

SENATE BILL 21

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7lr0100

(PRE-FILED)

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

A BILL ENTITLED

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 and generally relating to the recovery of unemployment insurance benefits by
7 assessment.

8 BY repealing and reenacting, without amendments,
9 Article – Labor and Employment
10 Section 8–629 and 8–809(a)
11 Annotated Code of Maryland
12 (2016 Replacement Volume)

13 BY repealing and reenacting, with amendments,
14 Article – Labor and Employment
15 Section 8–809(d)
16 Annotated Code of Maryland
17 (2016 Replacement Volume)

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

20 **Article – Labor and Employment**

21 8–629.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (2) An employing unit shall submit a correct and sufficient report within
32 10 days after the Secretary requires it.

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

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

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

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

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

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

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

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

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

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

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

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

25 (i) the name of the employing unit;

26 (ii) the address of the employing unit;

27 (iii) the amount of the assessment; and

28 (iv) that the time for filing an appeal for judicial review has expired
29 without an appeal having been taken.

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

3 (i) record and index the lien; and

4 (ii) enter the lien in the judgment docket of the court.

5 (3) The docket entry shall include:

6 (i) the name of the person whose property is subject to the lien; and

7 (ii) the amount and date of the lien.

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

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

15 8–809.

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

18 (1) the claimant was not unemployed;

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

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

22 (d) The Secretary may recover an amount under subsection (a) of this section:

23 (1) by deduction from benefits payable to the claimant in the future;

24 (2) in the manner provided in § 8–630 of this title for the collection of past
25 due contributions; [or]

26 **(3) BY ASSESSMENT IN THE SAME MANNER AS PROVIDED IN § 8–629**
27 **OF THIS TITLE FOR THE ASSESSMENT OF PAST DUE CONTRIBUTIONS; OR**

28 **[(3)] (4)** through other reasonable means of collection, including those
29 permitted under:

- 1 (i) State law for the collection of debts owed to the State; or
- 2 (ii) federal law.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
4 1, 2017.