Paid Leave Webinar Series

Trends and Priorities Shaping 2026’s Expanding Compliance Landscape

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Seyfarth Shaw LLP

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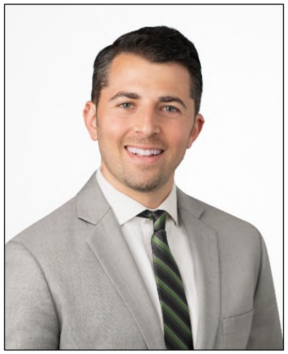
Speakers



Joshua Seidman
Partner
New York Office
jseidman@seyfarth.com

Marlin Duro-Martinez
Partner
New York Office
mduro-martinez@seyfarth.com

Christine Costantino
Senior Counsel
Washington DC Office
ccostantino@seyfarth.com

Ashley Casey
Associate
New York Office
acasey@seyfarth.com

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Nationwide Paid Leave Law Overview

Paid Sick Leave (PSL) and PTO Laws

Total Mandates

As of June 2026:
56 TOTAL PSL & PTO Mandates in the U.S.

- **Why?** Several jurisdictions have enacted multiple mandates.

But number constantly changing due to Sunset or Repeal of Standard Laws.

PEAK (as of Dec. 2020): Approx. 69 TOTAL Mandates in U.S.

Federal

Executive Order 13706 PSL for many EEs of certain federal contractors

Families First Coronavirus Response Act Emergency PSL for EEs of certain sized ERs (**sunset** as of 12/31/2020; reimbursement for voluntary leave option for select ERs **ended** 9/30/2021)

21 States + DC

PSL:

- AK (7/1/25)
- AZ
- CA (1/1/26 amendment)
- CO
- CT (1/1/25 amendment)
- DC
- MD
- MA (11/21/24 amendment)
- MI (2/21/25 amendment)
- MN (7/1/25 + 1/1/26 amendments)
- NE (10/1/25)
- NJ
- NM
- NY (1/1/25 amendment)
- OR (9/28/25 + 1/1/26 amendments)
- RI
- VT
- **VA (7/1/27)**
- WA (7/27/25 + 1/1/26 amendments)

PTO:

- IL
- ME (9/24/25 amendment)
- NV

24 Municipalities

(1) San Francisco, CA; **(2)** Seattle, WA; **(3)** Long Beach, CA; **(4)** SeaTac, WA; **(5)** New York City, NY; **(6)** Los Angeles City, CA; **(7)** Oakland, CA; **(8)** Philadelphia, PA; **(9)** Tacoma, WA; **(10)** Emeryville, CA; **(11)** Montgomery County, MD; **(12)** Pittsburgh, PA; **(13)** Santa Monica, CA; **(14)** Minneapolis, MN; **(15)** San Diego, CA**; (16)** Chicago, IL (PTO/PSL); **(17)** Berkeley, CA; **(18)** Saint Paul, MN; **(19)** Cook County, IL (PTO); **(20)** Westchester County, NY; **(21)** Bernalillo County, NM (PTO); **(22)** Allegheny County, PA; **(23)** West Hollywood, CA (PTO); **(24)** Orland Park, IL (PTO)

Paid Family and Medical Leave Laws

15 TOTAL MANDATORY PFL/PFML LAWS

- **14 States + DC**

  CA, CO, CT, DE, DC, ME, MD, MA, MN, NJ, NY, OR, RI, VA, and WA

2 TOTAL VOLUNTARY PFML LAWS

- **2 States**

  NH and VT

Note: SDI laws exist in CA, HI, NJ, NY and RI

Note: AL, AR, FL, KY, LA, SC, TN, TX, VA added Family Leave Insurance as a class of insurance

Minnesota
Paid Leave Law

Minnesota Paid Leave – Employer and Employee Coverage

- **Employer:** Employer means any person, organization or entity that employs at least **one** covered employee.
  - *Exception:* Employer does **not** include the federal government.

- **Employee:** Employees are covered under the Minnesota Paid Leave Law if:

  (1) 50% or more of their employment is performed in Minnesota; or

  (2) less than 50% of their employment is performed in Minnesota, **but** the employee resides in Minnesota 50% or more of the calendar year.

- "Employee" does **not** include:
  - **(1)** a self-employed individual
  - **(2)** an independent contractor;
  - **(3)** certain seasonal hospitality employees; and
  - **(4)** federal government, railroad and postal workers.

- **Note:** Self-employed individuals and independent contractors can opt-in to the MN PFML program.

Minnesota Paid Leave –

Reasons for Use

Covered Reasons for Use

- **Bonding:** Includes spending time with a biological, adopted, or foster child following the child's birth, adoption or placement.
- **Family Care:** Includes caring for a family member with a serious health condition or caring for a family member who is a military member.
- **Qualifying Exigency:** Includes a need arising out of a military member's active-duty service or notice of an impending call or order to active duty.
- **Safety Leave:** Includes leave from work because of domestic abuse, sexual assault, or stalking, provided the leave is to seek medical attention, obtain counseling or other services, seek relocation, obtain legal advice or take legal action.
- **Serious Health Condition:** Includes a physical or mental illness, injury, impairment, condition or substance use disorder that includes, for example, impatient care or continuing treatment.
- **Medical Care Related to Pregnancy:** Includes prenatal care or incapacity due to pregnancy or recovery from childbirth, stillbirth, miscarriage, or related health conditions.

Minnesota Paid Leave – Covered Family Members

Covered Family Members Include:

(1) a spouse or domestic partner;

(2) a child;

(3) a parent or legal guardian;

(4) a sibling;

(5) a grandchild;

(6) a grandparent or spouse's grandparent;

(7) a son-in-law or daughter-in-law; and

(8) an individual who has a personal relationship with the employee that creates an expectation and reliance that the employee care for the individual without compensation (regardless of whether the employee resides with this person).

Minnesota Paid Leave – Amount of Leave

- **Amount of Leave:**
  - Up to a *maximum of 12 weeks* of paid family or medical leave benefits in a single benefit year; or
  - If an employee qualifies for both medical and family leave in a single benefit year, they can use *a total of 20 weeks combined*.

- **Benefit Year Defined:**
  - State Plan: The 12-month period that starts when leave is first taken by the employee.
  - Private Plan: One of the four benefit year options available under the federal FMLA, including:
    - Calendar year
    - Any fixed 12-month period
    - A 12-month period measured forward from an employee’s first day of leave taken, or
    - A rolling 12-month period measured backward from an employee’s first day of leave taken).

- **Continuous or Intermittent Leave:**
  - Benefits can be used on a continuous or intermittent basis.

Minnesota Paid Leave –

Amount of Pay / Funding

- **Covered Employees May Be Entitled to MN Paid Leave Benefits as Follows:**
  - 90% of wages that do not exceed 50% of the state's average weekly wage; plus
  - 66% of wages that exceed 50% of the state's average weekly wage but not 100% of the average weekly wage; plus
  - 55% of wages that exceed 100% of the state's average weekly wage.

- **2026 Maximum Weekly Benefit:** $1,423

- **Frequency of Payments:** Employees will be paid on a weekly basis.

- **Supplemental Payments:** Employers can allow employees to use other available paid time off to "top off" their Paid Leave payments. However, employees cannot receive more than 100% of their normal weekly pay while on Paid Leave.

- **Funding:** Program is funded through employee payroll deductions **and** employer contributions.

Minnesota Paid Leave – Private Plan Exemption

- **Overall:** Private plan must provide benefits that are equivalent to or better than those provided by the state.
  - *Note:* A private plan can cover both family leave and medical leave, or only one type of leave. Employers who offer a private plan for only one type of leave must pay premiums and participate in the state's Paid Leave program for the other type of leave.

- **Process to Follow:**
  - Employers can request an exemption through their Paid Leave Administrator Account.
  - The amount of the processing fee and non-refundable request fee depends on employer size (maximum of $1,000 for employers with 500 or more employees).
  - Requests can be submitted at any time and are reviewed and approved on a rolling basis.
  - If approved, the private plan will take effect at the start of the quarter.

- **Approved Private Plans:** The Minnesota Department of Commerce published a list of approved private plans which can be found on the Minnesota Paid Leave website. The list is updated regularly.

Minnesota Paid Leave –

Notice and Posting Requirements

- **Posting:**
  - Display model poster in a conspicuous location.
  - Post in English and any other language that is the primary language spoken by at least 5% of the workforce.
  - Sample notices are available on the MN Paid Leave website.

- **Written Notice:**
  - Customizable model notice is available on the MN Paid Leave website.
  - Deadline:
    - Not more than 30 days from the beginning of employment or 30 days before premium collection begins, whichever is later.
  - Acknowledgement:
    - Employees must acknowledge that they received the notice either by signing a form, acknowledging receipt electronically (i.e., a payroll system), or in another way the employer decides.

Minnesota Earned Sick and Safe Time (ESST) Law:

Final Rules Effective July 6, 2026

Minnesota ESST –

Accrual Year

- **Accrual Year Defined:** The MN ESST law defines a "year" as a regular and consecutive 12-month period as defined by the employer.

- **Impact of Final Rules:**
  - – Employers must designate and communicate the accrual year to each employee.
  - – If the chosen accrual year is not communicated to employees, it will automatically default to the calendar year.

- **Changing the Accrual Year:**
  - – Any changes to the accrual year must be:
    - communicated **in writing before** the change takes effect, and
    - designed to not negatively impact an employee's accrual of ESST.

Minnesota ESST – Frontload and Accrual Methods

- **Frontload / Advancement Method:** Employees must be provided with at least one hour of ESST for every 30 hours worked, up to a maximum of 48 hours of ESST per accrual year.

- **What If the Advancement Falls Short of What the Employee Should Have Accrued Based on Their Hours Worked?**
  - The employer must make up the difference within 15 calendar days of the employee's actual hours work surpassing the frontloaded amount.

- **Switching from Accrual to Frontloading:**
  - Written notice of the change must be provided to employees.
  - The change will take effect on the first day of the next accrual year, unless the notice was untimely.
  - If notice was untimely, the employer must maintain the existing accrual method.

Minnesota ESST – No "Forced" Use

- The Final Rules make clear that employers cannot require employees to use their available ESST for a covered absence.

- However, this does not forbid an employer from using ESST as a factor in incentive programs.
  - According to the Final Rules, "[i]f a bonus, reward, or other incentive is based on the achievement of a specified goal such as hours worked, products sold, or perfect attendance and the employee has not met that goal to use earned sick and safe time, then the incentive may be denied, unless otherwise paid to employees on any other leave status."
  - *Note:*
    - It is still unlawful for an employer's attendance policy or system to count ESST absences as an absence that may lead to or result in adverse action.

Minnesota ESST –

Reasonable Documentation

- **Documentation Standard Under MN ESST:** Employers can require reasonable documentation for an absence of two or more consecutive workdays.

- **Impact of Final Rules:**
  - Employees must be given a "reasonable" amount of time to provide the requested documentation.
  - If an employee fails to provide reasonable documentation, their absence is unprotected.
  - Employers can request reasonable documentation before an employee is absent for two consecutive workdays only if:
    - an employee is repeatedly using ESST before or after a scheduled day off, vacation or holiday;
    - an employee is repeatedly using less than 30 minutes of ESST at the beginning or end of shift;
    - an employee uses ESST on a day when a prior request to take other leave was denied; and
    - documentation or other evidence contradicts the employee's claimed use of ESST.
  - Employers' reasonable documentation standards must be communicated to employees, such as in a written policy.

Minnesota ESST – More Generous Policies

- **Overall:** If an employer maintains two or more separate paid time off policies which may both be used for MN ESST qualifying reasons for use, both paid time off policies are subject to the MN ESST required conditions (*e.g.*, notice, increments of use, no retaliation, no approval required, etc.) when the time off used for a covered reason for use under the MN ESST law.

- **Example:** An employer has both a MN ESST policy and a separate vacation time policy. An employee has exhausted their MN ESST time, so they use their available vacation time for a MN ESST qualifying purpose. In this situation, a reasonable reading of the Final Rules and related FAQs is that the employee's vacation time would be subject to the MN ESST's required conditions, including with respect to notice, increments of use, reasonable documentation, etc., because the vacation time is being used for a MN ESST covered reason for use.

Minneapolis Paid Sick Leave Law & Bloomington Sunset

Minneapolis Sick and Safe Time Ordinance – January 2026 Amendments

Effective January 1, 2026, the Minneapolis Sick and Safe Time Ordinance was amended to align more closely with the existing Minnesota statewide ESST law.

- **Key Provisions:**
  - Frontloading – Employers can avoid carryover obligations by advancing employees with either 48 or 80 hours of sick and safe time, depending on whether unused sick and safe time is paid out at year end.
  - Waiting Period – Employees may use sick and safe time as it is accrued.
  - Increments of Use – Employers can set minimum increments of use anywhere between 15 minutes and up to four hours.
  - Reasons for Use – Same covered reasons as under the Minnesota ESST law.
  - Family Members – Same covered family members as under the Minnesota ESST law.
  - Employee Notice – Same notice standards for foreseeable and unforeseeable absences as under the Minnesota ESST law (*i.e.,* no more than 7 days' notice for foreseeable absences and "as reasonably required" for unforeseeable absences).
  - Documentation – Same reasonable documentation standards as under the Minnesota ESST law (*i.e.,* employers may request documentation for absences of more than two consecutively scheduled workdays).

Minneapolis Sick and Safe Time Ordinance – January 2026 Amendments Cont.

- **Key Differences Between the Minneapolis and Minnesota Laws:**
  - Minnesota ESST Amended Rules – Exclusive to the Minnesota ESST law.
  - Notice and Posting Requirements – Each law has its own notice and posting requirements which must be complied with.
    - *Note:* The different notices must also be included within the employee handbook.
  - Enforcement – While both laws provide a private right of action, Minneapolis employees can also seek redress for violations by filing a complaint with the Minneapolis Department of Civil Rights.

- **Next Steps for Employers:**
  - Review written policies to ensure compliance with the January 2026 amendments to the Minneapolis Ordinance.
  - Train managerial and HR employees on the overlap between the Minneapolis and Minnesota laws.

Sunset of Bloomington Earned Sick and Safe Time Ordinance

- **Repeal Date:** April 27, 2026

- **Remaining Protections for Bloomington Employees:**
  - Employees are still covered by the Minnesota ESST law.
  - Any complaints will be directed to the Minnesota Department of Labor & Industry instead of the City.

- **Next Steps for Employers:**
  - Consider removing any policies or posting that specifically refer to the now-repealed Bloomington Ordinance.
  - Ensure compliance with the Minnesota ESST law for Bloomington employees, including with respect to employer notice and posting obligations.

Virginia PFML & PSL Laws

Virginia PFL Key Provisions

- **Key Dates:**
  - October 1, 2027: Initial contribution rates set.
  - January 1, 2028: Commission with will establish and administer a Paid Family and Medical Leave Insurance program.
  - April 1, 2028: Payroll contributions begin; Deadline for Virginia Employment Commission to promulgate all rules and regulations
    - Regulations expected to address: the processes for applying for and receiving benefits, the required timeline of notices to employers, and the best practices for communications between employees and employers regarding the use of leave
  - December 1, 2028: Benefits claims and payments begin.

- **Coverage:** all employers

- **Eligibility:** employee must be authorized to work in the US and meet a minimum monetary eligibility criteria (~$3000/quarter for two of last five quarters)

Key Provisions (continued)

- **Reasons for Leave:**
  - **Parental:** Birth, adoption, or foster placement of a child within the first year of the birth or placement;
  - **Family**: Care for a family member with a serious health condition;
  - **Medical:** Employee's own serious health condition the makes the employee unable to perform the functions of his or her position;
  - **Injured Servicemember:** Care for a covered service member who is the employee's next of kin or other family member
  - **Qualifying Military Exigency**
  - **Safety Services:** services for employee or family members related to domestic violence, harassment, sexual assault, or stalking
- **Definition of Family Member:**
  - any individual (i) who regularly resides in the employee's home or where the relationship creates an expectation that the employee care for such individual and (ii) who depends on the employee for care.
- **Amount of Leave:**
  - up to 12 weeks of paid leave in a benefit year for medical, family, parental and qualifying exigency leaves
  - up to 4 weeks of paid leave in a benefit year to obtain safety services.

Key Provisions (continued)

- **Amount of Pay:**
  - generally equivalent to 80% of the employee's average weekly wages, subject to a cap equal to 100% of Virginia's average weekly wage

- **Funding:**
  - funded by payroll premiums shared by both employers and employees (up to 50% contribution from employee)
    - Small employer contribution exemption
    - Contribution rates are not yet set but will be capped at the Social Security wage base
    - Annual rates set by October 1 the prior year

- **Notice and Posting:**
  - must provide written notice of employee rights under PFML
    - upon hire,
    - annually, and
    - when leave is requested or the employer becomes aware that the employee intends to take leave that may qualify for PFML benefits.
  - must post a Commission-issued workplace notice in English, Spanish, and any other language spoken by at least five percent of the employer's workforce.

Key Provisions (continued)

- **Job Protection:**
  - employees who have worked for their current employer for at least 120 days before the leave begins are entitled to reinstatement to the same or equivalent position held at the time leave commenced and maintenance of health insurance during leave
- **Private Plans:**
  - employers may apply for approval to use a private paid leave plan instead of contributing to and providing leave through the state program and must have plans recertified every two years
- **Prohibitions against interference and retaliation**
  - employers may apply for approval to use a private paid leave plan instead of contributing to and providing leave through the state program and must have plans recertified every two years
  - prohibits an employer "or other person" from interfering with, restraining or denying an employee's rights under the law, or retaliating against an individual for exercising his or her rights under the law
  - prohibited from counting PFL leave as absence that may lead to discipline
    - currently, nothing limiting this to those employees who qualify for job protection
  - actions to enforce alleged violations must be brought within one year, or three years for willful violations

Virginia PSL Key Provisions

- **Key Dates and Employer Coverage:**
  - **July 1, 2027:** effective date for employers with at least 50 employees
    - *also deadline for publication of regulations*
  - **July 1, 2028:** effective date for employers with at least 25 employees
  - **July 1, 2029:** effective date for employers with at least one employee

- All private employers covered; prior sick leave law limited to home health workers

- **Employee Eligibility:** any person who, in consideration of wages, salaries, or commissions, may be permitted, required, or directed by any employer to engage in any employment directly or indirectly

- **Accrual:** must accrue at a rate of at least one hour for every 30 hours worked, up to 40 hours per year
  - accrual beings at start of employment
  - assume 40-hour workweek for exempt employees (and airline flight crew employees)

Virginia PSL Key Provisions (Continued)

- **Usage and Carryover:**
  - one-hour increments
  - permitted to establish annual 40-hour PSL usage cap
  - no provision permitting cap on carry over
  - no provision addressing new hire waiting period
- **Frontloading:**
  - employers can avoid accrual and end of year carryover obligations by frontloading 40 hours of PSL
- **Reasons for Use:**
  - employee’s own illness, injury or health condition, including preventative care;
  - caring for covered family member with illness, injury or health condition, including preventative care; and
  - certain absences due to employee or their covered family member’s status as a victim of domestic violence, sexual assault, or stalking

Virginia PSL Key Provisions (Continued)

- **Definition of Family Member:**
  - (1) child (regardless of age),
  - (2) parent (of the employee or their spouse),
  - (3) spouse or domestic partner,
  - (4) grandparent, grandchild, or sibling (of the employee or their spouse or domestic partner),
  - (5) an individual for whom an employee is responsible for providing or arranging health or safety-related care, including helping that individual obtain diagnostic, preventive, routine, or therapeutic health treatment or ensuring the person is safe following domestic violence, sexual assault, or stalking; or
  - (6) any other individual related by blood or affinity whose close association with an employee is the equivalent of a family relationship.

Virginia PSL Key Provisions (Continued)

- **Employee Notice to Employer:**
  - request can be made orally, in writing, via electronic means or by any other means approved by the employer
  - employer can require a "good faith effort" by employee to provide advance notice for foreseeable leave
  - required notice procedures must be in a written policy
- **Documentation:**
  - can require reasonable documentation for absence of 3+ consecutive days
- **Rate of Pay:**
  - must be at "regular rate"
- **Separation of Employment:**
  - cash out not required
  - must reinstate accrued, unused PSL if employee rehired within 12 months

Virginia PSL Key Provisions (Continued)

- **Notice and Posting:**
  - – will be addressed in regulations
- **Non-Sick PTO Policies/CBA:**
  - – can use a paid leave policy to comply with law if the policy (1) provides a sufficient amount of leave and (2) permits use of leave for the same purposes and under the same conditions provided in statute
    - same applies to paid leave provided to employees covered by a CBA
- **Enforcement:**
  - – can file a complaint with the Virginia DOL within one year of alleged violation
    - employers can avoid civil monetary penalties if timely cure violations after notice
      - time period for cure will be set by regulations
  - – can also file private right of action

Maryland PFML

Review of Key Provisions

- Employer Coverage:
  – Employers with 1 or more employees in Maryland
- Employee Eligibility:
  – worked at least 680 hours in position based in MD in last 4 quarters
  – can aggregate hours across employers
  – no minimum income requirement
- Reasons for Leave:
  – Bonding with new child during first year
  – Serious health condition of employee or family member
  – Caring for a service member or uniformed service family needs (deployment)
- Amount of Leave:
  – 12 weeks in benefit year
  – can request additional 12 weeks if employee requires leave for own serious health condition and welcoming a child in same benefit year
  – continuous or intermittent

Review of Key Provisions

- Amount of Pay:
  - formula based on employee’s average weekly wage compared to state average weekly wage
  - up to 90% of employee’s average weekly wages
  - minimum benefit is $50/week; maximum benefit is $1,000/week

- Job Protection:
  - employers required to restore an employee to an equivalent position of employment upon the expiration of the leave
  - employers may only terminate an employee on FAMLI leave “for cause”
  - can only deny the employee’s restoration rights if
    - the denial is necessary to prevent “substantial and grievous” economic injury to the employer’s operations *and*
    - the employer provides the employee notice of the intent to deny restoration rights at the time the employer determines the economic injury would occur.

Maryland FAMLI Final Regulations

- Regulations: March 30, 2026
- Key Dates Confirmed:
  - January 1, 2027: Payroll Contributions Begin
  - January 3, 2028: Benefits Become Available
- Initial Contribution Rate Set:
  - for 2027, contribution rate is 0.9% of wages up to Social Security wage base
    - employers may require employee contributions of up to 50% of contribution amount
    - employers with less than 15 employees are exempt from employer-share contribution
      - employee count includes employees outside of MD for threshold
- Requirements for Employee Contributions
  - employer must provide advance written notice at least on pay period *before* payroll deductions begin
  - if employer fails to withhold employee contribution, generally cannot retroactively recover it

Maryland FAMLI Final Regulations

- Employer Reporting Obligations and Administration – State Plan
  - Register for account on portal and identify Authorized Officer (Fall 2026)
  - Submit quarterly wage and hour reports to FAMLI Division (all plans)
  - Remit contributions on quarterly basis (April 30, 2027)
- Private Plan Process
  - –Basic requirements
    - must provide benefits equal to or greater than under state plan
    - not require employees to contribute more than required under state plan
  - –Process for setting up private plan alternative
    - filed a Declaration of Intent to use private plan
    - first filing window is September 1-November 15, 2026
    - formal application/approval of plan will occur in 2027 after private plans are on the market
    - application fees range from $100-$1000 depending on employer size
    - employers with more than 50 employees in MD can apply to be self-insured

Maryland FAMLI Final Regulations

- Employer Notice and Communications
  - –Notice Events
    - July 3, 2027 – Initial Program Notice
    - Time of Hire
    - Annual Notice
    - Upon leave inquiry or leave request
      - triggered by employees use of leave terms such as “family leave” or “parental leave” or when employee otherwise communicates need for leave that may qualify under FAMLI
    - Upon learning employee is taking leave for FAMLI-qualifying reason
  - –MDOL model notice is coming but not published yet
- Employee Notice to Employer
  - 30 days for foreseeable leave
  - as soon as practicable for unexpected leave

Maryland FAMLI Final Regulations

- Administration and Benefit Procedures
  - employees apply for benefits through the plan
  - can apply up to 60 days before leave starts
  - FAMLI will electronically notify employers of a claim and status changes
  - employers must respond within five business days after receiving notice of application
  - FAMLI will make determination within 10 days
  - First benefit payment to employee within 5 days
- Coordination of Benefits
  - cannot require employees to use other employer-provided PTO (e.g., vacation or sick leave) *before* FAMLI; may require concurrent use of unpaid leaves
  - may be required to use Alternative Family Purpose Leave (AFPL) at the same time as FAMLI

Delaware PFML

Delaware PFML – Key Provisions

Benefits Went Live: January 1, 2026

Coverage:

Overall: Private employers with 10 or more employees working in Delaware

Application of Specific Provisions: 10-24 employees (Parental Leave only); 25+ employees (all Leaves)

Eligibility:
EEs who have worked at least 12 months and 1,250 hours for their ER in the prior 12 months. Also need to assess if individual "primarily" in DE

Reasons for Leave:

- Parental Leave: birth, adoption, or placement through foster care, available for first year following bonding event
- Medical Leave: EE's own serious health condition
- Family Caregiving: caring for a family member with a serious health condition
- Qualifying Exigency: active military duty

Family Members

- Includes: child, parent, and spouse (same as FMLA)
- Excludes: siblings, parents-in-law, or any other relations

Delaware PFML – Key Provisions (Con't)

Amount of Leave:

- **Maximum** of 12 weeks for all leave reasons in **application year**
  - Medical, Family Caregiving, Qualifying Exigency: 6 weeks in **24-month period****
    - 6 weeks for ***each*** benefit type within applicable 24-month period
  - Parental Leave: 12 weeks in an **application year****

Amount of Pay:

- 80% of EE average weekly wage during the 12-months preceding application submission
  - Minimum: $100 per week
  - Maximum: $900 per week (for 2026 and 2027)

Program Funding:

- Total Contribution of ER and EE: 0.8% of wages
  - Medical Leave: 0.4% of wages
  - Qualifying Exigency & Family Caregiving: 0.08% of wages
  - Parental Leave: 0.32% of wages
- May deduct up to 50% of the cost of the plan from EE wages
- ER can elect to cover EE portion

Delaware PFML – Key Provisions (Con't)

Application Year:

- **Standard:** The "12-month period measured forward" method **shall** be used by **all** employers
- **Meaning:** 12-month period begins on the first day an employee takes family and medical leave and continues for the next 12 months
- **In Practice:** Complexity for ERs – (a) current DE PFML policy and programming; and (b) coordination with FMLA

24-Month Period: No longer allows flexibility; Begins on 1st day of requested leave ***"for that benefit type"*** and continues for 24 months from date EE first used the benefit type

Coordination of Benefits – Paid Time Off:

- ER ***cannot*** require EE to use earned, unused paid time off before accessing DE PFML. ER and EE ***can*** enter into mutual agreement to use paid time off to supplement wages up to 100%, **but** agreement **MUST** be **(a)** in writing, **and (b)** signed by the EE and ER.

Delaware PFML – Claim Administration Process

- **ER Responsibility:** Under DE PFML, the statute expressly states that "an ***employer must approve or deny*** an application for benefits . . . within 5 business days of receipt of a completed application."
- **Options:** **(a)** elect to use DE state public plan **or (b)** opt-out in favor of an approved private plan (through an insurance carrier or self-administered).
  - TPA: In either case, ER may engage a third-party administrator ("TPA") to facilitate applications.
- **Online System:** ERs using Public Plan option are directed to use ***Delaware LaborFirst*** – State's online system for managing DE PFML. Private Plans can use system as well.
- **Steps in Process:** **(a)** Prolife Setup; **(b)** EE claim submission; **(c)** Advisory Notice to ER; **(d)** Application Review re "Reasonable Person" Standard; **(e)** Final Decision-making (must adhere to deadlines); **(f)** Approval / Denial Notices; **(g)** Claims Review

Delaware PFML – Electing to Use a Private Plan

Private Plan Options: ERs can choose to provide paid leave through a private plan, either a DOI-approved insurance policy or a DOI-approved self-insured plan

- The private plan **cannot** charge the employee more than the state plan would

Self-Insured Option: ER generally should have at least 100 covered individuals in the plan at all times

There are **many** substantive *and* administrative components that must be met in order to obtain private plan approval

Employer should use **Delaware LaborFirst** to manage private plan (i.e., approval, renewals, etc.)

Existing Private Plan – Ends on last day of 4th quarter after plan's effective date

Apply / Renew: Must be submitted at least 30 days before effective date (1/1, 4/1, 7/1, 10/1)

Maine PFML and PTO

Maine PFML – Key Provisions

Benefits Went Live: May 1, 2026

Coverage: All employers with at least one employee in Maine with limited exceptions

Eligibility:
Earnings of at least 6x the state average weekly wage in the first 4 calendar quarters immediately preceding the first day of the EE's benefit year
Benefit Year: The 12-month period beginning on the first day of the calendar week immediately preceding the date on which family leave benefits or medical leave benefits commence.
No tenure requirement

Reasons for leave:
Bonding – to care for a child within 12 months of birth, adoption, or foster placement
Family Caregiver – Caring for a family member with a serious health condition
Employee Medical – Managing personal medical needs due to a serious health condition
Military Exigency – Addressing military exigencies related to a family member's active duty
Injured Servicemember – Caring for a covered service member who is a family member
Safe Leave – For situations involving violence, assault, sexual assault, or stalking
Organ Donation – The donation of an organ of that EE for a human organ transplant

Maine PFML – Key Provisions (Con't)

Amount of Leave:

- **12 weeks** of leave in a benefit year (i.e., the 12-month period that begins on the Sunday prior to when leave starts)
- ME PFML will run concurrently with other leaves - federal FMLA and ME Family Medical Leave
- ME PFML duration will be reduced by federal FMLA leave or unpaid ME Family Medical Leave taken within 12-month period before ME PFML begins

Amount of Pay:

Weekly benefit amount is determined in two parts:

1 - The portion of the individual's average weekly wage (AWW) that is equal to or less than 50% of SAWW rounded up to the next whole dollar is replaced at 90%, rounded up to the next whole dollar

2 - The portion of the AWW that is more than 50% of SAWW rounded up to the next whole dollar is replaced at 66%, rounded up to the next whole dollar (50% SAWW x 90%) + ((AWW - 50% SAWW) x 66%)

Benefits are capped at the SAWW, rounded up to the next whole dollar.

<u>Weekly Max</u>: Effective 5/1/2026, the maximum weekly benefit is $1,198.84

Program Funding: **50/50 split** between employer and employee – 0.88% of an employee's wages

Maine PFML – Key Provisions (Con't)

Waiting period

- Employee medical only: **7-day** waiting period for benefits; waiting week counts as first week of leave; Only **one** waiting period **per 12-month period**

Notice and Posting: Notice must be provided within **30 days of hire** – requires customization

Job protection: Only if employed for **120 consecutive days** before ME-PFML begins; EE must be restored to the same or an equivalent position

Affect of leave on other benefits: For all employees, ME-PFML does not affect employees' right to accrue or receive other benefits, including: **accrual of sick time and vacation;** bonuses, advancement, seniority, or service credit; etc.

Private Plans

- Employers must submit private plan application to the ME PFML Benefits Authority
- Plan must provide equivalent benefits to state plan
- Fully insured or self-insured (w/surety bond)
- If approved, valid for 3 years

Maine PFML – Undue Hardship – Timing of Leave

Definition

- The timing or duration of leave creates **undue hardship** if there is a significant impact of the **operation of the business** or **significant expense** considering the employer's
  - financial resources
  - size of the workforce
  - nature of industry
- **That cannot be overcome with the amount of notice given.**

Undue hardship determination considered **reasonable** if:

- **Employer provides written explanation to employee** demonstrating (based on totality of circumstances) how the specific employee's absence and specific timing and/or duration of requested leave will cause significant impact on business operations or significant expense
- **Employee retains right to take leave within a reasonable time frame**
- Employer has made good faith attempt to work out an **alternative leave schedule** with the employee
- If employee medical leave, employer's proposed schedule meets employee's need for care as determined by their health care provider

Timing to Notify EE: ER **must** notify EE of undue hardship within **10 days** of application for ME-PFML

Waiver of undue hardship

Maine Earned Paid Leave

- Fall 2025 the Maine Earned Paid Leave law (i.e., PTO law) was amended; Subsequent administrative guidance has been issued
- **Accrual:** 1 hour of PTO for every 40 hours worked, up to 40 hours per year
- **Year-End Carryover Cap:** Per Amended Law and ME PTO Website: Employees **must** be allowed to carry over all accrued and unused Earned Paid Leave from one defined year to the next.
  - **Impact on Accrual:** Carried over PTO hours cannot reduce the total amount of PTO an employee is entitled to earn in the current year.
- **Annual Usage Cap:** Per ME PTO Website: Employers **cannot** restrict the number of accrued and unused hours of Earned Paid Leave that an employee may use in a given year.

NICU Leave: Illinois

Illinois NICU Leave: Overview

- **Employer Coverage:** Illinois' Family Neonatal Intensive Care Leave Act applies to employers with 16 or more employees.
  - Employer size is measured based on nationwide headcount, not just Illinois employees.
- **Employee Eligibility:** Employees are eligible if they primarily work in Illinois.
- **Amount of Leave:**
  - Employers with 16–50 employees: up to 10 days of unpaid NICU leave.
  - Employers with 51 or more employees: up to 20 days of unpaid NICU leave.
- **Reason for Use:** Illinois NICU leave is available when the employee's child is a patient in a neonatal intensive care unit.
  - Leave may only be used while the employee's child is in the NICU.
- **Leave is Unpaid:** The leave is unpaid and job-protected.

Illinois NICU Leave: Use of Leave

- **Intermittent Leave:**
  - Illinois NICU leave may be taken continuously or intermittently, at the employee's selection.
  - Employers may require leave to be taken in minimum increments of not less than 2 hours.
- **Interaction with Paid Leave:**
  - Employers cannot require employees to use available paid leave instead of Illinois NICU leave.
  - Employees may elect to substitute paid leave for an equivalent period of Illinois NICU leave.

Illinois NICU Leave: FMLA Interactions

- Illinois NICU leave is in addition to FMLA.
- If the employee is FMLA-eligible, the employee must exhaust FMLA first before accessing Illinois NICU leave.
- FMLA eligibility requires:
  - At least 12 months of employment;
  - At least 1,250 hours worked during the 12 months before leave begins; and
  - Work at a location where the employer has at least 50 employees within 75 miles.
- If the employee is not FMLA-eligible, Illinois NICU leave may be available without first exhausting FMLA.

NICU Leave: Colorado

CO PFML Basics

Overview

- **Employer Coverage:** All employers with at least one employee in Colorado, except for the federal government
- **Employee Eligibility:** Earned at least $2,500 in wages during base period or alternative base period
- **No Usage Waiting Period**
- **Job Protection:** Must have at least 180 days of employment with current employer
  - Need not be consecutive
  - Can become eligible during *intermittent* leave
- **Plan Types:** Private plan or public option
- **Notice/Posting:**
  - Model notice must be posted in a prominent location in the workplace
  - Employers must provide notice to employees, in writing, upon hiring and upon learning of an employee experiencing an event that triggers eligibility

CO PFML Reasons for Use

- **Bonding –** to care for a child during first year after birth, adoption, or foster placement
- **Family Medical** – to care for a family member with a serious health condition
- **Employee Medical** – employee's own serious health condition
- **Qualifying Exigency** – arising from family member's active duty military service or notice of impending call to active duty
- **Safe Leave** – when an employee or family member is the victim of domestic violence, stalking, sexual assault, or abuse
- ***NICU Leave*** *(effective January 1, 2026) – because the employee's child is receiving inpatient care in a neonatal intensive care unit*
  - *Leave may be available to a parent, foster parent, step-parent, adoptive parent, or individual acting in loco parentis.*
  - *Neonatal Care Leave is separate from parental bonding leave.*

Colorado FAMLI: Amount of NICU Leave

- Eligible employees may receive **up to 12 weeks of paid Neonatal Care Leave**.
- After Neonatal Care Leave, employees may be eligible **for up to 12 additional weeks of other paid FAMLI leave**, such as parental bonding.
- FAMLI is designed to run concurrently with FMLA when the leave qualifies under both laws.

Chicago PTO / PSL Updates

Joint Employer Guidance

- Joint employment exists when two or more entities control the essential terms and conditions of an employee's work
- The rules clarify that:
  - Separate entities may be treated as joint employers
  - Joint employers may have separate ownership, management, and facilities
  - All joint employers are individually and jointly responsible for compliance
  - Jointly employed workers must be counted by each employer, even if they are not on that employer's payroll
  - The rules specifically identify potential joint employment in arrangements involving:
    - Temporary staffing agencies
    - Lead agencies
    - Professional employer organizations
    - Similar entities

Workplace Posting and Notice Requirements

- Employers must display the required workplace posting
  - Paper postings must be printed on and scaled to fit paper no smaller than 11 inches by 17 inches
- Removed the prior general reference to electronic dissemination through internal communication channels
  - Employers still must post the notice through their “usual methods of communication”
- Chicago employers also must continue to comply with:
  - New hire notice obligations
  - Annual notice obligations
    - Must be provided with a paycheck issued within 30 days of July 1

Pay Rate for Tipped Employees

- **Prior Rule:** Tipped non-exempt employees had to be paid the highest applicable minimum wage.

- **Current Rule:** Non-exempt employees must be paid the higher of:
  - Their base hourly wage; or
  - The applicable minimum wage

  without any allowance or credit for tips.

Paid Sick Leave Use: Child Care Closures

- The revised rules add guidance on using Paid Sick Leave when a child's place of care experiences an unscheduled closure“
- Place of care” is interpreted broadly, includes both organizations and non-institutional childcare providers:
  - Childcare centers
  - After-school programs
  - Summer camps
  - Paid babysitters
  - Family members/Friends who supervise children while employees are working

Paid Sick Leave Abuse

- Framework for handling paid sick leave abuse.
- Employers may take disciplinary action, including termination, where an employee:
  - Abuses Paid Sick Leave; or
  - Uses Paid Sick Leave for purposes not authorized by the Ordinance
- Examples of potential abuse include patterns involving:
  - Unscheduled leave adjacent to weekends, holidays, vacations, or paydays
  - Scheduled leave taken when other leave requests have been denied
  - Leave taken on days involving shifts or duties perceived as undesirable

Successor Employer Obligations

- Framework for successor employees.
- The rules focus on the treatment of earned, unused paid leave **and** paid sick leave.
- Failure to properly transfer accrued and unused leave to a successor employer constitutes a policy or practice of failing to provide meaningful access to leave.
- Liability may extend to:
  - The original employer
  - The successor employer
  - Any joint employer

Benefit Years, Universal PTO, and Accrual

- **Benefit Year:** Employers may establish different benefit year dates for different employees.
  - Employers also may synchronize benefit years across the workforce
  - Examples of qualifying benefit years include:
    - Anniversary date of employment
    - Calendar year
    - Contract year
    - Fiscal year
    - Tax year
- **Universal PTO:** Employers may use a single combined PTO policy to satisfy the Ordinance, if the policy meets all Ordinance requirements
- **Accrual clarifications:**
  - **Non-exempt employees** accrue leave **on all hours worked**, including overtime
  - **Exempt employees**' accrual calculations are **capped at 40 hours per workweek**

New York City Earned Safe and Sick Time Act (“ESSTA”): Updates

NYC Earned Safe and Sick Time Act: February 2026 Amendments

- **Effective Date:** **February 22, 2026**
- **Key Changes:**
  - expanded the reasons for use;
  - added an **unpaid** earned sick and safe time (“ESST”) entitlement for covered employers; and

NYC Earned Safe and Sick Time Act: Reasons for Use

Covered Reasons for Use:

- Closure of the employee's place of business by order of a public official due to a public health emergency or a **public disaster**;
  - Public Disaster = An event such as a fire, explosion, terrorist attack, severe weather conditions, or other catastrophe that is declared a public emergency or disaster
- to care for a child whose school or care provider has restricted in-person operations or closed due to a public disaster or public health emergency;
- where a public official directs people to remain indoors or avoid travel during a public disaster and the direction results in the employee being unable to report to their worksite;
- where an employee or covered family member has been the victim of **"workplace violence";**
- absences when the employee is a caregiver to a minor child or care recipient; **and**
- certain absences involving obtaining or legal proceedings related to **subsistence benefits or housing** for the employee, their covered family member, or their care recipient.

NYC Earned Safe and Sick Time Act: Reasons for Use Cont.

Impact on the SEPARATE NYC Temporary Schedule Change Law:

- Amendments expanded ESSTA's reasons for use to include the non-ESSTA covered reasons for a temporary schedule change under the NYC Temporary Schedule Change Law.

- **As of February 22, 2026**:
  - Employees can still **request** temporary schedule changes, subject to employer approval.
  - Employer does **not** need to approve, but it **must** respond **and** not retaliate.

NYC Earned Safe and Sick Time Act: Unpaid Safe and Sick Time

- **Amount of Unpaid ESST:** 32 hours of unpaid ESST in addition to the 40 or 56 hours of paid ESST under ESSTA.
  - ***Practical Note:*** **This requirement applies regardless of employer size or net income.**
- **Method of Delivery:** Upfront grant
- **Waiting Period:** None. Unpaid ESSTA is available for immediate use upon hire and at the start of each "calendar year".
- **Reasons for Use:** Same as paid ESST.
- **Carryover of Unused Unpaid Time:** Not required.
- **Interplay with Paid Time Under ESSTA:** Employers must provide paid ESST **before** unpaid ESST, to the extent the paid benefit is available for use **and** the employee has not specifically requested to use their unpaid time.

NYC Earned Safe and Sick Time Act: July 2026 Final Amended Rules

- **Effective Date:** **July 23, 2026**
- **What You Need to Know:**
  - Removal of references to “safe/sick time” and addition of “protected time off”:
    - Both terms are used interchangeably and mean the same thing.
  - Clarification of the additional 32 hours of unpaid protected time off:
    - At least 32 hours of protected time off must be immediately available upon hire and at the start of each calendar year thereafter.
    - The 32 hours can be paid of unpaid.
      - *Note: Even if the protected time off is unpaid, employers should still pay employees for the time off if payment is necessary to comply with certain wage and hour obligations.*
    - If an employee has both paid and unpaid protected time off available, employers must provide employees with available paid protected time off first, unless the employee specifically requests to use their available unpaid protected time off balance.
    - Any unused unpaid protected time off will not carry over into the following calendar year.

NYC Earned Safe and Sick Time Act: July 2026 Final Amended Rules Cont.

- **<u>What You Need to Know:</u>**
  - Notice of Accrued, Unused and Available Protected Time Off for Separated Employees:
    - If an employee separates from employment, the employer must either (a) continue to provide the former employee with access to its electronic system for six months, or (b) provide the employee with a written statement containing the following information for the last pay period within one week of their separation:
      - The amount of paid protected time off accrued during the pay period;
      - The amount of protected time off used during the pay period, differentiating between paid and unpaid leave;
      - The employee's total balance of paid protected time off;
      - The amount of paid prenatal leave used during the pay period; and
      - The employee's total balance of paid prenatal leave.
  - Potential Penalties for Paid Prenatal Leave Violations:
    - If an employer fails to provide paid prenatal leave or refuses to allow use of paid prenatal leave, each affected employee is entitled to:
      - An additional 20 hours of paid prenatal leave; and
      - $500 per employee per calendar year the unlawful policy or practice was in effect.

NYC Earned Safe and Sick Time Act: Next Steps

- **Written Policy:** Review and revise existing ESSTA policies.
  - ***Practical Note:*** *ESSTA enforces strict written policy requirements, including content and distribution*

- **Training:** Considering training supervisory and managerial employees on new amendments.

- **Balance Notification:** Review and update paystubs or other method of providing balance notification to comply with new amendments

- **Rulemaking:** Proposed Amended Rules went into effect earlier this month.

- **Updated Notices:** Updated notices on NYC's ESSTA website for additional developments, including updates to FAQs and model notices.
  - ***Practical Note:*** *ESSTA contains specific delivery standards to comply with notice distribution*

Federal Paid Family and Medical Leave Update

Federal Paid Leave Updates

More Paid Leave for More Americans Act (S. 5017)

- Introduced in **Senate** on July 16, 2026 by Senators Boozman and Gillibrand
- Was introduced in **House** in 2025 (HR 3089)
- Some distinctions between versions
- **Notably,** the Interstate Paid Leave Action Network or I-PLAN provision is contained as Title II of S. 5017 rather than as a separate bill as is case in House with 2025 legislation (HR 3090)

I-PLAN (HR 3090): Creates an “Interstate Paid Leave Action Network (I-PLAN)” that would drive improvements in coordination and harmonization across states.

45S Tax Credit: Expanded in July 2025 via H.R. 1 (i.e., One Big Beautiful Bill Act); Effective January 1, 2026

Key Change: Allow companies to claim the credit for PFML insurance premiums (outside of PFML law context), giving them the option to buy short-term disability insurance to cover wages rather than paying workers directly during their absences

Paid Leave Law Outlook

Paid Sick Leave and PTO Outlook – 2025, 2026 and Beyond

Laws scheduled to go into effect:

- Virginia (7/1/2027, and then phased in for different employer sizes through 1/1/2029)

Next locations likely to adopt:

- **State: November 2026 Election Looms → Ballot Initiatives?**
- **State: (1)** Delaware; **(2)** Hawaii; **(3)** Pennsylvania
- **Municipal: (1)** New York City, NY **(PTO law?** Pet care?); **(2)** Allegheny County, PA potential expansion; **(3)** CA localities with prior COVID-19 PSL laws that may seek to adopt general non-COVID PSL laws

Recent PFML Activity and Potential Future Changes

- **Colorado, Washington, Rhode Island:** Amendments effective 1/1/2026
- **Other Enacted Laws with Expected 2025 Activity:** **Delaware, Maine, Minnesota** (all "went live" in 2026); **Maryland** (benefits begin January 2028); **Virginia** (benefits begin December 2028)
- **Where Next (mandatory PFML)?**
  - New Mexico; Hawaii; Pennsylvania; Illinois; Vermont; Michigan; Nevada
  - Allegheny County, PA??

Seyfarth Paid Leave Resources

Seyfarth Paid Leave Resources

If you have questions about or would like assistance with the country's Paid Sick Leave "Patchwork" here are some ways Seyfarth can help:

(A) Premium PSL Survey: Seyfarth maintains a ***comprehensive PSL survey*** breaking down the specific requirements of ***each*** existing state and local PSL law.

For more information contact: paidleave@seyfarth.com

(B) Paid Leave Mailing List: Seyfarth regularly publishes Legal Updates and Blog Posts on PSL and other paid leave law developments.

You can sign up here: https://connect.seyfarth.com/9/7/landing-pages/subscription.asp

Seyfarth Paid Leave Resources

**(C) [Webinar Series - Guidance on PSL](): ** This series is a great tool for you!

- Part 1 – NY State and Local PSL at the end of 2020
- Part 2 – CO, ME and NY PSL updates
- Part 3 – COVID-19 Supplemental PSL mandates
- Part 4 – Prospects for Federal Paid Leave
- Part 5 – Practical tips on navigating the PSL “patchwork”
- Part 6 – NY COVID and General PSL in 2022
- Part 7 – Two Years of COVID-19 Paid Leave Laws, Plus Recent Developments
- Part 8 – NM and West Hollywood, CA
- Part 9 – PSL Law Impact on CBAs Under RLA and NLRA
- Part 10 – What’s New with Paid Sick Leave in 2023
- Part 11 – 10 Year of PSL
- Part 12 – CA, IL, Chicago, and MN 2023 Year-End Activity
- Part 13 – IL and MN Updates
- Part 14 – Updates from Coast to Coast
- Part 15 – PSL in 2025: Legislative Updates and State-Specific Strategies
- Part 16 – 2025 Mid-Year Checkup
- Part 17 – The Year-End Paid Sick Leave Playbook: 2025 Recap

Seyfarth Paid Leave Resources

(C) Webinar Series – Guidance on PFL: This webinar series is a great tool for you!

- Part 1 – MA, CT, DC and WA PFL updates
- Part 2 – CA, CO, NJ, NY and OR PFL updates
- Part 3 – Federal Paid Leave Prospects detailed review
- Part 4 – Federal + CT, DC, OR and NH PFL updates
- Part 5 – CT PFML detailed review
- Part 6 – DE, MD, DC, MA and CT PFL updates
- Part 7 – CO, OR and WA PFL updates
- Part 8 – PFL Comparisons and 2023 Mid-Year Update
- Part 9 – PFL Comparisons, Challenges and Federal Outlook
- Part 10 – Spotlighting Delaware, Maine, Maryland, and Minnesota
- Part 11 - Staying Ahead of 2025 Changes and Preparing for 2026
- **Note:** We also have a separate Webinar Series focused on Paid Sick Leave guidance.

(D) "Take It or Leave It" Podcast: In late 2021, Seyfarth launched a podcast focused exclusively on workplace leaves, absence management, and accommodations. Episodes streaming on Spotify, SoundCloud, and Apple Podcasts, and available on Seyfarth's website.

More info at: https://www.seyfarth.com/trends/take-it-or-leave-it-podcast.html

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Questions?

thank you

For more information, please contact:

Josh Seidman
email: jseidman@seyfarth.com

Marlin Duro-Martinez
email: mduro-martinez@seyfarth.com

Christine Costantino
email: ccostantino@seyfarth.com

Ashley Casey
email: acasey@seyfarth.com