
COVID-19 – Families First Coronavirus Response Act

The Families First Coronavirus Response Act (H.R. 6201) was signed into law by President Trump on March 18, 2020. The second in a series of federal legislative efforts to combat the COVID-19 health pandemic, the Act provides supplemental funding for a number of critical programs, as well as requiring free COVID-19 testing. In an effort to partially offset the economic impact of the crisis, the Act also contains a requirement for certain employers to provide paid sick and family leave for employees, and includes tax credits to offset the cost of required sick pay and family leave.¹

Major Elements of the Bill

The bill contains a number of divisions, covering a wide range of topics:

- **Supplemental appropriations - emergency spending:** The bill includes supplemental appropriations for multiple federal agencies:
 1. To continue funding programs such as the Supplemental Nutrition Assistance Program (SNAP), the Emergency Food Assistance Program (EFAP), and nutrition programs that assist the elderly.
 2. To fund expanded COVID-19 diagnostic testing and services in various departments of the federal government.
- **Nutrition waivers:** This section of the Act allows the Department of Agriculture to grant waivers of certain requirements for the SNAP and National School Lunch Programs, to ensure that these programs continue to provide needed nutrition.
- **Emergency Unemployment Insurance Stabilization:** This portion of the Act provides emergency funding for states for activities related to processing and paying unemployment insurance (UI) benefits; certain requirements to qualify for these funds apply. Further, the Act suspends the accrual of interest through December 31, 2020, on federal payments made to states for assistance with unemployment compensation.

¹ The discussions here concern federal law; state or local law may differ.

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The Act also increases to 100% the federal share of payments to states for extended and regular unemployment compensation through December 31, 2020.

- **Emergency Family and Medical Leave:** Requires certain employers (generally, those with less than 500 employees)¹ to provide up to 12 weeks of Emergency Family Medical Leave to eligible employees to care for the employee's child. This may be because the child's school or place of care has been closed due to a public health emergency. Employers are not required to pay employees for the first 10 days of such leave; an employee may use accrued paid leave during such time. After the first 10 days, employers must pay not less than two-thirds of an employee's regular pay for the number of hours the employee normally works. The maximum amount of compensation for such leave is \$200 per day and \$10,000 in aggregate. Special rules apply to part-time employees. Employers are entitled to receive a 100% refundable payroll tax credit for the wages paid.
- **Payroll credit for paid emergency family and medical leave:** The Act provides a 100% payroll tax credit for qualified family leave wages paid by an employer for each calendar quarter. The amount of qualified family leave wages that may be considered for each employee is limited to \$200 per day and \$10,000 for all quarters. An equivalent credit is allowed to a self-employed individual.
- **Emergency Paid Sick Leave:** Requires an employer (generally, those with less than 500 employees)¹ to provide paid sick time to employees unable to work due to the effects of COVID-19. Full-time employees are entitled to 80 hours of paid sick time if the employee:
 1. Is subject to a governmental quarantine or isolation order.
 2. Has been advised by a health-care provider to self-quarantine.
 3. Is experiencing symptoms of COVID-19, and is seeking a diagnosis.
 4. Is caring for an individual who is subject to an order described in (1) or who has been advised to self-quarantine.
 5. Is caring for the employee's child because the child's school or child-care provider is closed, or

¹ Also applicable to self-employed individuals.

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6. Is experiencing a substantially similar circumstance related to COVID-19 as specified by the Department of Health and Human Services in consultation with the Department of Labor.

Paid sick time under this section may be used before other paid leave that may be available to an employee. Part-time employees are entitled to paid sick time for the average number of hours the part-time employee works during an average two-week period. Employers must pay the regular rate of pay up to:

- \$511 per day (\$5,110 in aggregate) for paid sick time used by an employee who experiences symptoms of COVID-19 or is required or advised to self-quarantine; or
- \$200 per day (\$2,000 in aggregate) for paid sick time used by an employee to care for the employee's child or other impacted person.
- Employers are entitled to receive a 100% refundable payroll tax credit for the wages paid.
- **Payroll credit for emergency paid sick leave:** The Act provides a 100% payroll tax credit for qualified sick leave wages paid by an employer for each calendar quarter. The amount of qualified sick leave wages that may be considered for each employee varies, depending on the circumstances under which the wages were paid:
 - \$511 per day (\$5,110 in aggregate) for paid sick time used by an employee who received paid sick leave because of situations 1, 2, or 3 (see above); or
 - \$200 per day (\$2,000 in aggregate) for paid sick time used by an employee who received paid sick leave because of situations 4, 5, or 6 (see above).
 - An equivalent credit is allowed to a self-employed individual.
- **Health provisions:** The Health Provisions portion of the Act requires private health insurance plans to cover testing for COVID-19 without imposing cost-sharing such as deductibles, coinsurance, or copayments for the duration of the public health emergency.¹ Similar requirements apply to classic Medicare, Medicare Advantage plans, the Children's Health Insurance Program, the Department of Defense (TRICARE),

¹ Declared by President Trump on January 31, 2020.

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the Veteran's Administration, and programs for Native Americans who receive health services through the Indian Health Service.

Online Resources

Online resources that may be helpful include:

- Internal Revenue Service, at: <https://www.irs.gov/coronavirus>
- U.S. Department of Labor, at: <https://www.dol.gov/coronavirus>

Seek Professional Guidance

The foregoing is a highly simplified overview of some of the more notable provisions of the Families First Coronavirus Response Act. To receive maximum benefit from the new legislation, the advice and guidance of trained income tax, legal, and human resource professionals is highly recommended.