

March 21, 2020

## Families First Coronavirus Response Act

The federal ***Families First Coronavirus Response Act*** enacted Wednesday, March 18, 2020, creates two kinds of paid leave that apply to employers with 500 employees or less.

First, it extends the *Family and Medical Leave Act* to add twelve weeks of leave for employees who have worked for the employer at least 30 days, who are unable to work or telework due to a need to care for a son or daughter under 18 years of age, whose school or place of care has been closed due to a public health emergency related to COVID 19, as declared by state, federal or local government authorities. The first ten days of leave are unpaid, except that the employee can elect to use other forms of available paid leave, such as the new Federal Sick Leave described below. Thereafter, leave is paid at 2/3 the employee's regular rate of pay and capped at \$200 per day and \$10,000 in the aggregate. Reinstatement rights are modified for employers with less than 25 employees.

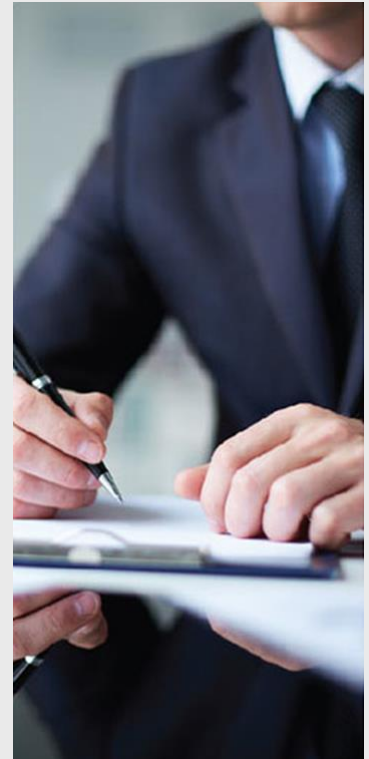
Second, it creates an *Emergency Paid Sick Leave Act* that protects employees unable to work or telework because of the following reasons related to COVID 19:

1. A government mandated quarantine or isolation order
2. Self-quarantine advised by health care provider
3. COVID 19 symptoms for which the employee is seeking a diagnosis
4. Caring for someone for reasons 1 or 2
5. Caring for a son or daughter whose school has been closed
6. Other substantially similar conditions specified by the Secretary of Health

Full time employees are entitled to 80 hours of pay regardless of tenure. Part time employees are entitled to a two-week equivalent based on their average hours of work during a two-week period. Pay for reasons 1, 2 and 3 is at 100%, capped at \$511 per day and \$5,110 in the aggregate. Pay for reasons 4, 5 and 6 is at 2/3 the regular rate and capped at \$200 per day and \$2000 in the aggregate. These benefits are additional to any other statutory or employer-policy benefits. The employee is entitled to use this leave before any such others. The law prohibits retaliation.

The law is effective April 2 and expires December 31, 2020. The Secretary of Labor is allowed to exempt by regulation business with fewer than 50 employees when meeting the requirements can jeopardize the viability of a business. The Secretary has yet to issue regulations and the notice that must be posted by employers.

The law grants employers refundable tax credits against their portion of Social Security taxes for 100% of the qualified sick leave and family leave wages paid in accordance with its provisions. Qualified sick leave and family leave wages are not subject to the employer portion of Social Security taxes but are subject to the employee portion of such taxes and to both the employer and employee portion of Medicare taxes. The credits available for qualified sick leave and family leave wages paid are increased by



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the amount of the employer portion of Medicare taxes paid in connection with such wages.

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