



October 29, 2020

Updates to the Amended New York City Earned Safe and Sick Leave Law

On April 3, 2020, New York State enacted a statewide sick leave requirement, mandating that employers provide sick leave to all employees (“NYS Sick Leave Law”). The NYS Sick Leave Law took effect on September 30, 2020. See our previous [Client Alert](#).

On September 28, 2020, New York City amended the Earned Safe and Sick Time Act (“NYC ESSTA”) to align with the new State law. The amendments went into effect on September 30, 2020. See our previous [Client Alert](#).

Thereafter, in response to Frequently Asked Questions, the New York State Department of Labor (“DOL”) issued guidance on implementing the new Sick Leave Law. See our previous [Client Alert](#). Since then, NYC has updated its information for employers under the amended NYC ESSTA, including the following.

Notice of Employee Rights

Under the NYC ESSTA, employers must distribute a written Notice of Employee Rights to their employees when they begin employment or when their rights change. Under the new amendments, employers with 100 or more employees or employers of domestic workers must provide an updated notice of rights to employees by January 1, 2021. Employers must also post the notice in the workplace in an inconspicuous area. A copy of the [Notice of Employee Rights](#) is now available on the NYC Department of Consumer Affairs (“DCA”) website.

Employer Tools

In addition, the amendments require employers to list on each employee paystub the amounts of safe/sick leave accrued, used and remaining balance. The DCA has uploaded tools to assist employers in keeping track of employee hours worked, safe/sick leave used, accruals and end-of-year carryover of unused safe/sick time.

Model Forms

The DCA now has model forms available for employers to use in connection with safe/sick leave. Under the NYC ESSTA, employers may require reasonable notice of the need to take safe/sick time, and up to seven (7) days advance notice. Moreover, employers may require employees to provide written confirmation that they are using safe/sick time as permitted under the Act. A [model form](#) is now available for employee notification of intention to use safe/sick leave.

Employers may also ask employees to verify that they are using safe/sick time under the Act for an authorized use. A [model form](#) is available for employee verification regarding authorized use of safe/sick time. Only after an employee has used safe/sick leave for more than three (3) consecutive days, may employers ask for reasonable documentation supporting the need to take safe/sick leave. However, employers may not require the person providing documentation to specify the reason for safe/sick leave.

Takeaway

Employers in NYC should continue to review their sick leave policy to determine whether it meets the notice and documentation requirements of the amended NYC ESSTA.

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If you have any questions regarding this alert, please do not hesitate to contact us.

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