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**HOUSE BILL NO. 881**

Offered January 9, 2008

Prefiled January 8, 2008

A *BILL to amend and reenact §§ 60.2-619 and 60.2-633 of the Code of Virginia, relating to enforcement of orders of the Virginia Employment Commission; actions to collect overpayment of benefits.*

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Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:****1. That §§ 60.2-619 and 60.2-633 of the Code of Virginia are amended and reenacted as follows:**

§ 60.2-619. Determinations and decisions by deputy; appeals therefrom.

A. 1. A representative designated by the Commission as a deputy, shall promptly examine the claim. On the basis of the facts found by him, the deputy shall either:

a. Determine whether or not such claim is valid, and if valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof; or

b. Refer such claim or any question involved therein to any appeal tribunal or to the Commission, which tribunal or Commission shall make its determination in accordance with the procedure described in § 60.2-620.

2. When the payment or denial of benefits will be determined by the provisions of subdivision 2 of § 60.2-612, the deputy shall promptly transmit his full finding of fact with respect to that subdivision to any appeal tribunal, which shall make its determination in accordance with the procedure described in § 60.2-620.

B. Upon the filing of an initial claim for benefits, the Commission shall cause an informatory notice of such filing to be mailed to the most recent thirty-day or 240-hour employing unit of the claimant and all subsequent employing units, and any reimbursable employing units which may be liable for reimbursement to the Commission for any benefits paid. However, the failure to furnish such notice shall not have any effect upon the claim for benefits.

C. Notice of determination upon a claim shall be promptly given to the claimant by delivering or by mailing such notice to the claimant's last known address. In addition, notice of any determination which involves the application of the provisions of § 60.2-618, together with the reasons therefor, shall be promptly given in the same manner to the most recent thirty-day or 240-hour employing unit by whom the claimant was last employed and any subsequent employing unit which is a party. The Commission may dispense with the giving of notice of any determination to any employing unit, and such employing unit shall not be entitled to such notice if it has failed to indicate prior to the determination, as required by regulation promulgated by the Commission, that the claimant may be ineligible or disqualified under any provision of this title. The deputy shall promptly notify the claimant of any decision made by him at any time which in any manner denies benefits to the claimant for one or more weeks.

D. Such determination or decision shall be final unless the claimant or any such employing unit files an appeal from such determination or decision (i) within thirty calendar days after the delivery of such notification, (ii) within thirty calendar days after such notification was mailed to his last known address, or (iii) within thirty days after such notification was mailed to the last known address of an interstate claimant. For good cause shown, the thirty-day period may be extended.

E. Benefits shall be paid promptly in accordance with a determination or redetermination under this chapter, or decision of an appeal tribunal, the Commission, the Board of Review or a reviewing court under §§ 60.2-625 and 60.2-631 upon the issuance of such determination, redetermination or decision, regardless of the pendency of the period to file an appeal or petition for judicial review that is provided in this chapter, or the pendency of any such appeal or review. Such benefits shall be paid unless or until such determination, redetermination or decision has been modified or reversed by a subsequent redetermination or decision, in which event benefits shall be paid or denied for weeks of unemployment thereafter in accordance with such modifying or reversing redetermination or decision. If a decision of an appeal tribunal allowing benefits is affirmed in any amount by the Commission, benefits shall continue to be paid until such time as a court decision has become final so that no further appeal can be taken. If an appeal is taken from the Commission's decision, benefits paid shall result in a benefit charge to the account of the employer under § 60.2-530 only when, and as of the date on which, as the result of an appeal, the courts finally determine that the Commission should have awarded benefits to the claimant or claimants involved in such appeal.

INTRODUCED

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59 *F. Final orders of the Commission or circuit court may be recorded, enforced and satisfied as orders*  
60 *or decrees of a circuit court upon certification of such orders by the Commissioner or court as*  
61 *appropriate.*

62 § 60.2-633. Receiving benefits to which not entitled.

63 A. Any person who has received any sum as benefits under this title to which he was not entitled  
64 shall be liable to repay such sum to the Commission. In the event the claimant does not refund the  
65 overpayment, the Commission shall deduct from any future benefits such sum payable to him under this  
66 title unless overpayment occurred due to administrative error, in which case the Commission shall  
67 deduct only fifty percent of the payable amount for any future week of benefits claimed, rounded down  
68 to the next lowest dollar until the overpayment is satisfied. Administrative error shall not include  
69 decisions reversed in the appeals process. ~~In addition, the overpayment may be collectible by civil action~~  
70 ~~in the name of the Commission. Amounts collected in this manner may be subject to an interest charge~~  
71 ~~as prescribed in § 58.1-15 from the date of judgment and may be subject to fees and costs.~~ Collection  
72 activities for any benefit overpayment established of five dollars or less may be suspended. The  
73 Commission may, for good cause, determine as uncollectible and discharge from its records any benefit  
74 overpayment which remains unpaid after the expiration of seven years from the date such overpayment  
75 was determined, or immediately upon the death of such person or upon his discharge in bankruptcy  
76 occurring subsequently to the determination of overpayment. Any existing overpayment balance not  
77 equal to an even dollar amount shall be rounded to the next lowest even dollar amount.

78 B. The Commission is authorized to accept repayment of benefit overpayments by use of a credit  
79 card. The Virginia Employment Commission shall add to such payment a service charge for the  
80 acceptance of such card. Such service charge shall not exceed the percentage charged to the Virginia  
81 Employment Commission for use of such card.