



California Gaming Association

April 9, 2020

PRESIDENT

Kyle R. Kirkland
Club One Casino

California Congressional Delegation
U.S. Senate and House of Representatives
Washington, D.C. 20515

VICE PRESIDENT, NORTH

Wil Wilkinson
California Grand Casino

Via email only

VICE PRESIDENT, SOUTH

Hashem Minaiy
Bicycle Hotel and Casino

Re: CARES Act Interim Final Rules Not Covering All Small Businesses as Intended

TREASURER

Clarke Rosa
Capitol Casino

Dear Honorable Members of the California Congressional Delegation:

SECRETARY

Joe Melech
Stars Casino

I am writing on behalf of the members of the California Gaming Association (CGA), a 501(c)(6) trade association whose membership includes the majority of active, licensed cardrooms and gaming tables in California. I am writing to ask for your immediate help by contacting the Small Business Administration (SBA) concerning the Coronavirus Aid, Relief, and Economic Security Act (CARES Act or the Act) and inconsistencies between the intent of the legislation and the Interim Final Rules issued by the SBA implementing the Paycheck Protection Program (PPP).

BOARD MEMBERS

Patrick Berry
Players Casino

Ileana Harris
Casino Club

Haig Kelegian, Jr.
Crystal Casino

Patrick Tierney
Casino M8trix

Art Van Loon
Stones Gambling Hall

The cardroom industry generates \$5.6 billion in economic activity and is responsible for 32,000 living wage jobs, \$500 million in annual tax revenue and over \$100 million in taxes paid directly to local governments in dozens of California communities. The majority of our businesses have fewer than 500 employees, and representations made by Congress and the President indicated that our members would qualify for PPP funds in order to help ensure the continued employment of our employees. Unfortunately, the Interim Final Rules use an old qualifying definition which precludes businesses that derive 33% or more of their revenue from legal gaming operations from accessing the relief loans.

Ron Werner
Bay 101 Casino

The SBA's interpretation directly contradicts the language and intent of the CARES Act, statements made by the Administration last week, and documents prepared by the Congressional Research Service that indicate that ***all businesses***, including legal gambling establishments, qualify for the loan program. Without the help of PPP funding, California's gaming operators, all of which voluntarily ceased operations in mid-March, will be forced to permanently lay-off employees and some may not be able to re-open.

EXECUTIVE DIRECTOR

Joe Patterson

Regarding the PPP, the CARES Act specifically provides (emphasis added):

T: 916-297-4822
F: 916-307-5838

“(D) INCREASED ELIGIBILITY FOR CERTAIN SMALL BUSINESSES AND ORGANIZATIONS.—

“(i) IN GENERAL.—During the covered period, **in addition to small business concerns, any business concern**, nonprofit organization, veterans organization, or Tribal business concern described in section 31(b)(2)(C) shall be eligible to receive a covered loan if the business concern, nonprofit

organization, veterans organization, or Tribal business concern employs not more than the greater of—

“(I) **500 employees**; or

“(II) if applicable, the size standard in number of employees established by the Administration for the industry in which the business concern, nonprofit organization, or veterans organization, or Tribal business concern operates.

In addition, the same day the rules were issued (4/2/20), [Secretary Mnuchin stated](#):

“I encourage all small businesses that have 500 or fewer people, please contact your lenders. Any FDIC institution will be able to do this; any credit union, existing SBA lenders, and fintech lenders.”

[Linked here is the report prepared by the Congressional Research Service](#). The report states on page 30:

[E]xpands eligibility for a covered loan to include 7(a) eligible businesses and **any business**, 501(c)(3) nonprofit organization, 501(c)(19) veteran’s organization, or tribal business not currently eligible that has not more than 500 employees or, if applicable, the SBA’s size standard in number of employees for the industry in which they operate. Sole proprietors, independent contractors, and eligible self-employed individuals are also eligible to receive a covered loan;

[The PPP Fact Sheet](#) from the Department of the Treasury includes the following information:

Who can apply? All businesses – including nonprofits, veterans organizations, Tribal business concerns, sole proprietorships, self-employed individuals, and independent contractors – with 500 or fewer employees can apply. Businesses in certain industries can have more than 500 employees if they meet applicable SBA employee-based size standards for those industries.

Unfortunately, the [Interim Final Rules](#) make material changes to the Act passed by Congress and signed by the President. On the bottom of page 7, the Rule’s FAQ provides:

How do I determine if I am ineligible?

Businesses that are not eligible for PPP loans are identified in **13 CFR 120.110** and described further in SBA’s Standard Operating Procedure (SOP) 50 10, Subpart B, Chapter 2, except that nonprofit organizations authorized under the Act are eligible.

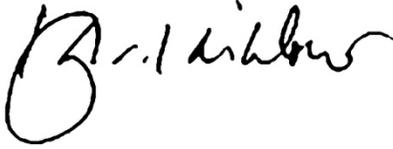
[13 CFR 120.110](#) (g) specifically excludes "Businesses deriving more than one-third of gross annual revenue from legal gambling activities."

This language has been used in the past for other types of SBA loans, however, the objective of the CARES Act was to include all businesses with fewer than 500 employees. The error has already caused significant confusion resulting in lenders not accepting applications from California gambling establishments, many of whom need the PPP loans to maintain their workforce and continue to support the communities and local governments in which they operate.

We sincerely appreciate any assistance you can provide in having this issue resolved so that these businesses can prepare to rehire workers and resume operations as soon as possible.

Please feel free to contact me at kyle@calgaming.org or 310-780-0950.

Sincerely,

A handwritten signature in black ink, appearing to read "Kyle Kirkland". The signature is fluid and cursive, with a large initial "K" and a stylized "L".

Kyle Kirkland
President
California Gaming Association