



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5861

Introduced 11/10/2020, by Rep. Lindsey LaPointe - Kelly M. Cassidy and Ann M. Williams

SYNOPSIS AS INTRODUCED:

820 ILCS 405/900

from Ch. 48, par. 490

Amends the Unemployment Insurance Act to provide that if an individual's benefit year begins on or after March 8, 2020, but before the week following the last week of a disaster period established by the gubernatorial disaster proclamations in response to COVID-19, recovery by suit in the name of the People of the State of Illinois or recoupment from benefits payable to an individual for any week shall be permanently waived if the sum was received by the individual without fault on his or her part. Provides that, in cases of such permanent waiver of recovery or recoupment, the Director of Employment Security may not request the Comptroller or the Secretary of the Treasury to withhold a sum of benefits for which an individual is found to be ineligible. Effective immediately.

LRB101 22407 BMS 74122 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unemployment Insurance Act is amended by
5 changing Section 900 as follows:

6 (820 ILCS 405/900) (from Ch. 48, par. 490)
7 Sec. 900. Recoupment.)

8 A. Whenever an individual has received any sum as benefits
9 for which he is found to have been ineligible, the amount
10 thereof may be recovered by suit in the name of the People of
11 the State of Illinois, or, from benefits payable to him, may be
12 recouped:

13 1. At any time, if, to receive such sum, he knowingly
14 made a false statement or knowingly failed to disclose a
15 material fact.

16 2. Within 3 years from any date prior to January 1,
17 1984, on which he has been found to have been ineligible
18 for any other reason, pursuant to a reconsidered finding or
19 a reconsidered determination, or pursuant to the decision
20 of a Referee (or of the Director or his representative
21 under Section 604) which modifies or sets aside a finding
22 or a reconsidered finding or a determination or a
23 reconsidered determination; or within 5 years from any date

1 after December 31, 1983, on which he has been found to have
2 been ineligible for any other reason, pursuant to a
3 reconsidered finding or a reconsidered determination, or
4 pursuant to the decision of a Referee (or of the Director
5 or his representative under Section 604) which modifies or
6 sets aside a finding or a reconsidered finding or a
7 determination or a reconsidered determination. Recoupment
8 pursuant to the provisions of this paragraph from benefits
9 payable to an individual for any week may be waived upon
10 the individual's request, if the sum referred to in
11 paragraph A was received by the individual without fault on
12 his part and if such recoupment would be against equity and
13 good conscience. Such waiver may be denied with respect to
14 any subsequent week if, in that week, the facts and
15 circumstances upon which waiver was based no longer exist.

16 3. Notwithstanding paragraph 2, if the individual's
17 benefit year begins on or after March 8, 2020, but prior to
18 the week following the last week of a disaster period
19 established by the gubernatorial disaster proclamation in
20 response to COVID-19, dated March 9, 2020, and any
21 subsequent gubernatorial disaster proclamation in response
22 to COVID-19, recovery by suit in the name of the People of
23 the State of Illinois or recoupment pursuant to paragraph 2
24 from benefits payable to an individual for any week shall
25 be permanently waived if the sum referred to in subsection
26 A was received by the individual without fault on his or

1 her part.

2 B. Whenever the claims adjudicator referred to in Section
3 702 decides that any sum received by a claimant as benefits
4 shall be recouped, or denies recoupment waiver requested by the
5 claimant, he shall promptly notify the claimant of his decision
6 and the reasons therefor. The decision and the notice thereof
7 shall state the amount to be recouped, the weeks with respect
8 to which such sum was received by the claimant, and the time
9 within which it may be recouped and, as the case may be, the
10 reasons for denial of recoupment waiver. The claims adjudicator
11 may reconsider his decision within one year after the date when
12 the decision was made. Such decision or reconsidered decision
13 may be appealed to a Referee within the time limits prescribed
14 by Section 800 for appeal from a determination. Any such
15 appeal, and any appeal from the Referee's decision thereon,
16 shall be governed by the applicable provisions of Sections 801,
17 803, 804 and 805. No recoupment shall be begun until the
18 expiration of the time limits prescribed by Section 800 of this
19 Act or, if an appeal has been filed, until the decision of a
20 Referee has been made thereon affirming the decision of the
21 Claims Adjudicator.

22 C. Any sums recovered under the provisions of this Section
23 shall be treated as repayments to the Department of sums
24 improperly obtained by the claimant.

25 D. Whenever, by reason of a back pay award made by any
26 governmental agency or pursuant to arbitration proceedings, or

1 by reason of a payment of wages wrongfully withheld by an
2 employing unit, an individual has received wages for weeks with
3 respect to which he has received benefits, the amount of such
4 benefits may be recouped or otherwise recovered as herein
5 provided. An employing unit making a back pay award to an
6 individual for weeks with respect to which the individual has
7 received benefits shall make the back pay award by check
8 payable jointly to the individual and to the Department.

9 E. The amount recouped pursuant to paragraph 2 of
10 subsection A from benefits payable to an individual for any
11 week shall not exceed 25% of the individual's weekly benefit
12 amount.

13 Except in the case of permanent waiver of recovery or
14 recoupment as provided in paragraph 3 of subsection A, in ~~in~~
15 addition to the remedies provided by this Section, when an
16 individual has received any sum as benefits for which he is
17 found to be ineligible, the Director may request the
18 Comptroller to withhold such sum in accordance with Section
19 10.05 of the State Comptroller Act and the Director may request
20 the Secretary of the Treasury to withhold such sum to the
21 extent allowed by and in accordance with Section 6402(f) of the
22 federal Internal Revenue Code of 1986, as amended. Benefits
23 paid pursuant to this Act shall not be subject to such
24 withholding. Where the Director requests withholding by the
25 Secretary of the Treasury pursuant to this Section, in addition
26 to the amount of benefits for which the individual has been

1 found ineligible, the individual shall be liable for any
2 legally authorized administrative fee assessed by the
3 Secretary, with such fee to be added to the amount to be
4 withheld by the Secretary.

5 (Source: P.A. 97-621, eff. 11-18-11; 97-791, eff. 1-1-13.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.