



COVID-19 Update

The Families First Coronavirus Response Act *and* California Updates

*As of 3/20/2020
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Here For You ...

A message from Jonathan Gallagher

California Updates

- Executive Order N-33-20
 - On 3/19/2020, Governor Newsom orders all residents to stay at home except as needed to acquire food, prescriptions, and healthcare
- 16 Critical Infrastructure Sectors exempted



California Updates

- On 3/17/2020, Governor Newsom suspends California employers' obligation to provide 60 days of advance notice of a mass layoff, relocation, or termination at a company with 75 or more employees

What's Coming

- **HR 6201 – Coronavirus Response Act**
- **Passed by House with 220-211 voting approval** Senate
- **Three (3) provisions for employers**
 - Expansion of FMLA
 - Provision on new Paid Leave
 - Federal Paid Sick Leave for Personal/Family Care and Public Health

HR 6201 -- FFCRA

- Families First Coronavirus Response Act
- Approved by Senate and signed by the President on 3/18
- Goes into effect 4/2/2020
- Sunsets on 12/31/2020

FFCRA – Employer-Related Provisions

- Emergency Paid Sick Leave
- Emergency FMLA Expansion
- Emergency Unemployment Insurance Stabilization And Access

FFCRA – Emergency Paid Sick Leave (EPSL)

Covered Employers/Eligible Employees

- Employers with fewer than 500 employees
- Employers with fewer than 50 may be exempt, if providing EPSL would “jeopardize the viability of the business”
- Employers of healthcare providers and first responders may opt out
- All regular FT and PT employees are eligible regardless of tenure with the employer

FFCRA – Emergency Paid Sick Leave (EPSL)

Eligible Reasons for Use – limited to impact of COVID-19, as follows:

- 1) Employee is subject to federal, state or local quarantine or isolation order
- 2) Employee is advised by health care provider to self-quarantine
- 3) Employee is experiencing COVID-19 symptoms and seeking medical diagnosis
- 4) Employee is caring for an individual* who is subject to a federal, state or local quarantine or isolation order, or has been advised by a health care provider to self-quarantine
- 5) Employee is caring for their child if/when the child's school or place of care is closed, or the child's care provider is unavailable due to public health emergency
- 6) Employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor

FFCRA – Emergency Paid Sick Leave (EPSL)

Benefit Offered

- For FT employees in situations 1-3 above (personal illness), 80 hours of EPSL at 100% of their regular rate of pay
 - Not to exceed \$511/day or \$5,110 in aggregate
- For FT employees in situations 4-6 above (caretaking), 80 hours of EPSL at 66% of their regular rate of pay
 - Not to exceed \$200/day or \$2,000 in aggregate
- PT employees are to be paid based on the average number of hours worked in the six (6) months prior to taking paid sick leave

FFCRA – Emergency Paid Sick Leave (EPSL)

Employer Tax Credits

- Employers will receive tax credits applied against their portion of the social security taxes
- Employers will be entitled to a refundable tax credit equal to 100% of the qualified sick leave wages paid in each calendar quarter

FFCRA – Emergency Paid Sick Leave (EPSL)

Do's and Don'ts

- While we wait for final clarification, **DO** presume that EPSL must be provided **in addition to** any other state, local, or employer-provided paid time off
- **DON'T** require that employees provide medical certification for EPSL
- Once the Department of Labor issues it, **DO** post the notice of employees' rights to EPSL under FFCRA in a conspicuous location
- **DON'T** require employees to find replacement workers in order to use EPSL or take leave
- **DON'T** pay out unused EPSL at any time, including at termination, and **DON'T** carry unused EPSL over beyond 12/31/2020

FFCRA – Emergency Paid Sick Leave (EPSL)

Violation of any of the requirements of this provision will be treated as violations under the Fair Labor Standards Act (FLSA) minimum wage provisions

FFCRA – Emergency Family and Medical Leave (EFMLA)

Covered Employers/Eligible Employees

- Employers with fewer than 500 employees
- Employers with fewer than 50 may be exempt, if providing EPSL would “jeopardize the viability of the business”
- Secretary of Labor to determine if employers of healthcare providers and first responders may opt out*
- All regular FT and PT employees who have worked for the employer for at least 30 days are eligible

FFCRA – Emergency Family and Medical Leave (EFMLA)

Eligible reasons for use

- For if/when an employee is unable to work or telework due to caring for the employee's child (under 18 years of age) because the child's school or place of care is closed, or the child's care provider is unavailable due to a public health emergency
- This is currently the **only** qualifying reason for Emergency FMLA
- Notice must be provided by employee "as soon as is practicable"
- Employee does not appear to need to provide certification

FFCRA – Emergency Family and Medical Leave (EFMLA)

Benefits Offered

- Up to **12** weeks of leave
- First **10** days **unpaid**
 - Employee may opt to use any available paid time off, including EPSL
- Remaining **10 weeks** must be paid by the employer at **66%** of employee's regular rate of pay
 - Not to exceed \$200/day and \$10,000/quarter per employee
- Employee must be **restored to original position** unless employer has fewer than **25** employees

FFCRA – Emergency Family and Medical Leave (EFMLA)

Employer Tax Credits

- Employers will receive tax credits applied against their portion of their social security taxes
- Employers will be entitled to a refundable tax credit equal to 100% of the qualified sick leave wages paid in each calendar quarter

FFCRA – Emergency Unemployment Insurance Stabilization And Access

- \$1 billion fund for unemployment over 2020
- Provides ½ of extra funds immediately to states to assist with administrative costs. States will only receive these funds if they:
 - Require employers to provide notification of the availability of unemployment benefits to employees at time of separation
 - Provide online, in-person, or phone assistance with applying
 - Ease eligibility requirements including waiving the waiting period, waiving work search requirements, and notifying applicants when their application is received and being processed, as well as providing information about how to ensure successful processing if the application cannot be processed

FFCRA – Emergency Unemployment Insurance Stabilization And Access

- Other ½ of extra funds reserved for emergency grants to states which experience an increase of unemployment compensation claims of **at least 10%** in comparison to the same quarter in the prior calendar year
 - To provide extended unemployment benefits, up to an **additional 26 weeks** after the initial 26 weeks (i.e. up to 52 weeks of benefits)



Here for you ...

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Thank you!

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