

EARNED SICK TIME ACT (EXCERPT)
Act 338 of 2018

408.965 Transfer of employee to separate division, entity, or location; retention of earned sick time; reinstatement; successor employer; unused earned sick time.

Sec. 5. (1) If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee retains all earned sick time that was accrued at the prior division, entity, or location and may use all accrued earned sick time as provided in section 4. If an employee separates from employment and is rehired by the same employer not more than 2 months after the separation, the employer shall reinstate previously accrued, unused earned sick time and shall allow the reinstated employee to use that earned sick time and accrue additional earned sick time upon reinstatement. This subsection does not apply if an employer pays an employee the value of the employee's unused accrued earned sick time at the time of a transfer or separation.

(2) If a different employer succeeds or takes the place of an existing employer, the successor employer assumes the responsibility for the earned sick time rights that employees who remain employed by the successor employer accrued under the original employer. Those employees are entitled to use earned sick time previously accrued on the terms provided in this act. This subsection does not apply if an employer pays an employee the value of the employee's unused accrued earned sick time at the time of a succession.

(3) This act does not require an employer to provide financial or other reimbursement to an employee for accrued earned sick time that was not used upon the employee's termination, resignation, retirement, or other separation from employment.

History: 2018, Act 338, Eff. Mar. 29, 2019;—Am. 2018, Act 369, Eff. Mar. 29, 2019;—2018, Act 338, Eff. Feb. 21, 2025;—Am. 2025, Act 2, Imd. Eff. Feb. 21, 2025.

Compiler's note: Public Act 338 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.

For the transfer of powers and duties of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

See *Mothering Justice v Attorney General*, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 369 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.