

# FAMILIES FIRST CORONAVIRUS RESPONSE ACT

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PAYROLL  
RISK MANAGEMENT  
HUMAN RESOURCES  
EMPLOYEE BENEFITS  
STAFFING

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# FAMILIES FIRST CORONAVIRUS RESPONSE ACT

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PRESIDENT TRUMP SIGNS FAMILIES FIRST CORONAVIRUS RESPONSE ACT:  
WHAT YOU NEED TO KNOW...



# FAMILIES FIRST CORONAVIRUS RESPONSE ACT

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- IF YOU HAVE QUESTIONS DURING THE PRESENTATION, PLEASE TYPE THEM INTO THE “CHAT” BOX
- WE WILL BE TRACKING QUESTIONS AND GROUPING THOSE THAT ARE SIMILAR
- WE WILL ANSWER QUESTIONS WE CAN ANSWER AT THE END OF THE WEBINAR
- IF WE ARE NOT ABLE TO PROVIDE AN ANSWER, WE WILL RESEARCH AND PROVIDE AN ANSWER IN A Q&A

# FAMILIES FIRST CORONAVIRUS RESPONSE ACT

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- THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT GOES INTO EFFECT ON APRIL 2, 2020 AND EXPIRES ON DECEMBER 31, 2020
- EMPLOYERS WITH FEWER THAN 500 EMPLOYEES ARE REQUIRED TO COMPLY WITH THIS LEGISLATION

# EMERGENCY SICK LEAVE PROVISIONS

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- THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT EMERGENCY PAID SICK LEAVE PROVISIONS SETS FORTH SIX COVERED REASONS QUALIFYING FOR PAID SICK LEAVE.
- EMPLOYERS CANNOT REQUIRE EMPLOYEES TO USE ANY OTHER EMPLOYER LEAVE BENEFITS PRIOR TO USING THE EMERGENCY PAID SICK LEAVE.
- **NO CARRYOVER / PAYOUT:** THERE IS NO CARRYOVER OF UNUSED HOURS INTO SUBSEQUENT YEARS OR PAYOUT UPON TERMINATION.

# EMERGENCY SICK LEAVE PROVISIONS

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- **NOTICE:** AN EMPLOYER MAY REQUIRE REASONABLE NOTICE FROM AN EMPLOYEE TO CONTINUE TO RECEIVE PAID SICK TIME. (NO CLARIFYING GUIDANCE HAS BEEN PUBLISHED AS TO THIS POINT.)
- **RETURN TO WORK:** EVEN IF AN EMPLOYEE HAS NOT USED ALL THE PAID SICK TIME, THE EMPLOYEE MUST RETURN TO WORK AT THE EMPLOYEE'S NEXT SCHEDULED WORK SHIFT AFTER THE NEED FOR LEAVE ENDS.
- **REPLACEMENTS:** AN EMPLOYER MAY NOT REQUIRE AN EMPLOYEE TO FIND A REPLACEMENT WHEN USING PAID SICK TIME UNDER THE LAW.
- **NO DISCRIMINATION OR RETALIATION:** NO DISCRIMINATION OR RETALIATION IS PERMITTED AGAINST EMPLOYEES FOR TAKING PAID SICK LEAVE UNDER THE NEW LAW OR FOR REPORTING COMPLAINTS, TESTIFYING OR INSTITUTING PROCEEDINGS RELATED TO THE LAW.
- **POSTER:** THE U.S. DEPARTMENT OF LABOR WILL BE CREATING A REQUIRED POSTING WITHIN SEVEN DAYS OF THE ENACTMENT OF THE NEW LAW.

# EMERGENCY SICK LEAVE PROVISIONS

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- **NO SOCIAL SECURITY TAXES ON WAGES:** THE WAGES REQUIRED TO BE PAID FOR EMERGENCY SICK LEAVE ARE NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DETERMINING SOCIAL SECURITY TAXES OWED BY THE EMPLOYER.
- **SON OR DAUGHTER:** HAS THE SAME BROAD DEFINITION AS IN THE FMLA (BIOLOGICAL, ADOPTED, OR FOSTER CHILD, A STEPCHILD, A LEGAL WARD, OR A CHILD OF A PERSON STANDING IN LOCO PARENTIS, WHO IS EITHER UNDER AGE 18, OR AGE 18 OR OLDER AND INCAPABLE OF SELF-CARE BECAUSE OF A MENTAL OR PHYSICAL DISABILITY AT THE TIME THAT LEAVE IS TO COMMENCE).

# EMERGENCY SICK LEAVE PROVISIONS

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- **HOURS:**

- FULL-TIME EMPLOYEES RECEIVE UP TO 80 HOURS OF SICK LEAVE.
- PART-TIME EMPLOYEES:
  - PART-TIME EMPLOYEES RECEIVE THE AVERAGE NUMBER OF HOURS OF WORK THEY WORK OVER A TWO-WEEK PERIOD.
  - IF THE PART-TIME EMPLOYEE'S SCHEDULE VARIES, THE EMPLOYEE RECEIVES THE AVERAGE NUMBER OF HOURS SCHEDULED PER DAY OVER THE PRIOR SIX-MONTH PERIOD, INCLUDING HOURS FOR WHICH THE EMPLOYEE TOOK ANY TYPE OF LEAVE.
  - IF NEITHER IS CALCULABLE, THE PART-TIME EMPLOYEE RECEIVES THE AMOUNT THE EMPLOYEE EXPECTED TO WORK WHEN HIRED.



# EMERGENCY SICK LEAVE PROVISIONS

<u>Covered Reason For Leave</u>	<u>Rate of Pay</u>	<u>Cap on Payments</u>
<b>(1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19</b>	The employee's regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 ( <a href="#">29 U.S.C. 207(e)</a> )).	\$511 per day and \$5,110 in the aggregate
<b>(2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19</b>	The employee's regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 ( <a href="#">29 U.S.C. 207(e)</a> )).	\$511 per day and \$5,110 in the aggregate
<b>(3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.</b>	The employee's regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 ( <a href="#">29 U.S.C. 207(e)</a> )).	\$511 per day and \$5,110 in the aggregate

# EMERGENCY SICK LEAVE PROVISIONS

<u>Covered Reason For Leave</u>	<u>Rate of Pay</u>	<u>Cap on Payments</u>
(4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).	Two-thirds of the employee's regular rate of pay.	\$200 per day and \$2,000 in the aggregate
(5) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable, due to COVID-19 precautions.	Two-thirds of the employee's regular rate of pay.	\$200 per day and \$2,000 in the aggregate
(6) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.	Two-thirds of the employee's regular rate of pay.	\$200 per day and \$2,000 in the aggregate

# FAMILY MEDICAL LEAVE PROVISIONS

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- THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT INCLUDES AN EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION:
  - ELIGIBLE EMPLOYEES: AN EMPLOYEE WHO HAS BEEN EMPLOYED FOR AT LEAST 30 CALENDAR DAYS.
  - COVERED EMPLOYERS: AN EMPLOYER WITH FEWER THAN 500 EMPLOYEES.

# FAMILY MEDICAL LEAVE PROVISIONS

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- THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT INCLUDES AN EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION:
  - QUALIFIED REASONS FOR PAID FMLA LEAVE:
    1. WHEN THE EMPLOYEE IS UNABLE TO WORK (OR TELEWORK) DUE TO A NEED FOR LEAVE TO CARE FOR THE SON OR DAUGHTER UNDER 18 YEARS OF AGE OF SUCH EMPLOYEE IF THE SCHOOL OR PLACE OF CARE HAS BEEN CLOSED, OR
    2. THE CHILDCARE PROVIDER OF SUCH SON OR DAUGHTER IS UNAVAILABLE, DUE TO A PUBLIC HEALTH EMERGENCY (WITH RESPECT TO A COVID-19 DECLARED BY A FEDERAL, STATE, OR LOCAL AUTHORITY), THE EMPLOYEE MAY TAKE UP TO 12 WEEKS OF LEAVE.

# FAMILY MEDICAL LEAVE PROVISIONS

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- AMOUNT OF PAID LEAVE:
- FIRST 10 DAYS MAY BE UNPAID (BUT EMPLOYEE MAY USE OTHER PAID LEAVES DURING THIS TIME).
- PAID AT NO LESS THAN TWO-THIRDS OF THE EMPLOYEE'S REGULAR RATE OF PAY (AS DETERMINED BY THE FLSA) AND THE NUMBER OF HOURS THE EMPLOYEE WOULD NORMALLY BE SCHEDULED TO WORK FOR UP TO 10 ADDITIONAL WEEKS FOR A TOTAL OF 12 WEEKS OF EMERGENCY FAMILY MEDICAL LEAVE.
- PAID LEAVE SHALL NOT EXCEED \$200 PER DAY AND \$10,000 IN TOTAL.

# FAMILY MEDICAL LEAVE PROVISIONS

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- **REINSTATEMENT RIGHTS:** EMPLOYEES ARE ENTITLED TO REINSTATEMENT TO THE SAME POSITION OR AN EQUIVALENT POSITION, UNLESS THE EMPLOYER EMPLOYS FEWER THAN 25 EMPLOYEES. IN THAT CASE, THE EMPLOYER MUST MAKE REASONABLE EFFORTS TO PROVIDE THE EMPLOYEE WITH A POSITION OR AN EQUIVALENT POSITION FOR 1 YEAR AFTER THE “PUBLIC HEALTH EMERGENCY CONCLUDES” OR 12 WEEKS AFTER COMMENCEMENT OF THE LEAVE, WHICHEVER IS EARLIER.
- **NO SOCIAL SECURITY TAXES ON WAGES:** THE WAGES REQUIRED TO BE PAID DURING THE FMLA LEAVE (AFTER THE FIRST TEN DAYS) ARE NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DETERMINING SOCIAL SECURITY TAXES OWED BY THE EMPLOYER.

# FAMILY MEDICAL LEAVE PROVISIONS

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- **EXCLUSIONS:**
  - ***THE SECRETARY OF LABOR HAS BEEN GIVEN AUTHORITY TO ISSUE REGULATIONS FOR GOOD CAUSE TO EXCLUDE CERTAIN HEALTH CARE PROVIDERS AND EMERGENCY RESPONDERS, AND TO EXEMPT SMALL BUSINESSES WITH FEWER THAN 50 EMPLOYEES IF REQUIREMENTS WOULD “JEOPARDIZE THE VIABILITY OF THE BUSINESS AS A GOING CONCERN”.***
  - ***IT IS UNCLEAR IF THIS EXEMPTION ALSO APPLIES TO THE SICK LEAVE PROVISIONS***
  - ***IT IS ALSO UNCLEAR WHETHER AND WHEN THESE EXEMPTIONS WILL OCCUR***

# FAMILIES FIRST CORONAVIRUS RESPONSE ACT

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- **PAID SICK LEAVE AND PAID FMLA TAX CREDITS**

- EMPLOYERS WILL RECEIVE A REFUNDABLE TAX CREDIT AGAINST THE EMPLOYER SHARE OF SOCIAL SECURITY TAXES EQUAL TO 100% OF QUALIFIED PAID EMERGENCY LEAVE WAGES PAID FOR IN EACH CALENDAR QUARTER
- **REFUNDS:** IF THE CREDITS EXCEED THE EMPLOYER'S TOTAL LIABILITY UNDER SECTION 3111(A) FOR ALL EMPLOYEES FOR ANY CALENDAR QUARTER, THE EXCESS CREDIT IS REFUNDABLE TO THE EMPLOYER.
- TEL STAFFING AND HR WILL TRACK SICK LEAVE AND FAMILY LEAVE PAYMENTS AND CREDIT YOUR INVOICES ACCORDINGLY



# FAMILIES FIRST CORONAVIRUS RESPONSE ACT

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- TEL STAFFING AND HR HAS DEVELOPED:
  1. A SAMPLE TEMPORARY POLICY COVERING THE PROVISIONS OF THE ACT
  2. SAMPLE LEAVE REQUEST FORMS COVERING THE PROVISIONS OF THE ACT
  3. THESE SAMPLE FORMS WILL BE MADE AVAILABLE TO YOU
- TO ENSURE THAT WE ARE TRACKING LEAVE ACCURATELY, TEL IS RECOMMENDING THAT A REQUEST FORM BE COMPLETED TO APPLY FOR EMERGENCY SICK OR FAMILY MEDICAL LEAVE

# OTHER CONSIDERATIONS

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- IF FEDERAL, STATE OR LOCAL GOVERNMENTS ENFORCE A **MANDATORY STAY-AT-HOME ORDER**, THE FOLLOWING APPLIES:
  - IF THE POST OFFICE IS STILL OPERATIONAL AND DELIVERING MAIL, EMPLOYEES STILL RECEIVING PAPER CHECKS:
    - MAY BE SENT A PAY CARD TO COMPLETE SO THEY MAY BE PAID ELECTRONICALLY (WHILE SUPPLIES LAST);
    - MAY START A BANK ACCOUNT AND SEND US THEIR BANK INFORMATION TO SET UP DIRECT DEPOSIT; OR
    - WILL HAVE THEIR PAYCHECKS MAILED TO THEIR HOMES.

# OTHER CONSIDERATIONS

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- IF THE POST OFFICE IS NOT OPERATIONAL, EMPLOYEES STILL RECEIVING PAPER CHECKS:
  - MAY START A BANK ACCOUNT AND SEND US THEIR BANK INFORMATION TO SET UP DIRECT DEPOSIT;  
OR
  - WILL HAVE THEIR PAYCHECKS HELD AND MAILED AFTER THE POST OFFICE IS DELIVERING MAIL AGAIN, OR
  - MAY PICK UP THEIR PAYCHECKS AFTER THE STAY-AT-HOME ORDER IS LIFTED
- YOU CAN REQUIRE EMPLOYEES TO WORK FROM HOME IF YOU HAVE THE ABILITY TO DO SO SAFELY AND EFFECTIVELY

# OTHER CONSIDERATIONS

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- EMPLOYEES WHO ARE LAID OFF, FURLOUGHED OR HAD THEIR HOURS REDUCED MAY BE ELIGIBLE FOR UNEMPLOYMENT BENEFITS.
  - THE ACT HAS REQUESTED THAT STATES “EASE” ELIGIBILITY REQUIREMENTS FOR UNEMPLOYMENT BENEFITS FOR EMPLOYEES IMPACTED DUE TO COVID-19
  - EMPLOYERS ARE REQUIRED TO NOTIFY THEIR EMPLOYEES OF THEIR RIGHTS TO APPLY FOR UNEMPLOYMENT BENEFITS
  - TEL STAFFING AND HR HAS CREATED INSTRUCTION FORMS BY STATE ON APPLYING FOR UNEMPLOYMENT BENEFITS
    - PLEASE EMAIL [HR@TELSTAFFING.COM](mailto:HR@TELSTAFFING.COM) FOR UNEMPLOYMENT BENEFITS INSTRUCTION FORMS OR IF YOU HAVE ANY ADDITIONAL QUESTIONS ABOUT WHAT HAS BEEN DISCUSSED TODAY.

# THANK YOU!

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PLEASE STAY SAFE AND HEALTHY  
THROUGH THESE UNPRECEDENTED TIMES