

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 60.2-633 of the Code of Virginia, relating to unemployment compensation; collection of overpayments.

[S 382]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 60.2-633 of the Code of Virginia is amended and reenacted as follows:

§ 60.2-633. 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 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~~ \$5 or less may be suspended. ~~The~~ When a benefit overpayment is not caused by fraud on the part of the claimant, pursuant to § 60.2-618 or 60.2-632, collection activities shall be suspended and the Commission shall, at the earliest of the following, determine as uncollectible and discharge the benefit overpayment from its records if it remains unpaid (i) after the expiration of five years from the last day of the benefit year, as defined in § 60.2-206, in which the overpayment was made; (ii) immediately upon the death of such person; or (iii) upon such person's discharge in bankruptcy occurring subsequently to the determination of overpayment. In any other circumstance, the Commission may, ~~for good cause,~~ determine as uncollectible and discharge from its records any benefit overpayment ~~which~~ (a) that remains unpaid after the expiration of seven years from the date such overpayment was determined, or last day of the benefit year, as defined in § 60.2-206, in which the overpayment was made; (b) immediately upon the death of such person; ~~or~~ (c) upon his such person's discharge in bankruptcy occurring subsequently to the determination of overpayment; or (d) at any time where, provided the state has already made reasonable attempts to collect any liabilities to the state unemployment fund, pursuant to rules and regulations promulgated by the Commission, the Commission finds such overpayment to be uncollectible or the recovery of such overpayment to be administratively impracticable. 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.

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