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## **FAMILIES FIRST CORONAVIRUS RESPONSE ACT**

The Families First Coronavirus Response Act (FFCRA) was signed into law on March 18, 2020, takes effect on April 1, 2020, and will remain effective through December 31, 2020. The law applies to employers with fewer than 500 employees. However, employers with less than 50 employees may be exempted by soon-to-issued regulations if the leave payments required under the FFCRA would jeopardize the employer's viability.

### **A. EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT**

The first part of the FFCRA amends the Family and Medical Leave Act (FMLA) and applies to employees who have been employed for at least 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 the FMLA to employees who are unable to work or telework because they must care for a child younger than 18 years old whose school or daycare is closed due to COVID-19. Other typical FMLA-leave situations are not covered by the FFCRA, and the FMLA would apply as it did before in those situations.
- The first 10 days of emergency leave are unpaid, although an employee may choose to use accrued vacation days, personal leave, or any other available paid leave for unpaid time off. However, the employee cannot be compelled to use their PTO or vacation days.
- Following the 10 days of unpaid leave, employers must pay the employee at least two-thirds of their regular pay rate, capped at \$200 per day, or \$10,000 in the aggregate, per employee.

### **B. EMERGENCY PAID SICK LEAVE ACT (EPSL)**

The second part of the FFCRA requires employers to offer 80-hours of paid emergency sick leave to full-time employees who are unable to work or telework if the employee is affected by COVID-19 under the following five circumstances:

- The employee is ordered to comply with a federal, state, or local quarantine or isolation order.
- The employee is self-quarantining per a health care provider's advice.
- The employee is diagnosed with COVID-19 by a health care provider.
- The employee is caring for an individual who is in quarantine.
- The employee is caring for a child whose school or daycare has been closed due to COVID-19.

EPSL is paid at a rate that is the greater of the employee's regular rate of pay or the minimum wage rate in the employee's jurisdiction, capped at \$511 per day, and \$5,100 in the aggregate, for leave taken on the basis of the employee's own condition. For employees using EPSL to care for an individual or for childcare reasons, EPSL is paid at a rate that is equal to two-thirds of the applicable EPSL rate, up to \$200 per day and \$2,000 in the aggregate.

### **C. TAX CREDITS FOR PAID LEAVE**

The FFCRA also allows for tax credits that are designed to backstop the costs incurred by employers for emergency FMLA leave and emergency paid sick leave. There are also several financial assistance provisions for affected employers. Employers should consult with their accountants regarding these tax credits.