

# VIRGINIA ACTS OF ASSEMBLY -- 2008 SPECIAL SESSION II

## CHAPTER 11

*An Act to amend and reenact § 60.2-611 of the Code of Virginia, relating to extended unemployment compensation benefits.*

[S 6019]

Approved July 24, 2008

**Be it enacted by the General Assembly of Virginia:**

**1. That § 60.2-611 of the Code of Virginia is amended and reenacted as follows:**

§ 60.2-611. Receipt of extended benefits.

A. Except when the result would be inconsistent with the other provisions of this section, as provided in the regulations of the Commission, the provisions of this title which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

B. An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the Commission finds that for such week:

1. He is an "exhaustee" as defined in subsection F of § 60.2-610;

2. He has satisfied the requirements of this title for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; *and*

3. *He had during his base period 20 weeks of full-time insured employment, or the equivalent in insured wages. For purposes of this subdivision, "or the equivalent in insured wages" means more than 40 times the individual's most recent weekly benefit amount.*

C. The weekly extended benefit amount payable to an individual for a week of total unemployment in his eligibility period shall equal the weekly benefit amount payable to him during his applicable benefit year.

D. The total extended benefit amount payable to any eligible individual for his applicable benefit year shall be the least of the following amounts:

1. Fifty percent of the total amount of regular benefits which were payable to him under this title in his applicable benefit year;

2. Thirteen times his weekly benefit amount which was payable to him under this title for a week of total unemployment in the applicable benefit year; or

3. Thirty-nine times his weekly benefit amount which was payable to him under this title for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits which were paid or deemed paid to him under this title for the benefit year.

E. 1. Whenever an extended benefit period is to become effective in this Commonwealth as a result of a state "on" indicator, or an extended benefit period is to be terminated in this Commonwealth as a result of state "off" indicators, the Commission shall make an appropriate public announcement.

2. Computations required by the provisions of subsection B of § 60.2-610 shall be made by the Commission, in accordance with regulations prescribed by the United States Secretary of Labor.

3. An "on" or "off" indicator for this Commonwealth shall be determined without regard to subdivision 1 of subsection H of § 60.2-610 for any period that waiver of such provisions is authorized under § 203 (d) of the Federal-State Extended Unemployment Compensation Act (26 U.S.C. § 3304) and any amendments thereto, or as authorized by any provision of federal law.

F. 1. Notwithstanding the provisions of subsection A of this section, an individual shall be ineligible for payment of extended benefits for any week of unemployment in his eligibility period if the Commission finds that during such period:

a. He failed to accept any offer of suitable work or failed to apply for any suitable work, as defined under subdivision 3 of this subsection, to which he was referred by the Commission; or

b. He failed to actively engage in seeking work as prescribed under subdivision 5 of this subsection.

2. Any individual who has been found ineligible for extended benefits by reason of the provisions in subdivision 1 of this subsection shall also be denied benefits beginning with the first day of the week following the week in which such failure occurred and until he has been employed in each of four subsequent weeks, whether or not consecutive, and has earned remuneration equal to not less than four times the extended weekly benefit amount.

3. a. For purposes of this subsection, "suitable work" means, with respect to any individual, any work which is within the individual's capabilities and for which the gross average weekly remuneration payable for the work exceeds the sum of:

(1) The individual's average weekly benefit amount as determined under subsection C of this section, plus

(2) Any amount of supplemental unemployment benefits, as defined in § 501 (c) (17) (D) of the

Internal Revenue Code, payable to the individual for such week.

b. Such gross average weekly remuneration shall pay wages equal to the higher of:

(1) The minimum wages provided by § 6 (a) (1) of the Fair Labor Standards Act (29 U.S.C. § 201 et seq.), without regard to any exemption; or

(2) The state or local minimum wage.

c. No individual, however, shall be denied extended benefits for failure to accept an offer or referral to any job which meets the definition of suitable work as described in subdivision 3a of this subsection if:

(1) The position was not offered to such individual in writing or was not listed with the Job Service;

(2) Such failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in subdivision 3 of § 60.2-618 to the extent that the criteria of suitability in that section are not inconsistent with the provisions of this subdivision; or

(3) The individual furnishes satisfactory evidence to the Commission that his prospects for obtaining work in his customary occupation within a reasonably short period are good. If the evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work in subdivision 3 of § 60.2-618 without regard to the definition specified by this subdivision.

4. Notwithstanding the provisions of this subsection, no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions required by § 3304 (a) 5 of the Internal Revenue Code and set forth under subdivision 3 of § 60.2-618.

5. For the purposes of subdivision 1 b of this subsection, an individual shall be treated as actively engaged in seeking work during any week if:

a. The individual has engaged in a systematic and sustained effort to obtain work during such week, and

b. The individual furnishes tangible evidence that he has engaged in such effort during such week.

6. The Job Service shall refer any claimant entitled to extended benefits under this title to any suitable work which meets the criteria prescribed in subdivision 3 of this subsection.

7. Notwithstanding any other provisions of this chapter, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this section, be entitled to receive in that extended benefit period, for weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

8. No claim for extended benefits shall be subject to subdivisions 1, 2, 3 or 6 of this subsection for weeks of unemployment beginning after March 6, 1993, and before January 1, 1995. If the Federal-State Extended Unemployment Compensation Act of 1970 is at any time amended to preclude enforcement of any provision of this section, such provision shall not apply to any claim for weeks beginning on the date said amendment becomes effective.

G. 1. Except as provided in subdivision 2 of this subsection, an individual shall not be eligible for extended benefits for any week if:

a. Extended benefits are payable for such week pursuant to an interstate claim filed in any state under the interstate benefit plan, and

b. No extended benefit period is in effect for such week in such state.

2. Subdivision 1 of this subsection shall not apply to the first two weeks for which extended benefits are payable, determined without regard to this subsection, pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended benefit account established for the individual with respect to the benefit year.