



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB4127

Introduced 9/3/2021, by Rep. Lindsey LaPointe, Kelly M. Cassidy, Sam Yingling, Deb Conroy, Jennifer Gong-Gershowitz, et al.

#### SYNOPSIS AS INTRODUCED:

820 ILCS 405/900

from Ch. 48, par. 490

Amends the Unemployment Insurance Act. In a provision concerning the recoupment of any overpayment made to an individual who is found to have been ineligible for benefits, provides that the individual must be provided written notice of his or her appeal rights including the ability to request waiver of any recovery. Provides that if the Department of Employment Security has previously recouped or recovered overpayment funds from an individual and that individual is granted waiver with respect to those funds, then the individual shall be refunded those funds.

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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 or she is found to have been ineligible, the  
10 individual must be provided written notice of his or her  
11 appeal rights, including the ability to request waiver of any  
12 recovery or recoupment ordered and the standard for such  
13 waiver to be granted. Thereafter, the amount thereof may be  
14 recovered by suit in the name of the People of the State of  
15 Illinois, or, from benefits payable to him, may be recouped:

16 1. At any time, if, to receive such sum, he knowingly  
17 made a false statement or knowingly failed to disclose a  
18 material fact.

19 2. Within 3 years from any date prior to January 1,  
20 1984, on which he has been found to have been ineligible  
21 for any other reason, pursuant to a reconsidered finding  
22 or a reconsidered determination, or pursuant to the  
23 decision of a Referee (or of the Director or his

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

20 Recovery by suit in the name of the People of the State of  
21 Illinois, recoupment pursuant to paragraph 2 of this  
22 subsection A from benefits payable to an individual for any  
23 week, and, notwithstanding any provision to the contrary in  
24 the Illinois State Collection Act of 1986, withholding  
25 pursuant to subsection E shall be permanently waived if the  
26 sum referred to in this subsection A was received by the

1 individual without fault on his or her part and if such  
2 recoupment would be against equity and good conscience, and  
3 the sum referred to in this subsection A was received by the  
4 individual on or after March 8, 2020, but prior to the last day  
5 of a disaster period established by the gubernatorial disaster  
6 proclamation in response to COVID-19, dated March 9, 2020, and  
7 any consecutive gubernatorial disaster proclamation in  
8 response to COVID-19. If the Department has previously  
9 recouped or recovered overpayment funds from an individual and  
10 that individual is granted a waiver under this Section with  
11 respect to those funds, then that individual shall be refunded  
12 those funds. To be eligible for permanent waiver under this  
13 paragraph, an individual must request a waiver pursuant to  
14 this paragraph within 45 days of the mailing date of the notice  
15 from the Department that the individual may request a waiver.  
16 A determination under this paragraph may be appealed to a  
17 Referee within the time limits prescribed by Section 800 for  
18 an appeal from a determination. Any such appeal, and any  
19 appeal from the Referee's decision thereon, shall be governed  
20 by the applicable provisions of Sections 801, 803, 804, and  
21 805. This paragraph shall not apply with respect to benefits  
22 that are received pursuant to any program that the Department  
23 administers as an agent of the federal government and for  
24 which the individual is found to have been ineligible, unless  
25 otherwise allowed by the federal government.

26 B. Whenever the claims adjudicator referred to in Section

1 702 decides that any sum received by a claimant as benefits  
2 shall be recouped, or denies recoupment waiver requested by  
3 the claimant, he shall promptly notify the claimant of his  
4 decision and the reasons therefor. The decision and the notice  
5 thereof shall state the amount to be recouped, the weeks with  
6 respect to which such sum was received by the claimant, and the  
7 time within which it may be recouped and, as the case may be,  
8 the reasons for denial of recoupment waiver. The claims  
9 adjudicator may reconsider his decision within one year after  
10 the date when the decision was made. Such decision or  
11 reconsidered decision may be appealed to a Referee within the  
12 time limits prescribed by Section 800 for appeal from a  
13 determination. Any such appeal, and any appeal from the  
14 Referee's decision thereon, shall be governed by the  
15 applicable provisions of Sections 801, 803, 804 and 805. No  
16 recoupment shall be begun until the expiration of the time  
17 limits prescribed by Section 800 of this Act or, if an appeal  
18 has been filed, until the decision of a Referee has been made  
19 thereon affirming the decision of the Claims Adjudicator.

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

23 D. Whenever, by reason of a back pay award made by any  
24 governmental agency or pursuant to arbitration proceedings, or  
25 by reason of a payment of wages wrongfully withheld by an  
26 employing unit, an individual has received wages for weeks

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

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

11 In addition to the remedies provided by this Section, when  
12 an individual has received any sum as benefits for which he is  
13 found to be ineligible, the Director may request the  
14 Comptroller to withhold such sum in accordance with Section  
15 10.05 of the State Comptroller Act and the Director may  
16 request the Secretary of the Treasury to withhold such sum to  
17 the extent allowed by and in accordance with Section 6402(f)  
18 of the federal Internal Revenue Code of 1986, as amended.  
19 Benefits paid pursuant to this Act shall not be subject to such  
20 withholding. Where the Director requests withholding by the  
21 Secretary of the Treasury pursuant to this Section, in  
22 addition to the amount of benefits for which the individual  
23 has been found ineligible, the individual shall be liable for  
24 any legally authorized administrative fee assessed by the  
25 Secretary, with such fee to be added to the amount to be  
26 withheld by the Secretary.

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1 (Source: P.A. 102-26, eff. 6-25-21.)