

CHAPTER 32**(HB 232)**

AN ACT relating to unemployment insurance.

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

Section 1. KRS 341.540 is amended to read as follows:

- (1) Any employing unit which succeeds to or acquires the organization, trade, or business of a subject employer shall assume the resources and liabilities of the predecessor's reserve account, including interest, and shall continue the payment of all contributions and interest due under this chapter, except that the successor or acquirer shall not be required to assume the liability of any delinquent contributions and interest of a predecessor or predecessors unless the cabinet notifies the successor or acquirer of ~~the~~~~such~~ delinquency within six (6) months after the department has notice of the succession or acquisition.
- (2) The liability for delinquent contributions and interest imposed upon the successor or acquirer by subsection (1) of this section shall be secondary to the liability of the predecessor or predecessors, and if the delinquency has been reduced to judgment, the order of execution on ~~the~~~~such~~ judgment shall be as follows:
 - (a) Against the assets, both real and personal, of the predecessor or predecessors;
 - (b) Against the assets, both real and personal, of the business acquired; and
 - (c) Against the assets, both real and personal, of the successor or acquirer.
- (3) Notwithstanding the provisions of subsection (1), any employing unit which succeeds to or acquires a segregable and identifiable portion of the organization, trade, or business from a subject employer, and who is, or by reason of ~~the~~~~such~~ succession or acquisition becomes, a subject employer, shall assume the position of ~~an~~~~such~~ employer with respect to the resources and liabilities of ~~the~~~~such~~ reserve account in proportion to the percentage of the payroll or employees assignable to the transferred portion. ***In calculating the transferred portion, the secretary shall utilize the last four (4) calendar quarters, preceding the date of succession or acquisition, for workers employed by the successor subsequent to that date.*** ~~as determined by the secretary, and~~ The taxable payroll, benefit charges and the potential benefit charges shall likewise be assumed by the successors or acquirers in interest in a like proportion.
- (4)
 - (a) The contribution rate of a successor or acquirer employing unit, whether in whole or in part, which was a subject employer prior to such succession or acquisition, shall not be affected by the transfer of the reserve account for the remainder of the rate year in which such succession or acquisition occurred.
 - (b) The contribution rate of a successor or acquirer employing unit, either in whole or in part, which was not a subject employer prior to such succession or acquisition, shall be, for the calendar year in which such succession or acquisition occurred, the same rate as that of its predecessor.
 - (c) The contribution rate for a successor or acquirer employing unit, which was not a subject employer prior to the simultaneous succession to or acquisition of two (2) or more predecessor reserve accounts, either in whole or in part, shall be the rate determined in accordance with the provisions of KRS 341.270, by combining the

reserve accounts succeeded to or acquired as they existed as of the computation date for determining rates for the calendar year in which such succession or acquisition occurred.

- (d) The contribution rate of a successor or acquirer employing unit which succeeds to or acquires, either in whole or in part, a predecessor's reserve account after a computation date but prior to the beginning of the calendar year immediately following such computation date shall be the rate determined, in accordance with KRS 341.270, by effecting the transfer of such reserve account as of the computation date immediately preceding the date of such succession or acquisition.

Approved February 25, 2000

