

## CHAPTER 408

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**LABOR AND INDUSTRY**


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**HOUSE BILL 09-1076**

BY REPRESENTATIVE(S) Pace, Apuan, Casso, Frangas, Hullinghorst, Labuda, McGihon, Priola, Rice, Ryden, Soper, Vigil;  
also SENATOR(S) Tochtrop, Bacon, Boyd, Carroll M., Gibbs, Groff, Heath, Hudak, Schwartz, Shaffer B.

**AN ACT**

**CONCERNING REMUNERATION RESULTING FROM AN EMPLOYEE'S SEPARATION FROM EMPLOYMENT  
FOR THE PURPOSE OF CALCULATING THE POSTPONEMENT OF UNEMPLOYMENT INSURANCE  
BENEFITS.**

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

**SECTION 1.** 8-73-110 (1), (1.2), (1.6), (3) (a) (I) (A), and (8), Colorado Revised Statutes, are amended, and the said 8-73-110 (3) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

**8-73-110. Other remuneration - definitions.** (1) (a) ~~Individuals who receive the following types of remuneration shall be determined to have received, for weeks after separation from employment, the individual's full-time weekly wage for a number of consecutive weeks equal to the total amount of the remuneration awarded, divided by the full-time weekly wage:~~

~~(f) Wages in lieu of notice;~~

~~(H) Vacation pay;~~

~~(III) Severance allowances;~~

~~(IV) Separation bonuses.~~

~~(b) For purposes of this section, "severance allowances" means any remuneration other than wages in lieu of notice, vacation pay, and separation bonuses that an individual receives as compensation for weeks not worked after separation. Any such remuneration that is specified as a dollar amount or as a number of weeks shall be deemed to be a severance allowance. The status of such remuneration as a~~

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

~~severance allowance shall not be affected by whether the employer has or follows a severance pay policy or whether the remuneration is included in a separation agreement that includes other settlement considerations that are not severance allowances.~~

(c) ~~Notwithstanding paragraph (b) of this subsection (1), "severance allowance" does not include any remuneration designated by an employer in its discretion, as a separation bonus, to be treated the same as vacation pay and wages in lieu of notice.~~

(d) ~~Notwithstanding paragraphs (b) and (c) of this subsection (1), the status of a severance allowance paid to a member of a bargaining unit shall be determined by the terms of the bargaining unit contract, if specifically provided in such contract, or the official records of the parties leading to the collective bargaining agreement~~ AN INDIVIDUAL WHO IS SEPARATED FROM EMPLOYMENT AND, BECAUSE OF THE SEPARATION, RECEIVES ADDITIONAL REMUNERATION NOT OTHERWISE REFERRED TO IN THIS SECTION AND THE REMUNERATION IS NOT WAGES SHALL HAVE HIS OR HER BENEFITS POSTPONED FOR A NUMBER OF CALENDAR WEEKS AFTER SEPARATION FROM EMPLOYMENT THAT IS EQUAL TO THE TOTAL AMOUNT OF THE ADDITIONAL REMUNERATION, DIVIDED BY THE INDIVIDUAL'S USUAL WEEKLY WAGE. THE POSTPONEMENT REQUIRED BY THIS SUBSECTION (1) SHALL BEGIN WITH THE CALENDAR WEEK IN WHICH THE PAYMENT WAS RECEIVED. IF THE NUMBER OF WEEKS DOES NOT EQUAL A WHOLE NUMBER, THE REMAINDER SHALL BE DISREGARDED. NOTWITHSTANDING SECTION 8-73-107 (1) (f), ANY WAGES EARNED BY AN INDIVIDUAL IN A CALENDAR WEEK DURING POSTPONEMENT SHALL BE DISREGARDED.

(b) FOR PURPOSES OF THIS SUBSECTION (1), "INDIVIDUAL'S WEEKLY WAGE" MEANS AN INDIVIDUAL'S USUAL OR AVERAGE WAGE EARNED IN A REPRESENTATIVE NUMBER OF CALENDAR WEEKS.

(1.2) ~~In addition, an individual who receives severance allowances shall have his weeks of potential entitlement reduced by the number of weeks such severance allowances constitute weeks of an individual's full-time weekly wage.~~

(1.6) ~~Individuals who are awarded wages in lieu of notice, vacation pay, or a separation bonus subsequent to separation from employment shall have benefits postponed and shall be determined to have received, from the date the remuneration was received by the individual, the individual's full-time weekly wage for a number of consecutive weeks equal to the total amount of the remuneration awarded, divided by the full-time weekly wage, except that under no circumstances shall the receipt of multiple types of other remuneration identified in subsection (1) of this section result in concurrent periods of postponement.~~

(3) (a) (I) Except as provided in subparagraph (II) of this paragraph (a), an individual's weekly benefit amount shall be reduced (but not below zero) by:

(A) ~~Fifty percent of the prorated weekly amount of a primary insurance benefit under Title II of the federal "Social Security Act" that has been contributed to by a base period employer, because the employee has made contributions to federal social security;~~

(IV) AN INDIVIDUAL'S WEEKLY BENEFIT AMOUNT SHALL NOT BE REDUCED BY ANY AMOUNT OF A PRIMARY INSURANCE BENEFIT UNDER TITLE II OF THE FEDERAL "SOCIAL SECURITY ACT" THAT HAS BEEN CONTRIBUTED TO BY A BASE PERIOD EMPLOYER IF THE EMPLOYEE HAS MADE CONTRIBUTIONS TO FEDERAL SOCIAL SECURITY.

~~(8) Individuals who receive other cash payments, including, but not limited to, checks and warrants, paid to the worker by a base period employer or from any trust or fund contributed to by a base period employer shall be entitled to receive benefits for a corresponding week, if otherwise eligible, reduced by the amount of such other cash payments.~~

**SECTION 2. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 2, 2009