



SOUTH CAROLINA
ASSOCIATION OF COUNTIES




WINTERS
Law Firm



GIGNILLIAT SAVITZ & BETTIS LLP

FAMILIES FIRST CORONAVIRUS RESPONSE ACT



Coronavirus

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DISCLAIMER: This session is for training purposes only and does not constitute legal advice. For more specific guidance, contact your employment law attorney, Winters Law Firm at (803) 581-8190, or Chris Johnson at (803) 799-9311.

The information provided here today is current as of March 31, 2020 but is fluid and subject to change almost immediately. Please check back for updates periodically.

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- ▶ Families First Coronavirus Response Act (H.R. 6201)
- ▶ Effective date of April 1, 2020; Expires December 31, 2020
- ▶ Includes \$8.3 billion supplemental funding
- ▶ Additional legislation and assistance to come
- ▶ FFCRA assesses the needs of the individual and the employer

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- ▶ Three components we are going to talk about today:
 - ▶ Expansion of FMLA
 - ▶ Emergency Paid Sick Leave
 - ▶ Emergency Unemployment Insurance

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FAMILY AND MEDICAL LEAVE ACT

-  AMENDED TO INCLUDE A "QUALIFYING NEED RELATED TO A PUBLIC HEALTH EMERGENCY"
-  ELIGIBILITY REDUCED TO EMPLOYMENT FOR THIRTY DAYS
-  PRIVATE EMPLOYERS OF 500 OR LESS AND ALL PUBLIC EMPLOYERS
-  FIRST TEN DAYS ARE UNPAID
-  SUBSEQUENT TIME OFF PAID AT NOT LESS THAN 2/3 OF REGULAR RATE OF PAY
-  JOB RESTORATION

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- ▶ Qualifying Need...
- ▶ Eligible Employee
- ▶ Employer Threshold
- ▶ Child Care Provider
- ▶ School

CRITICAL DEFINITIONS



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- ▶ **First 10 days**
 - ▶ Unpaid
 - ▶ May substitute paid leave (from employer, or Emergency Paid Sick Leave)
- ▶ **Remainder**
 - ▶ Paid at 2/3 of regular pay
 - ▶ Capped at \$200/day, or \$10,000 aggregate
- ▶ **12 Weeks total combined paid and unpaid (including previous FMLA usage)**

LEAVE REQUIREMENT

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Federal assistance to States



Waives the requirements to search for work



Waives the waiting week



Accepts the current Pandemic issue as a reason for unemployment

**EMERGENCY
UNEMPLOYMENT
INSURANCE**

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- ▶ Applies to all public employers and private employers with 500 or less
- ▶ Effective April 1, 2020; expires December 31, 2020
- ▶ Potential hardship exemption
- ▶ Public Sector employers with one employee
- ▶ Health care providers and emergency responders may elect to exclude its employees from this Paid Sick Leave

EMERGENCY PAID SICK LEAVE

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AVAILABLE FOR EMPLOYEE'S OWN NEEDS:

- ▶ Individual is under quarantine or isolation order by a local, State or Federal official
- ▶ Individual advised to self-quarantine by healthcare provider
- ▶ Individual is experiencing symptoms of COVID-19 and is seeking a medical diagnosis

EMERGENCY PAID SICK LEAVE

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AND ALSO :

- ▶ Individual is caring for another who is subject to an order for quarantine or has been advised by a health care provider to self quarantine due to concerns related to COVID-19.
- ▶ Individual is engaged in the caregiving due to a Coronavirus-related school closing or other care facility or care program for a child who is under age 18, or over 18 and unable to provide self-care.
- ▶ Individual is experiencing substantially similar condition, as set out in rules to be issued by HHS.

EMERGENCY PAID SICK LEAVE

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- ▶ Full Time = 80 Hours
- ▶ Part Time = equivalent of two weeks
- ▶ Reasons 1, 2, and 3 (sick/quarantine) – Full rate but capped at \$511 per day and \$5,110 aggregate
- ▶ Reason 4 and 5 (caring for others) - 2/3 and capped at \$200.00 per day and \$2,000 aggregate
- ▶ Reason 6 (substantially similar/HHS) – 2/3 and capped at \$200.00 per day and \$2,000 aggregate

EMERGENCY PAID SICK LEAVE

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- ▶ This is additional leave for employees
- ▶ Employers may NOT require exhaustion of existing paid leave prior to use of Emergency Paid Sick Leave
- ▶ Emergency Paid Sick Leave does not carry over from one year to the next and will cease after the need for the leave ends.
- ▶ Not paid out to terminated employees.
- ▶ Calendar days may not be treated as an emergency leave day if the employee has received any form of compensation from an employer including wages, accumulated leave or unemployment compensation.
- ▶ **NO DOUBLE DIPPING!**

EMERGENCY PAID SICK LEAVE

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STILL HAVE TO WORRY ABOUT COMPLIANCE!





- ▶ **Mandatory Quarantine – Non-exempt – paid for work performed; Exempt – paid weekly salary unless NO work performed in that week**
- ▶ **Remote Work – require your employees to maintain time records.**

FAIR LABOR STANDARDS ACT

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EMERGENCY UNEMPLOYMENT INSURANCE

-  **Federal assistance to States**
-  **Waives the requirements to search for work**
-  **Waives the waiting week**
-  **Accepts the current Pandemic issue as a reason for unemployment**

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REMEMBER THIS IS A MOVING TARGET RIGHT NOW!! ALWAYS WISE TO SEEK GUIDANCE RATHER THAN SEEK FORGIVENESS WHEN DEALING WITH FEDERAL AGENCIES!

QUESTIONS?

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