

# **Update on Minnesota Small Business Emergency Loans (SBEL)**

## **by Patrick Cole**

Both state and federal governments have taken swift action to enact quick and innovative programs to aid small businesses struggling with the fallout of the COVID-19 crisis. To understand new options available to small businesses and how the various loan programs interact with one another, the FAQs below provides a summary of Minnesota loan program and the SBA disaster loan program.

### **I. Minnesota Small Business Emergency Loan (SBEL) Program under Minnesota Department of Employment and Economic Development**

With many small businesses temporarily shut down due to COVID-19 response, on March 23 2020, Governor Walz ordered ([Executive Order 20-15](#)) the Minnesota Department of Employment and Economic Development (“DEED”) to create an emergency loan program to assist these businesses overcome temporary revenue losses.

#### **What is the Minnesota SBEL eligibility?**

The business must fall into one of the categories that were directly and adversely affected by the COVID-19 peacetime emergency [Executive Orders 20-04](#) and [20-08](#). In addition, the business must show all of the following criteria:

- 1) the business was current on financial obligations as of March 1, 2020;
- 2) the business is an existing Minnesota-based small business (regardless of the business’s organization form);
- 3) the business has been operating in Minnesota long enough to demonstrate financial viability. In other words, a borrower must have current or historical financial statements;
- 4) the business is willing to provide collateral or personal guarantee for at least 20% of a loan; and
- 5) the business is unable to qualify for a standard loan through a bank, credit union, or nonprofit lending organization.

The Minnesota SBEL is designed to provide funds until funds from federal programs become available. It requires that a borrower pay off the Minnesota SBEL if financing is received from other sources subsequent to loan approval.

### **What are the terms of the Minnesota SBEL?**

The loan amounts range from \$2,500 to \$35,000 and will be based on the business's economic injury and financial need. The loan will be 0% interest. The loan will be paid back monthly over five (5) years and the first payment will be deferred for six (6) months. The loan is eligible for up to 50% forgiveness if the business remains operating in the community at substantially the same levels for two years following loan disbursement.

The loan must not be used to refinance debt that existed at the time of the COVID-19 peacetime emergency declaration. The loan also cannot be used to: 1) derive income from passive investments without operational ties to operating businesses, 2) primarily generate income from gambling activities; or 3) generate any part of its income from adult-oriented activities.

### **What are the application steps for the Minnesota SBEL?**

To apply, a borrower must complete DEED's application and submit it to one of 19 certified nonprofit lenders based on the county in which the business operates. SBEL provides funding to nonprofit lenders that will use these funds to make loans to the affected small businesses. Funds are disbursed to lenders on a project-by-project basis after the DEED Commissioner approves the loan as recommended by lenders.

## **II. Economic Injury Disaster Loan (EIDL) Program under Small Business Administration**

With Governor Walz's recent disaster declaration, Minnesota businesses became eligible for the EIDL program under the Small Business Administration. When the federal CARES Act was later passed (see more detail at [CARES Act FAQs](#)), it deemed all states qualified for disaster assistance under the EIDL program.

### **What businesses are eligible for an EIDL?**

EIDL eligibility is based on the size of the business (must be a small business), type of business, and its financial resources. The businesses eligible to apply for an EIDL loan are: 1) businesses directly affected by the disaster; 2) businesses that offer services directly related to the businesses in the declaration; or 3) other businesses indirectly related to the industry that are likely to be harmed by losses in their community.

### **What are EIDL terms on the maximum amount?**

Eligible entities may qualify for loans up to \$2 million, but all loans over \$25,000 require collateral. A specific loan amount request cannot be submitted with the application. The total loan amount will be determined during the underwriting and approval process. This determination will be based on monthly business expenses, a review of the applicant's balance

sheet and liquidity position, and the applicant's personal credit history. The total loan amount may be modified after approval if it is determined that the business requires additional funds.

### **Is personal guaranty or collateral required for an EIDL?**

Loans over \$25,000 require collateral. SBA takes real estate as collateral when it is available. SBA will not decline an EIDL loan for lack of collateral but requires applicants to pledge what is available.

Applicants must generally execute a personal guarantee; however, the CARES Act waives rules related to personal guarantees on advances and loans of \$200,000 or less. Applicants usually must show inability to get credit elsewhere, however, the CARES Act waives this requirement.

### **What are the EIDL terms on loan proceeds?**

Loan proceeds may be used for fixed debts, payroll, accounts payable, and other bills that could have been paid had the disaster not occurred. It cannot replace lost profits and cannot be used for business expansion. Loan proceeds used for payroll can include payroll for the owner. Owner salary should be included in the list of expenses, and the SBA will allow owner salary to continue at a level consistent to that prior to the disaster, as long as it is not determined to be "excessive."

The interest rates are 3.75% for small businesses with terms up of either 15 or 30 years, to be determined by the SBA based on repayment ability. There is no pre-payment penalty.

### **Does the EIDL include loan forgiveness?**

The EIDL program does not generally provide loan forgiveness, but exceptions may apply.

### **What are the application steps for the EIDL?**

These loans come directly from SBA, not a local bank. SBA has changed its application process and applicants now can download forms, complete the forms offline, and submit the completed application forms online.

To apply, applicants must demonstrate creditworthiness, which the SBA determines on a case-by-case basis, and the applicant must show an ability to repay the EIDL. (The CARES Act specifically allows the SBA to approve applicants based solely on credit scores, with no tax returns required.)

Upon approval, the first \$25,000 disbursement will be made available right away. Additional funds would become available once all required collateral has been pledged.

Additionally, as summarized in the [CARES Act FAQs](#), the CARES Act includes an emergency provision that allows disbursement of up to \$10,000 to small businesses that are applying for an EIDL, within 3 days after the SBA receives an application. The funding is made based on a self-certification of the applicant, and the funds may only be used for providing paid sick leave, maintaining payroll, meeting the increased costs of goods, making rent or mortgage payments, and repaying obligations that cannot be made due to revenue loss. Please note, the \$10,000 does not have to be paid back, even if the loan application is later denied.

Larkin Hoffman's lawyers are available to assist with any questions you may have regarding the Minnesota SBEL, the SBA EIDL, and the CARES Act.

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