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HOUSE BILL NO. 652

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 60.2-110, 60.2-116, 60.2-612, 60.2-613, 60.2-619, as it is currently effective and as it shall become effective, and 60.2-633, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to unemployment compensation; notice of hearing prior to discontinuing benefits; overpayment forgiveness; benefit eligibility; emergency.

Patron—Wampler

Referred to Committee on Commerce and Energy

Be it enacted by the General Assembly of Virginia:

1. That §§ 60.2-110, 60.2-116, 60.2-612, 60.2-613, 60.2-619, as it is currently effective and as it shall become effective, and 60.2-633, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 60.2-110. State Job Service and Unemployment Insurance Services Division.

The Commission may establish two coordinate divisions: the Virginia State Job Service, created pursuant to § 60.2-400, and the Unemployment Insurance Services Division. Each division shall be responsible for the discharge of its distinctive functions. Each division shall be a separate administrative unit, with respect to personnel, budget, and duties, except insofar as the Commission may find that such separation is impracticable. In lieu, however, of establishing the two divisions the Commission may cooperate with and utilize the personnel and services of employment offices or services operated by the United States or any of its authorized agencies but only to the extent necessary for the federal employment offices or services to perform the functions imposed upon employment offices by § 60.2-601 and subdivision A 5 of § 60.2-612.

§ 60.2-116. Reciprocal agreements.

A. Subject to the approval of the Governor, the Commission is hereby authorized to enter into arrangements with the appropriate agencies of other states or the federal government whereby individuals performing services in this and other states for a single employing unit under circumstances not specifically provided for in §§ 60.2-212 through 60.2-219, or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this Commonwealth or within one of such other states. Such arrangements may set forth terms whereby the potential right to benefits accumulated under the unemployment compensation laws of one or more states or under such a law of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency of any state under terms which the Commission finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

B. Subject to the approval of the Governor, the Commission is also authorized to enter into arrangements with the appropriate agencies of other states or of the federal government:

1. a. Whereby wages or services, upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another state or of the federal government, shall be deemed to be wages for employment by employers for the purposes of §§ 60.2-602, 60.2-606, 60.2-607, 60.2-609, 60.2-610, 60.2-611, subdivision A 1 of § 60.2-612 and §§ 60.2-614 through 60.2-617, provided such other state agency or agency of the federal government has agreed to reimburse the fund for such portion of benefits paid under this title upon the basis of such wages or services as the Commission finds will be fair and reasonable as to all affected interests; and

b. Whereby the Commission will reimburse other state or federal agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits, paid under the law of any such other states or of the federal government upon the basis of employment or wages for employment by employers, as the Commission finds will be fair and reasonable as to all affected interests.

2. Reimbursements so payable under subdivision 1 b of this subsection shall be deemed to be benefits for the purposes of §§ 60.2-300 through 60.2-304, but no reimbursement so payable shall be charged against any employer's account for the purposes of §§ 60.2-526 through 60.2-531. The Commission is hereby authorized to make to other state or federal agencies and receive from such other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements pursuant to this section.

C. Subject to the approval of the Governor, the Commission is also authorized to enter into

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59 arrangements with the appropriate agencies of other states or of the federal government:

60 1. Whereby the Commission may deduct, in accordance with the provisions of § 60.2-633, from
61 unemployment benefits otherwise payable to an individual an amount equal to any overpayment made to
62 such individual under an unemployment benefit program of the United States or of any other state, and
63 not previously recovered. The amount so deducted shall be paid to the jurisdiction under whose program
64 such overpayment was made and in accordance with the arrangement between the Commission and the
65 jurisdiction.

66 2. Whereby the United States agrees to allow the Commission to recover from unemployment
67 benefits otherwise payable to an individual under an unemployment benefit program of the United States
68 any overpayments made by the Commission to such individual under this title and not previously
69 recovered, in accordance with the same procedures that apply under subdivision 1 of this subsection.

70 3. The amendments made by this subsection shall apply to recoveries made on or after July 1, 1987,
71 and shall apply with respect to overpayments made before, on, or after such date.

72 **§ 60.2-612. Benefit eligibility conditions.**

73 A. An unemployed individual shall be eligible to receive benefits for any week only if the
74 Commission finds that:

75 1. He has, in the highest two quarters of earnings within his base period, been paid wages in
76 employment for employers that are equal to not less than the lowest amount appearing in Column A of
77 the "Benefit Table" appearing in § 60.2-602 on the line which extends through Division C and on which
78 in Column B of the "Benefit Table" appears his weekly benefit amount. Such wages shall be earned in
79 not less than two quarters.

80 2. a. His total or partial unemployment is not due to a labor dispute in active progress or to
81 shutdown or start-up operations caused by such dispute which exists (i) at the factory, establishment, or
82 other premises, including a vessel, at which he is or was last employed, or (ii) at a factory,
83 establishment or other premises, including a vessel, either within or without this Commonwealth, which
84 (a) is owned or operated by the same employing unit which owns or operates the premises at which he
85 is or was last employed and (b) supplies materials or services necessary to the continued and usual
86 operation of the premises at which he is or was last employed. This subdivision shall not apply if it is
87 shown to the satisfaction of the Commission that:

88 (1) He is not participating in or financing or directly interested in the labor dispute; and

89 (2) He does not belong to a grade or class of workers of which, immediately before the
90 commencement of the labor dispute, there were members employed at the premises, including a vessel,
91 at which the labor dispute occurs, any of whom are participating in or financing or directly interested in
92 the dispute.

93 b. If separate branches of work which are commonly conducted as separate businesses at separate
94 premises are conducted in separate departments of the same premises, each such department shall, for
95 the purposes of this subdivision, be deemed to be a separate factory, establishment or other premises.
96 Membership in a union, or the payment of regular dues to a bona fide labor organization, however, shall
97 not alone constitute financing a labor dispute.

98 3. He is not receiving, has not received or is not seeking unemployment benefits under an
99 unemployment compensation law of any other state or of the United States; however, if the appropriate
100 agency of such other state or of the United States finally determines that he is not entitled to such
101 unemployment benefits, this subdivision shall not apply.

102 4. He is not on a bona fide paid vacation. If an individual is paid vacation pay for any week in an
103 amount less than the individual's weekly benefit amount his eligibility for benefits shall be computed
104 under the provisions of § 60.2-603.

105 5. He has registered for work and thereafter has continued to report at an employment office in
106 accordance with such regulations as the Commission may prescribe. The Commission may, by
107 regulation, waive or alter either or both of the requirements of this subdivision for certain types of cases
108 when it finds that compliance with such requirements would be oppressive, or would be inconsistent
109 with the purposes of this title.

110 6. He has made a claim for benefits in accordance with regulations the Commission may prescribe.

111 7. a. He is able to work, is available for work, and is actively seeking and unable to obtain suitable
112 work. Every claimant who is totally unemployed shall report to the Commission the names of employers
113 contacted each week in his effort to obtain work. This information may be subject to employer
114 verification by the Commission through a program designed for that purpose. The Commission may
115 determine that registration by a claimant with the Virginia State Job Service may constitute a valid
116 employer contact and satisfy the search for work requirement of this subsection in labor market areas
117 where job opportunities are limited. The Commission may determine that an individual, whose usual and
118 customary means of soliciting work in his occupation is through contact with a single hiring hall which
119 makes contacts with multiple employers on behalf of the claimant, meets the requirement that he be
120 actively seeking and unable to obtain suitable work by contacting that hiring hall alone. In areas of high

unemployment, as determined by the Commission, the Commission has the authority to adjust the requirement that he be actively seeking and unable to obtain suitable work.

b. An individual who leaves the normal labor market area of the individual for the major portion of any week is presumed to be unavailable for work within the meaning of this section. This presumption may be overcome if the individual establishes to the satisfaction of the Commission that the individual has conducted a bona fide search for work and has been reasonably accessible to suitable work in the labor market area in which the individual spent the major portion of the week to which the presumption applies.

c. An individual whose type of work is such that it is performed by individuals working two or more shifts in a 24-hour period shall not be deemed unavailable for work if the individual is currently enrolled in one or more classes of education related to employment or is continuing in a certificate or degree program at an institution of higher education, provided that the enrollment would only limit the individual's availability for one shift and the individual is otherwise available to work any of the other shifts.

8. He has given notice of resignation to his employer and the employer subsequently made the termination of employment effective prior to the date of termination as given in the notice, but in no case shall unemployment compensation benefits awarded under this subdivision exceed two weeks; provided, that the claimant could not establish good cause for leaving work pursuant to § 60.2-618 and was not discharged for misconduct as provided in § 60.2-618.

9. Beginning January 6, 1991, he has served a waiting period of one week during which he was eligible for benefits under this section in all other respects and has not received benefits, except that only one waiting week shall be required of such individual within any benefit year. For claims filed effective November 28, 1999, and after, this requirement shall be waived for any individual whose unemployment was caused by his employer terminating operations, closing its business or declaring bankruptcy without paying the final wages earned as required by § 40.1-29 of the Code of Virginia. Notwithstanding any other provision of this title, if an employer who terminates operations, closes its business or declares bankruptcy pays an individual his final wages after the period of time prescribed by § 40.1-29 of the Code of Virginia, such payment shall not be offset against the benefits the individual was otherwise entitled to receive and shall not, under any circumstances, cause such individual to be declared overpaid benefits.

10. He is not imprisoned or confined in jail.

11. He participates in reemployment services, such as job search assistance services, if he has been determined to be likely to exhaust regular benefits and need reemployment services pursuant to a profiling system established by the Commission, unless the Commission determines that (i) such claimant has completed such services or (ii) there is good cause for such claimant's failure to participate in such services.

B. Prior to any individual's receiving benefits under this chapter, the Commission shall conduct an incarceration check and an employment identification check to verify the identity of the unemployed individual seeking a claim for benefits.

§ 60.2-613. Benefits not denied to individuals in training with approval of Commission.

A. No otherwise eligible individual shall be denied benefits for any week because he is in training with the approval of the Commission, including training under Section 134 of the Workforce Investment Act, nor shall such individual be denied benefits for any week in which he is in training with the approval of the Commission, including training under Section 134 of the Workforce Investment Act, by reason of the application of the provisions in subdivision A 7 of § 60.2-612 relating to availability for work, or the provisions of subdivision 3 of § 60.2-618 relating to failure to apply for, or a refusal to accept, suitable work.

B. Notwithstanding any other provisions of this chapter, no otherwise eligible individual shall be denied benefits for any week because he is in training approved under § 2296 of the Trade Act (19 U.S.C. § 2101 et seq.), nor shall such individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any such week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work.

C. For purposes of this section, "suitable employment" means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the Trade Act, and wages for such work at not less than eighty percent of the individual's average weekly wage as determined for the purposes of the Trade Act.

§ 60.2-619. (Effective until July 1, 2022) 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:

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

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

187 2. When the payment or denial of benefits will be determined by the provisions of subdivision A 2
188 of § 60.2-612, the deputy shall promptly transmit his full finding of fact with respect to that subdivision
189 to any appeal tribunal, which shall make its determination in accordance with the procedure described in
190 § 60.2-620.

191 B. Upon the filing of an initial claim for benefits, the Commission shall cause an informatory notice
192 of such filing to be mailed to the most recent 30-day or 240-hour employing unit of the claimant and all
193 subsequent employing units, and any reimbursable employing units that may be liable for reimbursement
194 to the Commission for any benefits paid. However, the failure to furnish such notice shall not have any
195 effect upon the claim for benefits. If a claimant has had a determination of initial eligibility for benefits
196 under this chapter, as evidenced by the issuance of compensation or waiting-week credit, payments shall
197 continue, subject to a presumption of continued eligibility and in accordance with the terms of this
198 subsection, until a determination is made that provides the claimant notice and an opportunity to be
199 heard. When a question concerning continued eligibility for benefits arises, a determination shall be
200 made as to whether it affects future weeks of benefits or only past weeks. With respect to future weeks,
201 presumptive payment shall not be made until but no later than the end of the week following the week
202 in which such issue arises, regardless of the type of issue. With respect to past weeks, presumptive
203 payment shall be issued immediately, regardless of the type of issue. Notice shall be given to individuals
204 who receive payments under such presumption that pending eligibility may affect their entitlement to the
205 payment and may result in an overpayment that requires repayment.

206 C. Notice of determination upon a claim shall be promptly given to the claimant by delivering or by
207 mailing such notice to the claimant's last known address. In addition, notice of any determination that
208 involves the application of the provisions of § 60.2-618, together with the reasons therefor, shall be
209 promptly given in the same manner to the most recent 30-day or 240-hour employing unit by whom the
210 claimant was last employed and any subsequent employing unit which is a party. The Commission may
211 dispense with the giving of notice of any determination to any employing unit, and such employing unit
212 shall not be entitled to such notice if it has failed to respond timely or adequately to a written request of
213 the Commission for information, as required by § 60.2-528.1, from which the deputy may have
214 determined that the claimant may be ineligible or disqualified under any provision of this title. The
215 deputy shall promptly notify the claimant of any decision made by him at any time which in any
216 manner denies benefits to the claimant for one or more weeks.

217 D. Such determination or decision shall be final unless the claimant or any such employing unit files
218 an appeal from such determination or decision (i) within 30 calendar days after the delivery of such
219 notification, (ii) within 30 calendar days after such notification was mailed to his last known address, or
220 (iii) within 30 days after such notification was mailed to the last known address of an interstate
221 claimant. For good cause shown, the 30-day period may be extended.

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

236 **§ 60.2-619. (Effective July 1, 2022) Determinations and decisions by deputy; appeals therefrom.**

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

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

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

2. When the payment or denial of benefits will be determined by the provisions of subdivision A 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 30-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. *If a claimant has had a determination of initial eligibility for benefits under this chapter, as evidenced by the issuance of compensation or waiting-week credit, payments shall continue, subject to a presumption of continued eligibility and in accordance with the terms of this subsection, until a determination is made that provides the claimant notice and an opportunity to present relevant evidence to the Commission. Notice shall be given to individuals who receive payments under such presumption that pending eligibility may affect their entitlement to the payment and may result in an overpayment that requires repayment.*

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 30-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 respond timely or adequately to a written request of the Commission for information, as required by § 60.2-528.1, from which the deputy may have determined 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 30 calendar days after the delivery of such notification, (ii) within 30 calendar days after such notification was mailed to his last known address, or (iii) within 30 days after such notification was mailed to the last known address of an interstate claimant. For good cause shown, the 30-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.

§ 60.2-633. (Effective until July 1, 2022) Receiving benefits to which not entitled.

A. Any person who has received any sum as benefits under this title to which he was not entitled shall be liable to repay such sum to the Commission. For purposes of this section, "benefits under this title" includes benefits under an unemployment benefit program of the United States or of any other state. In the event the claimant does not refund the overpayment, the Commission shall deduct from any future benefits such sum payable to him under this title. The Commission shall waive the requirement to repay the overpayment after an individual case review if (i) the overpayment was made without fault on the part of the individual and (ii) requiring repayment would be contrary to equity and good conscience.

The Commission shall waive the requirement to repay penalties associated with the overpayment, after an individual case review, if the overpayment was made between March 12, 2020, and September 1, 2020, and during which time the claimant was awarded state pandemic unemployment assistance benefits. Prior to conducting any such individual case review, the Commission shall provide notice to any such claimants who were awarded state pandemic unemployment assistance benefits and incurred an overpayment penalty for any overpayment made between March 12, 2020 and September 1, 2020.

For the purposes of this section:

1. An overpayment made "without fault on the part of the individual" shall include overpayments

that (i) result from administrative error; (ii) are the result of inducement, solicitation, or coercion on the part of the employer; or (iii) result from the employer's failure to respond timely or adequately to the Commission's request for information, as required by § 60.2-528.1. An overpayment shall not be considered "without fault on the part of the individual" if such overpayment was the result of (a) a reversal in the appeals process, unless the employer failed to respond timely or adequately to the Commission's request for information regarding the individual's separation from employment; (b) a programming, technological, or automated system error not directly associated with an individual claim that results in erroneous payments to a group of individuals; or (c) fraud.

2. It shall be contrary to equity and good conscience if requiring repayment of an overpayment would deprive the individual of the income required to provide for basic necessities, including shelter, food, medicine, child care, or any other essential living expenses.

B. For any overpayment where repayment is not forgiven, the Commission shall have the authority to negotiate the terms of repayment, which shall include (i) deducting up to 50 percent of the payable amount for any future week of benefits claimed, rounded down to the next lowest dollar until the overpayment is satisfied; (ii) forgoing collection of the payable amount until the recipient has found employment as defined in § 60.2-212; or (iii) determining and instituting an individualized repayment plan.

The Commission shall collect an overpayment of benefits under this chapter caused by administrative error only by offset against future benefits or a negotiated repayment plan; however, the Commission may institute any other method of collection if the individual fails to enter into or comply with the terms of the repayment plan. Administrative error shall not include decisions reversed in the appeals process.

Overpayments where the obligation to repay has not been waived may be collectible by civil action in the name of the Commission. Amounts collected in this manner may be subject to an interest charge as prescribed in § 58.1-15 from the date of judgment and may be subject to fees and costs. Collection activities for any benefit overpayment established of \$5 or less may be suspended. The Commission may, for good cause, determine as uncollectible and discharge from its records any benefit overpayment which remains unpaid after the expiration of seven years from the date such overpayment was determined, or immediately upon the death of such person or upon his discharge in bankruptcy occurring subsequently to the determination of overpayment. Any existing overpayment balance not equal to an even dollar amount shall be rounded to the next lowest even dollar amount.

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

D. No determination with respect to benefit overpayments shall be issued until after a determination or decision that finds a claimant ineligible or disqualified for benefits previously paid has become final.

E. Final orders of the Commission with respect to benefit overpayments may be recorded, enforced, and satisfied as orders or decrees of a circuit court upon certification of such orders by the Commissioner as may be appropriate.

§ 60.2-633. (Effective July 1, 2022) Receiving benefits to which not entitled.

A. Any person who has received any sum as benefits under this title to which he was not entitled shall be liable to repay such sum to the Commission. For purposes of this section, "benefits under this title" includes benefits under an unemployment benefit program of the United States or of any other state. In the event the claimant does not refund the overpayment, the Commission shall deduct from any future benefits such sum payable to him under this title. *However, if The Commission shall waive the requirement to repay penalties associated with the overpayment, after an individual case review, if the overpayment was made between March 12, 2020, and September 1, 2020, and during which time the claimant was awarded state pandemic unemployment assistance benefits. Prior to conducting any such individual case review, the Commission shall provide notice to any such claimants who were awarded state pandemic unemployment assistance benefits and incurred an overpayment penalty for any overpayment made between March 12, 2020 and September 1, 2020.*

If an overpayment of benefits under this chapter, but not under an unemployment benefit program of the United States or of any other state, occurred due to administrative error, the Commission shall have the authority to negotiate the terms of repayment, which shall include (i) deducting up to 50 percent of the payable amount for any future week of benefits claimed, rounded down to the next lowest dollar until the overpayment is satisfied; (ii) forgoing collection of the payable amount until the recipient has found employment as defined in § 60.2-212; or (iii) determining and instituting an individualized repayment plan. The Commission shall collect an overpayment of benefits under this chapter caused by administrative error only by offset against future benefits or a negotiated repayment plan; however, the Commission may institute any other method of collection if the individual fails to enter into or comply with the terms of the repayment plan. Administrative error shall not include decisions reversed in the

appeals process. In addition, the overpayment may be collectible by civil action in the name of the Commission. Amounts collected in this manner may be subject to an interest charge as prescribed in § 58.1-15 from the date of judgment and may be subject to fees and costs. Collection activities for any benefit overpayment established of five dollars or less may be suspended. The Commission may, for good cause, determine as uncollectible and discharge from its records any benefit overpayment which remains unpaid after the expiration of seven years from the date such overpayment was determined, or immediately upon the death of such person or upon his discharge in bankruptcy occurring subsequently to the determination of overpayment. Any existing overpayment balance not equal to an even dollar amount shall be rounded to the next lowest even dollar amount.

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

C. Final orders of the Commission with respect to benefit overpayments may be recorded, enforced and satisfied as orders or decrees of a circuit court upon certification of such orders by the Commissioner as may be appropriate.

2. That the provisions of § 60.2-633, as it is currently effective and as it shall become effective, of the Code of Virginia, as amended by this act, shall apply to penalties imposed for overpayments made between March 12, 2020, and September 1, 2020.

3. That an emergency exists and this act is in force from its passage.