

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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BILL DRAFT 2015-TMz-1 [v.5] (11/10)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

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Short Title: Unemployment Insurance Law Changes.

(Public)

Sponsors: (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE LAWS.

The General Assembly of North Carolina enacts:

**PART I: AUTHORIZING DMV TO DISCLOSE SOCIAL SECURITY NUMBERS;
REQUIRING UI CLAIMANTS TO CONTACT FIVE POTENTIAL EMPLOYERS PER
WEEK; AND ELIMINATING THE PROCEDURE TO REQUEST
RECONSIDERATION OF DECISIONS.**

SECTION 1.1. G.S. 20-7(b2) reads as rewritten:

"(b2) Disclosure of Social Security Number. – The social security number of an applicant is not a public record. The Division may not disclose an applicant's social security number except as allowed under federal law. A violation of the disclosure restrictions is punishable as provided in 42 U.S.C. § 408, and amendments to that law.

In accordance with 42 U.S.C. 405 and 42 U.S.C. 666, and amendments thereto, the Division may disclose a social security number obtained under subsection (b1) of this section only as follows:

- (1) For the purpose of administering the drivers license laws.
- (2) To the Department of Health and Human Services, Child Support Enforcement Program for the purpose of establishing paternity or child support or enforcing a child support order.
- (3) To the Department of Revenue for the purpose of verifying taxpayer identity.
- (4) To the Office of Indigent Defense Services of the Judicial Department for the purpose of verifying the identity of a represented client and enforcing a court order to pay for the legal services rendered.
- (5) To each county jury commission for the purpose of verifying the identity of deceased persons whose names should be removed from jury lists.
- (6) To the Office of the State Controller for the purposes of G.S. 143B-426.38A.
- (7) To the Department of Commerce, Division of Employment Security, for the purpose of verifying employer and claimant identity."

SECTION 1.2.(a) G.S. 96-9.2(c) reads as rewritten:

"(c) Contribution Rate for Experience-Rated Employer. – The contribution rate for an experience-rated employer who does not qualify as a beginning employer under subsection (b)



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of this section is determined in accordance with the table set out below and then rounded to the nearest one-hundredth percent (0.01%), subject to the minimum and maximum contribution rates. The minimum contribution rate is six-hundredths of one percent (0.06%). The maximum contribution rate is five and seventy-six hundredths percent (5.76%). "Total insured wages" are the total wages reported by all insured employers for the 12-month period ending on ~~July 31~~ June 30 preceding the computation date. An employer's experience rating is computed as a reserve ratio in accordance with G.S. 96-9.4. An employer's reserve ratio percentage (ERRP) is the employer's reserve ratio multiplied by sixty-eight hundredths. A positive ERRP produces a lower contribution rate, and a negative ERRP produces a higher contribution rate.

...."

SECTION 1.2.(b) This section is effective when it becomes law and applies to contributions payable for calendar quarters beginning on or after January 1, 2014.

SECTION 1.3.(a) G.S. 96-14.9(e) reads as rewritten:

"(e) **Actively Seeking Work.** – The Division's determination of whether an individual is actively seeking work is based upon the following:

- (1) The individual is registered for employment services, as required by the Division.
- (2) The individual has engaged in an active search for employment that is appropriate in light of the employment available in the labor market and the individual's skills and capabilities.
- (3) The individual has ~~sought work on at least two different days during the week and made at least two~~ five job contacts with potential ~~employers~~ employers during the week.
- (4) The individual has maintained a record of the individual's work search efforts. The record must include the potential employers contacted, the method of contact, and the date contacted. The individual must provide the record to the Division upon request."

SECTION 1.3.(b) This section becomes effective July 1, 2015, and applies to claims for benefits filed on or after that date.

SECTION 1.4.(a) G.S. 96-15(h) reads as rewritten:

"(h) **Judicial Review.** – ~~Any A decision of the Division, in the absence of judicial review as herein provided, or in the absence of an interested party filing a request for reconsideration, shall become Board of Review becomes final 30 days after the date of notification or mailing thereof, whichever is earlier. unless a party to the decision seeks judicial review as provided in this subsection.~~ Judicial review ~~shall be~~ is permitted only after a party claiming to be aggrieved by the decision has exhausted ~~his remedies before the Division as provided in this Chapter the remedies provided in this Chapter~~ and has filed a petition for review in the superior court of the county in which ~~he the petitioner~~ resides or has his the county in which the petitioner's principal place of business. business is located. The petition for review ~~shall must~~ explicitly state what exceptions are taken to the decision or procedure ~~of the Division~~ and what relief the petitioner seeks. Within 10 days after the petition is filed with the court, the petitioner ~~shall must~~ serve copies of the petition by personal service or by certified mail, return receipt requested, upon the Division and upon all parties of record to the Division proceedings. The Division must furnish the petitioner the names ~~Names~~ and addresses of the parties ~~shall be furnished to the petitioner by the Division~~ upon request. The Division ~~shall be deemed to be~~ is a party to any judicial action involving any of its decisions and may be represented in the judicial action by any qualified attorney who has been designated by it for that purpose. Any questions regarding the requirements of this subsection concerning the service or filing of a petition ~~shall must~~ be determined by the superior court. Any party to the Division proceeding may become a party to the review proceeding by notifying the court within 10 days after receipt of the copy of the

petition. Any person aggrieved may petition to become a party by filing a motion to intervene as provided in G.S. 1A-1, Rule 24.

Within 45 days after receipt of the copy of the petition for review or within such additional time as the court may allow, the Division ~~shall~~must transmit to the reviewing court the original or a certified copy of the entire record of the proceedings under review. With the permission of the court the record may be shortened by stipulation of all parties to the review proceedings. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for ~~such the~~ additional cost ~~as is occasioned~~incurred by the refusal. The court may require or permit subsequent corrections or additions to the record when ~~deemed the court considers the~~ changes desirable."

SECTION 1.4.(b) This section becomes effective July 1, 2015, and applies to decisions made on or after that date.

SECTION 1.5.(a) G.S. 96-3 reads as rewritten:

"§ 96-3. Division of Employment Security.

The Division of Employment Security (DES) is created within the Department of Commerce and shall administer the provisions of this Chapter under the supervision of the Assistant Secretary of ~~Commerce~~Commerce.~~through two coordinate sections: the Employment Security Section and the Employment Insurance Section. The Employment Security Section shall administer the employment services functions of the Division. The Employment Insurance Section shall administer the unemployment taxation and assessment functions of the Division.~~

SECTION 1.5.(b) G.S. 96-4(j) reads as rewritten:

"(j) Hearings. – The Assistant Secretary shall appoint hearing officers or appeals referees to hear contested matters arising from the ~~Employment Security Section and the Employment Insurance Section~~Division of Employment Security. Appeals from the decisions of the hearing officers or appeals referees shall be heard by the Board of Review."

SECTION 1.5.(c) G.S. 96-9.15(f) reads as rewritten:

"(f) Domestic Employer Exception. – The Division may authorize an employer of domestic service employees to file an annual report and to file that report by telephone. An annual report allowed under this subsection is due on or before the last day of the month following the close of the calendar year in which the wages are paid. A domestic service employer that files a report by telephone must contact either the tax auditor assigned to the employer's account or the ~~Employment Insurance Section~~Division of Employment Security in Raleigh and report the required information to that auditor or to that section by the date the report is due."

PART II: GARNISHMENT AND ATTACHMENT FOR THE COLLECTION OF UNPAID UI TAXES

SECTION 2.1.(a) G.S. 1-359 reads as rewritten:

"§ 1-359. Debtors of judgment debtor may satisfy execution.

(a) After the issuing of an execution against property, all persons indebted to the judgment debtor, or to any one of several debtors in the same judgment, may pay to the sheriff the amount of their debt, or as much thereof as is necessary to satisfy the execution; and the sheriff's receipt is a sufficient discharge for the amount paid.

(b) When the Division of Employment Security of the Department of Commerce (Division) prevails in a civil action against an employer to collect unpaid employment taxes under G.S. 96-10(b), the Division may attach or garnish the employer's credit card receipts in payment of the unpaid taxes in the manner provided by subsection (a) of this section. Direct receipt by the Division is a sufficient discharge for the amount paid by a credit card company or clearinghouse.

SECTION 2.1.(b) G.S. 96-10(b)(1) reads as rewritten:

"(b) Collection. –

(1) If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due shall be collected by civil action in the name of the Division, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions, except petitions for judicial review under this Chapter and cases arising under the Workers' Compensation Law of this State; or, if any contribution imposed by this Chapter, or any portion thereof, and/or penalties duly provided for the nonpayment thereof shall not be paid within 30 days after the same become due and payable, and after due notice and reasonable opportunity for hearing, the Division, under the hand of the Assistant Secretary, may certify the same to the clerk of the superior court of the county in which the delinquent resides or has property, and additional copies of said certificate for each county in which the Division has reason to believe the delinquent has property located. If the amount of a delinquency is less than fifty dollars (\$50.00), the Division may not certify the amount to the clerk of court until a field tax auditor or another representative of the Division personally contacts, or unsuccessfully attempts to personally contact, the delinquent and collect the amount due. A certificate or a copy of a certificate forwarded to the clerk of the superior court shall immediately be docketed and indexed on the cross index of judgments, and from the date of such docketing shall constitute a preferred lien upon any property which said delinquent may own in said county, with the same force and effect as a judgment rendered by the superior court. The Division shall forward a copy of said certificate to the sheriff or sheriffs of such county or counties, or to a duly authorized agent of the Division, and when so forwarded and in the hands of such sheriff or agent of the Division, shall have all the force and effect of an execution issued to such sheriff or agent of the Division by the clerk of the superior court upon a judgment of the superior court duly docketed in said county. Provided, however, the Division may in its discretion withhold the issuance of said certificate or execution to the sheriff or agent of the Division for a period not exceeding 180 days from the date upon which the original certificate is certified to the clerk of superior court. The Division is further authorized and empowered to issue alias copies of said certificate or execution to the sheriff or sheriffs of such county or counties, or to a duly authorized agent of the Division in all cases in which the sheriff or duly authorized agent has returned an execution or certificate unsatisfied; when so issued and in the hands of the sheriff or duly authorized agent of the Division, such alias shall have all the force and effect of an alias execution issued to such sheriff or duly authorized agent of the Division by the clerk of the superior court upon a judgment of the superior court duly docketed in said county. Provided, however, that notwithstanding any provision of this subsection, upon filing one written notice with the Division, the sheriff of any county shall have the sole and exclusive right to serve all executions and make all collections mentioned in this subsection and in such case no agent of the Division shall have the authority to serve any executions or make any collections therein in such county. A return of such execution, or alias execution, shall be made to the Division, together with all moneys collected thereunder, and when such order, execution, or alias is referred to the agent

of the Division for service the said agent of the Division shall be vested with all the powers of the sheriff to the extent of serving such order, execution or alias and levying or collecting thereunder. The agent of the Division to whom such order or execution is referred shall give a bond not to exceed three thousand dollars (\$3,000) approved by the Division for the faithful performance of such duties. The liability of said agent shall be in the same manner and to the same extent as is now imposed on sheriffs in the service of executions. If any sheriff of this State or any agent of the Division who is charged with the duty of serving executions shall willfully fail, refuse, or neglect to execute any order directed to him by the said Division and within the time provided by law, the official bond of such sheriff or of such agent of the Division shall be liable for the contributions, penalty, interest, and costs due by the employer. Any judgment that is executable and allowed under this section shall be subject to attachment and garnishment under G.S. 1-359(b) in payment of unpaid taxes that are due from the employer and collectable under this Article."

PART III: REQUIRE PHOTO IDENTIFICATION TO RECEIVE UI BENEFITS

SECTION 3.1. G.S. 96-14.9 reads as rewritten:

"§ 96-14.9. Weekly certification.

(a) Requirements. – An individual's eligibility for a weekly benefit amount is determined on a week-to-week basis. An individual must meet all of the requirements of this section for each weekly benefit period. An individual who fails to meet one or more of the requirements is ineligible to receive benefits until the condition causing the ineligibility ceases to exist:

- (1) File a claim for benefits.
- (2) Report ~~at an employment office~~ as requested by the ~~Division~~ Division and present valid photo identification meeting the requirements of subsection (k) of this section.
- (3) Meet the work search requirements of subsection (b) of this section.

...

(k) Photo Identification. – The individual must present the Division one of the following documents bearing the individual's photograph:

- (1) A drivers license, learner's permit, provisional license, or nonoperators identification card issued by North Carolina, another state, the District of Columbia, United States territory, or United States commonwealth.
- (2) A United States passport.
- (3) A United States military identification card.
- (4) A Veterans Identification Card issued by the United States Department of Veterans Affairs.
- (5) A tribal enrollment card issued by a federally recognized tribe.
- (6) Any other document that the Division determines adequately identifies the individual and issued by the United States, any state, the District of Columbia, United States territory, or United States commonwealth."

PART IV: EFFECTIVE DATE

SECTION 4.1. Except as otherwise provided, this act is effective when it becomes law.