

New HEROES Act Would Permit Banking and Insurance for Cannabis

On Tuesday, May 12, Speaker of the House Nancy Pelosi unveiled the newest bill to provide the next stage of coronavirus relief, which includes language that would allow New Jersey legal cannabis businesses more access to banking and insurance services.

The relief bill, known as the HEROES Act, includes specific language from the Secure and Fair (SAFE) Enforcement Bank Act, which was approved by House of Representatives last fall, but remains unscheduled for a vote in the Senate. The legislation provides liability protection to financial services companies – banks and insurers – with legal cannabis clients who comply with state law where cannabis is legal but breach federal laws that still classify cannabis as a Schedule I controlled substance. According to the text of the bill, banks and insurers that provide services to legitimate cannabis businesses “may not be held liable pursuant to any Federal law or regulation – (A) solely for providing such a financial service; or (B) for further investing any income derived from such a financial service.”

In states where cannabis is legal (like New Jersey for medical purposes), federally regulated banks would be able to offer more services, like checking and savings accounts and credit cards, to cannabis businesses without fear of running afoul of the federal government’s enforcement authorities. Most banks have shied away from serving cannabis operations because the drug remains illegal on the federal level. This is a significant development for New Jersey cannabis businesses, who have already been deemed as essential during the COVID-19 pandemic, and offers relief to cannabis business struggling to deposit their dollars in New Jersey and elsewhere.

Upon learning that the language from the SAFE Banking Act was included in the HEROES Act, U.S. Rep. Ed. Perlmutter, D-Colo. tweeted that he had “been pushing for this because the #COVID19 crisis has only exacerbated the risk posed to cannabis businesses & their employees & they need relief just like any other legitimate businesses.” Perlmutter is the chief House sponsor of the banking legislation.

No business, let alone one that is deemed essential to the public’s well-being, should be deprived of access to the benefits of our banking system. The growth and the development of a regulated adult use cannabis marketplace – which is scheduled to be decided by New Jersey voters in November – is dependent upon access to ready and stable credit, a fulsome banking relationship that fosters deposits, payroll and vendor management, and accountability to taxing authorities and regulators. Both sides of the political discourse should be encouraged by this development and join together to make banking access to this burgeoning business possible.

It remains unclear whether the latest stimulus bill – the HEROES Act – will be taken up by the Senate.

Additionally, it is important to note that the HEROES Act does not make cannabis businesses eligible for Small Business Administration loans. The SBA prohibits Paycheck Protection Program assistance for businesses engaging in activity illegal under federal law.

For more information about this Alert or how we can help your cannabis business grow, please contact:

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