

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1999

HOUSE BILL 276  
RATIFIED BILL

AN ACT MAKING VARIOUS CHANGES TO THE EMPLOYMENT SECURITY  
LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-9(a) is amended by adding two new subdivisions to read:

"(10) Employers electing to do so may pay their quarterly tax contributions by electronic funds transfer. When an electronic funds transfer cannot be completed due to insufficient funds or the nonexistence of an account of the transferor, the Commission shall assess a penalty equal to ten percent (10%) of the amount of the transfer, subject to a minimum of one dollar (\$1.00) and a maximum of one thousand dollars (\$1,000). The Commission may waive this penalty for good cause shown. As used in this section, the term 'electronic funds transfer' means a transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account.

(11) The Commission may establish policies to allow taxes to be payable under certain conditions by credit card. A condition of payment by credit card is receipt by the Commission of the full amount of taxes, penalties, and interest due. The Commission shall require an employer who pays by credit card to include an amount equal to any fee charged the Commission for the use of the card. A payment of taxes that is made by credit card and is not honored by the card issuer does not relieve the employer of the obligation to pay the taxes."

Section 2. G.S. 96-9(a)(7) reads as rewritten:

"(7) Effective with the quarter ending September 30, ~~1992~~, ~~1999~~, every employer with ~~250~~~~100~~ or more employees, and every person or organization that, as agent, reports wages on a total of ~~250~~~~100~~ or more employees on behalf of one or more subject employers, shall file that portion of the "Employer's Quarterly Tax and Wage Report" that contains the name, social security number, and gross wages of each individual in employment on magnetic tapes or diskettes in a format prescribed by the Commission.

For failure of an employer to comply with this subdivision, there shall be added to the amount required to be shown as tax in the reports a penalty of twenty-five dollars (\$25.00). For failure of an agent to comply with this subdivision, the Commission may deny the agent the right to report wages and file reports for the employer for whom the agent filed an improper report for a period of one year following the calendar quarter in which that agent filed the improper report. The Commission may reduce or waive a penalty for good cause shown."

Section 3. G.S. 96-9(c)(4)b. reads as rewritten:

"b. Notwithstanding any other provisions of this section, if the successor employer was an employer subject to this Chapter prior to the date of acquisition of the business, ~~his~~~~the~~

~~successor's~~ rate of contribution for the period from ~~such that~~ date to the end of the then current contribution year shall be the same as ~~his the~~ successor's rate in effect on the date of ~~such the~~ acquisition. If the successor was not an employer prior to the date of the acquisition of the ~~business he business~~, the successor shall be assigned a standard beginning rate of contribution set forth in G.S. 96-9(b)(1) for the remainder of the year in which ~~he the~~ successor acquired the business of the predecessor; however, if ~~such the~~ successor makes application for the transfer of the account within 60 days after notification by the Commission of ~~his the~~ right to do so and the account is transferred, or meets the requirements for mandatory transfer, ~~he the~~ successor shall be assigned for the remainder of ~~such the~~ year the rate applicable to the predecessor employer or employers on the date of acquisition of the business, provided as long as there was only one predecessor or if more than one and or, if more than one, the predecessors had identical rates. In the event the rates of the predecessor were not identical, the rate of the successor shall be the highest rate applicable to any of the predecessor employers on the date of acquisition of the business.

Irrespective of any other provisions of this Chapter, when an account is transferred in its entirety by an employer to a successor, the transferring employer shall thereafter pay the standard beginning rate of contributions of ~~two and seven-tenths percent (2.7%)~~ set forth in G.S. 96-9(b)(1) and shall continue to pay at ~~such rate until he that rate until the~~ transferring employer qualifies for a reduction, reacquires the account ~~he transferred~~ or acquires the experience rating account of another employer, or is subject to an increase in rate under the conditions prescribed in G.S. 96-9(b)(2) and (3). ~~However, when an account is transferred in its entirety by an employer to a successor on or after January 1, 1987, the transferring employer shall thereafter pay the standard beginning rate of contributions of two and twenty five hundredths percent (2.25%) and shall continue to pay at such rate until he qualifies for a reduction, reacquires the account he transferred or acquires the experience rating account of another employer, or is subject to an increase in rate under the conditions prescribed in G.S. 96-9(b)(2) and (3)."~~

Section 4. G.S. 96-12.01(b) reads as rewritten:

"(b) Effect of State Law Provisions Relating to Regular Benefits on Claims for, and for Payment of, Extended Benefits. – Except when the result would be inconsistent with ~~G.S. 96-12~~ or the other provisions of this ~~section, section and in matters of~~ eligibility determination, as provided in the regulations of the Commission, the provisions of this Chapter which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits."

Section 5. G.S. 96-12.01(c) is amended by adding a new subdivision to read:

"(5) An individual shall not be eligible for extended compensation unless the individual had 20 weeks of full-time insured employment, or the equivalent in insured wages, as determined by a calculation of base period wages based upon total hours worked during each quarter of the base period and the hourly wage rate for each quarter of the base period. For the purposes of this paragraph, the equivalent in insured wages shall be earnings covered by the State law for compensation

purposes which exceed 40 times the individual's most recent weekly benefit amount or one and one-half times the individual's insured wages in that calendar quarter of the base period in which the individual's insured wages were the highest."

Section 6. G.S. 96-15(a) reads as rewritten:

"(a) Filing. – Claims for benefits shall be made in accordance with such regulations as the Commission may prescribe. Employers may file claims for employees through the use of automation in the case of partial unemployment. Each employing unit shall post and maintain in places readily accessible to individuals performing services for it printed statements, concerning benefit rights, claims for benefits, and such other matters relating to the administration of this Chapter as the Commission may direct. Each employing unit shall supply to such individuals copies of such printed statements or other materials relating to claims for benefits as the Commission may direct. Such printed statements and other materials shall be supplied by the Commission to each employing unit without cost to the employing unit."

Section 7. G.S. 96-15(b)(2) reads as rewritten:

"(2) Adjudication. – When a protest is made by the claimant to the initial or monetary determination, or a question or issue is raised or presented as to the eligibility of a claimant under G.S. 96-13, or whether any disqualification should be imposed under G.S. 96-14, or benefits denied or adjusted pursuant to G.S. 96-18, the matter shall be referred to an adjudicator. The adjudicator may consider any matter, document or statement deemed to be pertinent to the issues, including telephone conversations, and after such consideration shall render a conclusion as to the claimant's benefit entitlements. The adjudicator shall notify the claimant and all other interested parties of the conclusion reached. The conclusion of the adjudicator shall be deemed the final decision of the Commission unless within ~~10 working~~ 15 days after the date of notification or mailing of the conclusion, whichever is earlier, a written appeal is filed pursuant to such regulations as the Commission may adopt. The Commission shall be deemed an interested party for such purposes and may remove to itself or transfer to an appeals referee the proceedings involving any claim pending before an adjudicator.

Provided, any interested employer shall be allowed ~~10 working~~ 15 days from the earlier of mailing or delivery of the notice of the filing of a claim against the employer's account to protest the claim and have the claim referred to an adjudicator for a decision on the question or issue raised. Provided further, no question or issue may be raised or presented by the Commission as to the eligibility of a claimant under G.S. 96-13, or whether any disqualification should be imposed under G.S. 96-14, after ~~20 working~~ 45 days from the first day of the first week after the question or issue occurs with respect to which week an individual filed a claim for benefits. None of the provisions of this subsection shall have the force and effect nor shall the same be construed or interested as repealing any of the provisions of G.S. 96-18."

Section 8. G.S. 105-259(b)(9a) reads as rewritten:

"(9a) To furnish information to the Employment Security Commission to the extent required for its NC WORKS study of the working poor pursuant to G.S. 108A-29(r). The Employment Security Commission shall use information furnished to it under this subdivision only in a nonidentifying form for statistical and analytical purposes related to its NC WORKS study. The information that may be furnished under this

subdivision is the following with respect to individual income taxpayers, as shown on the North Carolina income tax forms:

- a. Name, social security number, spouse's name, spouse's social security number, and county of residence.
- b. Filing status and federal personal exemptions.
- c. Federal taxable income, additions to federal taxable income, and total of federal taxable income plus additional income.
- d. Income while a North Carolina resident, total income from North Carolina sources while a nonresident, and total income from all sources.
- e. Exemption for children, nonresidents' and part-year residents' exemption for children, and credit for children.
- f. Expenses for child and dependent care, portion of expenses paid while a resident of North Carolina, portion of expenses paid while a resident of North Carolina that was incurred for dependents who were under the age of seven and dependents who were physically or mentally incapable of caring for themselves, credit for child and dependent care expenses, other qualifying expenses, credit for other qualifying expenses, total credit for child and dependent care expenses."

Section 9. G.S. 108A-29(q) reads as rewritten:

"(q) Each county Employment Security Commission local or branch office shall organize a Job Service Employer Committee, based on the membership makeup of the ~~Job Service Employer Committees in existence at the time this act becomes law.~~ Committee. The Chairman of the Employment Security Commission shall appoint the Job Service Employer Committee members, each of whom shall serve two-year terms, from persons nominated by the local Job Service Employer Committee. The Employment Security Commission shall organize a State Job Service Employer Committee consisting of eight members who shall serve two-year terms. The Chairman of the Employment Security Commission shall appoint the State Job Service Employer Committee members after consultation with the Governor. The Employment Security Commission shall adopt rules and regulations concerning the meeting schedule and the conduct of meetings of each Job Service Employer Committee. Each Job Service Employer Committee in counties participating in the First Stop Employment Program shall oversee the operation of the First Stop Employment Program in that county and shall report to the local Employment Security Commission quarterly on its recommendations to improve the First Stop Employment Program. The Employment Security Commission shall develop the reporting method and time frame and shall coordinate a full report to be presented to the Joint Legislative Public Assistance Commission by the end of each calendar year. ~~Counties having a Workforce Development Board may designate the Board to perform the duties described in this section rather than organizing a Job Service Employer Committee."~~

Section 10. G.S. 96-4(t)(1) reads as rewritten:

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

- (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 unit, individual, or unit of government~~ pursuant to the administration of this ~~Chapter.~~ Chapter or G.S. 108A-29. (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 or to track debtors of the State."

Section 11. G.S. 96-12(b)(4) reads as rewritten:

"(4) Qualifying Wages for Second Benefit Year. – An individual whose prior benefit year has expired and who files a new benefit claim is not entitled to benefits unless the individual has been paid qualifying wages since the beginning date of the prior benefit year and before the date the new benefit claim was filed equal to at least ~~10 times the individual's weekly benefit amount under the new benefit claim.~~ six times the average weekly insured wage, obtained in accordance with G.S. 96-8(22), and has been paid wages in at least two quarters of the individual's base period. "Qualifying wages" are wages earned with an employer subject to the provisions of this Chapter or some other state employment security law or in federal service as defined in 5 U.S.C. Chapter 85."

Section 12. Sections 3, 7, and 11 of this act become effective July 1, 1999, with Sections 7 and 11 applying to unemployment insurance claims filed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 1999.

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Dennis A. Wicker  
President of the Senate

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James B. Black  
Speaker of the House of Representatives

\_\_\_\_\_  
James B. Hunt, Jr.  
Governor

Approved \_\_\_\_\_ .m. this \_\_\_\_\_ day of \_\_\_\_\_ , 19