief available. We're all in this together, and want your business to survive and flourish when this pandemic ends.

The full article can also be accessed [here](#).

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