

1 AN ACT relating to unemployment insurance.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) Upon request of the alleged overpayment recipient, the secretary may waive an*  
6 *overpayment of benefits if he or she finds:*

7 *(a) The overpayment was made without fault on the part of the recipient;*

8 *(b) The overpayment was not the result of fraud, misrepresentation, or willful*  
9 *nondisclosure of the recipient; and*

10 *(c) Recovery would be contrary to equity and good conscience.*

11 *(2) (a) Requests for waiver of overpayment of benefits under subsection (1) of this*  
12 *section shall be made within thirty (30) days after the date the secretary*  
13 *mails to the alleged overpayment recipient the notification of the*  
14 *overpayment determination via first-class United States mail.*

15 *(b) Notice of the secretary's determination shall include information explaining*  
16 *how the alleged overpayment recipient may request a waiver of overpayment*  
17 *and explain how the alleged overpayment recipient may appeal the*  
18 *secretary's final determination.*

19 *(3) The secretary shall make waiver determinations as follows:*

20 *(a) The secretary shall appoint one (1) or more impartial referees according to*  
21 *KRS 341.125 to hear and decide waiver appeals;*

22 *(b) A party to a waiver determination may file an appeal to a referee as to any*  
23 *matter therein within thirty (30) days after the date such determination was*  
24 *mailed to his or her last known address in accordance with subsection (2)(a)*  
25 *of this section;*

26 *(c) If a waiver is allowed by a determination of the secretary or a decision of a*  
27 *referee, the commission, the secretary, or a reviewing court, the waiver shall*

1           be applied to the claimant's determined overpayment. If a determination or  
2           decision allowing a waiver is modified or reversed by subsequent  
3           determination or decision, the waiver shall be applied in accordance with  
4           such modification or denial. No injunction, supersedeas, stay, or other writ  
5           or process suspending a waiver shall be issued;

6           (d) Unless such appeal is withdrawn, a referee, after affording the parties  
7           reasonable opportunity for a fair hearing, shall affirm or modify the  
8           determination. The parties shall be duly notified of his or her decision,  
9           together with the reasons therefor, which shall be deemed to be the final  
10           decision unless further appeal is initiated under KRS 341.430 within thirty  
11           (30) days after the date of mailing of such decision; and

12           (e) No finding of fact or law, judgment, conclusion, or final order made with  
13           respect to an overpayment waiver under this chapter may be conclusive or  
14           binding in any separate or subsequent action or proceeding in another  
15           forum, except proceedings under this chapter, regardless of whether the  
16           prior action was between the same or related parties or involved the same  
17           facts.

18           (4) The secretary shall not initiate overpayment recovery until lapse of the thirty (30)  
19           day period provided in subsection (3) of this section.