



BACKGROUND: On March 18, 2020, the Senate voted 90-8 passing H.R. 6201, the Families First Coronavirus Response Act (FFCRA), a comprehensive legislative package offering support to individuals affected by coronavirus (COVID-19). The legislation, which passed the House on Saturday, March 14th, is headed to President Trump's desk, and he is expected to sign the legislation into law. The FFCRA contains new employer mandates to offer emergency paid leave to employees if they are impacted by COVID-19 and meet specific criteria. Below outlines two important paid leave programs established under the FFCRA.

EMERGENCY FAMILY LEAVE: The FFCRA amends the Family and Medical Leave Act (FMLA) on government entities and private sector employers with fewer than 500 employees so long as they have been employed for 30 days. If an employee requests emergency family leave due to COVID-19, the following standards must be met by an employer:

- Employers must provide 12 weeks of job-protected leave under FMLA to employees who are unable to work or telework because they must care for a child younger than 18 whose school or daycare is closed due to COVID-19
- The first 10 days of leave will be unpaid, though an employee may choose to use accrued vacation days, personal leave, or any other available paid leave for unpaid time off
- Following the 10 days of unpaid leave, employers must pay employees at least two-thirds of their regular pay rate
- Leave assistance is capped at \$200 per day or \$10,000 total per employee

EMERGENCY SICK LEAVE: The FFCRA requires government entities and private sector employers with fewer than 500 employees to offer emergency sick leave to employees who are unable to work or telework with immediate paid sick time off if they are affected by COVID-19 under the following circumstances:

- Ordered to comply with a federal, state, or local quarantine or isolation order
- Self-quarantine per a health care provider's advice
- Diagnosed with COVID-19 by a health care provider
- Caring for an individual who is in quarantine or a child whose school or daycare has been closed due to COVID-19

Full-time employees who are requesting emergency sick leave due to COVID-19 and meet one of the following circumstances above are entitled to receive 80 hours of paid sick leave:

- Medical Diagnosis of COVID-19 (paid at regular rate)
- Advised by a health care provider to self-quarantine due to COVID-19 (paid at regular rate)
- Adhering to a federal, state, or local quarantine or isolation order (paid at regular rate)
- Caring for an individual who is in quarantine or a child whose school or daycare has closed due to COVID-19 (paid at two-thirds rate)

Employers are also required to adhere to the following emergency sick leave provisions:

- Part-time employees must be offered time off equivalent to their scheduled or normal work hours in a two-week period).
- Leave assistance is capped at \$5,110 for a worker's diagnosis or quarantine due to COVID-19 and at \$2,000 to provide care for an individual or child.
- An employer cannot require an employee to use any other available paid leave before using this emergency sick leave.
- An employer may be subject to civil penalties if found to be in violation of these paid sick leave requirements

EMPLOYERS WITH 50 OR FEWER EMPLOYEES: Per the FFCRA, the Secretary of the Department of Labor has the authority to issue regulations to exempt small businesses with fewer than 50 employees from the emergency family leave and emergency sick leave provisions outlined above if it jeopardizes the viability of the business.

SMALL BUSINESS ADMINISTRATION DISASTER ASSISTANCE LOANS: Earlier this month, Congress passed, and President Trump signed, the Coronavirus Preparedness and Response Supplemental Appropriations Act to make \$1 billion available to the Small Business Administration (SBA) to subsidize disaster relief loans to small businesses that have suffered substantial economic injury from the COVID-19 pandemic. Upon a request received from a state's governor, SBA will issue an Economic Injury Disaster Loan declaration. Following the declaration, SBA is making available loans statewide. These loans may be used to pay fixed debts, payroll, accounts payable, and other bills that cannot be paid because of the disaster's impact. Below are key provisions of the SBA Disaster Assistance Loans:

- The interest rate is 3.75% for small businesses and 2.75% for non-profits
- Affected businesses may apply for up to \$2 million in loans
- SBA is offering loans with long-term repayments in order to keep payments affordable, up to a maximum of 30 years
- Terms are determined on a case-by-case basis, based upon each borrower's ability to repay
- Contact your local SBA District office to determine loan eligibility and assistance on what benefits may be available to you due to COVID-19

EMPLOYER TAX CREDITS: The FFCRA provides refundable tax credits to employers to cover wages paid to employees while they are exercising the new emergency paid leave programs and will be put towards an employers' payroll or railroad retirement tax payments. The tax credit breakdown is as follows:

Emergency Sick Leave

- Employers will receive as much as a \$511 tax credit per day for each employee utilizing emergency sick leave, they are sick with COVID-19 or under quarantine
- Employers will receive as much as a \$200 tax credit per day for each employee utilizing emergency sick leave to care for someone quarantined or a child due to a school or daycare closure. The limit would be the excess of 10 days over the aggregate number of days taken into account for all preceding calendar quarters.

Emergency Family Leave

- Employers will receive as much as \$200 per day for each employee utilizing paid leave, or an aggregate of \$10,000

NOTE: Wages paid under the paid leave and family leave programs would not be subject to the employer payroll tax or railroad retirement tax. The credits would also be increased to cover employers' 1.45 percent Medicare tax.