

1 AN ACT relating to unemployment insurance.

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

3 ➔Section 1. KRS 341.415 is amended to read as follows:

- 4 (1) (a) Any person who has received any sum as benefits under this chapter or any
5 other state's unemployment insurance statutes or any United States
6 Department of Labor unemployment insurance benefit program, providing the
7 secretary has signed a reciprocal agreement with such other state or the United
8 States Department of Labor as provided in KRS 341.145, while any condition
9 for the receipt of such benefits was not fulfilled in his or her case, or while he
10 or she was disqualified from receiving benefits, or if he or she has received
11 benefits in weeks for which he or she later receives a back pay award, shall, in
12 the discretion of the secretary, either have such sum deducted from any future
13 benefits payable to him or her under this chapter or repay the Office of
14 Unemployment Insurance, Department of Workforce Investment, for the fund
15 a sum equal to the amount so received by him or her.
- 16 (b) If after due notice, the recipient of such sum fails to remit or arrange for
17 remittance of the sum, the sum may be collected in the manner provided in
18 KRS 341.300(2) for collection of past-due contributions and any sums so
19 collected shall be credited to the pooled account or the appropriate
20 reimbursing employer account.
- 21 (c) The appropriate reimbursing employer account shall not receive credit for
22 sums collected under this subsection or KRS 341.550(2)(b) if a determination
23 has been made that an improper benefit payment established after October 21,
24 2013, was due to the reimbursing employer, or an agent of the employer, in
25 accordance with the provisions of KRS 341.530(4)(a) and (b). The sums
26 collected shall be credited to the pooled account.
- 27 (d) If any benefit was paid as a result of office error as defined by administrative

1 regulation, there shall be no recoupment or recovery of an improperly paid
2 benefit, except by deduction from any future benefits payable to him or her
3 under this chapter. For purposes of this section, overpayments as a result of a
4 reversal of entitlement to benefits in the appeal or review process shall not be
5 construed to be the result of office error.

6 (2) At or after the commencement of an action under subsection (1) of this section,
7 attachment may be had against property of the recipient of improperly paid benefits
8 in the manner provided in KRS 341.300(3).

9 (3) A lien on a parity with state, county, and municipal ad valorem tax liens, is hereby
10 created in favor of the office upon all property of any recipient of improperly paid
11 benefits. This lien shall be for a sum equal to the amount of the overpayment finally
12 determined and shall continue until the amount of the overpayment plus any
13 subsequent assessment of additional improperly paid benefits, penalty, interest, and
14 fees are fully paid. The lien shall commence from such time as the recipient has
15 exhausted or abandoned the appeal procedure set forth in this chapter and the
16 amount of the overpayment is finally fixed. A notice of lien may be filed in the
17 same manner as that provided for in KRS 341.310.

18 (4) Any amount paid to a person as benefits, which he or she has been found liable to
19 repay or to have deducted from future benefits under subsections (1), (2), and (3) of
20 this section, which has neither been repaid nor so deducted within a period of five
21 (5) years following the last day of the benefit year within which it was paid, may be
22 deemed to be uncollectible and shall be permanently charged to the pooled account,
23 except that if such payment was made by reason of fraudulent representations, no
24 future benefits shall be paid such person within a period of ten (10) years of the last
25 day of the benefit year within which such payments were made at which time these
26 amounts may be declared uncollectible. Nothing in this subsection shall be deemed
27 to affect collection of improperly paid benefits pursuant to a judgment or other legal

1 remedy.

2 (5) In the event benefits have been paid as a result of a false statement,
3 misrepresentation, or concealment of material information by a recipient of benefits
4 and have not been repaid by the recipient within one (1) calendar year from the date
5 of the first notice, interest at the rate of one and five-tenths percent (1.5%) per
6 month or any part thereof, shall be imposed on and added to the unpaid balance
7 each successive month, providing due notice has been given to the recipient. Such
8 interest shall be paid into the unemployment compensation administration account.

9 (6) A recipient of benefits paid as a result of a false statement, misrepresentation, or
10 concealment of material information by the recipient shall be assessed a fifteen
11 percent (15%) penalty of the amount of improperly paid benefits. The penalty under
12 this subsection shall be collected in the same manner as improperly paid benefits in
13 this section and paid into the unemployment trust fund.

14 (7) The deduction from future benefits specified in subsection (1) of this section shall
15 be limited to twenty-five percent (25%) of the benefit amount otherwise payable
16 under this chapter unless the overpayment resulted from a backpay award, false
17 statement, misrepresentation, or concealment of material information by a recipient
18 of benefits. In these instances, the rate of deduction shall be one hundred percent
19 (100%). The rate of deduction from benefits payable by another state or the United
20 States of America shall be determined by the applicable state or federal statute.

21 **(8) Upon request of the recipient, the secretary may waive an overpayment of benefits**
22 **if he or she finds that recovery of the overpayment would be against equity and**
23 **good conscience and the overpayment was:**

24 **(a) Due to administrative, clerical, or office error; or**

25 **(b) Not the result of fraud, misrepresentation, willful nondisclosure, or fault**
26 **attributable to the recipient.**

27 ➔Section 2. KRS 341.450 is amended to read as follows:

- 1 (1) Except as provided in KRS 341.460, within thirty-five (35)~~twenty (20)~~ days after
2 the date of the decision of the commission, any party aggrieved thereby may, after
3 exhausting his remedies before the commission, secure judicial review thereof by
4 filing a complaint against the commission in the Circuit Court of the county in
5 which the claimant was last employed by a subject employer whose reserve account
6 or reimbursing employer account is affected by such claims. Any other party to the
7 proceeding before the commission shall be made a defendant in such action. The
8 complaint shall state fully the grounds upon which review is sought, assign all
9 errors relied on, and shall be verified by the plaintiff or his attorney. The plaintiff
10 shall furnish copies thereof for each defendant to the commission, which shall
11 deliver one (1) copy to each defendant.
- 12 (2) Summons shall issue upon the complaint directing the commission to file answer
13 within twenty (20) days after service thereof. Such summons shall be served upon a
14 member of the commission, or upon such person as the commission designates, and
15 such service shall be deemed complete service upon all members of the
16 commission. The commission may be represented by any qualified attorney
17 designated by the commission for that purpose or, at the request of the commission,
18 by the Attorney General. With its answer, the commission shall certify and file as an
19 exhibit with the court all documents and papers, and a transcript of all testimony
20 taken in the matter, and orders made therein, together with its findings of fact and
21 decision therein. If consented to by the plaintiff and the adverse party, an abstract of
22 any portion of the record may be certified by the commission in lieu of certifying
23 such portion of the record in full. The commission may certify to the court questions
24 of law involved in any decision by it.
- 25 (3) Such actions, and the questions so certified, shall be heard by the court in a
26 summary manner upon the record certified by the commission. The court on its own
27 motion or on the motion of an interested party shall assign a date certain for the

1 review. The clerk of the court shall notify the attorneys of record of the date
2 assigned for review at least ten (10) days in advance thereof. The court shall enter
3 judgment, affirming, modifying, or setting aside the order and the decision appealed
4 from or determining the question of law certified to it by the commission, and may
5 in advance of judgment, remand the case to the commission for further proceedings
6 in accordance with the direction of the court.

7 (4) An appeal may be taken from the decision of the Circuit Court to the Court of
8 Appeals, in the same manner, but not inconsistent with the provisions of this
9 chapter, as is provided in equity cases.

10 (5) It shall not be necessary, in any judicial proceeding under this section or KRS
11 341.460, to have entered exceptions to the rulings of the commission, and no bond
12 shall be required for entering such appeal. Upon the final determination of such
13 judicial proceeding, the commission shall enter an order in accordance with such
14 determination. A petition for judicial review shall not act as a supersedeas or stay
15 unless the commission shall so order.