
OLR Bill Analysis

HB 5765

Emergency Certification

AN ACT ESTABLISHING THE FEDERAL SHUTDOWN AFFECTED EMPLOYEES LOAN PROGRAM AND PROVIDING ADDITIONAL ASSISTANCE TO FEDERAL EMPLOYEES.

SUMMARY

This bill establishes a loan program for certain federal employees in Connecticut affected by the federal partial government shutdown, which began December 22, 2018. Administered by the Connecticut Housing Finance Authority (CHFA), the federal shutdown affected employee loan program guarantees up to 10% of the loans eligible banks and credit unions make to affected employees.

Under the bill, affected employees are eligible for up to three loans, each equal to their monthly after-tax pay, up to \$5,000, less unemployment benefits. The bill prohibits interest on the loans for 270 days after the shutdown ends.

The bill also:

1. authorizes municipalities and municipal subdivisions to establish a tax-deferment program for such employees' real and personal property or motor vehicles taxes, or water or sewer rates, charges or assessment payments; and
2. if federal law or guidance allows them to do so, authorizes such employees to receive unemployment compensation benefits (generally, federal employees that must work without pay during a shutdown are ineligible for unemployment benefits).

EFFECTIVE DATE: Upon passage

§§ 1 - 5 — FEDERAL SHUTDOWN AFFECTED EMPLOYEE LOAN PROGRAM

Affected Employee Eligibility

Under the bill, an individual is eligible for the program if he or she is a Connecticut resident who is furloughed from, or required to work without pay for, the federal government during the shutdown (i.e., an “affected employee”).

When applying for a loan, the affected employee must provide (1) the amount of unemployment benefits he or she has received and is eligible to receive during the shutdown and (2) proof of eligibility, including his or her status, income, and state residency.

The proof may include (1) a paystub or bank statement, (2) a federal employee identification card, or (3) the employer’s federal tax identification number. It may also be in the form of a sworn affidavit that the affected employee is a federal employee living in Connecticut, but not receiving a program loan from another financial institution, and that he or she may be eligible to receive back-pay after the shutdown.

Financial Institution Eligibility

Under the bill, a bank or credit union seeking to provide loans through the program must apply to the state banking department which, within one business day, must determine the financial institution’s eligibility by verifying that it has a physical presence in the state and is in good standing.

To be in good standing, a bank or credit union cannot be subject to a (1) formal agreement with the federal Office of the Comptroller of the Currency, (2) consent order or cease and desist order from the banking department or the Federal Deposit Insurance Corporation, (3) letter of understanding and agreement or consent order from the National Credit Union Administration, or (4) banking department finding that it violated the bill’s provisions.

Once its determination is made, the banking department must

immediately notify the bank or credit union of its eligibility.

Offering Loans

Loan Amount. The bill caps the loan amount at the borrower's most recent monthly after-tax pay, up to \$5,000, minus four times the weekly unemployment compensation benefits the borrower has received or is eligible to receive during the shutdown. An affected employee may reapply to the same institution for additional loans for each thirty days he or she remains eligible (i.e., the shutdown continues), but no more than two additional loans. To receive the additional loans, the affected employee must provide the institution with updated unemployment benefits compensation information.

The bill prohibits charging interest on the loans during the shutdown.

Creditworthiness Prohibited. The bill prohibits financial institutions from using a borrower's creditworthiness as a determining factor for eligibility, but loans must otherwise be made according to an institution's underwriting policy and standards.

Notification to CHFA. Each time a financial institution makes a loan under the program, it must, within one business day, notify CHFA in writing with any information about the affected employee that CHFA requests.

Credit Counseling. Financial institutions must (1) refer borrowers to the United Way of Connecticut 2-1-1 Infoline program and (2) either offer counseling services or refer borrowers to non-profit credit counselors.

Tax Implications. The bill exempts from state taxes any deferred or uncharged interest on a program loan. But the lending institutions must disclose to the borrowers, in the signed affidavit or loan documents, that there may be federal tax consequences to borrowing through the program.

Grace Period and Repayment Terms. All program loans have a 90-day grace period during which no interest accrues and the borrower is not

required to make payments. The grace period begins when the borrower's employer is funded.

Following the grace period, a 180-day no-interest repayment period begins. Under the bill, the program loan agreements must require the loans to be fully repaid in three to six equal installments before the end of this 180-day period. Lending institutions may begin charging interest and fees, in accordance with their lending policies and the loans' terms, after this 180-day period.

The bill prohibits the loans from having an early repayment penalty.

Loan Guarantee

Claims Process. Beginning with the 180th day after the grace period ends, a lending institution that demonstrates to CHFA's satisfaction that it has made a good faith effort to collect the outstanding principal amount may submit a claim to CHFA for the amount. CHFA submits approved claims to the Treasurer, who must pay them from the state's General Fund. Once a claim is paid, the loan is assigned to the state and CHFA has the right to continue collection efforts.

The loan guarantee also applies to loans made on or after January 18, 2019 (i.e., before the bill passes or the banking department has determined a financial institution's eligibility).

The bill authorizes CHFA to end any loan guarantee if the lender misrepresents any pertinent information or fails to comply with the bill's loan guarantee requirements.

Funding Cap. Under the bill, if the amount paid by the Treasurer to honor loan guarantees exceeds 10% of the total loans issued, CHFA must immediately stop approving claims. CHFA must notify the Treasurer and each eligible financial institution that it has done so and of the total amount of payments made.

Recordkeeping. The bill requires CHFA to maintain program administration records, including records of issued loans and loan guarantee payments. It must regularly review the records to identify

duplicative applications and determine the total loans issued. It must also report all borrowers' names to the state labor department, which must provide CHFA with information on the borrowers' unemployment compensation benefits. The bill allows CHFA to deem a borrower ineligible for additional program loans if it finds he or she misrepresented his or her unemployment compensation benefits.

Program Expiration

The bill prohibits new loan applications from being submitted once the shutdown ends. The program ends once all loans are repaid and, for loans in default, once all loan guarantee claims have been paid or the maximum payment cap has been reached (see above).

§ 6 — UNEMPLOYMENT BENEFITS

The bill allows an affected employee to be eligible for unemployment benefits during the shutdown if Congress passes a law or the U.S. Department of Labor or another federal agency issues guidance which allows the affected employee to receive the benefits. The employee's eligibility must be determined under the state's unemployment law and the new federal law or guidance. (Current federal regulations allow states to only pay unemployment benefits to claimants who are able and available for work (20 C.F.R. 604.3)). If the shutdown ends and the federal government pays an affected employee for any period of time he or she worked without pay during the shutdown, the employee must reimburse the state's unemployment compensation benefit fund for the amount of unemployment benefits he or she received for that time.

§ 7 — PROPERTY TAX DEFERMENT PROGRAM

The bill authorizes municipalities and municipal subdivisions to establish a program to defer the due dates for an affected employee's real and personal property or motor vehicles taxes, or water or sewer rates, charges or assessment payments. The municipality's legislative body (or if the legislative body is a town meeting, its board of selectmen) may vote to establish the program.

The bill's authorization applies regardless of conflicting statute,

special act, charter, or local or home rule ordinance provisions.

Eligibility Criteria

Under the bill, an individual is eligible for the program if he or she is an affected employee (see above). Individuals do not need to receive unemployment benefits or be enrolled in the loan program to be eligible.

The municipalities or subdivisions must determine participants' eligibility and may do so by requiring individuals to provide evidence, including the above-described items of proof to apply for the loan program. They may also require individuals to recertify their eligibility every 30 days or longer.

Tax Deferment

Municipalities and subdivisions establishing the program must not charge or collect interest on an affected individual's taxes, rates, charges or assessments, or any portion thereof, that became due during the period the individual met the eligibility criteria described above. Once the individual is no longer eligible for the program, he or she must pay the owed payments within 60 days, without interest or penalty; after 60 days, any unpaid payment is subject to interest and penalties applied retroactively to the tax payment's original due date.

Under the bill, deferred taxes, rates, charges or assessments are subject to the existing statutory provisions concerning (1) property tax lien continuance, recording, and releasing and (2) tax precedence and enforcement. The bill specifies that the payment deferral program provisions do not affect interest or penalties on, or lien rights or collection of, any tax, rate, charge or assessment due before December 22, 2018, or after the date on which the individual is no longer eligible for the program.