

Families First Coronavirus Response Act, H.R. 6201, as Revised

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Summary of Key Technical Revisions “Families First Coronavirus Response Act” For A Business With Less Than 500 Employees

On March 16, 2020, the U.S. House of Representatives **revised its COVID-19 response bill to make “corrections” to the prior legislation**, however, this new bill dramatically changes a number of provisions it had previously adopted.

The U.S. Senate will be debating its own legislation responding to COVID-19. **There must be a reconciliation of the House and Senate bills that are ultimately passed separately before a single bill can be approved and sent to the president for his signature.**

Our team will continue to monitor for significant updates to the proposed policies

Emergency Paid Sick Leave

Under the revised bill, employers with **fewer than 500 employees and covered public employers** would have to **provide 80 hours of paid-sick-leave** benefits to employees who are unable to work or telework for several reasons:

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19
2. The employee has been advised by a health care provider to self-quarantine because of COVID-19
3. The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis
4. The employee is caring for an individual subject or advised to quarantine or isolation
5. The employee is caring for a son or daughter whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 precautions
6. The employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Importantly, paid-sick-leave benefits would be **immediately available and capped at \$511 a day for a worker's own care and \$200 a day when the employee is caring for someone else**. This benefit would also expire at the end of 2020.

The revised bill bars an employer from retaliating against any employee who takes leave in accordance with the new law. The bill further provides that the failure to pay required sick leave will be treated as a failure to pay minimum wages in violation of the Fair Labor Standards Act.

As with the Emergency FLMA, the revised bill **retains language allowing the Secretary of Labor to exempt small businesses (defined as those with fewer than 50 employees) if the required leave would jeopardize the viability of their business**.

Emergency Family Medical Leave Act

As originally drafted, H.R. 6201 would have temporarily provided workers with two-thirds of their wages for up to 12 weeks of qualifying family and medical leave for a broad range of COVID-19-related reasons.

The revised version of the bill that passed the House would **only provide such leave when employees can't work (or telework) because their minor child's school or childcare service is closed due to a public health emergency.**

- Workers who have been on the **payroll for at least 30 calendar days** would be eligible for paid family leave benefits, which would be capped at \$200 a day (capped at \$10,000 in total) and expire at the end of the year.
- As with the prior bill, **the initial 10-days of emergency FMLA leave can be unpaid.**
- An employee can opt to substitute accrued vacation, personal, or sick leave, but an **employer may not require an employee to do so.** The bill would take effect 15 days after enactment, and sunset on December 31, 2020.

The revised bill **retains language allowing the Secretary of Labor to exempt small businesses (defined as those with fewer than 50 employees) if the required leave would jeopardize the viability of their business.**

In addition for employers with fewer than 25 employees, the bill modifies the requirement that the employee, upon return, be placed in their prior position. The bill provides if the position no longer exists due to operational changes occasioned by a public health emergency (i.e., a significant reduction in business as a result of the COVID-19 pandemic), the obligation to reemploy is eliminated.

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