



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3851

Introduced 2/22/2021, by Rep. Lindsey LaPointe

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.

LRB102 10749 JLS 16078 b

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
19 or a reconsidered determination, or pursuant to the
20 decision of a Referee (or of the Director or his
21 representative under Section 604) which modifies or sets
22 aside a finding or a reconsidered finding or a
23 determination or a reconsidered determination; or within 5

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

17 3. Notwithstanding paragraph 2, if the individual's
18 benefit year begins on or after March 8, 2020, but prior to
19 the week following the last week of a disaster period
20 established by the gubernatorial disaster proclamation in
21 response to COVID-19, dated March 9, 2020, and any
22 subsequent gubernatorial disaster proclamation in response
23 to COVID-19, recovery by suit in the name of the People of
24 the State of Illinois or recoupment pursuant to paragraph
25 2 from benefits payable to an individual for any week
26 shall be permanently waived if the sum referred to in

1 subsection A was received by the individual without fault
2 on his or her part and if such recoupment or recovery would
3 be against equity and good conscience.

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

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

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

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

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

1 Secretary of the Treasury pursuant to this Section, in
2 addition to the amount of benefits for which the individual
3 has been found ineligible, the individual shall be liable for
4 any legally authorized administrative fee assessed by the
5 Secretary, with such fee to be added to the amount to be
6 withheld by the Secretary.

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

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.