



ALERTS

New Act Ends Mandatory FFCRA Leave On December 31; Tax Credits Remain Available To Employers Who Voluntarily Provide Leave

December 22, 2020

Highlights

Under the new bill passed by Congress on Dec. 21, mandatory Families First Coronavirus Response Act (FFCRA) leave still expires on Dec. 31, 2020.

Employers can provide voluntary FFCRA leave until March 31, 2021.

Employers who voluntarily provide emergency leave for FFCRA qualifying reasons can receive tax credits.

The Consolidated Appropriations Act 2021 passed by Congress on Dec. 21 touches on the Families First Coronavirus Response Act (FFCRA), which is set to end this month. Under the new act, employers are no longer obligated to provide FFCRA leave, but can provide employees with FFCRA leave for a tax credit. The bill, which has not yet been signed by the president, provides:

- Mandatory FFCRA leave still expires on Dec. 31, 2020
- As of Jan. 1, 2021, a covered employer may voluntarily

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continue to provide emergency paid sick leave or emergency paid Family and Medical Leave Act (FMLA) leave under the FFCRA for the same reasons as available under the original legislation and claim the payroll tax credit associated with this leave

- Tax credits may only be claimed for leave taken by employees through March 31, 2021. Without further extensions, any COVID-19-related leave provided by employers after March 31, 2021, will be solely at the employer's expense.

While unclear, the extension does not appear to provide additional FFCRA leave for employees on Jan. 1, 2021. Instead, it extends the payroll tax credit for an employee's use of the original 80-hour allotment of FFCRA leave through March 31, 2021, if an employer voluntarily extends the leave.

Employers should consider looking at their FMLA calendar to see if employees are entitled to leave under the regular act.

Congress has yet to upload the current approved language. The language from the Senate's amendments before yesterday's vote can be found in Section 286(b)(1) of the [United States House of Representative's Amendment to United States Senate Amendment to the Consolidated Appropriations Act](#), 2021 dated Dec. 21.

To obtain more information, please contact the Barnes & Thornburg attorney with whom you work or Christopher Rubey at 574-237-1106 or christopher.rubey@btlaw.com.

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