Suspend the Rules and Pass the Bill, H.R. 7010, With an Amendment
(The amendment strikes all after the enacting clause and inserts a new text)

116TH CONGRESS
2D Session

H. R. 7010

To amend the Small Business Act and the CARES Act to modify certain provisions related to the forgiveness of loans under the paycheck protection program, to allow recipients of loan forgiveness under the paycheck protection program to defer payroll taxes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2020

Mr. Phillips (for himself, Mr. Roy, Mr. Upton, Mr. Fitzpatrick, Mr. Rouda, Mr. Harris, Mr. Kildee, Ms. Schrier, Mr. Welch, Mr. Brindisi, Mr. Pappas, Mrs. Walorski, Ms. Meng, Mr. Joyce of Ohio, Ms. Torres Small of New Mexico, Mr. Bergman, Mr. Schweikert, Mr. LaMalfa, Mr. Krishnamoorthi, Mr. Bera, Ms. Herrera Beutler, Mr. Van Drew, Miss Rice of New York, Mr. Dunn, Mr. O’Halleran, Ms. Castor of Florida, Mr. Deutch, Ms. Stefanik, Mr. Ryan, Ms. McCollum, Mr. Courtney, Mr. Kilmer, Mr. Joyce of Pennsylvania, Mr. Wright, Mr. King of New York, and Mr. Curtis) introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To amend the Small Business Act and the CARES Act to modify certain provisions related to the forgiveness of loans under the paycheck protection program, to allow recipients of loan forgiveness under the paycheck protec-
tion program to defer payroll taxes, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Paycheck Protection
Program Flexibility Act of 2020”.

SEC. 2. MATURITY FOR LOANS WITH REMAINING BALANCE
AFTER APPLICATION OF FORGIVENESS.

(a) In General.—Section 7(a)(36)(K)(ii) of the
Small Business Act (15 U.S.C. 636(a)(36)) is amended
by inserting “minimum maturity of 5 years and a” before
“maximum maturity”.

(b) Effective Date; Applicability.—The amend-
ment made by this section shall take effect on the date
of the enactment of this Act and shall apply to any loan
made pursuant to section 7(a)(36) of the Small Business
Act (15 U.S.C. 636(a)(36)) on or after such date. Nothing
in this Act, the CARES Act (Public Law 116–136), or
the Paycheck Protection Program and Health Care En-
hancement Act (Public Law 116–139) shall be construed
to prohibit lenders and borrowers from mutually agreeing
to modify the maturity terms of a covered loan described
in subparagraph (K) of such section to conform with re-
quirements of this section.
SEC. 3. AMENDMENTS TO PAYCHECK PROTECTION PROGRAM LOAN FORGIVENESS.


(b) Forgiveness.—Section 1106 of the CARES Act (Public Law 116–136) is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

“(3) the term ‘covered period’ means, subject to subsection (l), the period beginning on the date of the origination of a covered loan and ending the earlier of—

“(A) the date that is 24 weeks after such date of origination; or

“(B) December 31, 2020”;

(2) in subsection (d)—

(A) in paragraph (5)(B), by striking “June 30, 2020” each place it appears and inserting “December 31, 2020”; and

(B) by adding at the end the following new paragraphs:

“(7) Exemption Based on Employee Availability.—During the period beginning on February 15, 2020, and ending on December 31, 2020, the

EXEMPTION BASED ON EMPLOYEE AVAILABILITY.—During the period beginning on February 15, 2020, and ending on December 31, 2020, the
amount of loan forgiveness under this section shall be determined without regard to a reduction in the number of full-time equivalent employees if an eligible recipient—

“(A) is unable to rehire an individual who was an employee of the eligible recipient on or before February 15, 2020;

“(B) is able to demonstrate an inability to hire similarly qualified employees on or before December 31, 2020; or

“(C) is able to demonstrate an inability to return to the same level of business activity as such business was operating at prior to February 15, 2020.

“(8) LIMITATION ON FORGIVENESS.—The Administrator shall not reduce the amount of forgiveness if an eligible recipient uses at least 60 percent of the covered loan amount for payroll costs.”; and

(3) by adding at the end the following new subsection:

“(l) APPLICATION TO CERTAIN ELIGIBLE RECIPIENTS.—An eligible recipient that received a covered loan before the date of enactment of this subsection may elect for the covered period applicable to such covered loan to
end on the date that is 8 weeks after the date of the origi-
nation of such covered loan.”.

(c) EXTENSION OF DEFERRAL PERIOD.—Section 7(a)(36)(M) of the Small Business Act (15 U.S.C. 636(a)(36)(M)) is amended—

(1) in clause (ii)(II), by striking “for a period of not less than 6 months, including payment of principal, interest, and fees, and not more than 1 year.” and inserting the following: “, including pay-
ment of principal, interest, and fees, until the date on which the amount of forgiveness determined under section 1106 of the CARES Act is remitted to the lender.”;

(2) in clause (iii), by striking “for a period of not less than 6 months, including payment of principal, interest, and fees, and not more than 1 year.” and inserting the following: “, including payment of principal, interest, and fees, until the date on which the amount of forgiveness determined under section 1106 of the CARES Act is remitted to the lender.”;

and

(3) by adding at the end the following new clause:

“(v) RULE OF CONSTRUCTION.—If an eligible recipient fails to apply for forgive-
ness of a covered loan within 10 months after the last day of the covered period defined in section 1106(a) of the CARES Act, such eligible recipient shall make payments of principal, interest, and fees on such covered loan beginning on the day that is not earlier than the date that is 10 months after the last day of such covered period.”.

(d) Effective Date; Applicability.—The amendments made by this section shall be effective as if included in the CARES Act (Public Law 116–136) and shall apply to any loan made pursuant to section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)) or section 1109 of the CARES Act.

SEC. 4. DELAY OF PAYMENT OF EMPLOYER PAYROLL TAXES.

(a) In General.—Section 2302(a) of the CARES Act (Public Law 116–136) is amended by striking paragraph (3).

(b) Effective Date; Applicability.—The amendments made by this section shall be effective as if included in the CARES Act (Public Law 116–136) and shall apply to any loan made pursuant to section 7(a)(36) of the