

VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

CHAPTER 107

An Act to amend and reenact § 60.2-600 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 60.2-608.1, relating to unemployment compensation benefits; deductions and withholding of federal income tax.

[H 638]

Approved March 6, 1996

Be it enacted by the General Assembly of Virginia:

1. That § 60.2-600 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 60.2-608.1 as follows:

§ 60.2-600. No assignment of benefits; exemptions.

Any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this title shall be void except as provided in this section and in §§ 60.2-608, 60.2-608.1 and 60.2-633. Such rights to benefits shall be exempt from levy, execution, attachment, garnishment or any other legal process provided for the collection of debt, even if the compensation is used for purchase of shares in a credit union, or deposited into an account with a financial institution or other organization accepting deposits and is thereby commingled with other funds, except debts incurred for necessities furnished to such individual, his spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this section shall be void.

Upon an order of garnishment, attachment or other levy addressed to a financial institution in which the principal defendant claims to have exempt funds hereunder, the principal defendant may file an answer asserting the exemption hereunder. From the time of service of such garnishment, attachment or levy, the financial institution, until further order of the court, shall hold the amount subject to such garnishment, attachment or levy, or such lesser amount or sum as it may have, which amount shall be set forth in its answer. It shall hold such amount free of any person drawing against such funds whether by check against such account or otherwise. The financial institution shall be subject to such further order or subpoena for discovery of its records, for which it shall be entitled an order or agreement for compensation for the expense of such service, and in a case deemed appropriate to the court by such an order directing deposit of funds or further security prior to such records being ordered produced.

§ 60.2-608.1. *Deduction and withholding of federal income tax.*

A. *For all payments made after December 31, 1996, federal income tax may be deducted and withheld from a benefit payment if the individual receiving such benefits voluntarily requests such deduction and withholding. The deduction shall be an amount equal to fifteen percent of such payment, or the amount determined by the Internal Revenue Service.*

B. *Any amount deducted and withheld under subsection A of this section shall remain in the Unemployment Compensation Fund until transferred to the Internal Revenue Service as a payment of income tax.*

C. *Any amount deducted and withheld under subsection A of this section shall be treated as if it were paid to the individual as unemployment benefits.*

D. *Amounts shall be deducted and withheld under this section only after amounts are deducted and withheld for any unemployment benefit overpayments, child support obligations, or any other amounts required to be deducted and withheld under this title.*

E. *The Commission shall follow all procedures specified by the United States Department of Labor and the Internal Revenue Service pertaining to the deducting and withholding of federal income tax from unemployment benefits.*