

Note: On March 6, the U.S. Senate passed an amended version of the “American Rescue Plan Act of 2021,” which originated from the House of Representatives (H.R. 1319). The legislation includes the Restaurant Revitalization Fund (RRF), a \$28.6 billion grant program designed to provide economic relief to eligible restaurants with 20 locations or less. The following legislative text will provide the foundation of the RRF, which will be administered by the U.S. Small Business Administration (SBA).

SEC. 5003. SUPPORT FOR RESTAURANTS.

(a) DEFINITIONS.—In this section:

- (1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Small Business Administration.
- (2) **AFFILIATED BUSINESS.**—The term “affiliated business” means a business in which an eligible entity has an equity or right to profit distributions of not less than 50 percent, or in which an eligible entity has the contractual authority to control the direction of the business, provided that such affiliation shall be determined as of any arrangements or agreements in existence as of March 13, 2020.
- (3) **COVERED PERIOD.**—The term “covered period” means the period—
 - (A) beginning on February 15, 2020; and
 - (B) ending on December 31, 2021, or a date to be determined by the Administrator that is not later than 2 years after the date of enactment of this section.
- (4) **ELIGIBLE ENTITY.**—The term “eligible entity”—
 - (A) means a restaurant, food stand, food truck, food cart, caterer, saloon, inn, tavern, bar, lounge, brewpub, tasting room, taproom, licensed facility or premise of a beverage alcohol producer where the public may taste, sample, or purchase products, or other similar place of business in which the public or patrons assemble for the primary purpose of being served food or drink;
 - (B) includes an entity described in subparagraph (A) that is located in an airport terminal or that is a Tribally-owned concern; and
 - (C) does not include—
 - (i) an entity described in subparagraph (A) that—
 - (I) is a State or local government-operated business;
 - (II) as of March 13, 2020, owns or operates (together with any affiliated business) more than 20 locations, regardless of whether those locations do business under the same or multiple names; or
 - (III) has a pending application for or has received a grant under section 324 of the Economic Aid to Hard-Hit Small Businesses,

Nonprofits, and Venues Act (title III of division N of Public Law 116–260); or

(ii) a publicly-traded company.

(5) EXCHANGE; ISSUER; SECURITY.—The terms “exchange”, “issuer”, and “security” have the meanings given those terms in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

(6) FUND.—The term “Fund” means the Restaurant Revitalization Fund established under subsection (b).

(7) PANDEMIC-RELATED REVENUE LOSS.—The term “pandemic-related revenue loss” means, with respect to an eligible entity—

(A) except as provided in subparagraphs (B), (C), and (D), the gross receipts, as established using such verification documentation as the Administrator may require, of the eligible entity during 2020 subtracted from the gross receipts of the eligible entity in 2019, if such sum is greater than zero;

(B) if the eligible entity was not in operation for the entirety of 2019—

(i) the difference between—

(I) the product obtained by multiplying the average monthly gross receipts of the eligible entity in 2019 by 12; and

(II) the product obtained by multiplying the average monthly gross receipts of the eligible entity in 2020 by 12; or

(ii) an amount based on a formula determined by the Administrator;

(C) if the eligible entity opened during the period beginning on January 1, 2020, and ending on the day before the date of enactment of this section—

(i) the expenses described in subsection (c)(5)(A) that were incurred by the eligible entity minus any gross receipts received; or

(ii) an amount based on a formula determined by the Administrator; or

(D) if the eligible entity has not yet opened as of the date of application for a grant under subsection (c), but has incurred expenses described in subsection (c)(5)(A) as of the date of enactment of this section—

(i) the amount of those expenses; or

(ii) an amount based on a formula determined by the Administrator.

For purposes of this paragraph, the pandemic-related revenue losses for an eligible entity shall be reduced by any amounts received from a covered loan made under paragraph (36) or (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)) in 2020 or 2021.

(8) PAYROLL COSTS.—The term “payroll costs” has the meaning given the term in section 7(a)(36)(A) of the Small Business Act (15 U.S.C. 636(a)(36)(A)), except that such term shall not include—

(A) qualified wages (as defined in subsection (c)(3) of section 2301 of the CARES Act) taken into account in determining the credit allowed under such section 2301; or

(B) premiums taken into account in determining the credit allowed under section 6432 of the Internal Revenue Code of 1986.

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(9) **PUBLICLY-TRADED COMPANY.**—The term “publicly-traded company” means an entity that is majority owned or controlled by an entity that is an issuer, the securities of which are listed on a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f).

(10) **TRIBALLY-OWNED CONCERN.**—The term “Tribally-owned concern” has the meaning given the term in section 124.3 of title 13, Code of Federal Regulations, or any successor regulation.

(b) RESTAURANT REVITALIZATION FUND.—

(1) **IN GENERAL.**—There is established in the Treasury of the United States a fund to be known as the Restaurant Revitalization Fund.

(2) **APPROPRIATIONS.**—

(A) **IN GENERAL.**—In addition to amounts otherwise available, there is appropriated to the Restaurant Revitalization Fund for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, \$28,600,000,000, to remain available until expended.

(B) **DISTRIBUTION.**—

(i) **IN GENERAL.**—Of the amounts made available under subparagraph (A)—
(I) \$5,000,000,000 shall be available to eligible entities with gross receipts during 2019 of not more than \$500,000; and
(II) \$23,600,000,000 shall be available to the Administrator to award grants under subsection (c) in an equitable manner to eligible entities of different sizes based on annual gross receipts.

(ii) **ADJUSTMENTS.**—The Administrator may make adjustments as necessary to the distribution of funds under clause (i)(II) based on demand and the relative local costs in the markets in which eligible entities operate.

(C) **GRANTS AFTER INITIAL PERIOD.**—Notwithstanding subparagraph (B), on and after the date that is 60 days after the date of enactment of this section, or another period of time determined by the Administrator, the Administrator may make grants using amounts appropriated under subparagraph (A) to any eligible entity regardless of the annual gross receipts of the eligible entity.

(3) **USE OF FUNDS.**—The Administrator shall use amounts in the Fund to make grants described in subsection (c).

(c) RESTAURANT REVITALIZATION GRANTS.—

(1) **IN GENERAL.**—Except as provided in subsection (b) and paragraph (3), the Administrator shall award grants to eligible entities in the order in which applications are received by the Administrator.

(2) **APPLICATION.**—

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(A) CERTIFICATION.—An eligible entity applying for a grant under this subsection shall make a good faith certification that—

- (i) the uncertainty of current economic conditions makes necessary the grant request to support the ongoing operations of the eligible entity; and
- (ii) the eligible entity has not applied for or received a grant under section 324 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (title III of division N of Public Law 116–260).

(B) BUSINESS IDENTIFIERS.—In accepting applications for grants under this subsection, the Administrator shall prioritize the ability of each applicant to use their existing business identifiers over requiring other forms of registration or identification that may not be common to their industry and imposing additional burdens on applicants.

(3) PRIORITY IN AWARDING GRANTS.—

(A) IN GENERAL.—During the initial 21-day period in which the Administrator awards grants under this subsection, the Administrator shall prioritize awarding grants to eligible entities that are small business concerns owned and controlled by women (as defined in section 3(n) of the Small Business Act (15 U.S.C. 632(n))), small business concerns owned and controlled by veterans (as defined in section 3(q) of such Act (15 U.S.C. 632(q))), or socially and economically disadvantaged small business concerns (as defined in section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A))). The Administrator may take such steps as necessary to ensure that eligible entities described in this subparagraph have access to grant funding under this section after the end of such 21-day period.

(B) CERTIFICATION.—For purposes of establishing priority under subparagraph (A), an applicant shall submit a self-certification of eligibility for priority with the grant application.

(4) GRANT AMOUNT.—

(A) AGGREGATE MAXIMUM AMOUNT.—The aggregate amount of grants made to an eligible entity and any affiliated businesses of the eligible entity under this subsection—

- (i) shall not exceed \$10,000,000; and
- (ii) shall be limited to \$5,000,000 per physical location of the eligible entity.

(B) DETERMINATION OF GRANT AMOUNT.—

(i) IN GENERAL.—Except as provided in this paragraph, the amount of a grant made to an eligible entity under this subsection shall be equal to the pandemic-related revenue loss of the eligible entity.

(ii) RETURN TO TREASURY.—Any amount of a grant made under this subsection to an eligible entity based on estimated receipts that is greater than the actual gross receipts of the eligible entity in 2020 shall be returned to the Treasury.

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(5) **USE OF FUNDS.**—During the covered period, an eligible entity that receives a grant under this subsection may use the grant funds for the following expenses incurred as a direct result of, or during, the COVID–19 pandemic:

- (A) Payroll costs.
- (B) Payments of principal or interest on any mortgage obligation (which shall not include any prepayment of principal on a mortgage obligation).
- (C) Rent payments, including rent under a lease agreement (which shall not include any prepayment of rent).
- (D) Utilities.
- (E) Maintenance expenses, including—
 - (i) construction to accommodate outdoor seating; and
 - (ii) walls, floors, deck surfaces, furniture, fixtures, and equipment.
- (F) Supplies, including protective equipment and cleaning materials.
- (G) Food and beverage expenses that are within the scope of the normal business practice of the eligible entity before the covered period.
- (H) Covered supplier costs, as defined in section 7A(a) of the Small Business Act (as re-designated, transferred, and amended by section 304(b) of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Public Law 116–260)).
- (I) Operational expenses.
- (J) Paid sick leave.
- (K) Any other expenses that the Administrator determines to be essential to maintaining the eligible entity.

(6) **RETURNING FUNDS.**—If an eligible entity that receives a grant under this subsection fails to use all grant funds or permanently ceases operations on or before the last day of the covered period, the eligible entity shall return to the Treasury any funds that the eligible entity did not use for the allowable expenses under paragraph (5).

SEC. 9673. TAX TREATMENT OF RESTAURANT REVITALIZATION GRANTS.

For purposes of the Internal Revenue Code of 1986—

- (1) amounts received from the Administrator of the Small Business Administration in the form of a restaurant revitalization grant under section 5003 shall not be included in the gross income of the person that receives such amounts,
- (2) no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income provided by paragraph (1), and
- (3) in the case of a partnership or S corporation that receives such amounts—
 - (A) except as otherwise provided by the Secretary of the Treasury (or the Secretary’s delegate), any amount excluded from income by reason of paragraph (1) shall be treated as tax exempt income for purposes of sections 705 and 1366 of the Internal Revenue Code of 1986, and
 - (B) the Secretary of the Treasury (or the Secretary’s delegate) shall prescribe rules for determining a partner’s distributive share of any amount described in subparagraph (A) for purposes of section 705 of the Internal Revenue Code of 1986.