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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - EMPLOYMENT SECURITY - FRAUD  
PREVENTION AND RECOVERY OF OVER PAYMENTS

Introduced By: Senators Lombardi, DiPalma, Satchell, Jabour, and Conley

Date Introduced: February 27, 2014

Referred To: Senate Labor

(Labor and Training)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-44-39 of the General Laws in Chapter 28-44 entitled  
2 "Employment Security - Benefits" is hereby amended to read as follows:

3 ~~28-44-39. Initial determination --- Notice --- Reconsideration of monetary~~  
4 ~~determination --- Reconsideration of other determination --- Appeal --- Interested party.~~

5 Initial determination -- Notice -- Reconsideration of monetary determination --  
6 Appeal -- Interested party. – (a) (1) The director shall promptly determine: ~~(i) Whether~~ whether

7 or not the claimant has met the monetary eligibility requirements set forth in section 28-44-11.  
8 Thereupon the director shall promptly notify the claimant in writing of that determination,  
9 including the reasons upon which the determination was based. The director may at any time  
10 within one year from the date of the determination either upon request of the claimant or on his or  
11 her own motion reconsider that determination if he or she finds that an error in computation or in  
12 identity has occurred in connection with it, or that additional wages pertinent to the status of the  
13 claimant have become available, or if that determination was made as a result of a non-disclosure  
14 or misrepresentation of a material fact. The notice to an eligible claimant shall also include  
15 information as to his or her benefit year, his or her weekly benefit amount, his or her augmented  
16 weekly benefit amount if he or she has dependents, and the maximum amount of benefit credits to  
17 which he or she is entitled for unemployment during his or her benefit year;

18 ~~(ii) Whether or not the claimant is disqualified under any of the provisions of sections~~

~~28 44 12, 28 44 16 — 28 44 21, 28 42 62, and 28 42 68. If the director determines that the claimant is not eligible to receive waiting period credit or benefits for any week or weeks due to a disqualification imposed under any of the provisions referred to in this subdivision, he or she shall promptly furnish to that claimant and to all interested parties, other than the board of review, written notice of that determination together with a statement containing the reasons for the determination, and the period of disqualification.~~

(2) If the director determines that the claimant is eligible to receive waiting period credit or benefits, he or she shall promptly furnish a written notice of that determination to the claimant and to all interested parties other than the board of review. All notices issued under this section shall contain a statement of the appeal rights of the parties.

(b) Unless the claimant or any other interested party who is entitled to notice requests a hearing within fifteen (15) days after the notice of determination has been mailed by the director to the last known address of the claimant and of any other interested party, the determination shall be final. For good cause shown the fifteen (15) day period may be extended. The director, on his or her own motion, may at any time within one year from the date of the determination set forth in subdivision (a)(1) of this section reconsider the determination, if he or she finds that an error has occurred in connection with it, or that the determination was made as a result of a mistake, or the nondisclosure or misrepresentation of a material fact.

(c) For the purpose of this chapter, an "interested party" is deemed to be the director, the board of review, the claimant, and any employer or employing unit who has furnished information other than wage information in accordance with section 28-44-38(c).

SECTION 2. Chapter 28-44 of the General Laws entitled "Employment Security - Benefits" is hereby amended by adding thereto the following section:

**28-44-39.1. Notice - Reconsideration of other determination - Appeal - Interested party.** — (a)(1) The director shall promptly determine whether or not the claimant is disqualified under any of the provisions of §§ 28-44-7, 28-44-12, 28-44-13, 28-44-16, 28-44-21, 28-42-62.1 and 28-42-68. If the director determines that the claimant is not eligible to receive waiting period credit or benefits for any week or weeks due to a disqualification imposed under any of the provisions referred to in this subdivision, he or she shall promptly furnish to that claimant and to all interested parties, other than the board of review, written notice of that determination together with a statement containing the reasons for the determination, and the period of disqualification. The director, on his or her own motion, may at any time within one year from being notified that an error has occurred in connection with the determination set forth in subdivision (a)(1) of this section, or that the determination was made as a result of a mistake, or the nondisclosure or

1 misrepresentation of a material fact may reconsider the determination.

2 (2) If the director determines that the claimant is eligible to receive waiting period credit  
3 or benefits, he or she shall promptly furnish a written notice of that determination to the claimant  
4 and to all interested parties other than the board of review. All notices issued under this section  
5 shall contain a statement of the appeal rights of the parties.

6 (b) Unless the claimant or any other interested party who is entitled to notice requests, in  
7 writing, a hearing within fifteen (15) days after the notice of determination has been mailed by  
8 the director to the last known address of the claimant and of any other interested party, the  
9 determination shall be final. For good cause shown the fifteen (15) day period may be extended.

10 (c) For the purpose of this chapter, an "interested party" is deemed to be the director, the  
11 board of review, the claimant, and any employer or employing unit who has furnished  
12 information other than wage information in accordance with § 28-44-38(c).

13 SECTION 3. Section 28-44-40 of the General Laws in Chapter 28-44 entitled  
14 "Employment Security - Benefits" is hereby amended to read as follows:

15 **28-44-40. Payment of benefits pending appeal.** -- (a) If an appeal is filed by an  
16 employer, benefits shall be paid to an eligible claimant until that employer's appeal is finally  
17 determined. If the employer's appeal is finally sustained, no further benefits shall be paid to the  
18 claimant during any remaining portion of the disqualification period. Any benefits paid or  
19 payable to that claimant shall not be recoverable ~~in any manner~~ unless it is established to the  
20 satisfaction of the director that the erroneous payment was the result of fraud.

21 (b) If, beginning on or after October 1, 2013, the director establishes that an erroneous  
22 payment was made to an individual due to fraud committed by the individual for overpayments  
23 and those overpayments are eligible to be recovered, that individual shall also be liable to pay  
24 penalties required under subsection 28-42-68(c) for those erroneous payments.

25 SECTION 4. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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RELATING TO LABOR AND LABOR RELATIONS - EMPLOYMENT SECURITY - FRAUD  
PREVENTION AND RECOVERY OF OVER PAYMENTS

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1           This act would enable the department of employment security to recover all  
2 overpayments made due to fraud by the claimant. This act would also give the director one year  
3 from the date of being notified that an issue has been discovered to make a non-monetary  
4 determination based on the new information.

5           This act would take effect upon passage.

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