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AN ACT

To amend and reenact R.S. 23:1513(A)(1), 1553(A), 1576, 1601(8), 1713(B) and (C), 1714, and 1726, to enact R.S. 23:1531.1(E), and to repeal R.S. 23:1713(D), relative to unemployment compensation; to provide for the penalty and interest account; to provide for filing certain documents; to provide for separation notices; to provide for method of calculation regarding the experience-rating account of an employer; to provide for disqualification of employee benefits subsequent to commission of a fraudulent act; to provide for the recovery of overpayment of benefits; to provide for the payment of certain benefits; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:1513(A)(1), 1553(A), 1576, 1601(8), 1713(B) and (C), 1714, and 1726 are hereby amended and reenacted and R.S. 23:1531.1(E) is hereby enacted to read as follows:

§1513. Penalty and interest account

A.(1) There is hereby created in the employment security administration fund an account which shall be known as the penalty and interest account. All interest, fines, and penalties, regardless of when ~~the same~~ **they** became due and payable, collected from employers **and claimants** under the provisions of this Chapter subsequent to January 1, 1951, shall, notwithstanding provisions of R.S. 23:1491, 1543 and 1551, be paid into this account, **except as otherwise provided by this Chapter,** and shall at no time be considered to be a part of the unemployment compensation fund.

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§1531.1. Electronic filing of contribution and wage reports; **employer registrations**

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E. The executive director may require all employers to electronically file all registrations and status reports due after January 31, 2014.

* * *

§1553. Noncharging of benefits; recoupment; social charge account; social charge tax rate

A. Benefits charged after a requalification of a claimant pursuant to the requirements of R.S. 23:1601(1), (2), (3), or (10) shall not be charged against the experience-rating account of an employer ~~who timely filed forms LOES-77, LOES-110, LOES-106, or LOES-152 and the separation was determined to be under disqualifying conditions~~ **when all of the following pertain:**

(1) The employer timely files a separation notice alleging disqualification.

(2) Either a response to a notice of claim filed or a response to a notice to base period employer is filed.

(3) The separation of the employee from the employer is determined to be under disqualifying conditions.

* * *

§1576. Notice of separation

~~Each state board, commission, department, agency, or other employing authority of the state, including but not limited to school boards and police juries,~~ **employer** shall file with the administrator a notice of separation from service **in a form prescribed by the administrator** with respect to each employee who leaves its employ for any cause which may be potentially disqualifying and shall therein state **provide** the date of separation, **a full explanation of** and the cause or causes therefor, **and all requested information about payments made to the separated employee.** The notice shall be mailed, **delivered,** or transmitted **to the administrator and to the separated employee** within three days after the date on which the separation from service occurred.

* * *

§1601. Disqualification for benefits

1 An individual shall be disqualified for benefits:

2 * * *

3 (8)(a) For the week, or fraction thereof, with respect to which he makes a
4 false statement or representation knowing it to be false, or knowingly fails to
5 disclose a material fact in obtaining or increasing benefits, whether or not he is
6 successful in obtaining or increasing benefits, or ~~thereby~~ **otherwise due to his fraud**
7 receives any amount as benefits under this Chapter to which he was not entitled, **for**
8 **the remainder of the benefit year subsequent to the commission of the**
9 **fraudulent act** and **continuing** for the fifty-two weeks which immediately follow
10 the week in which such determination was made. All benefits paid with respect to
11 such weeks shall be immediately due and on demand paid in accordance with
12 department regulations to the administrator for the fund and such individual shall not
13 be entitled to further benefits until repayment has been made or the claim for
14 repayment has prescribed. **If information indicating a claimant has earned any**
15 **unreported wages for weeks claimed is obtained by the administrator, prior to**
16 **the administrator rendering a determination on the issue the claimant shall be**
17 **notified by mail or other delivery method. The claimant shall have seven days**
18 **from the date of mailing to respond, or if notice is not by mail, then the claimant**
19 **shall have seven days from the delivery date of such notice to respond.**

20 (b) A claim for repayment under this Section shall prescribe against the state
21 ~~five~~ **ten** years from the date the administrator determines that repayment is due. This
22 prescription shall be interrupted for the period of time during which an appeal is
23 pending, by the filing of suit for collection by the administrator or by an
24 acknowledgment or partial payment of the indebtedness. Any disqualification
25 decision or determination pursuant to this Paragraph may be appealed in the same
26 manner as from any other disqualification imposed under this Chapter.

27 * * *

28 §1713. Waiver of recovery and recovery of benefits improperly received by
29 beneficiary

30 * * *

1 B. The issue of waiver of the right of recovery of any overpayment of
 2 benefits shall be heard upon any appeal of such determination or assessment of
 3 overpayment. The appeal referee, board of review, or any court of jurisdiction, ~~or the~~
 4 ~~administrator pursuant to the conditions under Subsection C;~~ may waive the right of
 5 recovery of any overpaid benefits received by any person who has received such
 6 benefits under this Chapter while any conditions for the receipt thereof were not
 7 fulfilled in his case, or while he was disqualified from receiving such benefits,
 8 provided that the **when all of the following pertain:**

9 **(1) The** receipt of said benefits did not come within the fraud provisions of
 10 R.S. 23:1601(8), ~~the~~.

11 **(2) The** overpayment was without fault of the claimant, ~~;~~ **In determining**
 12 **whether the claimant was at fault, whether the claimant provided inaccurate**
 13 **information, failed to disclose a material fact, or knew or should have known**
 14 **that he was not entitled to benefits shall be considered, and any such act by the**
 15 **claimant shall preclude the granting of a waiver,** and the

16 **(3) The** ~~recovery thereof would defeat the purpose of benefits otherwise~~
 17 ~~authorized or the recovery thereof would be against equity and good conscience.~~ **In**
 18 **determining whether the recovery of the overpayment would be against equity**
 19 **and good conscience, whether recovery would render the claimant unable to**
 20 **cover ordinary living expenses for six months, and whether the claimant was**
 21 **notified that a reversal on appeal would result in an overpayment of benefits**
 22 **shall be considered.**

23 C. ~~If a claimant who is assessed an overpayment does not file an appeal of~~
 24 ~~such assessment, or if a claimant files an untimely appeal to the appeal referee, he~~
 25 ~~may then submit to the administrator a request for waiver of overpayment in~~
 26 ~~accordance with the regulations established by the administrator. The administrator~~
 27 ~~may waive the right of recovery of any such overpaid benefits received by the~~
 28 ~~claimant under the same criteria as above stated in Subsection B. The administrator~~
 29 ~~shall issue a notice of determination either granting or denying the request for waiver~~
 30 ~~of the overpayment. If the claimant disagrees with the determination, he may file an~~

1 appeal as provided for in R.S. 23:1629 et seq.

2 ~~D(1) If the receipt of benefits causing an overpayment is not waived,~~
 3 ~~including fraud cases covered under R.S. 23:1601(8), the amount due~~ **Any amount**
 4 **of benefits for which a person is determined to have been overpaid and the**
 5 **overpayment is not waived** shall, in the discretion of the administrator, be either
 6 deducted from any benefits payable to the claimant under this Chapter or he shall
 7 repay the administrator for the unemployment compensation fund a sum equal to the
 8 amount so received by him, and such sum shall be collectible in the manner provided
 9 for the collection of past due collections.

10 (2) A claim for repayment of benefits which did not come within the fraud
 11 provisions of R.S. 23:1601(8) shall prescribe against the state ~~three~~ **five** years from
 12 the date of the expiration of the benefit year of the claim on which the overpayment
 13 occurred. This prescription shall be interrupted for the period of time during which
 14 an appeal is pending, by the filing of suit for collection by the administrator, by an
 15 acknowledgment or partial payment of the indebtedness, or as provided by R.S.
 16 23:1741 and 1742.

17 (3) When an overpayment has been assessed in the amount of one hundred
 18 dollars or more, upon default, the administrator or his duly authorized representatives
 19 may make in any manner feasible, and cause to be recorded in the mortgage records
 20 of any parish in which such claimant owns immovable property, a statement under
 21 oath showing the amount of the overpayment in default; which statement, when filed
 22 for record, shall operate as a lien, privilege, and mortgage on the immovable property
 23 of the claimant from the date of such filing.

24 §1714. Penalties

25 **A. A civil penalty shall be assessed if benefits are determined to have**
 26 **been overpaid as a result of a fraud disqualification made pursuant to R.S.**
 27 **23:1601(8) in the amount of twenty dollars or twenty-five percent, whichever is**
 28 **greater, of the total overpayment amount. Except as otherwise provided in**
 29 **Subsection C of this Section and any provisions of law in this state relating to**
 30 **the deposit, administration, release, or disbursement of money in the possession**

1 or custody of this state to the contrary notwithstanding, fifteen percent of each
 2 such overpayment amount recovered shall be deposited with the Secretary of
 3 the Treasury of the United States of America to the credit of the account of this
 4 state in the Unemployment Trust Fund established and maintained pursuant to
 5 42 U.S.C.A. §1101, et seq., as amended, and ten percent of each such
 6 overpayment amount recovered shall be deposited in the penalty and interest
 7 account established by R.S. 23:1513 and used to offset collection expenses. A

8 B. In all other instances, a penalty shall be assessed; if ~~legal collection~~
 9 ~~efforts are pursued;~~ the claimant does not voluntarily repay overpaid benefits
 10 within thirty days after the claimant's appeal rights have been exhausted and
 11 the determination becomes final in the amount of twenty dollars or twenty-five
 12 percent, whichever is greater, of the total overpayment debt unless the claimant has
 13 entered into a voluntary repayment plan and has timely made all payments
 14 required thereby. Penalties collected under this Section shall be deposited in the
 15 penalty and interest account established by R.S. 23:1513 and used to offset
 16 collection expenses.

17 C. No penalties may be withheld from amounts recovered by an offset
 18 from unemployment compensation benefits.

19 * * *

20 §1726. Legal effect of assessments; when collectible

21 A. All assessments under this ~~part~~ **Part** shall be tantamount to and the
 22 equivalent of judgments of courts. The assessments are final when made subject
 23 only to modification by an appeal as provided in R.S. 23:1728 or reassessment as
 24 provided in R.S. 23:1725. Assessments are immediately collectible when made and
 25 any employer may waive any delays and notices provided for in this ~~part~~ **Part**.

26 B. No employer against whom an assessment under this Part is in effect
 27 and whose right to appeal the assessment is exhausted may submit a bid or
 28 proposal for or obtain any contract pursuant to Chapter 10 of Title 38 of the
 29 Louisiana Revised Statutes of 1950 and Chapters 16 and 17 of Title 39 of the
 30 Louisiana Revised Statutes of 1950. This prohibition shall cease upon payment

1 **in full of the amount due under the assessment.**

2 Section 2. R.S. 23:1713(D) is hereby repealed.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____