

SENATE BILL 21

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(PRE-FILED)

7lr0100
CF HB 137

By: **Chair, Finance Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Requested: October 3, 2016

Introduced and read first time: January 11, 2017

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 24, 2017

CHAPTER _____

1 AN ACT concerning

2 **Unemployment Insurance – Recovery of Benefits – Collection by Assessment**

3 FOR the purpose of authorizing the Secretary of Labor, Licensing, and Regulation to
4 recover unemployment insurance benefits by assessment in the same manner as
5 provided in a certain provision of law for the assessment of past due contributions;
6 requiring the Secretary, if the Secretary seeks to recover certain unemployment
7 benefits by assessment, to allow a claimant to elect within a certain period of time to
8 have the amount collected by suit instead of by assessment; requiring the Secretary
9 to adopt certain regulations; and generally relating to the recovery of unemployment
10 insurance benefits by assessment.

11 BY repealing and reenacting, without amendments,

12 Article – Labor and Employment

13 Section 8–629 and 8–809(a)

14 Annotated Code of Maryland

15 (2016 Replacement Volume)

16 BY repealing and reenacting, with amendments,

17 Article – Labor and Employment

18 Section 8–809(d)

19 Annotated Code of Maryland

20 (2016 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Labor and Employment**

4 8–629.

5 (a) If an employing unit fails to submit a contribution and employment report
6 under § 8–626 of this subtitle, the Secretary:

7 (1) may assess the penalty imposed under that section; and

8 (2) shall mail written notice of the assessment to the employer at the last
9 known address of the employer or otherwise deliver the notice.

10 (b) If an employing unit fails to submit a separation notice under § 8–627 of this
11 subtitle, the Secretary:

12 (1) may assess the penalty imposed under that section; and

13 (2) shall mail written notice of the assessment to the employer at the last
14 known address of the employer or otherwise deliver the notice.

15 (c) (1) If an employing unit submits a report for determination of the amount
16 of contributions due under this title but fails to pay the contributions or interest, the
17 Secretary:

18 (i) may assess the amount of contributions or interest due on the
19 basis of the information in the report;

20 (ii) shall mail written notice of the assessment to the employing unit
21 at the last known address of the employing unit or otherwise deliver the notice; and

22 (iii) notwithstanding subsection (f) of this section, may make an
23 additional assessment if the report subsequently is found to be incorrect.

24 (2) If an employing unit under an election fails to make a reimbursement
25 payment or pay interest on the payment, the Secretary:

26 (i) may assess the amount of the payment or interest due; and

27 (ii) shall mail written notice of the assessment to the employing unit
28 at the last known address of the employing unit or otherwise deliver the notice.

29 (3) Payments made by checks or other negotiable instruments returned for
30 insufficient funds shall be considered a failure to pay contributions or reimbursements due
31 under this subsection and are subject to an additional penalty of \$25.

1 (d) (1) If an employing unit fails to submit a report under an election or for
2 determination of the amount of contributions due on or before the date required by
3 regulation, or if the Secretary determines that a report submitted by an employing unit is
4 incorrect or insufficient, the Secretary shall require by written notice that the employing
5 unit submit a correct and sufficient report.

6 (2) An employing unit shall submit a correct and sufficient report within
7 10 days after the Secretary requires it.

8 (3) If an employing unit fails to comply with paragraph (2) of this
9 subsection, the Secretary shall:

10 (i) make an assessment on the basis of any information that the
11 Secretary is able to obtain; and

12 (ii) mail written notice of assessment to the employing unit at the
13 last known address of the employing unit or otherwise deliver the notice.

14 (e) (1) Regardless of whether the time allowed under this title for submitting
15 reports or contributions or making reimbursement payments has expired, if the Secretary
16 believes that collection will be jeopardized by delay, the Secretary immediately may assess
17 a contribution, reimbursement payment, or interest.

18 (2) The Secretary shall mail written notice to an employing unit of an
19 assessment under paragraph (1) of this subsection at the last known address of the
20 employing unit or otherwise deliver the notice.

21 (f) (1) An assessment under this section is final unless:

22 (i) within 15 days after the mailing of the assessment an employing
23 unit applies to the Board of Appeals for a hearing; or

24 (ii) on its own motion, the Board of Appeals reduces the contribution
25 or interest.

26 (2) After a hearing held under this subsection, the Board of Appeals shall:

27 (i) pass an order to affirm, modify, or set aside the assessment; and

28 (ii) promptly give an employing unit written notice of its decision.

29 (g) (1) If an employing unit fails to pay an assessment under this section, the
30 Secretary may file with the clerk of the circuit court of the county where the employing
31 unit's principal place of business is located and any other county a notice of lien that states:

32 (i) the name of the employing unit;

- 1 (ii) the address of the employing unit;
- 2 (iii) the amount of the assessment; and
- 3 (iv) that the time for filing an appeal for judicial review has expired
4 without an appeal having been taken.

5 (2) On the filing of a notice of a lien under paragraph (1) of this subsection,
6 the clerk of the court shall:

- 7 (i) record and index the lien; and
- 8 (ii) enter the lien in the judgment docket of the court.

9 (3) The docket entry shall include:

- 10 (i) the name of the person whose property is subject to the lien; and
- 11 (ii) the amount and date of the lien.

12 (h) (1) On entry in the judgment docket of the information under subsection
13 (e) of this section, the amount of the assessment, court costs, recording costs, and interest
14 that continues to accrue on the assessment are a lien on the real and personal property of
15 the employer against whom the assessment is made in the same manner and having the
16 same force and effect as a judgment lien.

17 (2) No property that an employer uses in connection with its business is
18 exempt from the lien.

19 8–809.

20 (a) The Secretary may recover benefits paid to a claimant if the Secretary finds
21 that the claimant was not entitled to the benefits because:

- 22 (1) the claimant was not unemployed;
- 23 (2) the claimant received or retroactively was awarded wages; or
- 24 (3) due to a redetermination of an original claim by the Secretary, the
25 claimant is disqualified or otherwise ineligible for benefits.

26 (d) **(1)** The Secretary may recover an amount under subsection (a) of this
27 section:

28 ~~(1)~~ **(1)** by deduction from benefits payable to the claimant in the future;

1 ~~(2)~~ **(II)** in the manner provided in § 8-630 of this title for the collection
2 of past due contributions; [or]

3 ~~(3)~~ **(III)** **BY ASSESSMENT IN THE SAME MANNER AS PROVIDED IN §**
4 **8-629 OF THIS TITLE FOR THE ASSESSMENT OF PAST DUE CONTRIBUTIONS; OR**

5 [(3)] ~~(4)~~ **(IV)** through other reasonable means of collection, including those
6 permitted under:

7 ~~(i)~~ **1.** State law for the collection of debts owed to the State; or

8 ~~(ii)~~ **2.** federal law.

9 **(2) (I) IF THE SECRETARY SEEKS TO RECOVER AN AMOUNT UNDER**
10 **SUBSECTION (A) OF THIS SECTION BY ASSESSMENT, THE SECRETARY SHALL ALLOW**
11 **A CLAIMANT TO ELECT, WITHIN 30 DAYS OF THE DATE OF THE NOTICE OF**
12 **ASSESSMENT, TO HAVE THE AMOUNT COLLECTED BY SUIT INSTEAD OF BY**
13 **ASSESSMENT.**

14 **(II) THE SECRETARY SHALL ADOPT REGULATIONS TO PROVIDE**
15 **GENERAL GUIDANCE ABOUT:**

16 **1. THE PROCESSES UNDER WHICH THE SECRETARY MAY**
17 **RECOVER BENEFITS; AND**

18 **2. THE APPLICATION OF § 8-629 OF THIS TITLE TO THE**
19 **RECOVERY OF BENEFITS BY ASSESSMENT UNDER THIS SECTION.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
21 1, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.