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. Roude, 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 protection 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.

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”.

SEC. 3. AMENDMENTS TO PAYCHECK PROTECTION PRO-
GRAM LOAN FORGIVENESS.

(a) EXTENSION OF COVERED PERIOD.—Section
636(a)(36)(A)(iii)) is amended by striking “June 30,
2020” and inserting “December 31, 2020”.

(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 ear-
lier 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 AVAIL-
ABILITY.—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 eligi-
bled 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) NO LIMITATIONS.—In carrying out this section, the Administrator may not limit the non-payroll portion of a forgivably covered loan amount.”; 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 origination of such covered loan.”.

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

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

SEC. 5. EFFECTIVE DATE; APPLICABILITY.

The amendments made by this Act 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.