

***I MINA 'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN***  
**2020 (SECOND) Regular Session**

**Bill No. 313-35 (LS)**

As Substituted by The Committee on Rules

Introduced by:

Telena Cruz Nelson  
Joe San Agustin  
Regine Biscoe Lee  
Amanda L. Shelton  
William Castro  
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**AN ACT TO ADD A NEW ARTICLE 4, TO DIVISION 1  
CHAPTER 1 OF TITLE 22, GUAM CODE ANNOTATED,  
RELATIVE TO ESTABLISHING THE EMERGENCY  
UNEMPLOYMENT BENEFITS ASSISTANCE AND  
SUPPLEMENTAL BENEFITS ACT OF 2020.**

1           **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2           **Section 1. Legislative Finding and Intent.**

3           *I Liheslaturan Guåhan* finds that in the event of a significant economic  
4 calamity there are too many Guam residents with little to no safety net. If a public  
5 health emergency or some other economic disaster occurs that interrupts  
6 employment or reduces employment and, there is no Federal Emergency  
7 Management Agency (FEMA) or related Federal Government relief, too many  
8 Guam residents could easily be on the verge of economic ruin.

9           It is the intent of *I Liheslaturan Guåhan* to provide a mechanism within the  
10 Government of Guam that will institute and provide Unemployment Measures for

1 island residents who lose their jobs due to no fault of their own and of economic  
2 forces beyond the control of their employer.

3 **Section 2.** A new Article 4 is *added* to Division 1 of Chapter 1 of Title 22,  
4 Guam Code Annotated, to read:

5 **ARTICLE 4**

6 **EMERGENCY UNEMPLOYMENT BENEFITS ASSISTANCE AND**  
7 **SUPPLEMENTAL BENEFITS ACT OF 2020**

8  
9 **§ 1401. Short Title**

10 **§ 1402. Definitions**

11 **§ 1403. Emergency Unemployment Benefits Assistance and**  
12 **Supplemental Benefits Fund.**

13 **§ 1404. Emergency Unemployment Compensation Benefits**  
14 **Assistance and Supplemental Benefits.**

15 **§ 1405. Period of Benefit Payments and Issuance of Further**  
16 **Proclamations.**

17 **§ 1406. Eligibility.**

18 **§ 1407. Minimum and Maximum Benefits Payable.**

19 **§ 1408. Disqualification for Emergency Unemployment Benefits**  
20 **Assistance and Supplemental Benefits.**

21 **§ 1409. Fraud.**

22 **§ 1410. Recovery of Emergency Unemployment Benefits Assistance**  
23 **and Penalties.**

24 **§ 1411. Non-liability of Territory.**

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1        **§ 1401.      Short Title.**

2                This Act shall be cited as the “Emergency Unemployment Benefits  
3 Assistance and Supplemental Benefits Act of 2020.”

4        **§1402.      Definitions.**

5                (a) “Claim” means an assertion taken by a person wanting  
6 supplemental payment when a disaster, either natural or  
7 manmade, including but not limited to regional or worldwide  
8 public health emergencies, has impacted Guam, causing loss or  
9 reduction of employment status or loss or reduction of wages of  
10 persons and families so as to require supplemental assistance  
11 from the government of Guam.

12                (b) “Claimant” means a person seeking to claim supplemental  
13 payment for loss of employment when a disaster, either natural  
14 or manmade, including but not limited to regional or worldwide  
15 public health emergencies, has impacted Guam, causing loss or  
16 reduction of employment status or loss or reduction of wages of  
17 persons and families so as to require supplemental assistance  
18 from the government of Guam.

19                (c) “Director” means the Director of the Guam Department of Labor.

20                (d) “Fund” means money that is set aside for the Emergency  
21 Unemployment Assistance and Supplemental Benefits Fund  
22 established by this act.

23                (e) “Owner-employee” means a person who has performed services  
24 for an employing unit and, who is or has been, a shareholder  
25 owning twenty-five percent (25%) or more of the corporation's  
26 common stock, and director or officer, or both, of a corporation  
27 which is or was the employing unit, or who exercises a

1            substantial degree of control over the direction of corporate  
2            activities.

3            (f) "Unemployment" means an individual deemed "unemployed" in  
4            any week during which the individual performs no services and,  
5            with respect to which no wages are receivable by the individual,  
6            or in any week of less than full-time work if the wages received  
7            by the individual with respect to such week are less than the  
8            individual's weekly benefit amount payable under this chapter.

9            (g) "Reduction" means an individual's employment status has been  
10           temporarily or permanently reduced in any week, if the wages  
11           received by the individual with respect to such week are less than  
12           the individual's weekly average benefit amount payable under  
13           this chapter

14            **§ 1403. Emergency Unemployment Benefits Assistance and**  
15            **Supplemental Benefits Fund.**

16            There is hereby created the Emergency Unemployment Benefit Assistance  
17            and Supplemental Benefits Fund, which shall be maintained separate and apart from  
18            any other funds, including the General Fund of the government of Guam, and  
19            independent records and accounts shall be maintained thereof. ~~Ten percent (10%)~~  
20            ~~of unappropriated or surplus funds from the Government of Guam's fiscal budget~~  
21            ~~would be set aside into the Unemployment Benefits fund and capped at a maximum~~  
22            ~~of five million (5 million) dollars.~~ *I Maga'hågan Guåhan* is authorized to transfer  
23            available funds from the General Fund appropriation and from line agencies under  
24            the executive branch contained within Public Law 34-116 and Public Law 35-36 for  
25            the purposes outlined in § 1407 of this Act.

26            The Emergency Unemployment Benefits Assistance and Supplemental  
27            Benefits Fund shall not merge with the General Fund and shall be kept in a separate

1 account. The funds deposited into the Emergency Unemployment Benefits  
2 Assistance Fund shall not be subject to the transfer authority of I Maga'hågan  
3 Guåhan. Moneys credited to the account of the fund may be requisitioned and used  
4 for the payment of expenses incurred for the administration of this act.

5 In order to foster transparency and better assess the adequacy of the transfer  
6 authority authorized by the Act, within ten (10) days of the enactment of this Act I  
7 Maga'hågan Guåhan shall submit a report to the Speaker of I Liheslaturan Guåhan  
8 and the Office of Finance and Budget on all transfers made pursuant to the transfer  
9 authority provided in this Act. Failure to submit the reports by the required deadline  
10 in this Section shall result in the repeal of any transfer authority authorized by this  
11 Act.

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14 **§ 1404. Emergency Unemployment Benefits Assistance and**  
15 **Supplemental Benefits.**

16 Emergency Unemployment Benefits Assistance and Supplemental Benefits  
17 shall be made available and paid to residents of Guam under emergency  
18 circumstances. Emergency unemployment assistance and supplemental benefits  
19 shall be provided and created by the enactment of this legislation and authorized  
20 when a disaster, either natural or manmade, including but not limited to regional or  
21 worldwide public health emergencies, has impacted Guam, causing loss of  
22 employment or loss of wages of persons and families so as to require supplemental  
23 assistance from the government of Guam. Upon the occurrence of the disaster, the  
24 Governor may provide unemployment benefits. The benefits shall be operative upon  
25 the issuance by the Governor of a proclamation specifically declaring the  
26 emergency.

1            **§ 1405. Period of Benefit Payments and Issuance of Further**  
2 **Proclamations.**

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

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

10           The Director shall develop and adopt rules and regulations to ensure that the  
11 Emergency Unemployment Assistance and Supplemental Benefits Program  
12 complies with all local and federal rules, regulations and laws. The Director shall  
13 also have adjudication administrative authority over all rules and regulations with  
14 regards to planning, implementing, monitoring and reporting requirements of the  
15 Program.

16           **§ 1406. Eligibility.**

17           Unemployment and supplemental benefits are payable from the fund to  
18 unemployed claimants or claimants subjected to a reduction in employment status  
19 who are eligible under this chapter.

20           (a) The claimant meets the eligibility requirements and if the claimant  
21 has been employed at least a total of 46 of the last 52 weeks before  
22 the Governor declared a disaster and the claimant applied if they  
23 can provide proof of employment before the Governor issued a  
24 proclamation declaring an emergency, either through a  
25 verification of employment from their previous employer or at  
26 least two (2) pay stubs, provided to the Director, and;”

1           (b) The claimant is not entitled to receive unemployment compensation  
2           benefits under any state or federal unemployment compensation laws for  
3           the week in which the claimant claims for additional unemployment  
4           benefits;

5           (c) Claimant must submit a letter of release from previous employment for  
6           justification. If a letter of release cannot be obtained by the previous  
7           employer, the Director may at their discretion, certify the claimant's  
8           eligibility under this subsection using alternative means.

9           (d) Upon the request of the claimant or the Guam the Department of Labor,  
10           Employers of claimants subjected to a reduction in employment status  
11           shall submit a verifying document of the reduction of claimant  
12           employment status and leave and earnings statements documenting the  
13           decrease in weekly benefits to the Guam Department of Labor for  
14           validation of claim.

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16           **§ 1407. Minimum and Maximum Benefits Payable.**

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

26           (a) The claimant must apply within 90 days of release, receiving payment  
27           within 120 days

1        (b) Claimant shall continue to be seeking employment by submitting a  
2 listing to the Director of locations for their attempts for employment

3        (c) Upon Declaring economic disaster, the funds will be disbursed until  
4 exhausted and cannot exceed the five-million-dollar cap as prescribed in § 1403 of  
5 this section.

6        B. Reduction: Claimants who have been subjected to a loss of wages of  
7 fifty percent (50%) or more as a result of a reduction in employment status may  
8 receive supplemental benefits, equal to the weekly average salary loss of the  
9 previous 90 days, not to exceed the weekly average salary received in the previous  
10 90 days and or One-Thousand and Five-Hundred Dollars per month, whichever is  
11 less. A claimant is eligible to receive supplemental benefits with respect to any  
12 week, and only if the director of labor finds that:

13        (a) The claimant must apply within 90 days of reduction in employment  
14 status, receiving supplemental benefit payment within 120 days.

15        (b) Claimant continues to be subjected to a reduction in employment status  
16 and wages and proof of continued reduction by submitting leave and earnings  
17 statements to the Director.

18        (c) Upon Declaring economic disaster, the funds will be disbursed until  
19 exhausted and cannot exceed the five-million-dollar cap as prescribed in § 1403 of  
20 this section.

21        **§ 1408. Disqualification for Emergency Unemployment Benefits**  
22 **Assistance and Supplemental Benefits.**

23        A claimant shall be disqualified for unemployment and supplemental benefits:

24        (a) Voluntary separation. For any week in which the claimant has left work  
25        voluntarily without good cause

26        (b) An owner-employee of a corporation who brings about the owner-  
27        employee's unemployment by divesting ownership, leasing the business

1 interest, terminating the business, or by other similar actions where the  
2 owner-employee is the party initiating termination of the employment  
3 relationship, has voluntarily left employment.

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

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

9 (e) Employment has been restored to the status previously held prior to the  
10 reduction in employment status.

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12 **§ 1409. Fraud.**

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

19 **§ 1410. Recovery of Emergency Unemployment Assistance and**  
20 **Supplemental Benefits and Penalties.**

21 (a) Any person who makes a false statement or representation of material fact,  
22 or who knowingly fails, or causes another to fail, to disclose a material fact, and as  
23 a result thereof has received any amount of benefits under this chapter, to which the  
24 person was not entitled shall be liable for such amount. Notice of re-determination  
25 in such cases shall specify that the person is liable to repay to the fund the amount  
26 of additional unemployment benefits paid to the person by reason of such

1 nondisclosure or misrepresentation, and the week or weeks for which the benefits  
2 were paid.

3 (b) If, under this section a claimant is liable to repay any amount to the  
4 director of labor such amount shall be collectible without interest by civil action in  
5 the name of the director. Whoever makes a false statement or representation  
6 knowing it to be false or who knowingly fails to disclose a material fact to obtain or  
7 increase any benefit or other payment under this chapter shall be liable to pay back  
8 payments received from the fund and can be charged with a criminal misdemeanor.

9 **§ 1411. Non-liability of Territory.**

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

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

20 **Section 14. Effective Date.** This act *shall* be effective upon enactment on  
21 January 01 2021, or upon conclusion of the Pandemic Unemployment Assistance  
22 program established by Public Law 116-136, the CARES Act, as a result of the 2019  
23 Coronavirus (COVID-19).