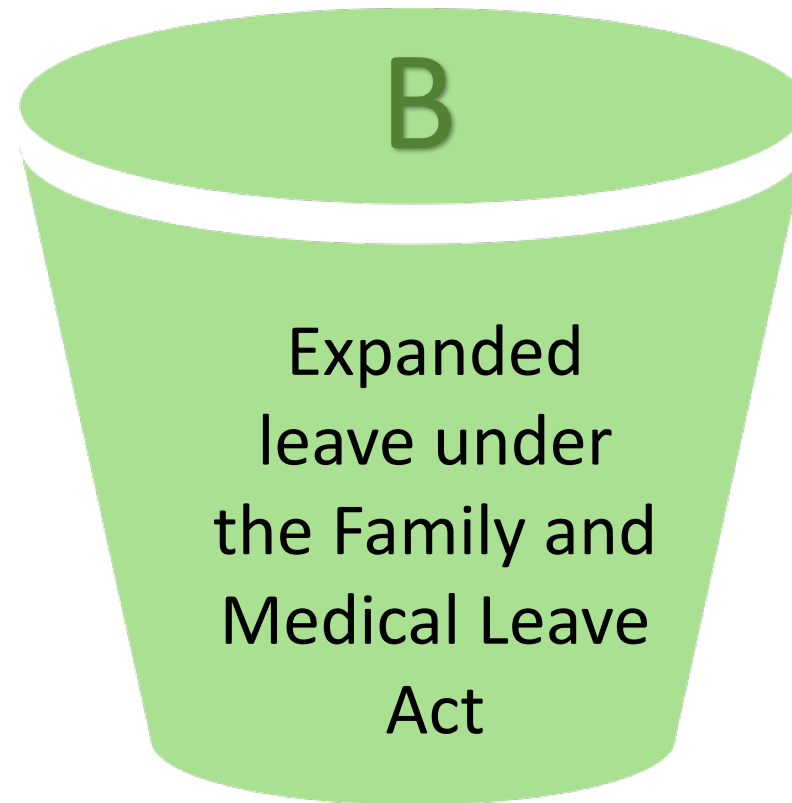
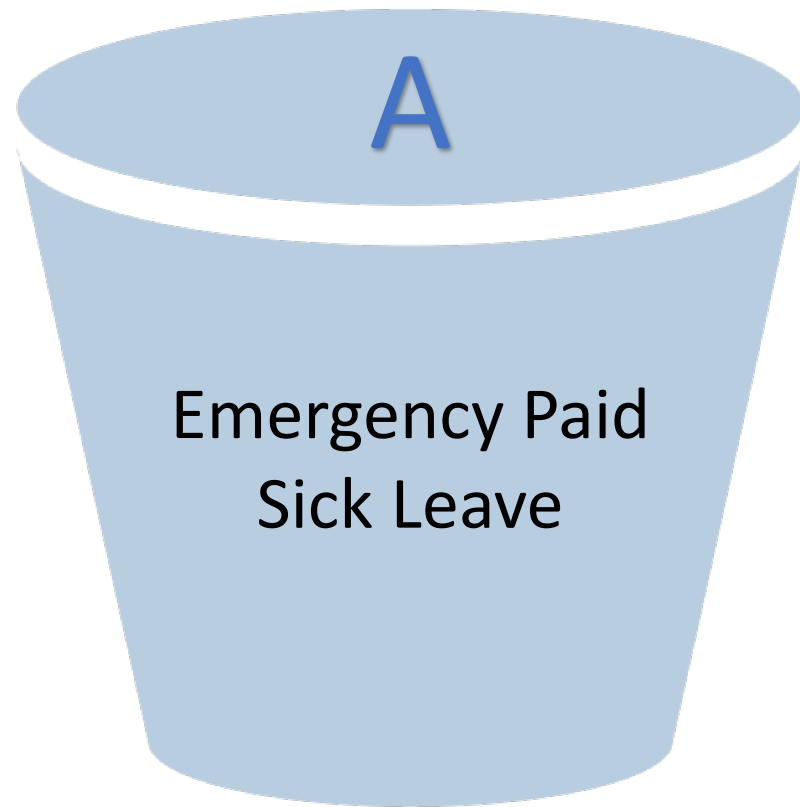



# Assessing the Employment Impacts of H.R.6201 – the Families First Coronavirus Response Act

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# What are a Covered Employer's Leave Obligations Under the FFCRA?





Bucket A) Covered employers are required to provide Emergency Paid Sick Leave to an employee who is unable to work or telework as a result of a need for leave arising because:

- 1) The employee is subject to a government quarantine or isolation order related to COVID-19;
- 2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- 3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- 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);

**Bucket A)** Covered employers are required to provide Emergency Paid Sick Leave to an employee who is unable to work or telework as a result of a need for leave arising because:

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 child care provider of such son or daughter is unavailable, due to COVID-19 precautions; and

6) The employee is 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. Except that an employer of an employee who is a health care provider or an emergency responder may elect to exclude such employee from the application of this subsection.

## Bucket A) Amount of Emergency Paid Sick Leave

- Full-time employees - entitled to up to 80 hours of leave
- Part-time employees - entitled to an amount of leave up to the average number of hours they work over a two-week period.
- **Employees are able to take this leave regardless of the length of their employment with their current employer.**

## Bucket A) Amount of Compensation to be Paid

- Employers are required to pay every employee who takes emergency paid sick leave at a rate of compensation no less than the employee's "regular rate" of pay (per the Fair Labor Standards Act) for each hour of leave taken for any of the first **three** reasons identified above.
- Again, these first three reasons include:
  - 1) The employee is subject to a government quarantine or isolation order;
  - 2) The employee has been advised to self-quarantine; and
  - 3) The employee is experiencing symptoms and seeking a diagnosis.

## Bucket A) Amount of Compensation to be Paid

- However, these amounts are capped:
- The total amount of compensation any employer must provide to any single employee for leave taken for these reasons is limited to \$511 per day, and \$5,110 in the aggregate.

## Bucket A) Amount of Compensation to be Paid

- Employers are required to pay every employee who takes emergency paid sick leave at a rate of compensation no less than two-thirds of the employee's "regular rate" of pay (per the Fair Labor Standards Act) for each hour of leave taken for any of the **fourth through sixth** reasons identified above.
- Again, reasons four through six include:
  - 4) The employee is caring for an individual as a result of quarantine or recommendation;
  - 5) The employee is caring for a child because of a school closure; and
  - 6) The government has identified another, similar condition.



## Bucket A) Amount of Compensation to be Paid

- These amounts are also capped:
- The total amount of compensation any employer must provide to any single employee for leave taken for these reasons is limited to \$200 per day, and \$2,000 in the aggregate.

## Bucket A) Emergency Paid Sick Leave

- Other Important Points:

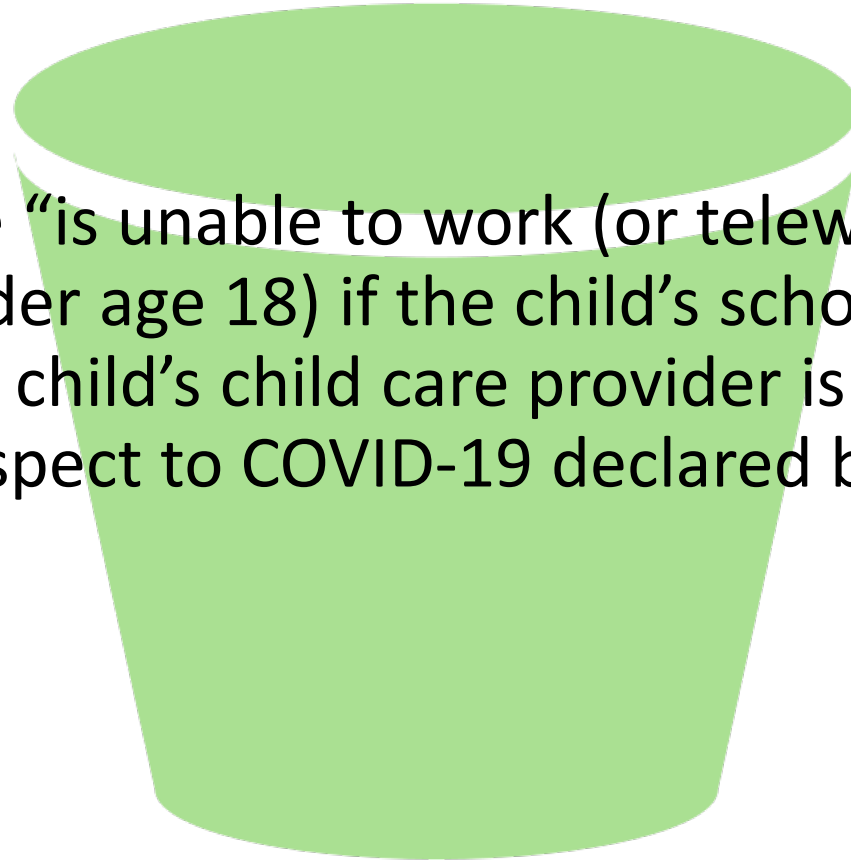
- What notice can be required by the employer?

- How does this new leave relate to other, already existing leave provided by the employer?

- Violations?

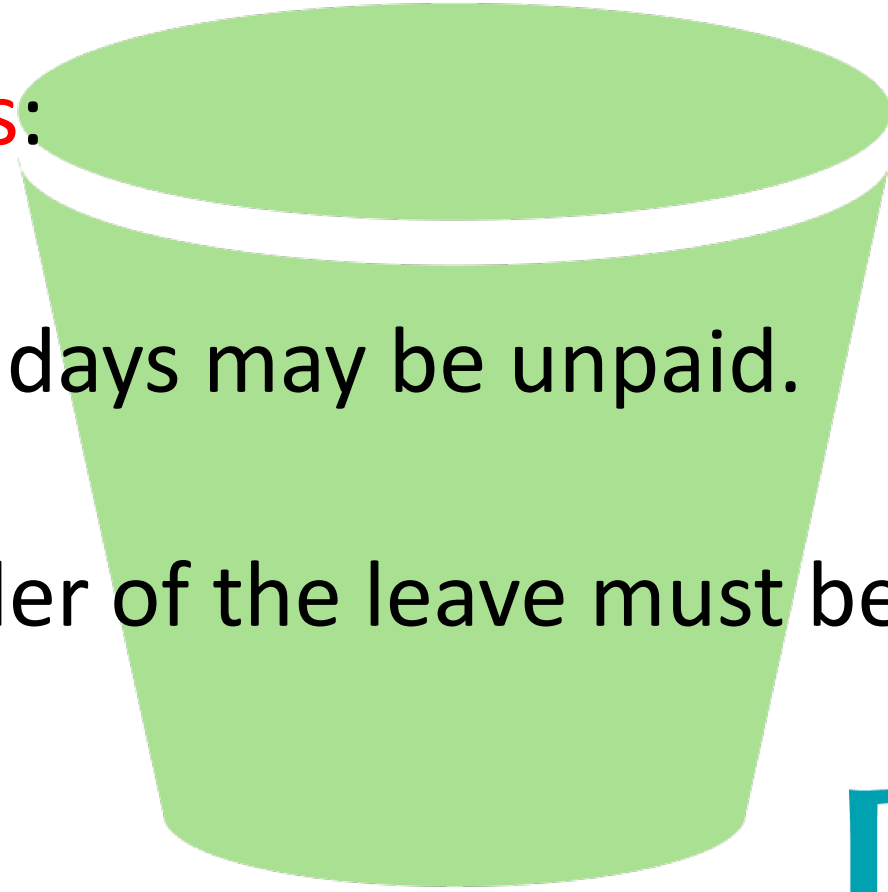
## Bucket B) What reason(s) qualify for leave?

- Just One –
- When an employee “is unable to work (or telework)” due to a need to care for a child (under age 18) if the child’s school or place of care has been closed, or the child’s child care provider is unavailable, due to an emergency with respect to COVID-19 declared by the government.



## Bucket B) How much leave is available?

- Up to **12 weeks**:
  - The first ten days may be unpaid.
  - The remainder of the leave must be **paid**.

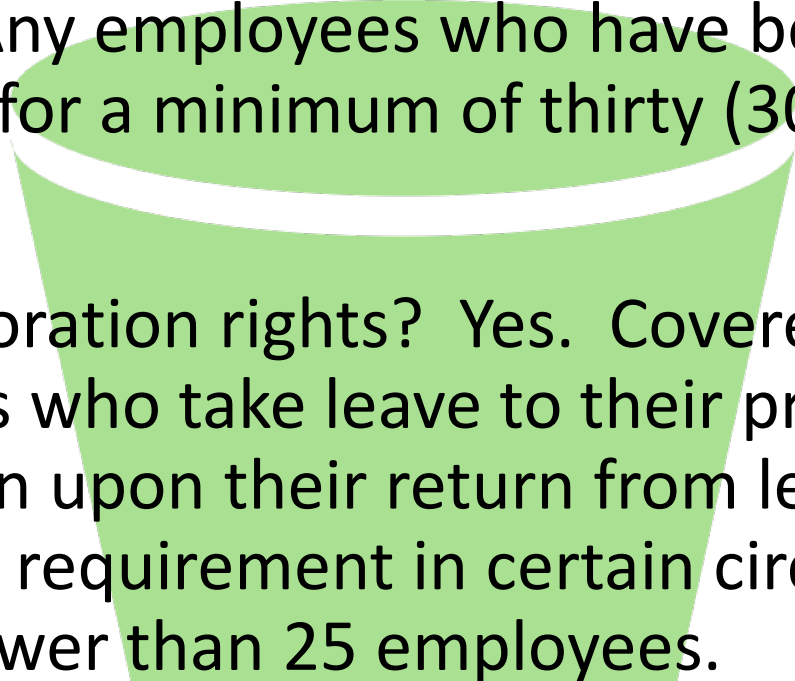


## Bucket B) Amount of Compensation to be Paid

- This compensation must consist of an amount of pay that is not less than two-thirds of an employee's "regular rate" of pay (per the FLSA) for "the number of hours the employee would otherwise be normally scheduled to work."
- Again, this amount is capped – No more than \$200 per day per employee, and \$10,000 in total per employee.



## Bucket B) Other Important Notes

- Who is eligible? Any employees who have been employed by their current employer for a minimum of thirty (30) calendar days.
  - Are there job restoration rights? Yes. Covered employers must restore employees who take leave to their previous position or an equivalent position upon their return from leave. However, the FFCRA relaxes this requirement in certain circumstances for employers with fewer than 25 employees.
- 

# What Employers Are Covered by the FFCRA?

- Employers with fewer than 500 employees, and public agencies.
- Exemptions/Potential Exemptions for smaller employers.
  - Employers with fewer than 25 employees can avoid the job restoration obligation under the expanded FMLA under certain circumstances; and
  - Employers with fewer than 50 employees could be exempted by forthcoming regulations under certain limited circumstances.



# What Reimbursement is Available for Employers?

- Tax credits against an employer's payroll tax obligations in an amount equal to the amount of paid leave provided in a calendar quarter.
- Tax refund if an employer pays out more in leave benefits than it owes in payroll taxes.



## Are the Leave Benefits/Obligations Permanent?

- No – As it stands now, the FFCRA's requirements will end by December 31, 2020

## What Are Some of the Compliance Issues that Could Arise under the FFCRA?

- Can an employer pay employees pursuant to the FFCRA if it has to shut down due to economic conditions?
- If an employer significantly reduces the hours of an employee as a result of economic conditions, can it avoid the requirements of the FFCRA?
- Are there any FFCRA concerns if an employer has to lay-off/terminate an employee after the FFCRA becomes effective? Before?

# Thank You

- Additional questions:

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