



# MONTANA BOARD OF INVESTMENTS

## Montana Loan Deferment Program

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Last updated: September 24, 2020

### Continuing Guidance for the Montana Loan Deferment Program

This document has been created to provide additional guidance into the process of applying for and receiving funds from the Montana Loan Deferment Program. It is updated frequently with answers to questions and responses to concerns.

#### Purpose

The Montana Loan Deferment Program is focused on helping Montana businesses that have incurred economic injury as a result of the COVID-19 pandemic. The Montana Loan Deferment Program is facilitated by Montana banks, credit unions, and lending institutions in partnership with the State of Montana. Coronavirus Relief Funds (CRF) will be used to provide payments to participating Lenders to convert existing commercial loans to interest only status, with the result being an existing Borrower will be able to defer principal and interest payments on existing loans for a period of 6 to 12 months, thereby freeing up a significant amount of otherwise-dedicated capital for the Borrower on a monthly basis.

#### Eligibility

The Lender must be an Approved Lender with Montana Board of Investments (MBOI).

The Borrower must be a Montana based business. Borrower is defined as an individual, corporation, limited liability company, partnership, association or any combination of these if there is common ownership. Including Holding and Operating Companies. [Updated: July 1, 2020]

This program is extended on a per note basis, i.e. Lender's may fill out an application for each current loan the Borrower would like deferred.

In order to be eligible, businesses/Borrowers must have:

- Experienced a reduction of gross revenue of **15%** or greater attributable to the direct or indirect impacts from COVID-19 [Updated: August 24, 2020];
- A physical presence in Montana;
- Been no more than 30 days past due as of December 31, 2019;
- Been current on all other state financial obligations (i.e. income tax, property tax, payroll tax, worker's comp, child support, etc.) as of March 12, 2020;
- Good standing with the Montana Secretary of State; and
- No reasonable access to 12 months of working capital from any other sources.

Receipt of Payroll Protection Program assistance, Economic Injury Disaster Loans, or other State grants or assistance programs does not affect eligibility. [Updated: July 1, 2020]

## Use of Proceeds

Proceeds may be used to pay 6 to 12 months of interest only payments directly to the Approved Lender on behalf of the Borrower.

## Maximum Amount and Terms

- The maximum amount of Loan Deferment Program funding per loan note is \$150,000.
- Borrower is defined as an individual, corporation, limited liability company, partnership, association or any combination of these if there is common ownership. Including Holding and Operating Companies. [Updated: July 1, 2020]
- The proceeds must be used to pay interest on deferred principal and interest payments for commercial loans.
- Commercial lines of credit qualify as commercial loans. Proceeds will pay interest on the outstanding principal balance on the line of credit as of June 17, 2020. Draws on the line of credit after June 17, 2020 are not eligible for this program.
- If the Commercial line of credit has monthly interest payments and the lender advances additional funds after June 17th the lender will need to collect the additional interest from the borrower. Any unused Montana Deferment Loan Program funds must be returned to MBOI. [Updated: July 1, 2020]
- Loan payments can be deferred for no less than 6 and no more than 12 months. The Lender and Borrower must jointly determine the length of deferment within this time frame.
- The maximum interest rate for payments under this program is the lesser of the current loan rate OR 6%
- Approved Lenders must extend the Borrowers loan maturity date by the number of deferred payments and may not capitalize any accrued interest.
- **SBA 7A loans may participate in the program and:**
  1. **Do not need to extend maturity dates,**
  2. **May receive 6 months' worth of interest to defray loan costs as determined by the Lender and Borrower, and**
  3. **Must apply through the originating Lender. [Updated August 24, 2020]**
- The loan must have a zero-interest balance at the end of the deferment period. [Updated: July 1, 2020]
- Borrowers making interest only payments are eligible to use the Montana Loan Deferment Program. The lender can apply previously paid interest from March 12, 2020 to the date of application, to either the principal of the loan or to refund that interest to the borrower. If the lender applies the previously paid interest to the principal balance of the loan, the new balance must be used in the application. [Updated: July 1, 2020]

## Application Deadlines, Awards and Funding

Applications received between June 22, 2020 and June 26, 2020 will be funded on July 7, 2020.

Applications received between June 27, 2020 and July 10, 2020 will be funded on July 21, 2020.

Applications received between July 11, 2020 and July 24, 2020 will be funded on August 4, 2020.

Applications received between July 25, 2020 and August 7, 2020 will be funded on August 18, 2020. [Updated July 15, 2020]

Applications received between August 8, 2020 and August 21, 2020 will be funded on September 1, 2020. [Updated July 27, 2020]

Applications received between August 22, 2020 and September 4, 2020 will be funded on September 15. [Updated: August 24, 2020]

Applications received between September 5, 2020 and September 18, 2020 will be funded on September 29, 2020. **No new applications will be accepted after 5PM on September 18, 2020.** [Updated: August 24, 2020]

For any applications requiring additional review or audit, all materials must be submitted by October 21, 2020 or the application will not be considered for funding. **Final funding will be on November 4, 2020.** [Updated: September 24, 2020].

Award notifications will be sent to the Lender upon final review and approval by MBOI.

Lenders will be required to confirm reservations prior to fund disbursement. Funds will be disbursed via ACH on the funding dates.

## How to Apply

All applications must be submitted by an Approved Lender. Borrowers should contact their Lender to start the application process.

Lenders will receive a hidden URL from the State that will grant them access to the application. Only approved Lenders will receive the URL.

### Lenders will need the following information to complete the application:

1. Borrower's loan status as of December 31, 2019;
2. Borrower's other State financial obligations (income tax, payroll tax, property tax, workers comp, child support, etc.) were current as of March 12, 2020;
3. Does the loan have an SBA 7A guaranty;
4. Borrower's status with the Montana Secretary of State;
5. Whether the business is engaged in any illegal activities under federal law, including marijuana related business activities;
6. If the business is publicly traded;
7. Financial ability of the Borrower to gain other reasonable access to capital;

8. **Gross revenue through July 31, 2020 for calendar year 2020** [Updated: August 1, 2020];
  - a. For businesses that started in 2019 and did not have a full year of operation, the Lender can use the Borrowers approved revenue projection for 2020.
  - b. For businesses that started operations in 2020 prior to March 12, 2020 the Lender can use the Borrowers approved revenue projection for 2020.
  - c. Applications submitted for businesses that started in 2019 or in 2020 prior to March 12, 2020 will require additional review. Lenders will be contacted by MBOI and will be requested to provide the borrowers revenue projections for 2020. [Updated: July 1, 2020]
9. Physical address for primary Montana business location;
10. Names and Federal Employer Identification Number's (FEIN) for each of the Borrower's partnerships, affiliates, or business entities for which a Montana tax return has been filed;
11. Names and Social Security Number's (SSN) of sole proprietor or pass through entity's owners/shareholders/partners;
12. Borrower's North American Industry Classification System (NAICS) code;
13. Information about the loan requesting deferment:
  - a. Loan number
  - b. Current loan balance;
  - c. Current interest rate;
  - d. Day count (360 or 365);
  - e. Interest paid through date;
  - f. First and last dates of interest only payments; and
  - g. Total principal and interest payments that would have been paid on the loan if not for the deferment.

**Borrowers cannot apply directly for the Montana Loan Deferment Program.**

## **Approval Process**

Each application will be reviewed to verify the information provided in the application. The Borrower and Lender will need to attest to the completeness of the application and certain factual representations. The Montana Department of Revenue (DOR) and MBOI will verify information within the application.

Applications are subject to audit to ensure program compliance and program integrity. Applicants may be required to provide additional information to DOR, MBOI and their representatives, or their Lender to be considered further if selected for audit.

Upon final approval, MBOI will require the primary contact at each Lender to confirm the applications, amounts requested, and Borrowers before funding. MBOI will ACH payments to the Lenders on behalf of the Borrower.

## Withdrawing Applications

If the Borrower wishes to withdraw their application, they will be required to inform their Lender. The Lender will notify MBOI of the decision to withdraw. Upon notification, the application will be deleted and no longer considered for the program. MBOI will notify the Lender when the application has been withdrawn.

## Taxability

These payments are gross income under IRC § 61(a)(1), and, therefore, taxable to banks and financial institutions that are not explicitly exempt in the Internal Revenue Code or Montana Code Annotated.

Credit unions are tax-exempt under IRC § 501(c)(14) and § 32-3-901, MCA.

Loan deferments or modifications for individual or business Borrowers are not taxable as they do not constitute income under IRC § 61.

The Borrower may not deduct any interest paid by BOI.

The State does not need to issue Forms 1099 to any corporation or any limited liability company electing to be taxed as a corporation. The State should issue Form 1099-MISC to any other entity receiving BOI payments.

[Updated: 6/26/2020]

## Application Troubleshooting

If the application is slow, not saving or prepopulating with information not related to the applicant, there may be a draft in the queue that needs to be deleted. To delete an application, go to your profile -> My Submissions -> Saved Drafts, and click delete on the far-right side of the screen of the application you want deleted.

The screenshot shows the Submittable user interface. At the top, there's a navigation bar with 'Submittable' and links for 'Submissions', 'Discover', 'Saved', and 'Following'. Below that, a red banner indicates 'You are impersonating Shell Jacoby'. The main content area is titled 'First, Last' and 'My Submissions'. There are several tabs: 'All Submissions', 'Active', 'Accepted', 'Declined', 'Withdrawn', 'Saved Drafts' (highlighted with a yellow circle), and 'Collaborations'. Below the tabs is a table of draft submissions:

State of Montana	Montana Loan Deferment Program	No Deadline	<a href="#">Continue</a>   <a href="#">Delete</a>
State of Montana	Business Stabilization Grant	No Deadline	<a href="#">Continue</a>   <a href="#">Delete</a>
State of Montana	Local Government Reimbursements	No Deadline	<a href="#">Continue</a>   <a href="#">Delete</a>

## How to Become an Approved Lender

Financial Institutions wishing to become an Approved Lender with the Montana Board of Investments, should contact Doug Hill, Director of In-State Loans at [dhill@mt.gov](mailto:dhill@mt.gov).

## What does this mean for my business?

Example:

The borrower has a loan for a building totaling \$100,000 for 10 years at 5% interest for a monthly payment of \$1,060.66.

The borrower would approach his bank to apply for the Montana Loan Deferment Program. Once approved, the borrower would not have to pay \$12,727.92 over the course of a year. The Loan Deferment Program would pay the bank the interest payments for that 12-month period. The lender and borrower would agree to add one year to the term of the loan to pay off the total amount under the existing terms and conditions.

## Returning Unused Funds

Lenders who need to return unused funds must email Doug Hill ([DHill@mt.gov](mailto:DHill@mt.gov)) notifying him of the amount to be returned, the unique identifier of the application, and the Borrower name. MBOI will coordinate with the Lender to transfer the funds. [Updated August 24, 2020]

## Application Criteria Details

### Creating your unique identifier

Using the list of approved lenders found in Section 1 of the application, the Lender needs to create a unique ID using the abbreviations found in the list followed by the loan number for the loan applying for deferment. The required format for the identifier is; Bank abbreviation.loan number.

### Questions 2: Is the existing loan a commercial loan to a business?

VRBOs with commercial loans are eligible. VRBOs with residential loans are not.

Lines of credit are eligible but only outstanding draws as of June 17, 2020, the day of the Governor's announcement of this program. Any draws after that date are not eligible.

### Question 4: Is the borrower current on all other State financial obligations (i.e. income tax, property tax, payroll tax, workers compensation, child support, etc.)?

DOR will exclude Q4 2019 and Q1 2020 from consideration of lodging/bed taxes as many hotels/accommodations' facilities are in arrears until tourist season.

### \*Question 5: Has the borrower, along with guarantors, shown the capacity or historical ability to service this loan?

This question has been **eliminated**. Lenders are not required to certify that the Borrowers have shown the historical capacity to service the loan. [Updated: June 26, 2020]

### Question 7: Does the loan have an SBA 7A loan guaranty?

Lender portion of the loan within the 504 program is eligible for participation.

Loans with a USDA guaranty are eligible unless they are receiving assistance from the USDA Business & Industry CARES Act working capital program.

SBA 7A Loans are eligible for 6 months of interest payments through the Montana Loan Deferment Program. All SBA requirements must be followed. [Updated August 24, 2020]

**Question 8: Does the borrower have reasonable access to 12 months of working capital from any other sources?**

"Reasonable access" means assets held by the owners, guarantors, partnerships, affiliates or entities and which:

- Does not require liquidation of real or personal property;
- Does not include accounts, income or holdings for retirement purposes;
- Does includes any funds available to a beneficiary of a trust or trust fund, Uniform Gifts to Minors Act accounts, Uniform Transfers to Minors Act accounts, passive income including but not limited to cash flows from property income, including profits from ownership of capital, rent from ownership of resources such as rental income, cash flows from property or any piece of real estate, and interest from owning financial assets or trade or business activities in which the person does not materially participate.
- Does include immediately liquid assets held for the purposes of the business and not already committed to legitimate business purposes

**Question 13: Has the Borrower experienced a 15% reduction in gross revenue – attributable to the direct or indirect impacts of COVID-19?**

As of August 24, 2020, the Borrower must have experienced a reduction in gross revenue of at least 15% to be eligible for the Montana Loan Deferment Program. [Updated August 24, 2020]

The revenue reduction will be verified during the DOR/MBOI review process.

**Question 14: Provide gross revenues through July 31, 2020 for calendar year 2020:**

Revenues through July 31, 2020 for calendar year 2020 must be submitted on or after August 1, 2020. [Updated August 1, 2020]

**Section 2: Requested Funds**

The Payment Deferral Calculation Sheet was amended to include the monthly payment of the loan. It is important that the Lender fill out every field in the spreadsheet in order to be approved. [Updated July 15, 2020]

The maximum amount of Loan Deferment Program funding per loan note is \$150,000.

For borrower obligations with interest rates less than 6%, an amount equal to the full interest payments for the eligible term will be funded; or

For borrower obligations with interest rates of 6% or higher, an amount equal to 6% interest will be funded.

For the duration of the eligible term, the lender will lower the interest rate to 6% for the modified deferral period.

For variable rate loans, the interest rate used in the calculation will be the interest rate applicable to the loan at the time the application is submitted and will be fixed at that interest rate for the term of the deferment. [Updated: June 26, 2020]

Entities and individuals with multiple loans for one or several businesses will be allowed to apply for each individual loan.

It is the responsibility of the Lender and the Borrower to agree on a reasonable term for the deferment which will be no less than 6 months and no more than 12 months.

## **Borrower Certification Amendment [Updated: 7/15/2020]**

“Borrower authorizes the Board of Investments to share tax and financial information with the Department of Revenue for audit and compliance with the loan deferment program.”

“Borrower, if affiliated or financed by a holding company, such as regulated investment company (RIC), a real estate investment trust (REIT), or affiliated with an operating company through common ownership agrees that during the period of loan deferment under the Montana Loan Deferment Program the Borrower shall not make payments to or require payments from any operating company, which is impacted by the COVID pandemic, to the Borrower, whether a holding company or an affiliate, excluding payments for taxes and insurance. Borrower understands that the loan deferment is subject to audit by the Montana Department of Revenue for tax compliance purposes.” [Updated: 7/15/2020]

## **Reinstated Applications**

Applications declined before July 14, 2020 because they did not meet the 25% loss of revenue eligibility requirement, have been reinstated and will undergo further review to determine eligibility. MBOI will do the review and will reach out to Lenders on a per application basis requesting supporting documentation and a calculation of the loss. [Updated July 15, 2020]

MBOI will review all applications that do not meet the **15%** loss of revenue requirement. This review may require additional information which will be requested from the Lender. [Updated: August 24, 2020]

## **Montana Hospitality and Capital Assistance Program [Updated August 24, 2020]**

For loans that exceed the \$150,000 per loan limit of the Montana Loan Deferment Program, Lenders may apply for the Montana Hospitality and Capital Assistance Program. This program was designed to aid large hotels and businesses with large commercial loans that exceed the limits of the Montana Loan Deferment Program. CARES Act funding will be used to pay 80% of the interest on deferred loan payments for up to 12 months.

Borrowers approved for funding in the Montana Loan Deferment Program, but did not receive the full desired length of deferment due to the \$150,000 per note limit, may request additional assistance from the Montana Hospitality and Capital Assistance Program to defer the interest payments for a full 12 months, less the 20% of deferred interest not covered by the program.

**Individual notes participating in the Montana Hospitality and Capital Assistance Program that were funded under \$150,000 will be funded at 100% of the requested amount up to \$150,000. The additional funding will be disbursed on September 1, 2020. [Updated August 24, 2020]**

For more information regarding the Montana Hospitality and Capital Assistance Program, contact Doug Hill at [DHill@mt.gov](mailto:DHill@mt.gov).