

# CLIENT ALERTS

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## President Trump Signs The Families First Coronavirus Response Act— What Do Employers Need to Know?

3.19.2020

Yesterday, President Trump signed the Families First Coronavirus Response Act. This new law helps many American families dealing with the impact of the coronavirus by providing increased funding for food, Medicaid, unemployment assistance, and covers testing for the virus. It also contains the Emergency Family and Medical Leave Expansion Act and the Emergency Paid Sick Leave Act, which requires certain employers to provide paid sick leave to employees affected by coronavirus effective April 2 to the end of the year. Although employers will receive tax credits for these payments, they are required to front the costs. Both Acts only apply to employers with fewer than 500 employees and provide the Department of Labor with the explicit authority to create regulations that would exempt small businesses with fewer than 50 employees if they can show that complying with the Act would jeopardize the viability of the business.

### **The Emergency Family and Medical Leave Expansion Act**

This Act temporarily expands FMLA, requiring covered employers to provide up to 12 weeks of leave to certain employees affected by schools shut down because of coronavirus, with 10 of those weeks paid. In order to be eligible for benefits, the employee must have been employed for 30 days by the employer before requesting leave and must be

- Unable to work, meaning the employee cannot even work remotely; and
- Caring for a minor son or daughter because the child's school or place of care has been closed or is unavailable due to a declared health emergency for COVID-19 by a Federal, State, or local authority.

### **Related People**

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The leave is also partially paid and partially unpaid as follows:

- The first 10 days of the leave are unpaid but the employee may use any accrued vacation leave, personal leave, or medical or sick leave for the first 10 days.
- The remaining 10 weeks are *paid* at least two-thirds of the employee's regular rate of pay. This payment obligation is capped at \$200 per day and \$10,000 in the aggregate.

### **The Emergency Paid Sick Leave Act**

This Act requires covered employers to provide 80 hours of paid sick leave to certain full-time employees affected by the coronavirus. Part-time employees are also eligible for paid leave for the number of hours that the employee works, on average, over a 2-week period. Unlike the Emergency Family and Medical Leave Expansion Act, the Emergency Paid Sick Leave Act covers all employees, even if they have not worked for 30 days before requesting leave. But to be eligible for benefits, the employee must be both unable to work—even remotely—and must need the leave for one of the following reasons presented in the chart below (along with the corresponding required benefit and imposed cap).

#### **Reason**

#### **Benefit and Caps**

Required to quarantine or isolate by Federal, State, or local officials because of COVID-19;

Full regular rate of pay capped at

\$511 per day and \$5,110 in the aggregate

Advised by a health care provider to self-quarantine because employee may have COVID-19 or was exposed;

Experiencing symptoms of COVID-19 and seeking a medical diagnosis;

Caring for an individual who is subject to a quarantine order by government officials or a health care provider;

Two-thirds of the regular rate of pay capped at

\$200 per day and \$2,000 in the aggregate

Caring for a son or daughter because the child's school or place of care has been closed or is unavailable due to COVID-19 precautions;

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Experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

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### **Tax Credits for FMLA Expansion and Paid Sick Leave Acts**

Although the Acts require employers to front the costs of the payments by paying eligible employees directly and immediately, the Acts give employers a payroll tax credit equal to 100% of the payments to help cover the cost, so long as the payment does not exceed the caps outlined above. And the amount of the credit is refundable if the credit exceeds the amount of payroll taxes for the quarter.

If you have any questions about the Families First Coronavirus Response Act and its application, please contact a Butzel Long labor and employment attorney for assistance.

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