



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5260

Introduced 2/9/2024, by Rep. Hoan Huynh

SYNOPSIS AS INTRODUCED:

820 ILCS 405/900

from Ch. 48, par. 490

Amends the Unemployment Insurance Act. In provisions concerning the recoupment of benefits granted to an ineligible individual, provides that an applicant for a waiver shall be rebuttably presumed to be eligible for the waiver unless the Department of Employment Security can show by clear and convincing evidence that the applicant does not meet one or more of the required criteria. Provides that an applicant for the waiver whose application was denied prior to the effective date of the amendatory Act may reapply for a waiver and shall be rebuttably presumed to be eligible for the waiver unless the Department can show by clear and convincing evidence that the applicant does not meet one or more of the required criteria. Provides that the Department shall mail a notice to every applicant for a waiver who was denied prior to the effective date of the amendatory Act to inform them that they may reapply for a waiver as provided in the provisions.

LRB103 38151 SPS 68284 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 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 recoupment ordered and the standard for such waiver to be
13 granted. Thereafter, the amount thereof may be recovered by
14 suit in the name of the People of the State of Illinois, or,
15 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. To be eligible for permanent waiver
9 under this paragraph, an individual must request a waiver
10 pursuant to this paragraph within 45 days of the mailing date
11 of the notice from the Department that the individual may
12 request a waiver. An applicant for a waiver shall be
13 rebuttably presumed to be eligible for the waiver unless the
14 Department can show by clear and convincing evidence that the
15 applicant does not meet one or more of the required criteria.
16 An applicant for the waiver whose application was denied prior
17 to the effective date of this amendatory Act of the 103rd
18 General Assembly may reapply for a waiver and shall be
19 rebuttably presumed to be eligible for the waiver unless the
20 Department can show by clear and convincing evidence that the
21 applicant does not meet one or more of the required criteria.
22 The Department shall mail a notice to every applicant for a
23 waiver who was denied prior to the effective date of this
24 amendatory Act of the 103rd General Assembly to inform them
25 that they may reapply for a waiver as provided in this
26 subsection. A determination under this paragraph may be

1 appealed to a Referee within the time limits prescribed by
2 Section 800 for an appeal from a determination. Any such
3 appeal, and any appeal from the Referee's decision thereon,
4 shall be governed by the applicable provisions of Sections
5 801, 803, 804, and 805. This paragraph shall not apply with
6 respect to benefits that are received pursuant to any program
7 that the Department administers as an agent of the federal
8 government and for which the individual is found to have been
9 ineligible.

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

1 limits prescribed by Section 800 of this Act or, if an appeal
2 has been filed, until the decision of a Referee has been made
3 thereon affirming the decision of the Claims Adjudicator.

4 C. Any sums recovered under the provisions of this Section
5 shall be treated as repayments to the Department of sums
6 improperly obtained by the claimant.

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

17 E. The amount recouped pursuant to paragraph 2 of
18 subsection A from benefits payable to an individual for any
19 week shall not exceed 25% of the individual's weekly benefit
20 amount.

21 In addition to the remedies provided by this Section, when
22 an individual has received any sum as benefits for which he is
23 found to be ineligible, the Director may request the
24 Comptroller to withhold such sum in accordance with Section
25 10.05 of the State Comptroller Act and the Director may
26 request the Secretary of the Treasury to withhold such sum to

1 the extent allowed by and in accordance with Section 6402(f)
2 of the federal Internal Revenue Code of 1986, as amended.
3 Benefits paid pursuant to this Act shall not be subject to such
4 withholding. Where the Director requests withholding by the
5 Secretary of the Treasury pursuant to this Section, in
6 addition to the amount of benefits for which the individual
7 has been found ineligible, the individual shall be liable for
8 any legally authorized administrative fee assessed by the
9 Secretary, with such fee to be added to the amount to be
10 withheld by the Secretary.

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