

Locke Lord QuickStudy: COVID Stimulus Guide: Overview of Key Unemployment Provisions Update

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On March 28, we published a QuickStudy outlining the relevant unemployment provisions in the Coronavirus Aid, Relief, and Economic Security Act, or the “[CARES Act](#)”, signed into law by President Trump on March 27. These unemployment benefits now have expired; however, President Trump recently signed into law a new stimulus package contained in the Consolidated Appropriations Act 2021, which extends unemployment assistance by amending the CARES Act in a number of ways, outlined in this article.

By providing an additional \$900 billion in stimulus to the U.S. economy, the new legislation provides significant financial and other relief to individuals and small businesses, especially for those sectors of the U.S. economy hit hardest by the COVID-19 pandemic. This QuickStudy focuses specifically on the Extension of Federal Pandemic Unemployment Compensation included in the new statute, although the new law also addresses funds for healthcare and vaccination distributions, an extended stay on evictions through January 2021, stimulus checks to qualifying Americans, employee tax credits, the Paycheck Protection Program for qualifying businesses, and a number of other provisions in response to the ongoing pandemic.

Additional Resources: Please note that Locke Lord has also posted other QuickStudies on the new stimulus bill, including a summary of the benefits provided to [independent contractors](#). Locke Lord also has issued separate QuickStudies that review the CARES Act’s provisions related to [Business Tax Changes](#), [Employee Benefits Changes](#), [Executive Compensation Limits](#), and [Charitable Contributions](#).

For more CARES Act information please see: [Saving Our Small Businesses: CARES Act Expands Economic Injury Disaster Loan Program to Provide Additional Financial Relief to Small Businesses](#), [Saving Our Small Businesses: Lender Considerations for Participating in the New Forgivable Paycheck Protection Program Loans to Small Businesses](#), [Saving Our Small Businesses: Congress Reaches Agreement on New Forgivable Paycheck Protection Loans to Small Businesses](#), [Saving Our Small Businesses: “Phase Three” Economic Recovery Proposal Includes New Forgivable SBA Loans for Small Businesses Impacted](#) and [Saving Our Small Businesses: SBA Disaster Assistance Loans for Small Businesses Impacted by COVID-19](#).

Building on the benefits created by the Family First Coronavirus Act Response Act (FFCRA) (see [QuickStudy here](#)) and the CARES Act, the new stimulus bill expands the substantial rights for workers who find themselves wholly or partially unemployed due to the COVID-19 pandemic. This article examines those expanded

rights, which likely will continue to be the greatest source of income protection for American workers amongst the flurry of new laws in the wake of COVID-19.

EXTENSION OF EXPANDED UNEMPLOYMENT BENEFITS

A primary feature of the new stimulus legislation is to extend the unemployment protections originally provided by the CARES Act to the growing number of jobless Americans, both by creating new benefits and broadly expanding existing state level benefits.

Increased Coverage.

First, the new bill extends the temporary federal Pandemic Unemployment Assistance program for individuals unable to work due to the COVID-19 public health emergency during the timeframe beginning on December 26, 2020 and ending on March 14, 2021. To be covered under the Pandemic Unemployment Assistance program, workers must be:

- (1) ineligible for or have exhausted regular unemployment resources available under state or federal law (including [independent contractors](#), who are typically excluded from unemployment protections, gig workers, and self-employed individuals); and
- (2) must certify that he or she is capable of and available to work but unable or unavailable to work or telework because the individual:
 - is diagnosed with COVID-19, or is experiencing symptoms or seeking a diagnosis of COVID-19;
 - has a member of his or her household that has been diagnosed with the illness;
 - is providing care to a family member with COVID-19;
 - has primary caregiving responsibility for a child who is unable to attend school due to COVID-19;
 - cannot reach his or her place of work because of a quarantine or the advice of a health care provider to self-quarantine;
 - has become a breadwinner after the head of household has died from COVID-19;
 - has had to quit working as a direct result of COVID-19; or
 - has a work location that is closed as a direct result of a COVID-19 public health emergency.

Assistance under the new Pandemic Unemployment Assistance program is capped at 50 weeks. This 50-week maximum includes any weeks for which the covered individual receives unemployment or extended benefits under any federal or state law.

Increased Amount.

In addition to the Pandemic Unemployment Assistance program, the new law includes provisions increasing the amount of unemployment benefits. Notably, these benefits are generally applicable to unemployed workers and do not require a similar certification that such unemployment is directly related to the COVID-19 pandemic.

The CARES Act permits each state to contract with the federal government for the reimbursement of at least 50% of:

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an additional \$300 per week for payments states make to individuals eligible for unemployment benefits under applicable state law (beginning after the date of the agreement between the applicable state and the federal government (but no earlier than December 26, 2020) and lasting through March 14, 2021). This additional \$300 per week is less than the \$600 per week benefit established by the CARES Act, which expired on July 31, 2020;

- an additional 24 weeks of unemployment benefits (ending March 14, 2021) on top of the normal amount of time available under state law (typically up to 26 weeks) for individuals who have exhausted their unemployment benefits under state law and are able, available, and actively seeking work; and
- compensation equal to the first week of unemployment, which is intended to address those states that required a one week waiting period before a worker could begin to receive unemployment assistance.

The original CARES Act unemployment benefits lapsed entirely on December 26, but the new stimulus bill was not signed into law until December 27—resulting in a lapse in coverage for unemployed Americans. Given this lapse, the new benefits may take some time to kick in and there may be a lag in unemployment payments to eligible workers. The Department of Labor likely will issue further guidance on the new stimulus bill in the coming weeks. Notably, the new law creates additional transition assistance through April 5, 2021 for individuals receiving unemployment benefits who have not exhausted their benefits as of March 14, 2021.

Funding for Employees with Reduced Hours Through Short-Time Compensation Programs.

Lastly, the new bill extends the CARES Act's prior funding for states that now have or create "short-time compensation" programs. A "short-time compensation" program is a program, approved by a state, whereby employers reduce the number of hours worked by more than 10% and no more than 60%, in lieu of layoffs. Those employees are then entitled to a pro rata portion of the unemployment compensation the employee would have received if he or she were unemployed. Like the CARES Act, under the new law, states with "short-time compensation" programs are entitled to federal reimbursement for short-time compensation paid through March 14, 2021. Employers that plan to reduce the hours of their employees should ensure that any such reductions are done in compliance with state and federal wage and hour law, particularly pertaining to workers exempt from the Fair Labor Standards Act (See [Key Questions for Employers Facing COVID-19 \(FAQ\)](#), Question Number 20).

Though there is no requirement that states accept any of the federal reimbursements provided by the new legislation, the majority, if not all, states are expected to participate in these programs, as they did under the CARES Act. The new stimulus bill provides additional flexibility to employers trying to strike the delicate balance of managing costs and ensuring their employees continue to have a paycheck.

CHANGES TO THE FFCRA

Though the new bill extends the CARES Act's unemployment assistance for workers affected by the COVID-19 crisis, it does not extend the leave requirements of the FFCRA. The new law permits employers to voluntarily provide paid sick leave or emergency family medical leave (and to take a corresponding tax credit through March 31), but as of January 1, they are no longer required to provide the leave mandated in the original FFCRA. Of course, all existing leave and employment laws, such as the Family Medical Leave Act, Americans with Disabilities Act, and any state or local laws relating to sick or family leave still apply. For more details, please see

the [Locke Lord QuickStudy on the FFCRA](#)?

For help with your CARES Act questions, or questions about the new stimulus bill or the FFCRA, please contact any member of our team?

NOTE: Because of the ever-changing COVID-19 legal environment, employers should consult with counsel for the latest developments and updated guidance on these topics.

Visit our [COVID-19 Resource Center](#) often for up-to-date information to help you stay informed of the legal issues related to COVID-19.

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