

CHAPTER 932

H.B. No. 1387

AN ACT

relating to the administration and enforcement of the state unemployment compensation system.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. The Texas Unemployment Compensation Act (Article 5221b-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Section 14-B to read as follows:

Sec. 14-B. (a) In this section, "asset" means:

- (1) a credit, bank, or savings account or deposit; or*
- (2) any other intangible or personal property.*

(b) If a party is delinquent in the payment of contributions, penalties, interest, or other sums due under this Act, the Commission may notify personally or by registered mail any person who:

- (1) possesses or controls an asset belonging to the delinquent party; or*
- (2) owes a debt to the delinquent party.*

(c) A notice under this section to a state officer, department, or agency must be given before the officer, department, or agency presents to the comptroller the claim of the delinquent party.

(d) A notice under this section may be given at any time after the contributions, penalties, interest, or other sums due under this Act become delinquent. The notice must state the amount of contributions, penalties, interest, or other sums due, and any additional amount that will accrue by operation of law in a period not to exceed 30 days after the date on which the notice is given, and, in the case of a credit, bank, or savings account or deposit, is effective only up to that amount.

(e) On receipt of a notice under this section, the recipient of the notice shall advise the Commission not later than the 20th day after the date the notice is received of each asset belonging to the delinquent party that is possessed or controlled by the recipient and of each debt owed by the recipient to the delinquent party. The recipient of the notice may not transfer or dispose of the asset or debt possessed, controlled, or owed by the recipient as of the time the notice was received by the recipient during the 60-day period immediately after the date of receipt of the notice, unless the Commission consents to an earlier disposition.

(f) A notice under this section that attempts to prohibit the transfer or disposition of an asset possessed or controlled by a bank is not effective unless it is delivered or mailed to the principal office of the bank or the office of the bank at which the deposit is carried or the credit or property is held.

(g) A person who has received a notice under this section and who transfers or disposes of an asset or debt in a manner that violates Subsection (e) of this section is liable to the Commission for the amount of the indebtedness of the delinquent party with respect to whose obligation the notice was given to the extent of the value of that asset or debt.

(h) At any time during the last 45 days of the 60-day period described by Subsection (e) of this section, the Commission may levy on the asset or debt by delivery of a notice of levy. On receipt of the levy notice, the person possessing the asset or debt shall transfer the asset to the Commission or pay to the Commission the amount owed to the delinquent party.

(i) A notice delivered under this section is effective at the time of delivery against all property, rights to property, credits, and debts involving the delinquent party that are not, as of the date of the notice, subject to a preexisting lien, attachment, garnishment, or execution issued through a judicial process.

(j) A person acting in accordance with the terms of the notice of freeze or levy issued by the Commission is discharged from any obligation or liability to the delinquent party with respect to the affected property, rights to property, credits, and debts of the party affected by compliance with the notice of freeze or levy.

SECTION 2. Section 14(a), Texas Unemployment Compensation Act (Article 5221b-12, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Interest [~~and Penalties~~] on Past Due Contributions: If any employer subject to the provisions of this Act shall fail to pay contributions due under this Act on the date on which they are due and payable as prescribed by the Commission, such employer shall *be liable* [~~forfeit~~] to the State of Texas *for interest* [~~a penalty~~] of one and one-half per cent (1½%) of such contributions, and after the expiration of one (1) month such employer shall *be liable for* [~~forfeit an~~] *additional interest* [~~penalty~~] of one and one-half per cent (1½%) of such contributions for each month or fraction thereof, until such contributions and *interest payments* [~~penalties~~] shall have been paid in full; provided, however, that the *interest* [~~penalties~~] applicable to the contributions due for any period (as prescribed by the rules of the Commission) shall not exceed thirty-seven and one-half per cent (37½%) of the amount of contributions due at due date; provided, however, that for the exclusive purpose of this subsection, the *liability for interest* [~~forfeit of penalty~~] provided herein shall not apply to any employer who failed to pay contributions due under this Act because of the bona fide belief that all or some of their employees are covered under the unemployment insurance law of any other state if such employer paid, pursuant to the unemployment insurance law of such other state, the contributions thereunder when due on all such wages of such employees.

In addition to the *interest* [~~penalties~~] provided above, whenever the maximum *interest* [~~penalty~~] of thirty-seven and one-half per cent (37½%) shall accrue or shall have accrued as provided above in cases in which the liability of the employer is reduced to judgment, thereafter in addition to the *interest* [~~penalties~~] provided above, contributions included in such judgment shall bear *additional interest* at the rate of one per cent (1%) per month or part of a month.

SECTION 3. Section 19(m), Texas Unemployment Compensation Act (Article 5221b-17, Vernon's Texas Civil Statutes), is amended to read as follows:

(m) "Valid claim" means either an initial claim filed by an unemployed individual who has received the wages necessary to qualify for benefits under the terms of subsection 4(e) of this Act, or a claim for benefits filed by an unemployed individual who has received the wages necessary to qualify for benefits under the terms of subsection 4(e) of this Act and "initial claim" means the notice filed by an individual who does not have a current benefit year that he is unemployed and may, if such unemployment continues, file a claim for benefits. *For purposes of this Act, an individual shall be considered unemployed if the individual is totally unemployed as defined in Subsection 19(l) of this Act or if the individual is partially unemployed as defined in Subsection 19(j) of this Act.*

SECTION 4. This Act takes effect September 1, 1993.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 4, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 1387 on May 26, 1993, by a non-record vote; passed by the Senate, with amendments, on May 24, 1993: Yeas 31, Nays 0.

Approved June 19, 1993.

Effective Sept. 1, 1993.