




Coronavirus:
Update and Discussion on Continuing Legal
and Practical Issues Related to COVID-19

A Bond Webinar Series
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Introduction



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FFCRA Update – What's Old and What's New



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Recap

- Families First Coronavirus Response Act (“FFRCA”)
 - Applies to:
 - Employers with 500 or fewer employees
 - Certain public employers
 - Provides benefits for qualifying employees
 - Two components:
 - (1) Paid sick leave
 - (2) Paid expanded family and medical leave



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FAQ No. 94

My employee used two weeks of paid sick leave under the FFCRA to care for his parent who was advised by a health care provider to self-quarantine because of symptoms of COVID-19. I am concerned about his returning to work too soon and potentially exposing my other staff to COVID-19. May I require him to telework or take leave until he has tested negative for COVID-19?

...It depends



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- Employee returning from paid sick leave has a right to be restored to the same or an equivalent position (minus exceptions)
- May temporarily reinstate them to an equivalent position requiring less interaction with co-workers or require that they telework
- Employee must comply with job requirements that are unrelated to having been out on paid sick leave
 - May require any employee who knows they have interacted with a COVID-infected person to telework or take leave until they have personally tested negative for COVID-19 infection, **regardless** of whether they has taken any kind of leave
 - Same policy would apply to employee returning from paid sick leave



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- However, employer may **not** require the employee to telework or be tested for COVID-19 simply because the employee took leave under the FFCRA



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FAQ No. 95

I was working full time for my employer and used two weeks (80 hours) of paid sick leave under the FFCRA before I was furloughed. My employer said I could go back to work next week. Can I use paid sick leave under the FFCRA again after I go back to work?

...No



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- Employees are limited to 80 hours total (of paid sick leave)
- Employee who took fewer than 80 hours of paid sick leave **before** being furloughed would be entitled to use remaining hours after returning from furlough
 - Must have qualifying reason, of course



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FAQ No. 96

I have an employee who used four weeks of expanded family and medical leave before she was furloughed. Now I am re-opening my business. When my employee comes back to work, if she still needs to care for her child because her child care provider is unavailable for COVID-related reasons, how much expanded family and medical leave does she have available?



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- Under FFCRA employee is entitled to **up to 12 weeks of expanded family and medical leave**
- Time spent on furlough does not count as time on leave under the FFCRA

12 total weeks entitlement – 4 weeks used = 8 weeks left

NOTE: If reason employee needs leave changed during the furlough, treat the post-furlough request as new leave request

- Ask for appropriate documentation related to the current reason for leave



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FAQ No. 97

My business was closed due to my state's COVID-19 quarantine order. I furloughed all my employees. The quarantine order was lifted and I am returning employees to work. Can I extend my former employee's furlough because he would need to take FFCRA leave to care for his child if he is called back to work?

...No



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- Cannot discriminate or retaliate against employees (or prospective employees) for exercising or attempting to exercise their right to take leave under the FFCRA
- Employees have a right to take paid sick leave or expanded family and medical leave for a qualifying reasons *until they have exhausted it*
 - Cannot use request for leave or assumption that the employee would make a request for leave as a negative factor in employment decision



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New York Forward Operating

Things to Keep in Mind (AG Investigations, Quarantine Order, Occupancy Limits, etc.)



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Operating Issues – FAQs



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Procedural Changes at Division of Human Rights



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Update from Albany



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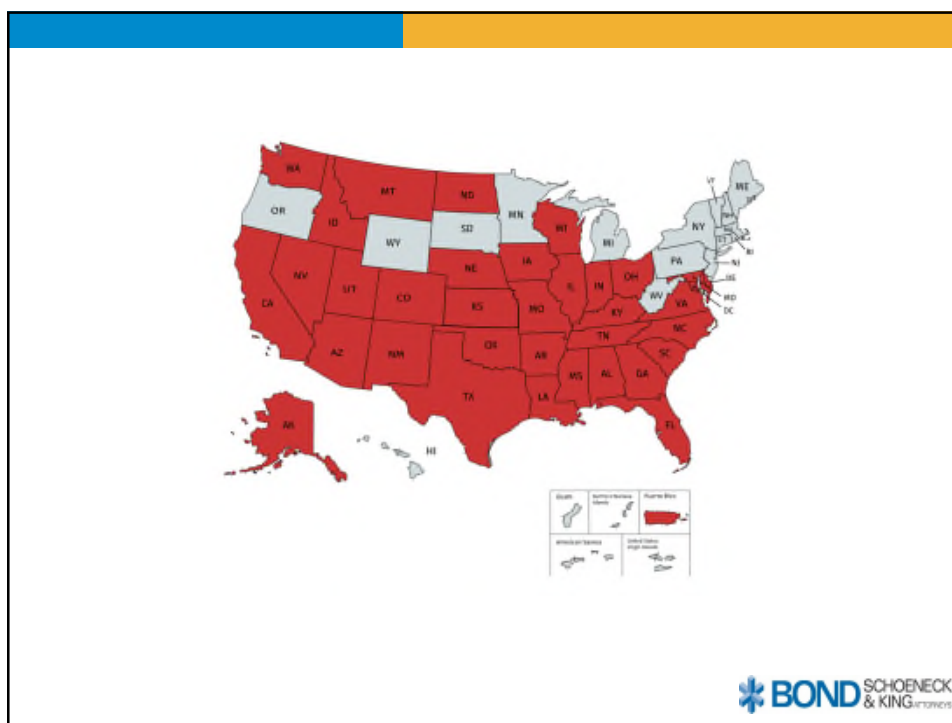
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What is going on in Albany?

- Travel advisory updates
- Executive Order 202.53
- State Legislature
- State Liquor Authority



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What else is going on in Albany?

- Executive Order 202.53: Extends Executive Orders 202.22-202.26, 202.32 (with exception), 202.33, 202.34, 202.35, 202.45

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NY EO	EO 202.1	EO 202.13	EO 202.14	EO 202.18	EO 202.28	EO 202.29
Which orders were extended?	EO 202	EOs 202.3 - 202.8, 202.10, 202.11	EOs 202 – 202.8, 202.10, 202.11, and 202.13	EO 202.14	EOs 202 – 202.14, 202.18	EOs 202.15 - 202.21


NY EO	EO 202.31	EO 202.32	EO 202.34	EO 202.35	EO 202.38	EO 202.39	EO 202.40	EO 202.41	EO 202.45
Which orders were extended?	EOs 202.28 - 202.37	EOs 202.2 - 202.27	EO 202.31	EO 202.34	EOs 202 - 202.14	EOs 202.15 - 202.21, and 202.29	EO 202.30	EOs 202.31, 202.35	EOs 202.34, 202.35, 202.41



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What else is going on in Albany?

- State Legislature – Remote session, passed 220 bills.
 - Health facility immunity rollback
 - Redistricting changes
- State Liquor Authority and State Police: Over 100 violations over the weekend



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