

# HOUSE BILL 955

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2lr2043

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By: **Delegate Charkoudian**

Introduced and read first time: February 10, 2022

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Unemployment Insurance – Procedures for Recovery of Overpayment of**  
3 **Benefits – Alterations**

4 FOR the purpose of requiring the Secretary of Labor to conduct a predetermination  
5 investigation before seeking the recovery of unemployment insurance benefits paid  
6 to a claimant; altering certain procedures by which the Secretary may recover an  
7 overpayment of insurance benefits; and generally relating to unemployment  
8 insurance benefits.

9 BY repealing and reenacting, without amendments,  
10 Article – Labor and Employment  
11 Section 8–101(a) and 8–1305(b)(2)(i)  
12 Annotated Code of Maryland  
13 (2016 Replacement Volume and 2021 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article – Labor and Employment  
16 Section 8–101(u–1) and (x–1), 8–809, and 8–1305(b)(2)(ii)  
17 Annotated Code of Maryland  
18 (2016 Replacement Volume and 2021 Supplement)

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

21 **Article – Labor and Employment**

22 8–101.

23 (a) In this article the following words have the meanings indicated.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (u-1) **(1)** “Mailed or otherwise delivered” means to cause to be delivered by  
2 [electronic transmission] **E-MAILING** or physical mailing.

3 **(2)** “**MAILED OR OTHERWISE DELIVERED**” **INCLUDES THE INCLUSION**  
4 **OF A DOCUMENT IN OR ATTACHMENT OF A DOCUMENT TO AN E-MAIL.**

5 **(3)** “**MAILED OR OTHERWISE DELIVERED**” **DOES NOT INCLUDE**  
6 **POSTING ON AN ONLINE PORTAL.**

7 (x-1) **(1)** “Send” means to cause to be delivered by [electronic transmission]  
8 **E-MAILING** or physical mailing.

9 **(2)** “**SEND**” **INCLUDES THE INCLUSION OF A DOCUMENT IN OR THE**  
10 **ATTACHMENT OF A DOCUMENT TO AN E-MAIL.**

11 **(3)** “**SEND**” **DOES NOT INCLUDE POSTING ON AN ONLINE PORTAL.**

12 8-809.

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

15 (1) the claimant was not unemployed;

16 (2) the claimant received or retroactively was awarded wages; or

17 (3) due to a redetermination of an original claim by the Secretary, the  
18 claimant is disqualified or otherwise ineligible for benefits.

19 (b) If the Secretary finds that a claimant knowingly made a false statement or  
20 representation or knowingly failed to disclose a material fact to obtain or increase a benefit  
21 or other payment under this title, in addition to disqualification of the claimant, the  
22 Secretary may recover from the claimant:

23 (1) all benefits paid to the claimant for each week for which the false  
24 statement or representation was made or for which the claimant failed to disclose a  
25 material fact;

26 (2) a monetary penalty of 15% of all benefits paid to the claimant for each  
27 week for which the false statement or representation was made or for which the claimant  
28 failed to disclose a material fact; and

29 (3) interest of 1.5% per month on the amount of all benefits paid to the  
30 claimant for each week for which the false statement or representation was made or for  
31 which the claimant failed to disclose a material fact plus the amount of the monetary  
32 penalty accruing from the date that the claimant is notified by the Secretary that the

1 claimant was not entitled to benefits received.

2 (c) (1) BEFORE THE SECRETARY MAKES A FINDING UNDER SUBSECTION  
3 (A) OR (B) OF THIS SECTION, THE SECRETARY SHALL CONDUCT A  
4 PREDETERMINATION INVESTIGATION BY:

5 (I) PROMPTLY SENDING WRITTEN NOTICE TO THE CLAIMANT  
6 THAT INCLUDES THE FOLLOWING INFORMATION:

7 1. THE SECRETARY BELIEVES THE CLAIMANT MAY HAVE  
8 BEEN OVERPAID;

9 2. THE SPECIFIC ALLEGED FACTS OR LEGAL BASIS FOR  
10 THE SECRETARY'S BELIEF THAT THE CLAIMANT MAY HAVE BEEN OVERPAID; AND

11 3. INSTRUCTIONS THAT EXPLAIN HOW THE CLAIMANT  
12 MAY CONTEST THE BASIS FOR THE SECRETARY'S BELIEF THAT THE CLAIMANT MAY  
13 HAVE BEEN OVERPAID; AND

14 (II) ALLOWING THE CLAIMANT 30 DAYS AFTER THE MAILING OR  
15 OTHER DELIVERY OF THE WRITTEN NOTICE REQUIRED UNDER THIS PARAGRAPH TO  
16 RESPOND IN WRITING OR BY TELEPHONE, AS CHOSEN BY THE CLAIMANT.

17 (2) [If] AFTER THE PREDETERMINATION INVESTIGATION UNDER THIS  
18 SUBSECTION IS COMPLETED, IF the Secretary decides to recover benefits from a claimant  
19 under subsection (a) or (b) of this section, the Secretary shall [notify] SEND WRITTEN  
20 NOTICE TO the claimant of:

21 (i) the amount to be recovered;

22 (ii) the basis for the recovery of benefits, including [any evidence]  
23 THE FACTUAL AND EVIDENTIARY INFORMATION that the Secretary used to make the  
24 determination;

25 (iii) the weeks for which benefits were paid;

26 (iv) [the amount of any] WHETHER THE SECRETARY HAS  
27 ASSESSED ANY monetary penalty [assessed] under subsection (b)(2) of this section and, IF  
28 SO, THE PRECISE AMOUNT OF THE MONETARY PENALTY AND the [reason] SPECIFIC  
29 FACTUAL AND EVIDENTIARY BASIS for the assessment of the monetary penalty;

30 (v) the provision of this title under which the Secretary determined  
31 that the claimant was ineligible for benefits; [and]

1 (vi) the appeal rights available to a claimant, INCLUDING  
2 INSTRUCTIONS THAT EXPLAIN:

3 1. THAT THE CLAIMANT MAY APPEAL AN OVERPAYMENT  
4 DETERMINATION WITH A FAIR HEARING BEFORE THE LOWER APPEALS DIVISION;  
5 AND

6 2. HOW AND WHEN TO APPEAL THE OVERPAYMENT  
7 DETERMINATION; AND

8 (VII) HOW AND WHEN TO FILE AN APPLICATION TO REQUEST A  
9 WAIVER OF THE OVERPAYMENT RECOUPMENT.

10 [(2)] (3) The Secretary shall allow a claimant to appeal a determination  
11 regarding the recovery of benefits within 30 days after the mailing or other delivery of the  
12 notice UNDER PARAGRAPH (2) OF THIS SUBSECTION.

13 (d) (1) [The] SUBJECT TO SUBSECTION (F) OF THIS SECTION, THE  
14 Secretary may recover an amount under subsection (a) of this section:

15 (i) by deduction from benefits payable to the claimant in the future;

16 (ii) in the manner provided in § 8–630 of this title for the collection  
17 of past due contributions;

18 (iii) by assessment in the same manner as provided in § 8–629 of this  
19 title for the assessment of past due contributions; or

20 (iv) through other reasonable means of collection, including those  
21 permitted under:

22 1. State law for the collection of debts owed to the State; or

23 2. federal law.

24 (2) (i) If the Secretary seeks to recover an amount under subsection (a)  
25 of this section by assessment, the Secretary shall allow a claimant to elect, within 30 days  
26 of the date of the notice of assessment, to have the amount collected by suit instead of by  
27 assessment.

28 (ii) The Secretary shall adopt regulations to provide general  
29 guidance about:

30 1. the processes under which the Secretary may recover  
31 benefits; and



1 (2) a federal unemployment insurance benefit program.

2 8–1305.

3 (b) In addition to the penalty under subsection (a) of this section, a person who  
4 violates § 8–1301 of this subtitle:

5 (2) shall be disqualified from receiving benefits for any week of  
6 unemployment, including the week in which a determination is made that the individual  
7 filed a claim involving a false statement, false representation, or failure to disclose a  
8 material fact, until:

9 (i) the Secretary determines that:

10 1. the benefit unlawfully received has been repaid in full; and

11 2. the monetary penalty of 15% and interest at a rate of 1.5%  
12 a month on the total amount of benefit unlawfully received plus the monetary penalty have  
13 been paid in full; or

14 (ii) the Secretary determines that:

15 1. in the Secretary's sole discretion under § [8–809(f)(3)]  
16 **8–809(G)(3)** of this title, the benefit unlawfully received and interest are uncollectible; and

17 2. the claimant has paid the 15% monetary penalty in full;  
18 and

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2022.