

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 603
SENATE BILL 401

AN ACT TO ALLOW THE EMPLOYMENT SECURITY COMMISSION TO SHARE
CERTAIN INFORMATION WITH THE STATE CONTROLLER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-4(t) reads as rewritten:

"(t) Confidentiality of Records, Reports, and Information Obtained from Claimants and Employers.

- (1) Confidentiality of Information Contained in Records and Reports. – (i) Except as hereinafter otherwise provided, it shall be unlawful for any person to obtain, disclose, or use, or to authorize or permit the use of any information which is obtained from any employing unit or individual pursuant to the administration of this Chapter. (ii) Any claimant or employer or their legal representatives shall be supplied with information from the records of the Employment Security Commission to the extent necessary for the proper presentation of claims or defenses in any proceeding under this Chapter. Notwithstanding any other provision of law, any claimant may be supplied, subject to restrictions as the Commission may by regulation prescribe, with any information contained in his payment record or on his most recent monetary determination, and any individual, as well as any interested employer, may be supplied with information as to the individual's potential benefit rights from claim records. (iii) Subject to restrictions as the Commission may by regulation provide, information from the records of the Employment Security Commission may be made available to any agency or public official for any purpose for which disclosure is required by statute or regulation. (iv) The Commission may, in its sole discretion, permit the use of information in its possession by public officials in the performance of their public duties. (v) The Commission shall release the payment and the amount of unemployment compensation benefits upon receipt of a subpoena in a proceeding involving child support. (vi) The Commission shall furnish to the State Controller any information the State Controller needs to prepare and publish a comprehensive annual financial report of the State.
- (2) Job Service Information. – (i) Except as hereinafter otherwise provided it is unlawful for any person to disclose any information obtained by

the North Carolina State Employment Service Division from workers, employers, applicants, or other persons or groups of persons in the course of administering the State Public Employment Service Program. Provided, however, that if all interested parties waive in writing the right to hold such information confidential, the information may be disclosed and used but only for those purposes that the parties and the Commission have agreed upon in writing. (ii) The Employment Service Division shall make public, through the newspapers and any other suitable media, information as to job openings and available applicants for the purpose of supplying the demand for workers and employment. (iii) The Labor Market Information Division shall collect, collate, and publish statistical and other information relating to the work under the Commission's jurisdiction; investigate economic developments, and the extent and causes of unemployment and its remedies with the view of preparing for the information of the General Assembly such facts as in the Commission's opinion may make further legislation desirable. (iv) Except as provided by Commission regulation, any information published pursuant to this subsection (II) shall not be published in any manner revealing the identity of the applicant or the employing unit.

- (3) Penalties for Disclosure or Improper Use. – Any person violating any provision of this section may be fined not less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200.00), or imprisoned for not longer than 90 days, or both.
- (4) Regulations. – The Commission may provide by regulation for procedures by which requests for information will be considered and the methods by which such information may be disclosed. The Commission is authorized to provide by regulation for the assessment of fees for securing and copying information released under this section.
- (5) Privileged Status of Letters and Reports and Other Information Relating to Administration of this Chapter. – All letters, reports, communication, or any other matters, either oral or written, including any testimony at any hearing, from the employer or employee to each other or to the Commission or any of its agents, representatives, or employees, which letters, reports, or other communication shall have been written, sent, delivered, or made in connection with the requirements of the administration of this Chapter, shall be absolutely privileged communication in any civil or criminal proceedings except proceedings pursuant to or involving the administration of this Chapter and except proceedings involving child support and only for the purpose of establishing the payment and amount of unemployment compensation benefits.

- (6) Nothing in this subsection (t) shall operate to relieve any claimant or employing unit from disclosing any information required by this Chapter or by regulations promulgated thereunder.
- (7) Nothing in this subsection (t) shall be construed to prevent the Commission from allowing any individual or entity to examine and copy any report, return, or any other written communication made by that individual or entity to the Commission, its agents, or its employees.
- (7a) Nothing in this subsection (t) shall be construed to prevent the Commission from disclosing, upon request and on a reimbursable basis only, to officers and employees of the Department of Housing and Urban Development and to representatives of a public housing agency as defined in Section 303(i)(4) of the Social Security Act, any information from the records of the Employment Security Commission with respect to individuals applying for or participating in any housing assistance program administered by the Department of Housing and Urban Development who have signed an appropriate consent form approved by the Secretary of Housing and Urban Development. It is the purpose of this paragraph to assure the Employment Security Commission's compliance with Section 303(i)(1) of the Social Security Act and it shall be construed accordingly.
- (7b) Nothing in this subsection (t) shall be construed to prevent the Commission from disclosing, upon request and on a reimbursable basis, to the Secretary of Health and Human Services, any information from the records of the Employment Security Commission as may be required by Section 303(h)(1) of the Social Security Act. It is the purpose of this paragraph to assure compliance with Section 303(h)(1) of the Social Security Act and it shall be construed accordingly.
- (8) Any finding of fact or law, judgment, determination, conclusion or final order made by an adjudicator, appeals referee, commissioner, the Commission or any other person acting under authority of the Commission pursuant to the Employment Security Law is not admissible or binding in any separate or subsequent action or proceeding, between a person and his present or previous employer brought before an arbitrator, court or judge of this State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts.

Provided, however, any finding of fact or law, judgment, determination, conclusion, or final order made by an adjudicator, appeals referee, commissioner, the Commission or any other person acting under the authority of the Commission pursuant to the Employment Security Law shall be admissible in proceedings before the North Carolina Industrial Commission."

Sec. 2. This act is effective upon ratification.

1991. In the General Assembly read three times and ratified this the 9th day of July,

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives