

# YOUR CORONAVIRUS QUESTIONS ANSWERED

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# Coronavirus Issue Overview



**Eric Blomgren**  
**Director of Government Affairs**  
**NJGCA**

[www.njgca.org/coronavirus](http://www.njgca.org/coronavirus)



# FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA): A PRIMER

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By Steven B. Horowitz, Esq., Horowitz Law Group, LLC



# DISCLAIMER

The attorneys in this presentation are lawyers, BUT, we are not YOUR lawyer.

Therefore:

- Even though we're talking about the law, nothing here is legal advice.
- Nothing here creates an attorney-client relationship between us.
- Rather, we consider all of your questions to be hypothetical and assume that you are asking "for a friend."



# WHAT IS THE FFCRA?

- Signed into law by President Trump on 3/18/20, effective 4/1/20.
- Creates 2 new emergency paid leave requirements to combat Coronavirus: The **Emergency Paid Sick Leave Act (EPSLA)** and The **Emergency Family and Medical Leave Expansion Act (EFMLEA)**.
- EPSLA - certain employees can take up to two (2) weeks of paid sick leave.
- EFMLEA – certain employees can take up to 12 weeks of expanded family and medical leave , ten of which can be paid, for specific reasons related to COVID-19.
- Regulations issued on 4/1 – 124 pages long.



# COVERED EMPLOYERS

- Covers Private Employers from 1 to 499 Employees.
- Exemptions – DoL Secretary can exempt certain employers from EPSLA (paid sick leave) if under 50 employees when compliance would “jeopardize the viability of the business as a going concern” (page 6 of Reg’s)
  - Applies only to employees seeking leave for care of son/daughter whose school or child care is unavailable due to COVID-19 (Qualifying Reason #5, to be discussed).
- FFRCA FAQ’S - <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>
- DOL Reg’s = (124 pages)  
<https://www.dol.gov/sites/dolgov/files/WHD/Pandemic/FFCRA.pdf>
- IRS FAQ’s - <https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs>



# COVERED EMPLOYEES

- The EFMLEA applies to employees of covered employers if such employees have been employed by the employer for at least 30 calendar days (ie, since 3/2/20). This includes employees who were laid off or otherwise terminated on or after March 1, 2020, had worked for the employer for at least thirty of the prior 60 calendar days, and were subsequently rehired or otherwise reemployed by the same employer. (DoL Reg's p. 9)
- The EPSLA applies to employees regardless of their duration of employment (DOL Reg.'s p. 33)
- Calculation - "hours of paid sick time to which an employee is entitled shall be ... equal to the number of hours that such employee works, on average, over a 2-week period" (DOL Reg's p. 21) calculated over the six-months prior to the date on which leave is requested (DOL Reg. P. 22). For those employed for fewer than six months, "the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work" should be used "in place of" the average number of hours worked "over a 2-week period" (p.23)





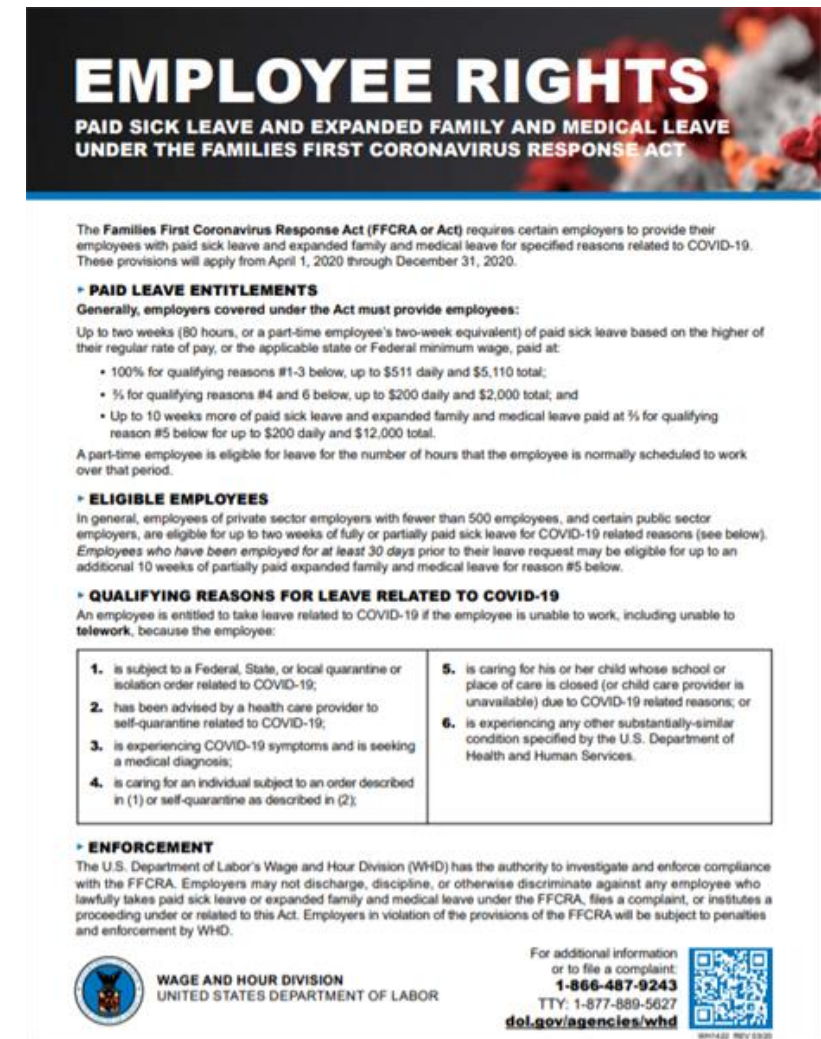
# COVERED EMPLOYEES (Cont'd)

- Regular Part Time - a part-time employee who works a normal schedule is entitled to paid sick leave equal to the number of hours he or she is normally scheduled to work over a two-workweek period. (DOL Reg.'s p. 22).
- Variable PT Schedule - a part-time employee with a varying schedule who has been employed for fewer than six months is entitled to fourteen times the expected number of hours the employee and employer agreed at the time of hiring that the employee would work, on average, each calendar day. This is equal to twice the average number of hours that the employee would be expected to work each workweek (DOL Reg.'s p. 23).



# FFCRA POSTER

- [https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA\\_Poster\\_WH1422\\_Non-Federal.pdf](https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf)
- You can also find this on the NJGCA Coronavirus webpage!
- [www.njgca.org/coronavirus](http://www.njgca.org/coronavirus)



**EMPLOYEE RIGHTS**  
**PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE**  
**UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT**

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

• **PAID LEAVE ENTITLEMENTS**  
Generally, employers covered under the Act must provide employees:  
Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- ⅔ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 10 weeks more of paid sick leave and expanded family and medical leave paid at ⅓ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.



• **ELIGIBLE EMPLOYEES**  
In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

• **QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19**  
An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

<ol style="list-style-type: none"><li>1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;</li><li>2. has been advised by a health care provider to self-quarantine related to COVID-19;</li><li>3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;</li><li>4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);</li></ol>	<ol style="list-style-type: none"><li>5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or</li><li>6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.</li></ol>
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• **ENFORCEMENT**  
The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.

For additional information or to file a complaint:  
**1-866-487-9243**  
TTY: 1-877-889-5627  
[dol.gov/agencies/whd](http://dol.gov/agencies/whd)



WH1422 REV 0320

# As an employee, how much will I be paid while taking paid sick leave or expanded family and medical leave under the FFCRA? (FAQ #6)

- It depends on your normal schedule as well as why you are taking leave.
- If you are taking paid sick leave because you are unable to work or telework due to a need for leave because you (1) are subject to a Federal, State, or local quarantine or isolation order related to COVID-19; (2) have been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or (3) are experiencing symptoms of COVID-19 and are seeking medical diagnosis, you will receive for each applicable hour the greater of:
  - your regular rate of pay,
  - the federal minimum wage in effect under the FLSA, or
  - the applicable State or local minimum wage.
- In these circumstances, you are entitled to a maximum of \$511 per day, or \$5,110 total over the entire paid sick leave period.



# As an employee, how much will I be paid while taking paid sick leave or expanded family and medical leave under the FFCRA? (FAQ #6)(Cont'd)

- If you are taking paid sick leave because you are: (4) caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or an individual who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; (5) caring for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons; or (6) experiencing any other substantially-similar condition that may arise, as specified by the Secretary of Health and Human Services, you are entitled to compensation **at 2/3 of the Employees rate of pay.**
- Under these circumstances, you are subject to a maximum of \$200 per day, or \$2,000 over the entire two week period.



# When calculating pay due to employees, must overtime hours be included? (DoL FAQ #6)

- Yes. The Emergency Family and Medical Leave Expansion Act requires you to pay an employee for hours the employee would have been normally scheduled to work even if that is more than 40 hours in a week.
- **However,** the Emergency Paid Sick Leave Act requires that paid sick leave be paid only up to 80 hours over a two-week period. For example, an employee who is scheduled to work 50 hours a week may take 50 hours of paid sick leave in the first week and 30 hours of paid sick leave in the second week. In any event, the total number of hours paid under the Emergency Paid Sick Leave Act is capped at 80.



*If I am an employer, may I require an employee to supplement or adjust the pay mandated under the FFCRA with paid leave that the employee may have under my paid leave policy? (FAQ #33)*

- *No. Under the FFCRA, only the employee may decide whether to use existing paid vacation, personal, medical, or sick leave from your paid leave policy to supplement the amount your employee receives from paid sick leave or expanded family and medical leave. The employee would have to agree to use existing paid leave under your paid leave policy to supplement or adjust the paid leave under the FFCRA.*
- *EX. – NJ Earned Sick Leave Act*



## If my employer closed my worksite before April 1, 2020 (the effective date of the FFCRA), can I still get paid sick leave or expanded family and medical leave? (FAQ # 23)

- No. If, prior to the FFCRA's effective date, your employer sent you home and stops paying you because it does not have work for you to do, you will not get paid sick leave or expanded family and medical leave but you may be eligible for unemployment insurance benefits.



## If my employer closes my worksite on or after April 1, 2020 (the effective date of the FFCRA), but before I go out on leave, can I still get paid sick leave and/or expanded family and medical leave? (FAQ #24)

- No. If your employer closes after the FFCRA's effective date (even if you requested leave prior to the closure), you will not get paid sick leave or expanded family and medical leave but you may be eligible for unemployment insurance benefits. This is true whether your employer closes your worksite for lack of business or because it was required to close pursuant to a Federal, State or local directive. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility.
- If your employer closes while you are on paid sick leave or expanded family and medical leave, your employer must pay for any paid sick leave or expanded family and medical leave you used before the employer closed. As of the date your employer closes your worksite, you are no longer entitled to paid sick leave or expanded family and medical leave, but you may be eligible for unemployment insurance benefits. (FAQ #25)





# Emergency Family and Medical Leave Expansion Act (EFMLEA)

- Only for “Item 5” Situations - The EFMLEA requires employers to provide expanded paid family and medical leave to eligible employees who are unable to work because the employee is caring for his or her son or daughter whose school or place of care is closed or whose child care provider is unavailable due to a public health emergency, defined as an emergency with respect to COVID-19, declared by a Federal, State, or local authority.
- The first two weeks (usually ten workdays) of this leave are unpaid, though an employee may substitute paid sick leave under the EPSLA or paid leave under the employer’s preexisting policies for these two weeks of unpaid leave. (DOL Reg.’s p. 9).
- The following period of up to ten weeks of expanded family and medical leave must be paid, **at the rate of two-thirds the employee’s regular rate of pay**. For each day of leave, the employee receives compensation based on the number of hours he or she would otherwise be normally scheduled to work, although special rules may apply to employees with varying schedules. (DOL Reg.’s p. 9).
- Payment per employee for this ten-week period is capped at \$200 per day and \$10,000 in the aggregate. (DOL Reg.’s p. 10).



# How Should an Employer Substantiate Eligibility for Tax Credits for Qualified Leave Wages? (IRS Regs)

## 44. What information should an Eligible Employer receive from an employee and maintain to substantiate eligibility for the sick leave or family leave credits?

- An Eligible Employer will substantiate eligibility for the sick leave or family leave credits if the employer receives a written request for such leave from the employee in which the employee provides:
  - The employee's name;
  - The date or dates for which leave is requested;
  - A statement of the COVID-19 related reason the employee is requesting leave and written support for such reason; and
  - A statement that the employee is unable to work, including by means of telework, for such reason.
- In the case of a leave request based on a quarantine order or self-quarantine advice, the statement from the employee should include the name of the governmental entity ordering quarantine or the name of the health care professional advising self-quarantine, and, if the person subject to quarantine or advised to self-quarantine is not the employee, that person's name and relation to the employee.
- In the case of a leave request based on a school closing or child care provider unavailability, the statement from the employee should include the name and age of the child (or children) to be cared for, the name of the school that has closed or place of care that is unavailable, and a representation that no other person will be providing care for the child during the period for which the employee is receiving family medical leave and, with respect to the employee's inability to work or telework because of a need to provide care for a child older than fourteen during daylight hours, a statement that special circumstances exist requiring the employee to provide care.



# How Should an Employer Substantiate Eligibility for Tax Credits for Qualified Leave Wages? (IRS Regs, Cont'd)

## 45. What additional records should an Eligible Employer maintain to substantiate eligibility for the sick leave or family leave credit?

- An Eligible Employer will substantiate eligibility for the sick leave or family leave credits if, in addition to the information set forth in FAQ 44 (“What information should an Eligible Employer receive from an employee and maintain to substantiate eligibility for the sick leave or family leave credits?”), the employer creates and maintains records that include the following information:
- Documentation to show how the employer determined the amount of qualified sick and family leave wages paid to employees that are eligible for the credit, including records of work, telework and qualified sick leave and qualified family leave.
- Documentation to show how the employer determined the amount of qualified health plan expenses that the employer allocated to wages. See FAQ 31 (“Determining the Amount of Allocable Qualified Health Plan Expenses”) for methods to compute this allocation.
- Copies of any completed Forms 7200, Advance of Employer Credits Due To COVID-19, that the employer submitted to the IRS.
- Copies of the completed Forms 941, Employer’s Quarterly Federal Tax Return, that the employer submitted to the IRS (or, for employers that use third party payers to meet their employment tax obligations, records of information provided to the third party payer regarding the employer’s entitlement to the credit claimed on Form 941).



# How Should an Employer Substantiate Eligibility for Tax Credits for Qualified Leave Wages? (IRS Regs, Cont'd)

46. How long should an Eligible Employer maintain records to substantiate eligibility for the sick leave or family leave credit?

- An Eligible Employer should keep all records of employment taxes for at least 4 years after the date the tax becomes due or is paid, whichever comes later. These should be available for IRS review.





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# COVID-19 Pandemic

New Jersey Employee Leave Programs  
and Unemployment Benefits

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# New Jersey Employee Leave Benefits

- In addition to those benefits provided by the federal government, New Jersey offers protections to employees impacted by the COVID-19 pandemic.
- There are a number of different sources of aid and protections available to employees:
  - New Jersey Earned Sick Leave Law
  - Temporary Disability Benefits
  - Workers' Compensation
  - Unemployment benefits
  - New Jersey Family Leave Insurance



# New Jersey Earned Sick Leave

- Employers must provide earned sick leave to full- and part-time employees.
- Employees can earn up to 40 hours of paid sick time that they can use to if they are sick, to care for family members, to stay home if their workplace is closed due to a public health emergency or if their child's day care or school is closed for public health reasons.
- Workers can carry over up to 40 hours of sick leave to the following year, and earn one hour of paid sick leave for every 30 hours they work.
- An employee can start using hours after 120 days of work, but a company can advance the time.
- Rate of pay for earned sick leave must be regular hourly rate.
- Employers cannot retaliate against employees for requesting or using earned sick leave, filing a complaint with NJDOL, communicating with any person about a violation of the law, participating in an investigation regarding an alleged violation of the law, or informing another person of their potential rights under the law. Retaliation includes threat, discipline, discharge, demotion, suspension, or reduction in hours, or any other adverse action against you for exercising or attempting to exercise any right guaranteed under the law.

# What if an employee is infected?

- An employee infected with COVID-19 may be entitled to receive temporary disability benefits if they've used up their Earned Sick Leave time and are still unable to return to work.
- Similarly, the infected employee may be entitled to receive Workers' Compensation benefits
- Employer should make all efforts to cooperate with any such requests and may not retaliate against employees for seeking these benefits

# New Jersey Family Leave Insurance

- New Jersey Paid Family Leave is funded 100% by employees through payroll deductions and benefits.
- Paid leave benefits are only available to employees to help care for a qualifying family member – benefits are not available if out of work due to one's own illness or to otherwise care for one's self.
- Eligible employees may take up to 6 weeks of Paid Family Leave
- Employers may require employees to use up to two weeks of sick leave, vacation time, or other paid time off. Employers who do this must provide full pay for this leave time.
- All employees who have worked 20 calendar weeks in covered New Jersey employment or who have earned at least \$8,500 during the 12 months preceding any leave are eligible to receive Paid Leave benefits.
- Employees can take paid leave to care for a newborn, within 12 months of birth; to care for a newly adopted child, within 12 months of placement; or to care for a family member with a serious health condition.
- Application for benefits are made to the State.
- Employers must comply with various notice and posting requirements and should also consider adopting and implementing policies that govern whether or not employees will be required and/or permitted to use sick, vacation or other fully paid time off accrued under company policy before using Paid Family Leave. Employers must submit specific information to the State, including wage information and information about company paid leave benefits within 9 days of the start of the leave.

# Closure of Business or Reduced Hours

- Employees may seek unemployment insurance - the money to pay these benefits comes from a payroll tax paid by employers and workers.
  - Most workers eligible for Temporary Disability or Family Leave Insurance due to Coronavirus/COVID-19 related issues are eligible for New Jersey Unemployment Insurance—the benefit amount and length of coverage through the Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act
- CARES Act provides an additional \$600 per week benefit to certain employees receiving UI benefits. Under this expansion, individuals who ordinarily would qualify for unemployment compensation benefits under State law are entitled to both: (1) the regular amount of compensation available under State law, as well as (2) an additional flat-fee amount of \$600 per week, which is referred as “Federal Pandemic Unemployment Compensation.” The \$600 is payable by the State to the individual, to be reimbursed by the Federal Government. It is not charged to the employer’s UI account.
- Typically, workers may be entitled to up to 26 weeks of UI benefits under State law. CARES provides an additional 13 weeks of UI benefits as Pandemic Emergency Unemployment Compensation. This generally is available for those individuals who are able to work, available to work, and are actively seeking work. Qualifying workers will also be eligible to receive Federal Pandemic Unemployment Compensation amounts during the additional 13 week period. These benefits will be paid through the State and federally funded.

# Consult an Attorney

- Employment laws are vast, numerous and confusing as are the specific employment-related issues you may encounter
- Violations of any number of employment laws may subject you to substantial liability
- When in doubt, consult an attorney for guidance – better to be safe than sorry.
- Thank you and, above all, be safe!

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# FEDERAL & NEW JERSEY ECONOMIC ASSISTANCE PROGRAMS FOR SMALL BUSINESSES DURING THE COVID-19 PANDEMIC

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April 3, 2020

[www.CSGLaw.com/csg-covid19-resource-center](http://www.CSGLaw.com/csg-covid19-resource-center)

# THE RULES ARE EVOLVING QUICKLY

- These economic relief programs are being implemented by the government VERY quickly
- Regulations and guidance documents are changing by the day
- The following is the most up-to-date information we have available today (4/3/2020)
- Program eligibility, requirements, and terms may change in the coming days

# SBA PAYCHECK PROTECTION PROGRAM



# *WHAT IS IT?*

- US Government loan program to help small businesses retain or rehire their workforce
- Eligibility: All businesses with 500 or fewer employees, including
  - Sole proprietorships
  - Self-employed individuals
  - Independent contractors
  - And certain other entities

# ***HOW IS LOAN SIZE DETERMINED?***

- The maximum amount of the loan is the lesser of
    - (1) \$10,000,000 or
    - (2) 2.5 times the business' monthly average of payroll costs in the one-year prior to the loan
- plus the outstanding amount of any Economic Injury Disaster Loan (EIDL) granted from January 31, 2020 through the date EIDLs become eligible for refinance under the Paycheck Protection Program.

# ***WHAT CAN THE LOAN PROCEEDS BE USED FOR?***

- Payroll costs, including benefits
- Interest on mortgage obligations incurred before February 15, 2020
- Rent under lease agreements in place before February 15, 2020
- Utilities for which services began before February 15, 2020
- Interest on any other debt obligations that were incurred before February 15, 2020

# ***WHAT ARE CONSIDERED “PAYROLL COSTS”?***

- Salary, wages, commissions, or tips (capped at \$100,000 on an annualized basis for each employee)
- Employee benefits
- State and local taxes assessed on compensation
- For a sole proprietor or independent contractor: wages, commissions, income, or net earnings from self-employment, capped at \$100,000 on an annualized basis for each employee.

## ***“PAYROLL COSTS” EXCLUDE:***

- Employee/owner compensation in excess of \$100,000
- Certain taxes imposed or withheld under the Internal Revenue Code
- Compensation of employees whose principal place of residence is outside of the U.S.
- Qualified sick and family leave for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act

# ***DO I HAVE TO PAY BACK THE FULL LOAN?***

- Under some circumstances, you may not need to pay back the full loan and it can be “forgiven”
- You must submit a request to your lender for forgiveness.
  - The request must include documents, certified by you to be true, that verify the number of full-time equivalent employees and pay rates and the payments on eligible mortgage, lease and utility obligations and a certification that the forgiveness amount was used to keep employees and make the eligible mortgage, lease and utility payments.
  - The lender must make a decision regarding forgiveness within 60 days.

# ***HOW IS THE FORGIVENESS AMOUNT CALCULATED?***

- Provided you use the loan proceeds for payroll costs, mortgage interest, rent and utility payments over the 8 weeks after receiving the loan, you may be entitled to forgiveness.
- Forgiveness will be reduced if you decrease your full-time employee head count.
- Your forgiveness will also be reduced if you decrease salaries and wages by more than 25% for any employee who made less than \$100,000 annualized in 2019.

# ***WHAT ARE THE LOAN TERMS?***

- Maturity: For any amounts not forgiven, the loan will mature in 2 years (the loan can be prepaid without penalty).
- Payments: All payments are deferred for 6 months, but interest will accrue during this period.
- Interest Rate: The interest rate will be 1.00% fixed rate.
- Collateral: No collateral is required.
- Personal Guarantee: No personal guarantee requirement unless proceeds are used for fraudulent purposes in which case the U.S. government will pursue criminal charges against you.



# ***WHEN CAN I APPLY?***

- Starting today, **April 3, 2020**, small businesses and sole proprietorships can apply through existing SBA lenders.
- Starting **April 10, 2020**, independent contractors and self-employed individuals can apply through existing SBA lenders.
- Other regulated lenders will be available to make these loans as soon as they are approved and enrolled in the program.

# ***WHERE CAN I APPLY?***

- You can apply through any existing SBA lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating.
- The SBA is working to qualify other regulated lenders, and they will be available to make these loans once they are approved and enrolled in the program.
- You should consult with your local lender as to whether it is participating.
- Visit [www.SBA.gov](http://www.SBA.gov) for a list of SBA lenders.

# SBA ECONOMIC INJURY DISASTER LOANS

# ***WHAT IS IT?***

- The SBA Economic Injury Disaster Loan (EIDL) Program is an existing program pursuant to which the SBA provides low-interest disaster loans to help businesses and homeowners recover from declared disasters.
- The CARES Act expands access for business to the SBA's EIDL in response to the COVID-19 pandemic.

# ***WHO IS ELIGIBLE?***

- The CARES Act expanded EIDL eligibility for the period between January 31, 2020 and December 31, 2020, to include
  - Any business with not more than 500 employees
  - Any individual operating under a sole proprietorship or as an independent contractor
  - Certain other entities
- Subject to guidance from the SBA, in determining number of employees for eligibility, the same rules apply as were discussed under the Paycheck Protection Program.
- The applicant must have suffered or be suffering “substantial economic injury” to qualify.

# ***WHAT ARE THE LOAN TERMS?***

- Loan Amount: Maximum loan size is \$2 million, but loans are based on a company's actual economic injury determined (as determined by the SBA and less any recoveries such as insurance proceeds).
- What can proceeds be used for? Payroll and other costs, as well as to cover increased costs due to supply chain interruption, to pay obligations that cannot be met due to revenue loss and for other uses.
- Interest Rate: The interest rate on EIDL loans is 3.75% fixed for small businesses and 2.75% for nonprofits.
- Maturity and Payment Terms: The EIDL loans have up to a 30-year term and amortization (determined on a case-by-case basis). Principal and interest deferment are at the SBA's discretion.

# ***WHAT ARE THE LOAN TERMS? (CONT'D)***

- Advance (Grant): Applicants can request an advance of up to \$10,000 to pay allowable working capital needs. These funds are expected to be paid by the SBA within 3 days of the request/application.
  - The advance is not required to be repaid, even if the application is denied.
  - The amount of the advance must be deducted from any loan forgiveness amounts under a Paycheck Protection Loan discussed previously.
- Other terms:
  - Collateral and personal guarantees required
  - No forgiveness feature (other than the \$10,000 grant and to the extent the EIDL is able to be rolled into a Paycheck Protection Loan).

# *WHERE CAN I APPLY?*

- Apply directly through the SBA at

<https://covid19relief.sba.gov/#/>



# BE PREPARED TO APPLY

- 2019 IRS Quarterly 940, 941 or 944 payroll tax reports
- Payroll Reports beginning with your last payroll date and going back 12 months, showing:
  - Gross wages for each employee, including the officer(s) if paid W-2 wages.
  - Paid time off for each employee
  - Vacation pay for each employee
  - Family medical leave pay for each employee
  - State and Local taxes assessed on the employee's compensation for each employee.
- 1099's for 2019 for independent contractors that would otherwise be an employee
  - Do NOT include 1099's for services
- Documentation showing total of all health insurance premiums paid by the Company Owner under a group health plan.
  - Include all employees and the company owners
- Document the sum of all retirement plan funding that was paid by the Company Owner (do not include funding that came from the employee's out of their paycheck deferrals).
  - Include all employees, including company owners
  - 401K plans, Simple IRA, SEP IRA's

# NJ ECONOMIC DEVELOPMENT AUTHORITY PROGRAMS

# NJEDA SMALL BUSINESS EMERGENCY ASSISTANCE GRANT PROGRAM

- Up to \$5,000 grant for small businesses to reduce layoffs
  - \$1,000 per FTE employee, up to \$5,000 maximum per business
  - Grant funds must be used for payroll or other operating expenses
- Eligibility
  - Employ no more than 10 FTE employees
  - Gasoline Stations and Convenience Stores qualify
  - Must make certain certifications
- Applications Opened Today: <https://cv.business.nj.gov>
  - Awarded on a first-come, first-served basis, based on the date NJEDA receives a complete application
  - Applications Close on Friday April 10<sup>th</sup> at 9 a.m.



# NJEDA SMALL BUSINESS EMERGENCY LOAN PROGRAM

- Low-cost working capital loans of up to \$100,000
- Loan funds must be used for payroll or other operating expenses
- Favorable Terms
  - 0% interest rate for years 1-5, and the NJEDA's prevailing interest rate floor (capped at 3.0%) for years 6-10
  - Deferred repayments for 12 months
- Eligibility
  - In business for at least one year
  - Less than \$5 million in annual revenue
  - Additional requirements

# NJEDA LOAN GUARANTEE PROGRAMS

- Emergency Assistance Guarantee Program
  - NJEDA will provide partial loan guarantees to approved banks to make working capital loans up to \$100,000 to small businesses
  - Contact NJEDA for list of approved lenders
  - Eligibility
    - In business for at least one year
    - Less than \$5 million in annual revenue
    - Additional requirements
- Loans through Community Dev. Finance Institutions (CDFIs)
  - NJEDA will provide loan guarantees to CDFIs to make working capital loans up to \$75,000 to micro and small businesses
  - Contact NJEDA for list of CDFIs

# NJEDA – ADDITIONAL SUPPORTS

- Emergency Technical Assistance Program
  - Third-party organizations help NJ businesses prepare SBA applications
  - Contact NJEDA Customer Care at 609-858-6767 for help with NJEDA programs
- Emergency Assistance Eligibility Wizard
  - <https://assistance.business.nj.gov/>
  - Identifies which program(s) are best for your business

# WARNING: Do Not Commit Fraud

- Similar relief programs were offered after Superstorm Sandy in 2012
- Many people lied or “stretched the truth” on aid applications
- Applications are vetted for eligibility
- Those found to have purposefully submitted wrong information to receive relief funds were prosecuted
- NJ criminally prosecuted 130 people for Sandy fraud
  - Only 1 was acquitted

# THANK YOU

[www.CSGLaw.com/csg-covid19-resource-center](http://www.CSGLaw.com/csg-covid19-resource-center)



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# QUESTIONS?

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# Thank You For Joining Us!



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