

CHAPTER 113

PUBLIC UTILITIES

HOUSE BILL 20-1412

BY REPRESENTATIVE(S) Kennedy and Cutter, Arndt, Benavidez, Bird, Buckner, Buentello, Caraveo, Coleman, Duran, Esgar, Froelich, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Jaquez Lewis, Kipp, Lontine, McCluskie, McLachlan, Michaelson Jenet, Mullica, Roberts, Sirota, Snyder, Sullivan, Tipper, Titone, Valdez A., Valdez D., Weissman, Young, Becker, Exum, Melton, Singer;
 also SENATOR(S) Story and Zenzinger, Bridges, Danielson, Ginal, Gonzales, Hansen, Lee, Moreno, Pettersen, Priola, Rodriguez, Tate, Todd, Williams A., Winter, Garcia.

AN ACT

CONCERNING ASSISTANCE FOR INDIVIDUALS UNABLE TO PAY THEIR UTILITY BILLS DUE TO ECONOMIC HARDSHIP CAUSED BY THE COVID-19 PANDEMIC, AND, IN CONNECTION THEREWITH, TRANSFERRING MONEY RECEIVED FROM THE FEDERAL GOVERNMENT PURSUANT TO THE "CARES ACT" TO THE ENERGY OUTREACH COLORADO LOW-INCOME ENERGY ASSISTANCE FUND TO PROVIDE SUCH ASSISTANCE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and determines that:

(a) In response to the COVID-19 pandemic that spread to many states, including Colorado, in February of 2020, Congress enacted the "Coronavirus Aid, Relief, and Economic Security Act", Pub.L. 116-136, also referred to as the "CARES Act", to provide emergency assistance to state, local, and tribal governments;

(b) The CARES Act established the Coronavirus Relief Fund (CRF) and appropriated \$150 billion to the CRF for distribution, in part, to the states to cover costs that:

(I) Are necessary expenditures incurred due to the public health emergency with respect to the COVID-19 pandemic;

(II) Were not accounted for in the budget most recently approved as of March 27, 2020, for the state; and

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(III) Were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020;

(c) Approximately \$1.674 billion was transferred from the CRF to Colorado's state government and, in his executive order D 2020 070, dated May 18, 2020, the governor transferred \$70 million of that money to the general fund for disbursement by the general assembly;

(d) The United States department of the treasury has issued guidance on states' use of money allocated from the CRF, including the "Coronavirus Relief Fund Frequently Asked Questions" document issued on May 4, 2020, and updated on May 28, 2020, in which the department indicated that "[f]und payments may be used for subsidy payments to electricity account holders to the extent that the subsidy payments are deemed by the recipient to be necessary expenditures incurred due to the COVID-19 public health emergency ... [and,] if determined to be a necessary expenditure, a government could provide grants to individuals facing economic hardship to allow them to pay their utility fees and thereby continue to receive essential services";

(e) To help reduce the spread of COVID-19, residents throughout the state have remained in their homes to comply with stay-at-home and safer-at-home orders, which compliance has led to increased household use of electric, heating, and cooling utilities and resulted in increased residential utility bills;

(f) Compounding the problem is the fact that the COVID-19 pandemic has led to extensive job losses throughout the state, where more than 450,000 claims for state and federal unemployment assistance have been filed since March 1, 2020, and many Coloradans have experienced a significant decline in their household incomes;

(g) While some utilities have implemented a moratorium on utility disconnections, the moratoriums do not address the difficulty that a household that is facing economic hardship as a result of the COVID-19 pandemic will have paying its utility bill once a utility's disconnection moratorium is lifted;

(h) Utility disconnections will provide further economic and health risks to Colorado residents because utility disconnections:

(I) Create unsafe housing conditions;

(II) Increase the likelihood of eviction for certain renters; and

(III) In light of the need for people to remain at home as much as possible, increase the risks of lost wages and reduced educational opportunities arising from a lack of electricity;

(i) Assisting low-income households throughout the state with their utility bill payments would help mitigate the economic and health risks caused by the COVID-19 pandemic; and

(j) Expanding the state's existing utility bill payment assistance program to provide direct utility bill payment assistance to those households facing economic

hardship caused by the COVID-19 pandemic, which assistance was not accounted for in the state's budget most recently approved as of March 27, 2020, is a necessary expenditure.

SECTION 2. In Colorado Revised Statutes, 40-8.7-110, **add** (3) as follows:

40-8.7-110. Reports - repeal. (3) (a) THE ORGANIZATION SHALL INCLUDE IN THE REPORT PREPARED PURSUANT TO THIS SECTION INFORMATION RELATED TO MONEY RECEIVED FROM THE COLORADO ENERGY OFFICE PURSUANT TO SECTION 40-8.7-112 (2)(f), WHICH INFORMATION MUST SPECIFY HOW THE DIRECT UTILITY BILL PAYMENTS MADE PURSUANT TO SECTION 40-8.7-112 (2)(f) WERE MADE IN ACCORDANCE WITH SECTION 801 (d) OF THE "CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT", PUB.L. 116-136, ALSO REFERRED TO AS THE "CARES ACT".

(b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JANUARY 1, 2022.

SECTION 3. In Colorado Revised Statutes, 40-8.7-112, **amend** (2)(a) and (4) introductory portion; and **add** (2)(f) and (4)(b.3) as follows:

40-8.7-112. Department of human services low-income energy assistance fund - creation - energy outreach Colorado low-income energy assistance fund - creation - Colorado energy office low-income energy assistance fund - creation - definitions - repeal. (2) (a) There is hereby created in the state treasury the energy outreach Colorado low-income energy assistance fund, ~~which shall be administered by the Colorado energy office. and shall consist~~ THE FUND CONSISTS OF ALL ~~money~~ MONEY TRANSFERRED BY THE STATE TREASURER AS SPECIFIED IN SECTION 39-29-109.3 (2)(f) ~~C.R.S.~~ AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY APPROPRIATES OR TRANSFERS TO THE FUND FOR THE PURPOSES SET FORTH IN THIS SUBSECTION (2). All ~~money~~ MONEY IN THE FUND ~~are~~ IS CONTINUOUSLY APPROPRIATED TO THE COLORADO ENERGY OFFICE FOR DISTRIBUTION TO THE ORGANIZATION TO BE USED FOR THE PURPOSES SET FORTH IN THIS SUBSECTION (2). All ~~money~~ MONEY IN THE FUND AT THE END OF EACH FISCAL YEAR ~~shall be retained~~ REMAINS IN THE FUND AND ~~shall~~ DOES NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

(f) (I) THE STATE TREASURER SHALL TRANSFER FOUR MILLION EIGHT HUNDRED THOUSAND DOLLARS FROM THE CARE SUBFUND IN THE GENERAL FUND TO THE CORONAVIRUS RELIEF ACCOUNT IN THE ENERGY OUTREACH COLORADO LOW-INCOME ENERGY ASSISTANCE FUND, WHICH ACCOUNT IS HEREBY CREATED. THE MONEY TRANSFERRED TO THE CORONAVIRUS RELIEF ACCOUNT PURSUANT TO THIS SUBSECTION (2)(f) IS CONTINUOUSLY APPROPRIATED TO THE COLORADO ENERGY OFFICE FOR DISTRIBUTION TO THE ORGANIZATION TO BE USED FOR THE PURPOSE SET FORTH IN THIS SUBSECTION (2)(f).

(II) THE ORGANIZATION SHALL USE MONEY IT RECEIVES FROM THE COLORADO ENERGY OFFICE PURSUANT TO THIS SUBSECTION (2)(f) TO PROVIDE DIRECT UTILITY BILL PAYMENT ASSISTANCE TO LOW-INCOME HOUSEHOLDS FACING ECONOMIC HARDSHIP CAUSED BY THE COVID-19 PANDEMIC, AS PERMITTED UNDER THE "CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT", PUB.L. 116-136, ALSO REFERRED TO AS THE "CARES ACT". TO RECEIVE DIRECT BILL PAYMENT ASSISTANCE PURSUANT TO THIS SUBSECTION (2)(f), A LOW-INCOME HOUSEHOLD MUST CERTIFY PURSUANT TO SUBSECTION (2)(f)(IV) OF THIS SECTION THAT ITS NEED

FOR DIRECT UTILITY BILL PAYMENT ASSISTANCE RESULTS FROM THE PUBLIC HEALTH EMERGENCY CAUSED BY THE COVID-19 PANDEMIC.

(III) THE ORGANIZATION SHALL MAKE A DIRECT UTILITY BILL PAYMENT AUTHORIZED PURSUANT TO THIS SUBSECTION (2)(f) AS A VENDOR PAYMENT TO A UTILITY, INCLUDING A MUNICIPALLY OWNED GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY OR A COOPERATIVE ELECTRIC ASSOCIATION THAT OPERATES AN ALTERNATIVE ENERGY ASSISTANCE PROGRAM PURSUANT TO SECTION 40-8.7-106. THE ORGANIZATION SHALL NOT USE ANY PORTION OF THE MONEY IT RECEIVES FROM THE COLORADO ENERGY OFFICE PURSUANT TO THIS SUBSECTION (2)(f) FOR ADMINISTRATIVE PURPOSES.

(IV) AS PART OF AN APPLICATION FILED TO REQUEST DIRECT UTILITY BILL PAYMENT ASSISTANCE PURSUANT TO THIS SUBSECTION (2)(f), THE ORGANIZATION SHALL REQUIRE THE APPLICANT TO CERTIFY IN GOOD FAITH SUBSTANTIALLY THE FOLLOWING:

THIS HOUSEHOLD NEEDS DIRECT UTILITY BILL PAYMENT ASSISTANCE FOR ITS ONGOING ENERGY NEEDS. THE NEED FOR DIRECT UTILITY BILL PAYMENT ASSISTANCE IS DUE TO ECONOMIC HARDSHIP INCURRED DUE TO THE PUBLIC HEALTH EMERGENCY RESULTING FROM THE COVID-19 PANDEMIC.

(V) THE ORGANIZATION SHALL HOLD AND ADMINISTER ALL MONEY IT RECEIVES FROM THE COLORADO ENERGY OFFICE PURSUANT TO THIS SUBSECTION (2)(f) IN A SEPARATELY IDENTIFIABLE ACCOUNT, THE USE OF WHICH IS RESTRICTED TO THE PURPOSE SET FORTH IN THIS SUBSECTION (2)(f). THE ORGANIZATION SHALL MAINTAIN ITS BOOKS AND RECORDS PERTAINING TO ANY MONEY RECEIVED FROM THE COLORADO ENERGY OFFICE PURSUANT TO THIS SUBSECTION (2)(f) IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. THE ORGANIZATION SHALL NOT COMMINGLE THE MONEY RECEIVED PURSUANT TO THIS SUBSECTION (2)(f) WITH ANY OTHER ASSETS OF THE ORGANIZATION.

(VI) THE ORGANIZATION MUST SPEND ALL OF THE MONEY IT RECEIVES FROM THE COLORADO ENERGY OFFICE PURSUANT TO THIS SUBSECTION (2)(f) BEFORE DECEMBER 4, 2020. THE ORGANIZATION SHALL RETURN TO THE STATE ANY UNEXPENDED MONEY RECEIVED PURSUANT TO THIS SUBSECTION (2)(f) UNDER TERMS DICTATED BY THE STATE CONTROLLER FOR THE PURPOSE OF TRANSMITTING THE UNEXPENDED MONEY TO THE UNEMPLOYMENT COMPENSATION FUND, CREATED IN SECTION 8-77-101 (1)(a), ON OR BEFORE DECEMBER 30, 2020.

(VII) THIS SUBSECTION (2)(f) IS REPEALED, EFFECTIVE JANUARY 1, 2021.

(4) ~~For purposes of~~ AS USED IN this section, unless the context otherwise requires:

(b.3) "COVID-19" MEANS THE CORONAVIRUS DISEASE 2019 CAUSED BY THE SEVERE ACUTE RESPIRATORY SYNDROME CORONAVIRUS 2, ALSO KNOWN AS SARS-CoV-2.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 22, 2020