

STATE OF NEW YORK

5421

2021-2022 Regular Sessions

IN ASSEMBLY

February 16, 2021

Introduced by M. of A. DE LA ROSA -- read once and referred to the Committee on Ways and Means

AN ACT to establish the "excluded worker fund act"; to amend the state finance law, in relation to establishing the excluded worker fund; and to amend the labor law, in relation to establishing the excluded worker program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "excluded
2 worker fund act".

3 § 2. The state finance law is amended by adding a new section 95-j to
4 read as follows:

5 § 95-j. Excluded worker fund. 1. There is hereby established in the
6 joint custody of the commissioner of taxation and finance and the state
7 comptroller a special fund to be known as the "excluded worker fund".

8 2. All moneys collected as contributions and interest relating to wage
9 replacement to workers and families unable to access traditional worker
10 wage insurance or assistance programs shall be deposited in a bank,
11 trust company or industrial bank designated by the state comptroller.
12 Moneys so deposited shall be credited immediately to the account of the
13 excluded worker fund and shall be used for the purposes set forth in
14 section six hundred forty-four of the labor law. Moneys in such fund may
15 be invested by the state comptroller in accordance with the provisions
16 of section ninety-eight of this article, and shall be used for the
17 purposes specified herein.

18 3. Moneys of the fund shall be used exclusively for the purpose of
19 providing emergency wage replacement to workers that do not qualify for
20 unemployment insurance or other worker wage assistance programs and to
21 households who have lost a major source of income due to the death or
22 disability of a close household member who could not access unemployment
23 insurance or other worker wage assistance programs. The moneys shall be

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 paid out of the fund on the audit and warrant of the state comptroller
2 on vouchers certified or approved by such commissioner the duly desig-
3 nated officer. Any balance in such fund shall not lapse at any time but
4 shall remain continuously available for such purposes.

5 4. Moneys of the fund shall not be used in whole or in part for any
6 purpose or in any manner which (a) would permit its substitution for, or
7 a corresponding reduction in, federal funds that would be available in
8 its absence to finance expenditures for the administration of this arti-
9 cle; or (b) would cause the appropriate agency of the United States
10 government to withhold any part of an administrative grant which would
11 otherwise be made.

12 § 3. The labor law is amended by adding a new section 591-b to read as
13 follows:

14 § 591-b. Excluded worker program. 1. The department is hereby author-
15 ized and empowered to establish and operate an excluded worker program
16 as authorized pursuant to section six hundred forty-four of this arti-
17 cle.

18 2. Each excluded worker program applicant shall provide, in such form
19 and at such time as the commissioner may prescribe, at least two of the
20 following:

21 (a) Primary proof of identity including, but not limited to, a driv-
22 er's license, motor vehicle ID card number, valid foreign driver's
23 license that includes a photo image of the applicant and which is unex-
24 pired or expired for less than twenty-four months of its date of expira-
25 tion, New York State ID, IDNYC or other New York municipal or county
26 identification card, student ID card, valid unexpired foreign passport
27 issued by the applicant's country of citizenship, or valid unexpired
28 consular identification document issued by a consulate from the appli-
29 cant's country of citizenship. Nothing contained in this subdivision
30 shall be deemed to preclude the commissioner from approving additional
31 proofs of identity; or

32 (b) Social security number or, in lieu thereof, an individual taxpayer
33 identification number or a United States citizenship and immigration
34 services number; or

35 (c) Names and addresses of all employers and/or hiring parties, in and
36 out of the state, for the last eighteen months to the extent that such
37 information is available to the applicant; or

38 (d) Mailing address and zip code.

39 3. Application forms for such program shall not state: (a) the docu-
40 ments an applicant used to prove identity; or (b) an applicant's inel-
41 igibility for a social security number where applicable; or (c) an
42 applicant's citizenship or immigration status.

43 4. Any portion of any original documents or copies of documents
44 retained or collected by the department in relation to the excluded
45 worker program application to prove identity, age or fitness or any
46 record that contains the photo image or identifies the social security
47 number, telephone number, place of birth, country of origin, place of
48 employment, school or educational institution attended, source of
49 income, status as a recipient of public benefits, the customer identifi-
50 cation number associated with a public utilities account, medical infor-
51 mation or disability information of the holder of, or applicant for,
52 such program is not a public record and shall not be disclosed or other-
53 wise made accessible in response to any request for records except:

54 (a) to the person who is the subject of such records; or

55 (b) where necessary to comply with a lawful court order, judicial
56 warrant signed by a judge appointed pursuant to article III of the

1 United States constitution, or subpoena for individual records issued
2 pursuant to the criminal procedure law or the civil practice law and
3 rules.

4 5. For the purposes of this section, whenever a lawful court order,
5 judicial warrant, or subpoena for individual records properly issued
6 pursuant to the criminal procedure law or the civil practice law and
7 rules is presented to the commissioner, only those records, documents,
8 and information specifically sought by such court order, warrant, or
9 subpoena may be disclosed.

10 6. Notwithstanding the disclosure of records pursuant to subdivisions
11 four and five of this section, the commissioner shall require any person
12 or entity that receives or has access to records or information from the
13 department to certify to the commissioner, before such receipt or
14 access, that such person or entity shall not:

15 (a) use such records or information for purposes other than for the
16 administration of the excluded worker program or excluded worker fund;
17 or

18 (b) disclose such records or information to any other agency or to any
19 employee or agent of any such agency unless such disclosure is pursuant
20 to a cooperative arrangement between city, state and federal agencies
21 and which arrangement disclosure is limited to the specific records or
22 information being sought pursuant to such arrangement and used solely
23 for the administration of the excluded worker program or the excluded
24 worker fund.

25 § 4. The labor law is amended by adding a new section 644 to read as
26 follows:

27 § 644. Eligibility for excluded worker program. 1. For the purpose of
28 section five hundred ninety-one-b of this article, the term "excluded
29 worker program" means a program under which assistance is available to
30 individuals who reside in the state and:

31 (a) do not meet the eligibility requirements:

32 (i) for unemployment insurance benefits as described in this article,
33 including benefits payable to federal civilian employees and to ex-ser-
34 vicemen and servicewomen pursuant to Chapter 85 of the United States
35 Code, and benefits authorized to be used for the self-employment assist-
36 ance program pursuant to the Federal-State Extended Unemployment Comp-
37 sation Act of 1970; or

38 (ii) to receive insurance or assistance payments under any programs
39 provided for under subtitle a of Title II of the federal CARES Act; and

40 (b) suffered a loss:

41 (i) of work-related earnings; or

42 (ii) of one or more major sources of household income due to the death
43 or disability of a close household member on whose income the family
44 depended, during a state of emergency declared by the governor and
45 provided further that no other individual in the household is receiving
46 an allowance under the excluded worker program for the same month for
47 the same reason. Such an allowance shall only be accessed: (A) during a
48 state of emergency as declared by the governor and up to eight months
49 after the state of emergency has been declared; (B) during a time in
50 which the government of the United States has authorized renewal or
51 extension beyond the date of the Pandemic Unemployment Assistance
52 outline in Title II of the CARES Act; (C) up to the last day of the
53 calendar quarter of the emergency period defined in paragraph (1)(B) of
54 section 1135(g) of the federal Social Security Act (42 U.S.C.
55 1320b-5(g)) and ending on the last day of the calendar quarter in which
56 the last day of such an emergency period occurs; or (D) up to the last

1 day of any calendar quarter during which the U.S. Bureau of Labor
2 Statistics reports a seasonally adjusted unemployment rate of six
3 percent or more in the state; or

4 (c) were released from post-arraignment incarceration or detention or
5 from immigration detention on or after October first, two thousand twen-
6 ty.

7 2. No individual shall be eligible to receive assistance under the
8 excluded worker program in any month if the gross work related earnings
9 they received in the previous calendar month exceeds two thousand one
10 hundred eighty-two dollars.

11 3. Proof of eligibility may be established by documentation or, in the
12 absence of documentation, by self-attestation.

13 (a) The allowance payable to individuals shall be payable in the
14 amount of thirty-three hundred dollars per month, payable monthly from
15 April two thousand twenty-one through December thirty-first, two thou-
16 sand twenty-one. Payments shall be retroactive to the latter of the
17 first date of earnings loss during the state of emergency or April
18 first, two thousand twenty-one. The total amount paid for any benefit
19 year shall not exceed the maximum amount of benefits payable under this
20 article and Title II of the CARES Act.

21 (b) Payments shall continue until the later of: (i) December thirty-
22 first, two thousand twenty-one; (ii) the last day of the calendar quar-
23 ter during which the government of the United States has authorized
24 renewal or extension beyond the date of Pandemic Unemployment Assist-
25 ance; (iii) the last day of the calendar quarter of the emergency period
26 defined in paragraph (1)(B) of section 1135(g) of the federal Social
27 Security Act (42 U.S.C. 1320b-5(g)) and ending on the last day of the
28 calendar quarter in which the last day of such an emergency period
29 occurs; or (iv) the last day of any calendar quarter during which the
30 U.S. Bureau of Labor Statistics reports a seasonally adjusted unemploy-
31 ment rate of six percent or more in the state.

32 4. No individual shall be required to apply for assistance under the
33 excluded worker program as a condition of eligibility for any state or
34 local program.

35 § 5. This act shall take effect immediately.