

EMERGENCY PAID SICK LEAVE LAW

Coronavirus Aid, Relief, and Economic Security Act

Last week Congress passed and Trump signed into law the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) in response to the current Covid-19 public health crisis. The CARES Act provides various types of relief, including direct financial assistance, to employees mostly through increased unemployment benefits and cash payments. This memo focuses on this relief.

UNEMPLOYMENT EXPANSION

1. Increased Benefit Amount

Effective upon the state and federal government entering an agreement, employees on State unemployment benefits* whose unemployment (or partial unemployment) is caused by a Covid-19 related reason will be eligible to receive up to an additional **\$600** per week from the federal government on top of their state unemployment benefits (up to 100% wage replacement) for up to four months. In California, the maximum unemployment benefit is **\$450** per week. Adding the CARES Act money, the maximum combined state and federal benefit of unemployment will be up to **\$1,050** per week for the first four months. California has already waived the seven day waiting period for benefits. The CARES Act indicates that new benefits will be retroactive to January 27 and we expect further guidance on the procedures and timing for doing so.

Employees whose hours are reduced are eligible for pro-rated unemployment benefits.

2. Extended Benefit Period.

Currently, California law allows individuals to receive unemployment for up to 26 weeks. The CARES Act extends those benefits for an additional 13 weeks for a total of 39 weeks (but the federally funded increased benefit applies only to the first four months).

The expanded unemployment benefits expire December 31, 2020.

3. Expanded Eligibility Criteria

Currently, California unemployment benefits are available only if, (1) the employer has paid into the state unemployment insurance fund; and (2) the employee is out of work due to no fault of their own; and (3) the employee is able to work. The CARES Act provides the enhanced benefit to anyone, including gig workers, independent contractors and self-employed individuals, unemployed due to Covid-19, regardless of their entitlement right under state law:

§ California has already extended unemployment benefits to employees out of work because they must care for a child whose school or day care is closed due to Covid-19. The prior Covid-19 Act – Families First Act – provides that if an employee works for a public employer or a private employer with fewer than 500 employees they are eligible for 12 weeks of FMLA including 10 weeks at 2/3 rate of pay in addition to 2 weeks of emergency paid sick leave at 2/3 pay; and

§ The CARES Act extends unemployment eligibility to independent contractors, individuals with limited work history and gig economy workers through December 31, 2020. These newly eligible individuals receive the same benefits as “employees.”

4. How to Apply for CARES Act Benefits

Employees apply for unemployment through the California EDD in the normal manner. www.edd.ca.gov. To receive the increased CARES Act unemployment compensation, unemployment (or partial unemployment) must be caused by a Covid-19 related reason. The Secretary of Labor may declare additional criteria in the future.

ONE-TIME CASH PAYMENT ASSISTANCE

1. What are the one-time payments?

- \$1,200.00 for each individual adult US taxpayer making up to \$75,000**, as an individual (or up to \$112,500 if the individual is a head of household)
- \$2,400.00 for married couples making up to \$150,000 jointly.
- Those making over the thresholds will receive a reduced amount on a sliding scale. However, individuals who make more than \$99,000 in a year and couples that make more than \$198,000 will not receive any payment.
- Eligible Families who meet the income eligibility thresholds will receive an additional \$500 per child under age 17, but this amount will be reduced on sliding scale if a head of household earns more than \$75,000, or a couple earns more than \$150,000.

2. When and how will Payments be Processed?

The federal government will determine eligibility based on 2018 or 2019 (if filed) tax returns and send all eligible individuals or households payment without application. The timing and how the payments will be sent (check, debit card, auto credit to bank account) are still to be determined.

STUDENT LOAN REPAYMENT RELIEF

The CARES Act provides relief for employees making student loan payments by suspending loan payments until September 30, 2020. In addition, the Act creates a tax incentive for employers to implement student loan repayment programs for their employees.

Employer may offer up to \$5250 to help repay loans, and won't be counted towards income; includes tuition payments for classes by Employer.

RETIREMENT FUND WITHDRAWALS

The CARES Act allows individuals to withdraw up to \$100,000 from a qualified retirement account (but not a defined benefit plan like the WCT Plan) without early withdrawal penalties if they or their spouse or a dependent are diagnosed with Covid-19 or if their income has been affected due to the public health crisis.

MORTGAGE PROTECTION

The CARES Act allows individuals with **federally-backed mortgages** to request forbearance without penalties, fees or interest by submitting a request to the bank or mortgage service affirming financial hardship due to Covid-19, regardless of delinquency status. The lending institution must grant forbearance for up to 180 days and extended for an additional period up to 180 days.

The CARES Act also prohibits lenders from initiating or advancing any foreclosure process for at least 60 days beginning on March 18, 2020, except for vacant or abandoned property.

EVICITION PROTECTION

The CARES Act prohibits landlords from bringing legal actions to evict a tenant or charge fees, penalties, or other charges, for nonpayment of rent for 120 days following enactment of the CARES Act if the property is insured, guaranteed, supplemented, protected or assisted by a **federally backed mortgage loan, the rural housing voucher program, or the Violence Against Women Act.**

EMPLOYEE AND UNION PROTECTIONS

Buried within the Act are worker protection requirements that attach to midsized businesses (between 500 and 10,000 employees) who receive low-interest loans under the CARES Act. In order to receive such loans, these employers must certify that they:

- will use the funds received to maintain at least 90% of their workforce, at full compensation and benefits, until September 30, 2020;
- intend to restore at least 90% of the workforce to full compensation and benefits within 4 months of the termination of the Covid-19 public health emergency;
- will not outsource or offshore jobs for the term of the loan and for 2 years thereafter;
- will not abrogate existing collective bargaining agreements for the term of the loan and for two years thereafter; and
- will remain neutral in any union organizing effort for the term of the loan.