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Chicago Paid Leave Ordinance Amended and Delayed

On December 13, 2023, the Chicago City Council voted to delay the Paid Leave and Paid Sick and Safe Leave Ordinance (“Paid Leave”), which was enacted on November 9, 2023, and was originally to take effect on December 31, 2023. The Ordinance will now take effect on **July 1, 2024**.

■ Changes to the Ordinance

In addition to the delay in effective date, the Council modified the Ordinance in other aspects. Importantly, the definition of a covered employee was amended. The amended ordinance defines a Covered Employee as an individual who works at least 80 hours for an employer within any 120-day period while physically present within the geographic boundaries of the City of Chicago. Previously, the Covered Employee only had to work at least two hours within any particular two-week period. The amended ordinance clarifies that once that threshold is met, that individual will remain a Covered Employee for their entire employment.

While the underlying notice requirements were not modified, employers must now provide their time off policy in writing to each of their Covered Employees in that employee’s primary language.

Additionally, regardless of whether an employee meets the definition of a Covered Employee, if their regular work duties occur within the geographical boundaries of the City, then the employer must comply with all recordkeeping requirements for that employee as explained below.

The partial payout period for medium-sized employers has been postponed until July 1, 2025. Previously, medium-sized employers needed to pay out a maximum of 16 hours of Paid Leave until December 31, 2024, and then, effective January 1, 2025, were required to pay out all accrued, unused Paid Leave.

The last modification was adding a prerequisite to the private cause of action for an employee to sue an employer. The prerequisites are explained in more detail below and are set to expire on July 1, 2026.

■ Record Retention and Private Cause of Action

Every employer must maintain records for at least five years containing the following information for each employee:

- Name and address
- Hours worked
- Pay rate
- Wage agreement
- Number of paid time off hours earned each year
- Date on which paid time off hours were taken and paid
- Any other records or documents necessary to demonstrate compliance with this law

A Covered Employee can sue an employer in a civil action if the Covered Employee is not allowed to obtain or use benefits as entitled under the Ordinance. The Covered Employee can seek damages equal to three times the full amount of any leave denied or lost by reason of the alleged violation as well as any interest and reasonable attorney's fees. Until July 1, 2026, before bringing a civil action the Covered Employee can only bring a suit if: (1) an alleged violation occurs and (2) the payday for the next regular payroll period or 16 days after the alleged violation occurred passes, whichever is the shorter period.

■ Employer Action

In addition to the recommended action steps in our prior guidance, employers should also:

- Identify if the change in definition for covered employee has any impact on which employees that PLSSPL must be provided. Some employers may find that the modified definition decreases the number of covered employees that are subject to this law.
- Update their recordkeeping and payroll systems to adjust to the new effective date in July.
- Access resources that will allow for translation of the employer's written policy in the employee's primary language. If there are existing resources, it may be prudent to inquire if they already have a template or boilerplate policy that the employer can easily modify, if necessary.
- Assess current paid time off and sick leave policies to determine compliance with the new ordinance;
- Determine if any hours accrued need to be carried over;
- Review and update any postings and pay stub notification requirements;
- Update handbooks as necessary; and
- Train staff regarding new requirements and updated policies.

While further guidance is expected from the City, affected employers should work with their employment counsel or other advisors to comply with these new requirements.