

# New York Forward Loan Program Overview

May 29, 2020 | **CLIENT ALERTS**

On May 26, 2020, the New York Forward Loan Program (NYFLP) began accepting pre-applications for certain small businesses in located in New York State. The NYFLP has been designed to assist small businesses materially impacted by the state-mandated shut down of certain businesses due to the COVID-19 pandemic. The applications will then be reviewed on a rolling basis beginning on June 1, 2020 making this a first-come, first-served process. The NYFLP loans will NOT be eligible for forgiveness.

## Who is eligible to participate in the NYFLP?

The NYFLP is available to three types of entities: (i) Small Businesses; (ii) Nonprofits, and (iii) Landlords. The goal of the NYFLP intends to reserve 65% of the total \$100 million program for Small Businesses, 30% for Landlords, and 5% for Nonprofits. The following requirements must be met no matter which entity type a borrower falls under:

- The borrower must not have received a Paycheck Protection Program (PPP) or an Economic Injury Disaster Loan (EIDL) from the federal government;
- The COVID-19 pandemic, and the subsequent shut down of New York State to certain businesses, materially affected the borrower's operations;
- The borrower must have been in business for at least 1 year prior to its application for the NYFLP; and
- The borrower's business must be located in New York State.

The three entity types also have specific requirements in order for a borrower to be eligible for the NYFLP. If the borrower classifies as a Small Business, the borrower must:

- Have 20 or fewer full-time employees (FTEs); and
- Have a gross revenue that is less than \$3 million per year.

If the borrower classifies as a Nonprofit, the borrower must:

- Be classified as a 501(c)(3) nonprofit organization or be a faith-based organization;
- Have 20 or fewer FTEs;
- Have an operating budget of less than \$3 million; and
- Provide direct services to New York State residents.

If the borrower classifies as a Landlord, the borrower must:

- Own no more than 200 units, and no single property can have more than 50 units;
- Certify that all properties are located in a low- or moderate-income census tract, or meet a test that they otherwise would qualify for a low- or moderate-income census tract;
- Have had positive cash flows for 12 months prior to their application for the NYFLP;
- Have an active forbearance agreement, or proof they have not missed a mortgage payment in the last 12 months;

- Be current on property taxes through March 2020;
- Attest that they will not evict any COVID-impacted tenants; and
- Demonstrate their property(s) are in good repair.

### **What are the terms of a NYFLP loan?**

The NYFLP loans have both distinct and common terms for the loan depending on which entity type the borrower falls under. The common terms of the loan are as follows:

- 5 year term;
- In Year 1 of the loan, the borrower will only make interest payments monthly, while in Years 2 through 5 the borrower will make monthly principal and interest payments;
- Loan proceeds must be used for working capital purposes, with a specific preference on the proceeds being used to implement social distancing protocols required by New York State;
- Borrower must detail anticipated uses of loan proceeds in their application;
- No previously outstanding debt may be refinanced;
- No collateral is required from the borrower; and
- No repayment penalty.

The NYFLP also has specific terms depending on which entity type the borrower is classified as. If the borrower is a Small Business, these specific terms shall apply:

- The maximum loan amount shall be the lesser of (i) \$100,000; or (ii) up to 100% of the borrower's average monthly revenues in a 3-month period prior to COVID-19; and
- Interest rate of 3%.

If the borrower is classified as a Nonprofit, these specific terms shall apply:

- The maximum loan amount shall be the lesser of (i) \$100,000; or (ii) up to 100% of the borrower's average monthly expenses in a 3-month period prior to COVID-19; and
- Interest rate of 2%.

If the borrower is classified as a Landlord, these specific terms shall apply:

- The maximum loan amount shall be the lesser of (i) \$100,000; or (ii) the projected reduction in of 3 months net operating income based on the actual reduction of net operating income in April or May 2020
- Interest rate of 3%.

The 3-month measuring period for average monthly revenue for Small Businesses or the average monthly expenses for Nonprofits may be calculated using any consecutive 3-month period from 2019, or January through March 2020.

### **Are there any businesses that do not qualify for the NYFLP?**

Yes, there are businesses that do not qualify for the NYFLP, including, but not limited to:

- Corporate-owned franchises;
- Not-for-profit social clubs;
- Branch banks;

- Pay day loan stores;
- Pawn shops;
- Astrology, palm reading;
- Liquor stores, night clubs;
- Adult bookstores, massage parlors, strip clubs;
- Truck waging facilities;
- Trailer-storage yards;
- Marijuana dispensaries.

**What information will be required from the borrower to apply for the NYFLP?**

Small Businesses that wish to apply for the NYFLP should expect to provide the following:

- Most recently filed tax returns, if available and required by the lender; if not available, internally generated financial statements or other documentation used to determine cash flows;
- Schedule of ownership (name, address, Social Security number, phone number, email, percentage ownership, photo ID for any owners with more than 20% ownership);
- Brief description of COVID-19 impacts on jobs and revenues;
- Evidence of legal formation of business entity (Articles of Incorporations and/or Bylaws); and
- Personal Credit Report (if applicable).

Nonprofits that wish to apply for the NYFLP should expect to provide the following:

- Most recent audited or reviewed financial statements, as applicable, and most recent internal financial statements, if available;
- Most recently filed IRS form 990;
- Proof of IRS nonprofit status;
- Evidence of legal formation of nonprofit entity (Articles of Incorporations and/or Bylaws);
- Information of the nonprofit's executive team member signing (name, address, Social Security number, phone number, email, photo ID);
- Brief description of COVID-19 impacts on jobs and revenues; and
- Nonprofit board approval and resolution.

Landlords that wish to apply for the NYFLP should expect to provide the following:

- Most recently filed tax returns, if available and required by the lender;
- 2019 Income and Expense statement;
- Property Rent Roll showing economic impact;
- Schedule of ownership (name, address, Social Security number, phone number, email, percentage ownership, photo ID for any owners with more than 20% ownership);
- Hardship Letter specifying COVID-19 impacts on jobs and revenues;
- Forbearance Disclosure Statement;
- Evidence of legal formation of business entity (Articles of Incorporations and/or Bylaws); and
- Personal Credit Report (if applicable).

If you have any questions about applying for the NYFLP, or any other government loan program available to small businesses due to the COVID-19 pandemic, please call the attorney you work with at Lippes Mathias or 716.853.5100.



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