

I Mina'trentai Singko Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
313-35 (LS)	Telena Cruz Nelson	AN ACT TO ADD A NEW ARTICLE 4, TO DIVISION 1 CHAPTER 1 OF TITLE 22, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE UNEMPLOYMENT BENEFITS ACT OF 2020.	3/10/20 3:26 p.m.						

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§ 1401. Short Title.

This Act shall be cited as the “Unemployment Benefits Act of 2020.”

§1402. Definitions.

- (a) “Claim” means an assertion taken by a person wanting supplemental payment when a disaster, either natural or manmade, including but not limited to regional or worldwide public health emergencies, has impacted Guam, causing loss of employment or loss of wages of persons and families so as to require supplemental assistance from the government of Guam.
- (b) “Claimant” means a person seeking to claim supplemental payment for loss of employment when a disaster, either natural

1 or manmade, including but not limited to regional or worldwide
2 public health emergencies, has impacted Guam, causing loss of
3 employment or loss of wages of persons and families so as to
4 require supplemental assistance from the government of Guam.

5 (c) "Director" means the Director of the Guam Department of
6 Labor.

7 (d) "Fund" means money that is set aside for the Unemployment
8 Benefits Fund established by this act.

9 (e) "Owner-employee" means a person who has performed services
10 for an employing unit and, who is or has been, a shareholder
11 owning twenty-five percent (25%) or more of the corporation's
12 common stock, and director or officer, or both, of a corporation
13 which is or was the employing unit, or who exercises a
14 substantial degree of control over the direction of corporate
15 activities.

16 (f) "Unemployment" means an individual deemed "unemployed"
17 in any week during which the individual performs no services
18 and, with respect to which no wages are receivable by the
19 individual, or in any week of less than full-time work if the
20 wages received by the individual with respect to such week are
21 less than the individual's weekly benefit amount payable under
22 this chapter.

23 (g) "Wages" means all remuneration for services from whatever
24 source, including commissions and bonuses, remuneration from
25 self-employment, tips or gratuities paid directly to an individual
26 by a customer of the employer and reported to the employer for
27 payroll tax deduction purposes, and the cash value of all

1 remuneration in any medium other than cash. The reasonable
2 cash value of remuneration in any medium other than cash shall
3 be estimated and determined in accordance with rules
4 prescribed by the director. For the purposes of this chapter,
5 "wages" does not include the amount of payment or
6 remuneration set forth in this section.

7 (h) "Week" means any period of seven consecutive days as the
8 director may by rule prescribe.

9 **§ 1403. Unemployment Benefits Fund.**

10 There is hereby created the Unemployment Benefits Fund, which shall be
11 maintained separate and apart from any other funds, including the General Fund of
12 the government of Guam, and independent records and accounts shall be
13 maintained thereof. Ten percent (10%) of unappropriated or surplus funds from
14 the Government of Guam's fiscal budget would be set aside into the
15 Unemployment Benefits fund and capped at a maximum of five million (5 million)
16 dollars.

17 The Unemployment Benefits Fund shall not merge with the General Fund
18 and shall be kept in a separate account. The funds deposited into the
19 Unemployment Benefits Fund shall not be subject to the transfer authority of *I*
20 *Maga'låhen Guåhan*. Moneys credited to the account of the fund may be
21 requisitioned and used for the payment of expenses incurred for the administration
22 of this act.

23 **§ 1404. Unemployment Benefits.**

24 Unemployment Benefits shall be made available and paid to residents of
25 Guam under emergency circumstances. Unemployment benefits shall be provided
26 and created by the enactment of this legislation and authorized when a disaster,
27 either natural or manmade, including but not limited to regional or worldwide

1 public health emergencies, has impacted Guam, causing loss of employment or
2 loss of wages of persons and families so as to require supplemental assistance from
3 the government of Guam. Upon the occurrence of the disaster, the Governor may
4 provide unemployment benefits. The benefits shall be operative upon the issuance
5 by the Governor of a proclamation specifically declaring the emergency.

6 **§ 1405. Period of Benefit Payments and Issuance of Further**
7 **Proclamations.**

8 Where benefits provided by this act are made payable by the Governor's
9 proclamation after the occurrence of a disaster. The benefits shall be payable only
10 for a period of one year after the effective date of the proclamation and or until the
11 fund is exhausted. Nothing herein shall prevent the Governor from issuing further
12 proclamations invoking this act in the event other disasters occur.

13 Upon declaration of the Governor, the Director shall initiate the program and
14 is authorized to use \$500,000 of the fund for administrative and personnel
15 purposes.

16 **§ 1406. Eligibility.**

17 Unemployment benefits are payable from the fund to unemployed claimants
18 who are eligible under this chapter.

19 (a) The claimant meets the eligibility requirements and if the claimant has
20 been employed at least a total of 46 of the last 52 weeks before the
21 Governor declared a disaster and the claimant applied

22 (b) The claimant is not entitled to receive unemployment compensation
23 benefits under any state or federal unemployment compensation laws for
24 the week in which the claimant claims for additional unemployment
25 benefits;

26 (c) Claimant must submit a letter of release from previous employment for
27 justification

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2 **§ 1407. Minimum and Maximum Benefits Payable.**

3 A claimant's maximum potential unemployment benefits shall be the
4 claimant's weekly average salary of the previous 90 days, not to exceed One-
5 Thousand and Five-Hundred Dollars (\$1,500.00) per month. Each eligible
6 recipient will receive a minimum of Seven-Hundred and Fifty Dollars (\$750.00)
7 per month once the program is in effect. The benefit amount shall be determined in
8 the week in which the claimant first claims unemployment benefits and shall
9 remain unchanged for the period. An unemployed claimant is eligible to receive
10 unemployment benefits with respect to any week, and only if the director of labor
11 finds that:

- 12 (a) The claimant must apply within 90 days of release, receiving payment
13 within 120 days
14 (b) Claimant shall continue to be seeking employment by submitting a listing
15 to the Director of locations for their attempts for employment
16 (c) Upon Declaring economic disaster, the funds will be disbursed until
17 exhausted and cannot exceed the five-million-dollar cap as prescribed in
18 § 1403 of this section.

19 **§ 1408. Disqualification for Unemployment Benefits.**

20 A claimant shall be disqualified for unemployment benefits:

- 21 (a) Voluntary separation. For any week in which the claimant has left work
22 voluntarily without good cause
23 (b) An owner-employee of a corporation who brings about the owner-
24 employee's unemployment by divesting ownership, leasing the business
25 interest, terminating the business, or by other similar actions where the
26 owner-employee is the party initiating termination of the employment
27 relationship, has voluntarily left employment.

1 (c) Discharged or terminated from employment due to misconduct.

2 (d) Failure to apply for work. If the claimant has failed without good cause
3 either to apply for available work or to accept suitable work when offered
4 to the claimant, the disqualification shall continue for the week in which
5 such failure occurred.

6 **§ 1409. Fraud.**

7 If the Director finds that the claimant has made a false statement or
8 representation knowing it to be false or knowingly fails to disclose a material fact
9 to obtain any unemployment benefits under this chapter, in which case the claimant
10 shall be disqualified for the week in which the Director makes such determination
11 and for the remainder of the weeks for which the claimant would otherwise be
12 eligible.

13 **§ 1410. Recovery of Unemployment Benefits and Penalties.**

14 (a) Any person who makes a false statement or representation of material
15 fact, or who knowingly fails, or causes another to fail, to disclose a material fact,
16 and as a result thereof has received any amount of benefits under this chapter, to
17 which the person was not entitled shall be liable for such amount. Notice of re-
18 determination in such cases shall specify that the person is liable to repay to the
19 fund the amount of additional unemployment benefits paid to the person by reason
20 of such nondisclosure or misrepresentation, and the week or weeks for which the
21 benefits were paid.

22 (b) If, under this section a claimant is liable to repay any amount to the
23 director of labor such amount shall be collectible without interest by civil action in
24 the name of the director. Whoever makes a false statement or representation
25 knowing it to be false or who knowingly fails to disclose a material fact to obtain
26 or increase any benefit or other payment under this chapter shall be liable to pay

1 back payments received from the fund and can be charged with a criminal
2 misdemeanor.

3 **§ 1411. Non-liability of Territory.**

4 Unemployment benefits shall be deemed due and payable under this act and
5 made payable by the Governor's proclamation after the occurrence of a disaster.
6 The benefits shall be payable only for a period of one (1) year after the effective
7 date of the proclamation. Nothing herein shall prevent the governor from issuing
8 further proclamations invoking this chapter in the event other disasters occur.

9 **Section 13. Severability.** If any provision of this Act or its application to
10 any person or circumstance is found to be invalid or contrary to law, such
11 invalidity *shall not* affect other provisions or applications of this Act that can be
12 given effect without the invalid provision or application, and to this end the
13 provisions of this Act are severable.

14 **Section 14. Effective Date.** This act *shall* be effective upon enactment.