

FAMILIES FIRST CORONAVIRUS RESPONSE ACT “FFCRA” H.R. 6201

SUMMARY SHEET

The FFCRA goes into effect **April 1, 2020** and requires certain employers to provide employees with **paid** sick leave and/or expanded family and medical leave in response to COVID-19.

EMERGENCY PAID SICK LEAVE ACT

An employer shall provide paid sick time to an employee when an employee is unable to work (or telework) due to a leave because:

- 1** The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- 2** The employee has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19;
- 3** The employee has COVID-19 symptoms and is seeking a diagnosis;
- 4** The employee is caring for an individual who is subject to one of the above orders;
- 5** The employee is caring for a son or daughter due to COVID-19 precautions where childcare or school is closed.

HOURS FOR LEAVE

- Paid sick time for full time employees: **80 HOURS**
- Paid sick time for part time employees: **THE AVERAGE NUMBER OF WORK HOURS IN A 2-WEEK PERIOD**



PAID LEAVE

If you are taking paid sick leave because you are unable to work or telework due to a need for leave because of items **#1-3** listed above, you will receive for each applicable hour the greater of:

- Your regular rate of pay,
- The federal minimum wage in effect under the FLSA, or
- The applicable state or local minimum wage.

UP TO \$511 per day, or \$5,110 total over the entire paid sick leave period.

If you are taking paid sick leave because you are unable to work or telework due to a need for leave because of items **#4-5** listed above, you are entitled to compensation for **TWO-THIRDS** of the greater amount listed below:

- Your regular rate of pay,
- The federal minimum wage in effect under the FLSA, or
- The applicable state or local minimum wage.

UP TO \$200 per day, or \$2,000 total over the entire two-week period.



There is **no carryover** of emergency paid sick leave into the following calendar year and employers are **not required to pay out unused leave** to employees upon an employee's separation of employment.

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EMERGENCY FAMILY & MEDICAL LEAVE EXPANSION ACT

Under the FFCRA, employees may be eligible for **both** Emergency Paid Sick Leave and Emergency Family & Medical Leave, for up to a total of 12-weeks paid leave.



An employer shall provide **expanded family and medical leave** to an employee, who has been employed for at least 30 calendar days, when an employee is unable to work (or telework) due to a leave because:



The employee is caring for a child whose school or childcare provider is closed or unavailable due to reasons related to the coronavirus.

The **first 10 days** for which an employee takes leave under the Emergency Family & Medical Leave Expansion Act may consist of **unpaid leave**; an employee may elect to substitute unused vacation leave, personal leave, medical/sick leave.

After the initial 10 days an employer shall provide **paid leave** for each day of leave that an employee takes, for the following 10-weeks.

Calculation of paid leave shall be:

- **Two-thirds** your regular rate of pay, or two-thirds the applicable minimum wage, for **up to** \$200 per day or \$10,000 for the 10-week period.



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POSSIBLE EXEMPTION FOR EMPLOYERS WITH LESS THAN 50 EMPLOYEES

A small business **may** be exempt from certain paid sick leave and expanded family and medical leave requirements if providing an employee such leave would **jeopardize the viability of the business** as a going concern.

Requirements for possible small business exemptions include:



- Employer employs fewer than 50 employees;
- Leave is requested because the child’s school or place of care is closed, or childcare provider is unavailable, due to COVID-19 related reasons; and
- An authorized officer of the business has determined that at least one of the three conditions below is satisfied:

1 The provision of paid sick leave or expanded family and medical leave would result in the small business’s expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity; or

2 The absence of the employee(s) requesting paid sick leave or expanded family and medical leave would entail a substantial risk to the financial health or operational capabilities of the small business because of their specialized skills, knowledge of the business, or responsibilities; or

3 There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the employee(s) requesting paid sick leave or expanded family and medical leave, and these labor or services are needed for the small business to operate at a minimal capacity.

HEALTH PROVISIONS



A group health plan and a health insurance issuer offering group or individual health insurance coverage **shall provide coverage**, and **shall not impose any cost sharing** (including deductibles, copayments, and coinsurance) requirements or prior authorization or other medical management requirements, for the following:

Testing for the detection of SARS-CoV-2 or the diagnosis of the virus that causes COVID-19.

Items and services needed for the **administration of in vitro diagnostic product** for the diagnosis of the virus that causes COVID-19.



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TAX CREDITS

Eligible employers for tax credit under the FFCRA are businesses or tax-exempt organizations with **<500 employees** that are required to:

- ✓ **Provide Emergency Paid Sick Leave**
- ✓ **Provide Emergency Paid Family Medical Leave**

Paid Sick Leave Credit

For an employee who is **unable to work** because of Coronavirus quarantine or self-quarantine or has Coronavirus symptoms and is seeking a medical diagnosis, eligible employers may receive a refundable sick leave credit for sick leave at the employee's regular rate of pay, **up to \$511 per day** and \$5,110 in the aggregate, for a total of 10 days.

For an employee who is **caring for someone** with COVID-19, or is caring for a child because the child's school or childcare facility is closed, or the childcare provider is unavailable due to the Coronavirus, eligible employers may claim a credit for 2/3 of the employee's regular rate of pay, **up to \$200 per day** and \$2,000 in the aggregate, for up to 10 days. Eligible employers are entitled to an additional credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period.

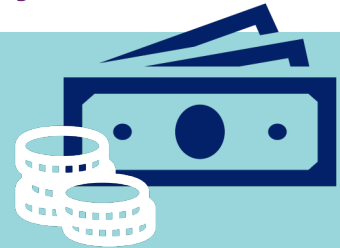
Childcare Leave Credit

In addition to the sick leave credit, for an employee who is unable to work because of childcare, eligible employers may receive a refundable childcare leave credit. This credit is equal to **two-thirds of the employee's**

regular pay, capped at \$200 per day or \$10,000 in the aggregate.

Up to 10 weeks of qualifying leave can be counted towards the childcare leave credit.

Eligible employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period.



Examples

If an eligible employer paid \$5,000 in sick leave and is otherwise required to deposit \$8,000 in payroll taxes, including taxes withheld from all its employees, the employer could use up to \$5,000 of the \$8,000 of taxes it was going to deposit for making qualified leave payments. The employer would only be required under the law to deposit the **remaining \$3,000** on its next regular deposit date.

If an eligible employer paid \$10,000 in sick leave and was required to deposit \$8,000 in taxes, the employer could use the **entire \$8,000** of taxes in order to make qualified leave payments and file a request for an accelerated credit for the remaining \$2,000.

Reference: Information is provided by the IRS News Release IR-2020-57 on March 20th, 2020.

<https://www.irs.gov/newsroom/treasury-irs-and-labor-announce-plan-to-implement-coronavirus-related-paid-leave-for-workers-and-tax-credits-for-small-and-midsize-businesses-to-swiftly-recover-the-cost-of-providing-coronavirus>

More detail on how tax credits under the FFCRA will be available at

<https://www.irs.gov/coronavirus>.