
Sponsored by: Management Council

A BILL

for

AN ACT relating to emergency aid and emergency procedures in response to the COVID-19 novel coronavirus pandemic; providing legislative findings; expanding unemployment benefits; authorizing agreements with the federal government and the expenditure of federal funds; creating programs to avoid the eviction of needy persons; amending the unemployment insurance program; amending the worker's compensation program; providing additional authority to the governor; providing for a worker's compensation premium credit; providing an appropriation; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

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[Bill Number]
Section 1. [LEGISLATIVE FINDINGS]

Section 2. W.S. 9-7-106(a) by creating a new subsection (ix), 27-3-504(e) by creating a new paragraph (ix), 27-14-102(a)(xi)(A) and 27-14-201 by creating new subsections (u) and (w) are amended to read:

9-7-106. Community development authority; additional powers; purchase of mortgages; loans to lenders; funds appropriated for low interest mortgages.
(a) In addition to the other powers granted in this act, the authority:

(ix) Shall perform other duties consistent with its purpose as authorized by the legislature for the period prescribed by the legislature.

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STAFF COMMENT
The Department of Workforce Services has requested the amendment to W.S. 27-3-504, below, and indicated that it will allow the Unemployment Insurance program to receive full reimbursement under the CARES Act. DWS has submitted this language to the federal Department of Labor for review.

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27-3-504. Separate employer's accounts; charging of accounts; when accounts not charged.

(e) Benefits shall not be charged to an employer's account if:

(ix) The governor, by executive order outlining the basis for the order and with the adoption of adequate standards and safeguards for the continued actuarial soundness of the unemployment compensation fund, determines
that circumstances warrant that benefits not be charged to an employer's account.

CHAPTER 14 - WORKER'S COMPENSATION

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STAFF COMMENT
LSO has not been directed to expand worker's compensation coverage to new classes of workers who were not previously covered. The amendment below provides worker's compensation coverage to all employees who contract COVID-19 and who are currently eligible for worker's compensation benefits.

The amendment below is necessary because current law may not provide COVID-19 coverage. Communicable diseases are covered only if the nature of employment increases the risk of contracting the disease. The amendment establishes that COVID-19 is an injury covered by worker's compensation and that working in an occupation covered by Wyoming's worker's compensation laws does increase the risk of contracting COVID-19.

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27-14-102. Definitions.

(a) As used in this act:

(xi) "Injury" means any harmful change in the human organism other than normal aging and includes damage to or loss of any artificial replacement and death, arising out of and in the course of employment while at work in or about the
premises occupied, used or controlled by the employer and
incurred while at work in places where the employer's business
requires an employee's presence and which subjects the
employee to extrahazardous duties incident to the business.
"Injury" does not include:

(A) Any illness or communicable disease
unless the risk of contracting the illness or disease is
increased by the nature of the employment. For the period
beginning January 1, 2020 through December 31, 2020, COVID-
19 caused by the novel coronavirus shall be considered an
injury for purposes of this act and the nature of all
employment for which coverage is provided by this act shall
be considered to increase the risk of contracting COVID-19;

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STAFF COMMENT
The following statutory amendment would allow the
award of premium credits to employers who, because
of COVID-19, allowed their employees to engage in
nonhazardous work (e.g. perform administrative
tasks from home). DWS has indicated that the
program created by this amendment may be burdensome
and slow to apply. As a result, Management Council
has requested an alternative approach - language
that would extend an automatic premium credit to
employers, similar to the premium credit authorized
during the 2020 Budget Session. This option is
provided in Section 5 of this bill draft, below.

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27-14-201. Rates and classifications; rate surcharge.

(u) Upon application by an employer, the division may grant premium credits to rates established under this section if the division determines that an employer paid premiums for one (1) or more employees whose work duties or work locations were modified so as to substantially eliminate the extrahazardous nature of the work as the result of a COVID-19 illness or as the result of any closure, quarantine, isolation or social distancing recommendation or order made by the state health officer, a county health officer or the governor as a result of the COVID-19 novel coronavirus pandemic. The following provisions shall apply to the premium credit program created by this subsection:

(i) The fund shall remain fully reserved after premium credits are granted and implemented and the governor may delay the award of any premium credits until any fiscal impact caused by granting and implementing the credits can be reimbursed or paid into the fund by federal or other available funds;
(ii) Premium credits shall be applied only against premiums due for the period beginning March 1, 2020 through December 31, 2020 and only to offset premiums that are due. In no case shall premium credits be redeemed by an employer for cash;

(iii) Premium credits, if granted, shall only be given to those employers who paid premiums prior to March 1, 2020 and whose accounts are current on all amounts owed under the act, including premiums, case costs liability and penalties.

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STAFF COMMENT

The following amendment establishes that COVID-19 claims will not be counted in an employer's experience rating for purposes of the worker's compensation program. It is complimentary to the amendment to W.S. 27-14-102, which makes COVID-19 an illness covered by worker's compensation.

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(w) No injury related to a COVID-19 illness for which coverage is provided under this act for a claim arising on or before December 31, 2020 shall be chargeable to an employer's experience rating under this section.
**STAFF COMMENT**

Section 3, below, is a placeholder for any noncodified or other law that may be necessary to allow the Department of Workforce Services to operate a Short-Time Compensation (STC) ("Workshare") program. LSO is awaiting direction from the Department on its proposed statutory changes (if any) and its preferred approach toward implementing a STC program under the provisions of the CARES Act.

**Section 3.** Notwithstanding any state law to the contrary and to the extent not inconsistent with maintenance of the solvency of the unemployment compensation fund, the governor and the department of workforce services are authorized to enter into an agreement with the federal secretary of labor for the operation and administration of a short-time compensation program under section 2109 of the Coronavirus, Aid, Relief and Economic Security (CARES) Act, Public Law 116-136, and to utilize any federal funding or assistance made available for that purpose. Any short-time compensation program operated pursuant to the authority granted by this section shall terminate on December 31, 2020.

**STAFF COMMENT**

The following language creates a temporary, noncodified WCDA program for the payment of residential rent for the needy.
Section 4.

(a) For the necessary support of the poor and in order to maintain safe, decent and sanitary housing for persons living in Wyoming, the Wyoming community development authority, created by W.S. 9-7-104, shall establish and maintain a temporary program for the payment of rent and avoidance of evictions for persons impacted by the novel coronavirus, COVID-19. The authority shall accept applications for program awards on forms provided by the authority. Awards shall:

(i) Provide payment to any applicant who is the owner of property leased or rented to a residential tenant in Wyoming and who has lost twenty-five percent (25%) or more of the rental income generated by the property as a result of the COVID-19 coronavirus pandemic as provided in this section. Rental income shall be measured using rental amounts actually charged for the applicable property on March 1, 2020 and any claimed losses may be offset by other grants, loans or other benefits received. A rebuttable presumption of loss resulting from the COVID-19 coronavirus pandemic shall be created if the applicant can demonstrate the loss of rental
income within **ninety (90) days** after issuance of the governor's March 13, 2020 public health emergency declaration, executive order 2020-2;

(ii) Provide monthly payments in the amount of monthly lost rental income, continuing until the governor orders that payments under the program shall stop or until December 31, 2020, whichever occurs first, but in no event for less than ninety (90) days from the effective date of this act;

(iii) Be conditioned on the award applicant certifying that the award will be utilized to provide housing to a household earning less than two hundred percent (200%) of the federal poverty level where one (1) or more household members have experienced lost hourly income pay, have been terminated or laid-off from their employment or who have been subject to a reduction in work hours as a result of the COVID-19 coronavirus pandemic;

(iv) Be conditioned upon and made in consideration of:
(A) The award applicant not evicting for the tenant's failure to pay rent any tenant living at a property for which the applicant is receiving payments under this section;

(B) The award applicant not charging any tenant living at a property for which the applicant is receiving payments under this section any rental amount for which the applicant receives payment under this section and, if an award is for less than the total rental amount charged for a property, not charging any total rental amount at that property in excess of the rental amounts actually charged for the property on March 1, 2020.

(b) The Wyoming community development authority shall promulgate any emergency and regular rules necessary to administer the program authorized by this section on or before (INSERT DATE). The rules may include reporting requirements for award recipients, including requirements that an award recipient report the receipt of other COVID-19 related grants, loans or aid. The authority shall adopt rules requiring any reporting or the performance of other
obligations necessary to comply with the terms of use of available federal funding.

(c) There is appropriated to the governor up to ten million dollars ($10,000,000.00) from any federal funds made available for expenditure through the Coronavirus, Aid, Relief and Economic Security (CARES) Act, Public Law 116-136, or from any other available federal funds related to the COVID-19 emergency response. If a COVID-19 relief account or other similarly named account is created for the deposit of COVID-19 related emergency response funds, this appropriation shall be made from that account. This appropriation shall be used for the establishment and operation of the program authorized by this section. This appropriation shall not be transferred or expended for any other purpose. Any unexpended, unobligated funds remaining from this appropriation on December 31, 2020 shall revert as provided by law.

(d) The attorney general shall review in writing the legality of the program authorized by this section. No expenditure of funds shall be made under this section except
in accordance with state and federal laws, regulations and orders.

(e) The program authorized by this section shall terminate and this section shall be repealed on March 15, 2021.

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STAFF COMMENT

Pursuant to Management Council's request, the following section creates a worker's compensation premium credit that mirrors, and is in addition to, the premium credit passed during the 2020 Budget Session (2020 SF 89). DWS is currently determining the amount of credit that could be awarded under this section in addition to the 8.33% credit that will be implemented under the 2020 SF 89. Please note that, consistent with the requirements of W.S. 27-14-201(q), this credit would be applied to all employers participating in the worker's compensation program and would not be targeted to employers impacted by the COVID-19 pandemic.

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Section 5. Pursuant to W.S. 27-14-201(q), and in addition to the premium credit provided by 2020 Senate File 89, 2020 Enrolled Act No. 49, the department of workforce services shall establish a premium credit for any employer who has made all required worker's compensation payments for the period beginning January 1, 2020 and ending May 31, 2020. To qualify for the credit, an employer shall be in good
standing with the worker's compensation division within the department of workforce services for all required worker's compensation payments by June 15, 2020. Premium credits granted under this section shall become effective on July 1, 2020 and may be used for premium reporting periods from July 1, 2020 through December 31, 2020. Any unused credit will expire January 31, 2021.

Section 6. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

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