



IFA CORONAVIRUS
UPDATES



Coronavirus Relief Bills: Requirements and Opportunities for Franchise Businesses

On March 27, 2020, President Trump signed into law the [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#). Prior to that, the Families First Coronavirus Response Act (FFCRA) became law on March 18, 2020.

Congress passed these two coronavirus emergency aid packages to provide liquidity into the marketplace, direct assistance to businesses and workers, and paid leave benefits to many small business employees.

These two new laws contain both potentially burdensome requirements and financial opportunities for franchise businesses. Please go through the list of provisions below, read the details, and see what you may need to do.

Importantly, please use the below analysis as a guide. This is not legal advice and you should not regard it as such; you may consider retaining legal counsel to help you make decisions for your business.

Additional resources, including access to IFA's ongoing coronavirus webinar series, are at franchise.org/coronavirus.

We at IFA are here to help you navigate this coronavirus crisis. If you have questions on any of the issues below, please contact Caleb Gunnels on IFA's Government Relations team at cgunnels@franchise.org.

REQUIREMENTS ON FRANCHISE BUSINESSES IN CORONAVIRUS LEGISLATION

EMERGENCY FAMILY AND MEDICAL LEAVE (SEC. 3102, FFRCA)

WHAT IS IT? Most franchise businesses are required to provide up to 12 weeks of job-protected Family and Medical Leave Act (FMLA) leave for “a qualifying need related to a public health emergency” to employees.

WHO IS COVERED? Private sector employers with fewer than 500 employees must provide FMLA leave to both full-time and part-time employees who have been on the payroll for at least 30 calendar days.

WHEN IS IT REQUIRED? These provisions are effective on Wednesday, April 1, 2020, and will expire on December 31, 2020.

WHAT MUST BE PROVIDED?

- Employers covered by the law must provide a maximum of 12 weeks of leave.

- The first two weeks (10 work days) of emergency FMLA leave can be unpaid. An employee can opt to substitute accrued vacation, personal, or sick leave during this time, but an employer may not require an employee to do so.
- The remaining 10 weeks of FMLA leave is required to be paid, generally at two-thirds of the employee’s regular rate, for the number of hours the employee would otherwise be scheduled to work.
- The required pay for leave is capped at \$200 per day and \$10,000 in the aggregate.

HOW DO I COMPLY? Please see the U.S. Department of Labor’s [guidance document](#) for further information.

PAID SICK LEAVE (SEC. 5102, FFRCA)

WHAT IS IT? In addition to the Family and Medical Leave requirements, most franchise businesses will also be required to provide 80 hours (10 days) of paid sick leave to employees.

WHO IS COVERED? Private sector employers with fewer than 500 employees must provide the leave. Any full-time or part-time employees are eligible for the leave.

WHEN IS IT REQUIRED? These provisions are effective on Wednesday, April 1, and will expire on December 31, 2020.

WHAT DOES IT COVER? The bill requires covered employers to provide paid sick time to an employee who is unable to work (or telework) because:

- the employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19,
- the employee has been advised by a health care provider to self-quarantine because of COVID-19,
- the employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis,

- the employee is caring for an individual subject or advised to quarantine or self-isolate,
- 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, or
- 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.

The required pay for this leave is capped at \$511 per day (\$5,110 in the aggregate) where leave is taken for reasons (1), (2), and (3) noted above (generally, an employee’s own illness or quarantine); and \$200 per day (\$2,000 in the aggregate) where leave is taken for reasons (4), (5), or (6) (generally, care for others or school closures).

HOW DO I COMPLY? Please see the U.S. Department of Labor’s [guidance document](#) for further information.

UNEMPLOYMENT BENEFITS (SEC. 2102 and 2104, CARES Act)

WHAT IS IT? The CARES Act expanded the size (adding \$250 billion) and scope of unemployment benefits.

WHO IS ELIGIBLE? Nearly every employee in the country. Categorized as employees who are unable to work for reasons related to COVID-19.

Examples and reasons include:

- an individual who has been diagnosed with COVID-19 or is seeking a medical diagnosis for symptoms;
- a member of the individual’s household has been diagnosed with COVID-19;
- an individual is providing care for a family member who has been diagnosed with COVID-19;
- a child or other person for which the individual has primary caregiving responsibility is unable to attend school as a direct result of COVID-19;
- the individual is unable to reach the place of employment because of an imposed quarantine;
- the individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine;
- the individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19;
- the individual has to quit his or her job as a direct result of COVID-19;

- the individual’s place of employment is closed as a direct result of the COVID-19).

This section also includes relief for workers who are self-employed, as well as independent contractors.

WHO IS INELIGIBLE? An individual who has the ability to telework with pay, and/or an individual who is receiving paid sick leave or other paid leave benefits, regardless of whether the individual meets any of the examples under eligibility (above).

WHEN IS IT AVAILABLE? Provisions apply retroactively to January 27, 2020, and expire July 31, 2020.

WHAT IS COVERED? Makes unemployment benefits more generous by adding a \$600/week across-the-board payment (in addition to state unemployment benefits) increase through the end of July. In addition, for those who need it, the bill provides an additional 13 weeks of benefits beyond what states typically allow.

HOW COULD THIS SECTION IMPACT MY BUSINESS? An employee who is let go may now earn an extra \$600 per week (\$15/hr), in addition to state unemployment benefits which vary by state. This additional income has small businesses concerned it may be more difficult to bring back some employees after the virus passes, as well as maintain their workforce at the same level to qualify for Paycheck Protection Loans.

OPPORTUNITIES FOR FRANCHISE BUSINESSES IN CORONAVIRUS LEGISLATION

PAYCHECK PROTECTION PROGRAM (SEC. 1102, CARES Act)

WHAT IS IT? The Small Business Administration (SBA) is guaranteeing \$349 billion worth of zero-SBA fee, less-than-four-percent interest loans to small businesses that cover 2.5 times of their average total payroll costs incurred during the one-year period prior to the date on which the loan is made. Maximum loan available is \$10 million.

Loans may be forgiven if the borrower maintains the average number of full-time equivalent employees per month employed by the eligible recipient during the period beginning on February 15, 2019 and ending on June 30, 2019. In other words, businesses are eligible if their 2019 and 2020 employee averages are equal during the same time frame.

WHO IS ELIGIBLE? Four categories of organizations experiencing COVID-19 disruptions are eligible (Of note, this loan program should be available to nearly all franchisees):

- Any small business concern, business concern, non-profit organization, sole proprietorship, independent contractor or self-employed individual that employs fewer than 500 employees per physical location.
- Any organization that meets the SBA's size standards.
- Any organization that is assigned a North American Industry Classification System code beginning with 72.
- Any organization operating as a franchise that is assigned a franchise identifier code by the SBA: www.sba.gov/sba-franchise-directory

WHEN IS IT AVAILABLE? Immediately upon the issuance of guidance. Loans can cover the period beginning on February 15, 2020 and ending on June 30, 2020.

WHAT DOES IT COVER? Eligible organizations may use these loans to cover payroll costs for both full-time and part-time employees (which includes salary, wage, commission or other compensation), or payment of tips, sick/medical/family/vacation leave, group health care benefits and insurance premiums, retirement benefits, state and local taxes assessed on employee compensation, or the sum of payments of any compensation. These loans also can be used toward mortgage interest (but not principal), rent and utilities.

WHAT DOES IT NOT COVER? These loans cannot be used to pay wages for family or sick leave for which a credit is allowed under the second coronavirus relief bill (*the Families First Coronavirus Response Act, Public Law 116-127*). These loans can also not be used for mortgage principal.

HOW CAN YOU APPLY? Details from the SBA are forthcoming within 30 days after enactment. Please stay tuned to IFA channels for additional information as it becomes available.

EMERGENCY ECONOMIC INJURY DISASTER LOANS (SEC. 1110, CARES Act)

WHAT IS IT? This provision expanded eligibility for access to SBA's Economic Injury Disaster Loans (EIDLs). The SBA shall waive any personal guarantee on advances and loans below \$200,000 on these loans made in response to COVID-19 before December 31, 2020.

WHO IS ELIGIBLE? Businesses, sole proprietorships, independent contractors, non-profits, cooperatives or ESOPs with fewer than 500 employees.

WHEN IS IT AVAILABLE? Immediately upon enactment through December 31, 2020.

WHAT DOES IT COVER? Providing paid sick leave to employees, maintaining payroll, meeting increased costs to obtain materials, making rent or mortgage payments, and repaying obligations that cannot be met due to revenue losses.

HOW CAN YOU APPLY? Visit covid19relief.sba.gov/#/.

TREASURY FUND (SEC. 4003, CARES Act)

WHAT IS IT? The Treasury Department is now offering to businesses access to a \$454 billion "Exchange Stabilization Fund" to provide loans, loan guarantees, and other investments.

WHO IS ELIGIBLE? Any business created or organized in the United States and that has significant operations in and a majority of its employees based in the United States, and is not otherwise receiving adequate relief under other provisions of the bill.

Eligible companies must meet several additional criteria, and loans through the Federal Reserve generally (though with possible exceptions) prevent the borrower from repurchasing stock and dividend payments while the loan is outstanding, plus an additional year.

WHEN IS IT AVAILABLE? These Treasury loans may be available upon enactment until December 31, 2020.

HOW CAN YOU APPLY? Details from the Treasury Department are forthcoming. Please stay tuned to IFA channels for additional information.

EMPLOYEE RETENTION CREDIT (SEC. 2301, CARES Act)

WHAT IS IT? The provision provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 crisis.

WHO IS ELIGIBLE? The credit is available to employers whose (1) operations were fully or partially suspended due to a COVID-19 related shut-down order, or (2) whose gross receipts declined by more than 50 percent when compared to the same quarter in the prior year.

WHEN IS IT AVAILABLE? The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020.

WHAT DOES IT COVER? The credit is based on qualified wages paid to the employee. For employers with greater than 100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to the COVID-19-related circumstances described above.

For eligible employers with 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order. The credit is provided for the first \$10,000 of compensation, including health benefits, paid to an eligible employee.

WHAT DOES IT NOT COVER? It does not cover “an eligible employer who receives a covered loan (Paycheck Protection Loan) under paragraph (36) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), as added by section 1102 of this Act” – in other words, **businesses who receive an SBA Paycheck Protection Loan are not eligible for this credit.**

HOW CAN YOU APPLY? Through the IRS. Please stay tuned to IFA channels for additional information as it becomes available.

ADVANCE FUNDING OF TAX CREDITS FOR PAID LEAVE PROGRAM (SEC. 3606, CARES Act)

WHAT IS IT? Section 3606 allows employers to receive an advance tax credit for Required Paid Sick Leave (*under the Families First Coronavirus Response Act*) from Treasury instead of having to be reimbursed on the back end. It also creates regulatory authority for the Secretary of treasury to implement the tax credit advances.

Please also see Section 1110 (Emergency Economic Injury Disaster Loan), Section 1102 (Paycheck Protection Program) and Section 2301 (Employee Retention Tax Credit) above.

WHEN IS SECTION 3606 EFFECTIVE AND HOW CAN YOU APPLY? Details and guidance forthcoming by the Secretary of Treasury. Please stay tuned to IFA channels for additional information as it becomes available.

DELAY OF PAYMENT OF EMPLOYER PAYROLL TAXES (SEC. 2302, CARES Act)

WHAT IS IT? The provision allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax they are otherwise responsible for paying to the federal government with respect to their employees.

WHAT IS COVERED? Employers generally are responsible for paying a 6.2-percent Social Security tax on employee wages. The provision requires

that the deferred employment tax be paid over the following two years, with half of the amount required to be paid by December 31, 2021 and the other half by December 31, 2022.

WHEN IS IT EFFECTIVE? From date of the bill's enactment. The Secretary of Treasury will issue rules and guidance for enforcement of this section.

QUALIFIED IMPROVEMENT PROPERTY (QIP) (SEC. 2307, CARES Act)

WHAT IS IT? The provision enables businesses, especially in the hospitality industry, to write off immediately costs associated with improving facilities instead of having to depreciate those improvements over the 39-year life of the building. The provision, which corrects an error in the Tax Cuts and Jobs Act, not only increases companies' access to cash flow by allowing them to amend a prior year return, but also incentivizes them to continue to invest in improvements as the country recovers from the COVID-19 emergency.

WHO IS ELIGIBLE? Any business that made or is planning to make improvement to facilities.

WHAT DOES IT COVER? Costs associated with improving facilities (for example: interior improvements, which include but are not limited to investments in new lighting, flooring, sprinkler systems, woodwork, and other common business improvements.) The CARES Act also allows you to amend a prior year's return using this rule.

WHEN IS THE EFFECTIVE DATE? Immediately.

MODIFICATIONS FOR NET OPERATING LOSSES (SEC. 2303, CARES Act)

WHAT IS IT? The provision relaxes the limitations on a company's use of losses. Net operating losses (NOL) are currently subject to a taxable-income limitation, and they cannot be carried back to reduce income in a prior tax year. The provision also temporarily removes the taxable income limitation to allow an NOL to fully offset income.

These changes will allow companies to utilize losses and amend prior year returns, which will provide critical cash flow and liquidity during the COVID-19 emergency.

WHEN DOES IT TAKE EFFECT? The provision provides that an NOL arising in a tax year beginning in 2018, 2019, or 2020 can be carried back five years.