

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 811 Session of 2013

INTRODUCED BY D. COSTA, FABRIZIO, O'BRIEN, MURT, KORTZ, KULA, READSHAW AND CALTAGIRONE, FEBRUARY 25, 2013

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, FEBRUARY 25, 2013

AN ACT

1 Amending the act of December 5, 1936 (2nd Sp.Sess., 1937
 2 P.L.2897, No.1), entitled "An act establishing a system of
 3 unemployment compensation to be administered by the
 4 Department of Labor and Industry and its existing and newly
 5 created agencies with personnel (with certain exceptions)
 6 selected on a civil service basis; requiring employers to
 7 keep records and make reports, and certain employers to pay
 8 contributions based on payrolls to provide moneys for the
 9 payment of compensation to certain unemployed persons;
 10 providing procedure and administrative details for the
 11 determination, payment and collection of such contributions
 12 and the payment of such compensation; providing for
 13 cooperation with the Federal Government and its agencies;
 14 creating certain special funds in the custody of the State
 15 Treasurer; and prescribing penalties," in penalty provisions,
 16 further providing for recovery and recoupment of
 17 compensation; and providing for an amnesty program for
 18 selected violations.

19 The General Assembly of the Commonwealth of Pennsylvania
 20 hereby enacts as follows:

21 Section 1. Section 804(a) of the act of December 5, 1936
 22 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment
 23 Compensation Law, amended June 12, 2012 (P.L.577, No.60), is
 24 amended to read:

25 Section 804. Recovery and Recoupment of Compensation.--(a)
 26 Any person who by reason of his fault has received any sum as

1 compensation under this act to which he was not entitled, shall
2 be liable to repay to the Unemployment Compensation Fund to the
3 credit of the Compensation Account a sum equal to the amount so
4 received by him and interest at the rate determined by the
5 Secretary of Revenue as provided by section 806 of the act of
6 April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," per
7 month or fraction of a month from fifteen (15) days after the
8 Notice of Overpayment was issued until paid. Such sum shall be
9 collectible (1) in the manner provided in section 308.1 or
10 section 309 of this act, for the collection of past due
11 contributions, or (2) by deduction from any future compensation
12 payable to the claimant under this act: Provided, That interest
13 assessed under this section cannot be recouped by deduction from
14 any future compensation payable to the claimant under this act:
15 Provided further, That no administrative or legal proceedings
16 for the collection of such sum shall be instituted after the
17 expiration of [ten] twenty (20) years following the end of the
18 benefit year with respect to which such sum was paid.

19 * * *

20 Section 2. The act is amended by adding an article to read:

21 ARTICLE VIII-A

22 OUTSTANDING OVERDRAFT CLAIMANT AND

23 DELINQUENT EMPLOYER AMNESTY PROGRAM

24 Section 801-A. Definitions.

25 The following words and phrases when used in this article
26 shall have the meanings given to them in this section unless the
27 context clearly indicates otherwise:

28 "Amnesty period." The period from April 21, 2014, through
29 June 13, 2014, inclusive.

30 "Delinquent contribution or other payment." A monetary

1 amount owed to the Department of Labor and Industry by a
2 delinquent employer found to have violated section 802(a)(2).

3 "Delinquent employer." An employer or an officer or agent of
4 such employer found to have violated section 802(a)(2).

5 "Outstanding overdraft claimant." A person who owes the
6 Department of Labor and Industry funds, fees, fines, interest
7 and penalties stemming from an overdraft in violation of section
8 801 for a period in excess of six years.

9 "Overdrafted funds." A monetary amount overpaid by the
10 Department of Labor and Industry to a claimant who made a false
11 statement or representation knowing it to be false or who
12 knowingly failed to disclose a material fact to obtain or
13 increase compensation or other payment from the Department of
14 Labor and Industry in violation of section 801.

15 "Program." The Outstanding Overdraft Claimant and Delinquent
16 Employer Amnesty Program established under this article.
17 Section 802-A. Outstanding Overdraft Claimant and Delinquent
18 Employer Amnesty Program.

19 (a) Establishment.--The Outstanding Overdraft Claimant and
20 Delinquent Employer Amnesty Program is established and shall be
21 administered by the department.

22 (b) Applicability.--The program shall apply to:

23 (1) A person who, having been found to have violated
24 section 801, owes the department for overdrafted funds from
25 the Unemployment Compensation Fund as well as any fines,
26 fees, penalties and interest accrued under section 801.

27 (2) A delinquent employer who, having been found to have
28 violated section 802(a)(2) between January 1, 2007, and
29 January 1, 2012, owes the department for delinquent
30 contributions or other payments required by this act as well

1 as any fines, fees, penalties and interest stemming from the
2 violation.

3 (c) Future program participation.--A person who participates
4 in the program shall not be eligible to participate in any
5 future outstanding overdraft claimant and delinquent employer
6 amnesty program.

7 Section 803-A. Required payment.

8 (a) Conditions.--All outstanding overdraft claimants and
9 delinquent employers who participate in the program shall comply
10 with the following:

11 (1) During the amnesty period, they shall file an
12 amnesty form as provided by the department that contains such
13 information as the department shall require. An amnesty form
14 shall be considered timely filed if it is postmarked or
15 electronically or otherwise submitted in a form acceptable to
16 the department during the amnesty period.

17 (2) During the amnesty period, they shall make payment
18 of all owed overdrafted funds or delinquent contributions or
19 other payments and one-half of the interest due to the
20 department. The outstanding overdraft claimant or delinquent
21 employer shall not be required to pay any fine, fee or
22 penalty applicable to the overdraft or delinquency in
23 violation of section 801 or 802(a)(2), respectively.

24 (b) Prohibitions.--The department may not:

25 (1) Collect the penalties or interest waived under
26 subsection (a)(2).

27 (2) Except as otherwise provided in this article, pursue
28 any administrative or judicial proceeding relating to the
29 overdrafted funds or delinquent contribution or other payment
30 against an outstanding overdraft claimant or delinquent

1 employer who has satisfied completely the requirements
2 outlined in subsection (a) as to the overdrafted funds or
3 delinquent contribution or other payment.

4 (c) Financial hardship.--An outstanding overdraft claimant
5 otherwise eligible for amnesty, who certifies on an amnesty form
6 that making payment of the full amount for which amnesty is
7 sought at the time of submission of the form is made would
8 create severe financial hardship for the claimant, shall retain
9 eligibility for amnesty if:

10 (1) Fifty percent or more of the amount due as computed
11 is paid with the amnesty return or within the amnesty period.

12 (2) The balance due, including interest under subsection
13 (a)(2), is paid, in no more than two installments on or
14 before the end of the amnesty period.

15 Section 804-A. Amnesty contingent on continued compliance.

16 Notwithstanding any other provision of this article, the
17 department may assess and collect from an outstanding overdraft
18 claimant or delinquent employer all penalties and interest
19 waived through the program if the claimant or employer is found
20 to have violated section 801 or 802(a)(2) at any point after
21 June 13, 2014.

22 Section 805-A. Previously paid fees, fines, penalties and
23 interest.

24 No refund or credit shall be allowed for any fees, fines,
25 penalties or interest stemming from a violation of section 801
26 or 802(a)(2) paid to the department prior to the amnesty period.

27 Section 806-A. Undisclosed outstanding overdrafts.

28 Nothing in this article shall be construed to prohibit the
29 department from instituting administrative or legal proceedings
30 against any outstanding overdraft claimant or delinquent

1 employer with respect to any overdrafts or delinquent
2 contributions or other payments occurring before the amnesty
3 period but not yet disclosed. Amnesty shall only be granted for
4 outstanding overdrafts that have been disclosed by the
5 department prior to the amnesty period.

6 Section 807-A. Duties of department.

7 (a) Guidelines.--The department shall develop guidelines to
8 implement the provisions of this article. The guidelines shall
9 be published in the Pennsylvania Bulletin within 60 days of the
10 effective date of this section and shall contain, but not be
11 limited to, the following information:

12 (1) An explanation of the program and the requirements
13 for eligibility for the program.

14 (2) The dates during which an amnesty form may be filed.

15 (3) A specimen copy of the amnesty form.

16 (b) Notification.--

17 (1) The department shall notify in writing all known
18 outstanding overdraft claimants and delinquent employers at
19 the claimants' or employers' last known addresses of the
20 existence of and their eligibility for the program. The sole
21 purpose of the letter sent by the department to the claimants
22 and employers shall be notification of the program and the
23 claimants' and employers' eligibility.

24 (2) The notification shall include an up-to-date total
25 of all overdrafted funds, fees, fines, penalties and interest
26 or delinquent contribution or other payment and related
27 fines, fees, penalties and interest and the total expected to
28 be collected under the program.

29 (c) Reports.--The department shall issue reports to the
30 General Assembly detailing program implementation. The reports

1 shall contain the following information:

2 (1) Within 30 days after the end of the amnesty period:

3 (i) A detailed breakdown of the department's
4 administrative costs in implementing the program.

5 (ii) The total dollar amount of revenue collected by
6 the program.

7 (2) Within 180 days after the end of the amnesty period:

8 (i) The number of amnesty forms filed and a
9 breakdown of the number and dollar amount of revenue
10 raised by calendar year during which the overdraft
11 occurred.

12 (ii) The total dollar amount of penalties and
13 interest waived under the program.

14 (iii) The demographic characteristics of
15 participants in the program.

16 Section 808-A. Method of payment.

17 All payments under the program shall be made by certified
18 check, money order, electronic transfer, credit card, cash or
19 its equivalent.

20 Section 809-A. Use of revenue.

21 All revenue collected under this article shall be deposited
22 in the Unemployment Compensation Fund.

23 Section 3. This act shall take effect in 60 days.