Coronavirus and the Construction Industry

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PRESENTED BY:
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HR 6201: Families First Coronavirus Response Act

• Applies to private companies with 499 or fewer employees
• Provides for two types of paid leave
  – 10 weeks of FMLA childcare leave
  – 2 weeks of emergency paid sick leave
• Effective April 1, 2020 to December 31, 2020
FFCRA - Employer

• DOL says typically an employer will be defined per entity
• Exceptions:
  – FLSA Joint Employer
  – FMLA Integrated Employer
Multi-Employer CBAs

• Signatory employers must comply with the law
• The benefit can be pushed through a CBA but only if the CBA provides for the full benefit
• A signatory employer must provide the benefit outside the CBA if the benefit is not contained in the CBA
HR 6201: Expanded FMLA Leave

- Amount: Up to 10 weeks of paid leave (2nd through 12th week)
- Purpose: Leave because the employee is not able to work due to childcare because a child’s school has closed due to COVID pandemic
  - Only covers leave for childcare purpose
HR 6201: Expanded FMLA Leave

• Eligibility:
  – Must have worked for employer for at least 30 days
  – Employers may exclude healthcare workers and first responders
HR 6201: Expanded FMLA Leave

- The first ten days may be unpaid
  - Employee may use other accrued paid leave during this period, including EPSL
- After 10 days, payment is 2/3 of the employee’s regular rate of pay based on the number of days the employee would be scheduled to work
- Payment is capped at $200 per day and $10,000 in the aggregate
HR 6201: Emergency Paid Sick Leave

- ALL employees immediately eligible
  - Includes employees employed for fewer than 30 days
- Employee not required to exhaust other paid time off
- Amount of Paid Sick Leave
  - Full time employees receive 80 hours
  - Part time employees receive a pro rata amount consistent with part-time schedule
HR 6201: Emergency Paid Sick Leave

• Reasons for leave:
  – Employee subject to a federal, State, or local quarantine or isolation order related to COVID-19
  – Employee advised by a health care provider to self-quarantine due to concerns related to COVID-19
  – Employee has symptoms or seeking a diagnosis of COVID-19
  – Employee caring for someone subject to a quarantine or isolation order; or someone advised by a health care provider to self-quarantine
  – Employee caring for child whose school is closed due to COVID-19
FFCRA: Other Points

- EFMLA and FMLA are cumulative (12 weeks)
- EFMLA and CFRA probably not cumulative
- Employees sent home for lack of work are not eligible
- Employees sent home due to closure of worksite are not eligible
- Employees sent home before April 1, 2020 are not eligible
HR 6201: Emergency Paid Sick Leave

Amounts of Pay

• Leave due to COVID sickness, diagnosis, quarantine or self-isolation
  – $511 per day
  – Capped at $5,110

• Leave to care for a family member, or because of school closure
  – $200 per day
  – Capped at $2,000
LA Paid Sick Ordinance

- Passed March 27, 2020
- In Effect until December 31, 2020, unless extended
- Applies to business with 500 or more employees
LA Paid Sick Leave Ordinance

- Applies to any employee who performs any work in Los Angeles City
- Ordinance says a worker is presumed to be an employee, and employer has burden to show an independent contractor
LA City Paid Sick Leave Ordinance

• Eligible employees must have worked for employer from February 3, 2020 to March 4, 2020

• Full time employee entitled to 80 hours

• Part time employee to a pro-rate number of hours based on average hours from 2/3 to 3/4/2020
LA Paid Sick Leave Ordinance

- Daily pay is capped at $511
- Cumulative pay is capped at $5,110
LA Paid Sick Leave Ordinance

• Qualifying reasons:
  – The Employee takes time off because a public health official or healthcare provider requires or recommends the Employee isolate or self quarantine to prevent the spread of COVID-19;
  – The Employee takes time off work because the Employee is at least 65 years old or has a health condition such as heart disease, asthma, lung disease, diabetes, kidney disease, or weakened immune system;
  – The Employee takes time off work because the Employee needs to care for a family member who is not sick but who public health officials or healthcare providers have required or recommended isolation or self-quarantine;
  – The Employee takes time off work because the Employee needs to provide care for a family member whose senior care provider or whose school or child care provider caring for a child under the age of 18 temporarily ceases operations in response to a public health or other public official’s recommendation.
LA Paid Sick Leave Ordinance

- An employer may not require a doctor’s note or any documentation of need for leave.
- Employer can offset earlier qualifying paid sick leave from the employee’s entitlement.
  - Must be a COVID qualifying reason.
- Parties to a union contract may negotiate an “express waiver.”
Thank You
For questions or comments, please contact:

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