

SUBSTITUTE FOR
HOUSE BILL NO. 4949

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 62 (MCL 421.62), as amended by 2011 PA 269.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 62. (a) If the unemployment agency determines that a
2 person has obtained benefits to which that person is not entitled,
3 ~~it~~ **OR A SUBSEQUENT DETERMINATION BY THE AGENCY OR A DECISION OF AN**
4 **APPELLATE AUTHORITY REVERSES A PRIOR QUALIFICATION FOR BENEFITS,**
5 **THE AGENCY** may recover a sum equal to the amount received plus
6 interest by 1 or more of the following methods: deduction from
7 benefits or wages payable to the individual, payment by the
8 individual in cash, or deduction from a tax refund payable to the
9 individual as provided under section 30a of 1941 PA 122, MCL

1 205.30a. Deduction from benefits or wages payable to the individual
2 is limited to not more than 50% of each payment due the claimant.
3 The unemployment agency shall issue a determination requiring
4 restitution within 3 years after the date of finality of a
5 determination, redetermination, or decision reversing a previous
6 finding of benefit entitlement. The unemployment agency shall not
7 initiate administrative or court action to recover improperly paid
8 benefits from an individual more than 3 years after the date that
9 the last determination, redetermination, or decision establishing
10 restitution is final. The unemployment agency shall issue a
11 determination on an issue within 3 years from the date the claimant
12 first received benefits in the benefit year in which the issue
13 arose, or in the case of an issue of intentional false statement,
14 misrepresentation, or concealment of material information in
15 violation of section 54(a) or (b) or sections 54a to 54c, within 6
16 years after the receipt of the improperly paid benefits unless the
17 unemployment agency filed a civil action in a court within the 3-
18 year or 6-year period; the individual made an intentional false
19 statement, misrepresentation, or concealment of material
20 information to obtain the benefits; or the unemployment agency
21 issued a determination requiring restitution within the 3-year or
22 6-year period. Except in a case of an intentional false statement,
23 misrepresentation, or concealment of material information, the
24 unemployment agency ~~may~~**SHALL** waive recovery of an improperly paid
25 benefit if the payment was not the fault of the individual and if
26 repayment would be contrary to equity and good conscience and shall
27 waive any interest. If the agency or an appellate authority waives

House Bill No. 4949 as amended September 25, 2013

1 collection of restitution and interest, the waiver is prospective
2 and does not apply to restitution and interest payments already
3 made by the individual. AS USED IN THIS SUBSECTION, "CONTRARY TO
4 EQUITY AND GOOD CONSCIENCE" MEANS ANY OF THE FOLLOWING:

5 (i) THE CLAIMANT PROVIDED INCORRECT WAGE INFORMATION WITHOUT
6 THE INTENT TO MISREPRESENT, AND THE EMPLOYER PROVIDED EITHER NO
7 WAGE INFORMATION UPON REQUEST OR PROVIDED INACCURATE WAGE
8 INFORMATION THAT RESULTED IN THE OVERPAYMENT.

9 (ii) THE CLAIMANT'S DISPOSABLE HOUSEHOLD INCOME, EXCLUSIVE OF
10 SOCIAL WELFARE BENEFITS, IS AT OR BELOW THE ANNUAL UPDATE OF THE
11 POVERTY GUIDELINES MOST RECENTLY PUBLISHED IN THE FEDERAL REGISTER
12 BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER
13 THE AUTHORITY OF 42 USC 9902(2), AND THE CLAIMANT HAS APPLIED FOR A
14 WAIVER UNDER THIS SUBSECTION. [A WAIVER GRANTED UNDER THIS SUBSECTION
APPLIES FROM THE DATE THE APPLICATION IS FILED.]

15 (iii) THE IMPROPER PAYMENTS RESULTED FROM AN ADMINISTRATIVE OR
16 CLERICAL ERROR BY THE UNEMPLOYMENT AGENCY. A REQUIREMENT TO REPAY
17 BENEFITS AS THE RESULT OF A CHANGE IN JUDGMENT AT ANY LEVEL OF
18 ADMINISTRATIVE ADJUDICATION OR COURT DECISION CONCERNING THE FACTS
19 OR APPLICATION OF LAW TO A CLAIM ADJUDICATION IS NOT AN
20 ADMINISTRATIVE OR CLERICAL ERROR FOR PURPOSES OF THIS SUBDIVISION.

21 ~~(b) For benefit years beginning before October 1, 2000, if the~~
22 ~~unemployment agency determines that a person has intentionally made~~
23 ~~a false statement or misrepresentation or has concealed material~~
24 ~~information to obtain benefits, whether or not the person obtains~~
25 ~~benefits by or because of the intentional false statement,~~
26 ~~misrepresentation, or concealment of material information, the~~
27 ~~person shall, in addition to any other applicable interest and~~

1 ~~penalties, have all of his or her uncharged credit weeks with~~
2 ~~respect to the benefit year in which the act occurred canceled as~~
3 ~~of the date the unemployment agency receives notice of, or~~
4 ~~initiates investigation of, the possible false statement,~~
5 ~~misrepresentation, or concealment of material information,~~
6 ~~whichever date is earlier. Before receiving benefits in a benefit~~
7 ~~year established within 2 years after cancellation of uncharged~~
8 ~~credit weeks under this subsection, the individual, in addition to~~
9 ~~making the restitution of benefits established under subsection~~
10 ~~(a), may be liable for an additional amount as determined by the~~
11 ~~unemployment agency under this act, which may be paid by cash,~~
12 ~~deduction from benefits, or deduction from a tax refund.~~
13 ~~Restitution resulting from the intentional false statement,~~
14 ~~misrepresentation, or concealment of material information is not~~
15 ~~subject to the 50% limitation provided in subsection (a). For~~
16 ~~benefit years beginning on or after October 1, 2000, if the~~
17 ~~unemployment agency determines that a person has intentionally made~~
18 ~~a false statement or misrepresentation or has concealed material~~
19 ~~information to obtain benefits, whether or not the person obtains~~
20 ~~benefits by or because of the intentional false statement,~~
21 ~~misrepresentation, or concealment of material information, the~~
22 ~~person shall, in addition to any other applicable interest and~~
23 ~~penalties, have his or her rights to benefits for the benefit year~~
24 ~~in which the act occurred canceled as of the date the unemployment~~
25 ~~agency receives notice of, or initiates investigation of, a~~
26 ~~possible false statement, misrepresentation, or concealment of~~
27 ~~material information, whichever date is earlier, CLAIMANT MADE THE~~

1 FALSE STATEMENT OR MISREPRESENTATION OR CONCEALED MATERIAL
2 INFORMATION, and wages used to establish that benefit year shall
3 not be used to establish another benefit year. A CHARGEABLE
4 EMPLOYER MAY PROTEST A CLAIM FILED AFTER OCTOBER 1, 2014 TO
5 ESTABLISH A SUCCESSIVE BENEFIT YEAR UNDER SECTION 46(C), IF THERE
6 WAS A DETERMINATION BY THE UNEMPLOYMENT AGENCY OR DECISION OF A
7 COURT OR ADMINISTRATIVE TRIBUNAL FINDING THAT THE CLAIMANT MADE A
8 FALSE STATEMENT, MADE A MISREPRESENTATION, OR CONCEALED MATERIAL
9 INFORMATION RELATED TO HIS OR HER REPORT OF EARNINGS FOR A
10 PRECEDING BENEFIT YEAR CLAIM. IF A PROTEST IS MADE, ANY UNREPORTED
11 EARNINGS FROM THE PRECEDING BENEFIT YEAR THAT WERE FALSELY STATED,
12 MISREPRESENTED, OR CONCEALED SHALL NOT BE USED TO ESTABLISH A
13 BENEFIT YEAR FOR A SUCCESSIVE CLAIM. Before receiving benefits in a
14 benefit year established within 4 years after cancellation of
15 rights to benefits under this subsection, the individual, in
16 addition to making the restitution of benefits established under
17 subsection (a), may be liable for an additional amount as otherwise
18 determined by the unemployment agency under this act, which may be
19 paid by cash, deduction from benefits, or deduction from a tax
20 refund. Restitution resulting from the intentional false statement,
21 misrepresentation, or concealment of material information is not
22 subject to the 50% limitation provided in subsection (a).

23 (c) Any determination made by the unemployment agency under
24 this section is final unless an application for a redetermination
25 is filed in accordance with section 32a.

26 (d) The unemployment agency shall take the action necessary to
27 recover all benefits improperly obtained or paid under this act,

1 and to enforce all interest and penalties under subsection (b). The
2 unemployment agency may conduct an amnesty program for a designated
3 period under which penalties and interest assessed against an
4 individual owing restitution for improperly paid benefits may be
5 waived if the individual pays the full amount of restitution owing
6 within the period specified by the agency.

7 (e) Interest recovered under this section shall be deposited
8 in the contingent fund.

9 Enacting section 1. This amendatory act does not take effect
10 unless all of the following bills of the 97th Legislature are
11 enacted into law:

12 (a) House Bill No. 4950.

13 (b) House Bill No. 4951.

14 (c) House Bill No. 4952.

15 (d) House Bill No. 4953.

16 (e) House Bill No. 4954.