



Summary of the Families First Coronavirus Response Act

Information provided by PayChex

In response to the COVID-19 (coronavirus) pandemic, the Families First Coronavirus Response Act was signed into law March 18, 2020. The Act dedicates tens of billions of dollars for paid sick and family leave, unemployment insurance, free COVID-19 testing, and other measures to help Americans impacted by the crisis.

The final bill will take effect for covered employers no later than 15 days after enactment and sunsets Dec. 31, 2020.

Businesses have begun to ask questions, including whether federal relief might be available and if there is tax relief. Key provisions of H.R. 6201 address these questions. **It should be noted that these provisions generally apply to private employers with fewer than 500 employees.**

The following is a summary of the highlights of the Act.

How has the Family and Medical Leave Act expanded?

Businesses could be impacted by staffing issues related to self-isolation by employees, mandatory quarantine, or actual sickness related to coronavirus. The provisions of the Federal Family and Medical Leave Act (FMLA) have been temporarily expanded and those expanded provisions would only apply to FMLA absences related to a new qualifying event involving “public health emergency leave.” Under the Emergency Family and Medical Leave Expansion Act:

- Employees who have worked at least 30 calendar days for a covered employer would be eligible for qualifying leave.
- Small businesses with fewer than 50 employees may be exempt if the leave would jeopardize the viability of their business. Employers with fewer than 25 employees may be exempt from certain provisions related to job protection.
- Qualifying need is defined as “the employee is unable to work (or telework) due to a need for leave to care for a son or daughter younger than 18 years of age of such employee if the school (meaning a primary or secondary school only) or place of care has been closed, or the childcare provider of such a son or daughter is unavailable, due to a public health emergency.
- Eligible employees who qualify for leave under these reasons would be paid by their employer after the first 10 days of leave at a rate of not less than two-thirds of their current rate of pay for the number of hours the employee would otherwise be scheduled to work, up to a maximum of \$200 per day or an aggregate of \$10,000, for up to 12 weeks in the benefit year.



- Employees taking leave under the Emergency FML Expansion Act must be permitted to elect to use any available paid time off including vacation, personal time, medical leave and/or sick leave during the first 10 days of their FMLA leave.
- Employees covered under a multiple-employer bargaining agreement are addressed separately in the legislation.
- Exemptions apply for employers of healthcare workers and emergency responders.

Are there payroll tax credits for businesses under paid family leave?

One of the provisions of the Families First Coronavirus Response Act provides a refundable tax credit. Qualified family leave wages are wages required to be paid by the Emergency Family and Medical Leave Expansion Act. This credit is equal to 100 percent of the wages paid by an employer each calendar quarter. This tax credit is allowed against the employer portion of the Social Security tax rate of 6.2 percent and the Medicare rate of 1.45 percent.

The wage amount is capped for each employee at \$200 per day and \$10,000 for all calendar quarters. If the credit exceeds the employer's total liability of the employer portion of Social Security and Medicare in any calendar quarter, the excess credit is refundable to the employer.

It should be noted that specific rules apply that prevent a double tax benefit.

What businesses should know about the Emergency Paid Sick Leave Act?

Under the Emergency Paid Sick Leave Act, employers would be required to provide sick time, available for immediate use, to each employee who requires such time for qualifying reasons associated with COVID-19.

Employers also must provide up to 80 hours of paid sick leave (PSL) to eligible full-time employees and pro-rate part-time employee paid sick time based on the average number of hours regularly scheduled in a two-week period. The calculation and caps for compensation vary dependent on the reason for leave up to the maximum \$511 per day if the employee is directly impacted and up to \$200 per day if it is for care provided to someone else. Aggregate caps exist, as well.



Additionally:

- Employees may not be required to use other available paid time off before using paid sick time under this Act.
- Employers will be required to post a notice of employee rights; the U.S. Secretary of Labor will provide a model notice within seven days of enactment.
- Employees covered under a multiple-employer bargaining agreement are addressed separately in the legislation.
- Exemptions apply for employers of healthcare workers and emergency responders at their election.

Paid sick time provided under this Act is not preempted by other federal, state, or local laws.

Are there payroll tax credits for businesses under Paid Sick Leave?

Under this provision, there also is a refundable tax credit equal to 100% for wages paid by the employer under the new Emergency Paid Sick Leave Act for each calendar quarter.

- The tax credit is allowed against the employer portion of the tax imposed Social Security rate (6.2%) and the Medicare rate (1.45%).
- The amount is capped at the maximum of \$511 or \$200 per day depending on the reason.
- If the credit exceeds the employer's total liability of the portion of Social Security and Medicare in any calendar quarter, the excess is refundable to the employer.
- Specific rules apply that prevent a double tax credit.

Will there be extra funding for states to handle unemployment insurance claims?

The bill provides \$1 billion in emergency grants to states for activities related to facilitating unemployment insurance benefits, under certain conditions, including half (\$500 million) to be used to provide immediate additional funding to all states for staffing, technology, systems, and other administrative costs, provided certain requirements are met:

- Require employers to provide notification of potential UI eligibility to laid-off workers
- Ensure that workers have at least two ways (for example, online and phone) to apply for benefits



- Notify applicants when an application is received and being processed and if the application cannot be processed, provide information to the applicant about how to ensure successful processing.

The remaining \$500 million will be set aside in reserve for emergency grants to states that experienced at least a 10 percent increase in unemployment. Those states would be eligible to receive an additional grant, in the same amount as the initial grant, to help cover the costs incurred due to the sudden spike in unemployment.

States would have access to interest-free loans to help pay regular UI benefits through Dec. 31, 2020, if needed.

The Secretary of Labor will also work with states who want to implement work-sharing programs for employers looking to reduce hours instead of laying employees off.

Does the Families First Coronavirus Response Act address the cost of COVID-19 testing?

H.R. 6201 does include some direction for health insurance coverage related to COVID-19 diagnostic testing.

- Diagnostic testing and provider visits, including office visits, urgent care visits, and emergency room visits, must be provided without any co-pays, coinsurance, or deductibles.
 - Additionally, no prior authorizations may be required for testing
 - These provisions would apply to most health insurance plans, including individual health plans, fully insured and self-funded group health plans, Medicare, and Medicaid

Many states have already directed these services to be covered without cost-sharing, and many carriers have already agreed to do the same.