

AN ACT concerning employment.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 10. The Public Employment Office Act is amended by changing Section 7 as follows:

(20 ILCS 1015/7) (from Ch. 48, par. 183)

Sec. 7. No fee or compensation shall be charged or received directly or indirectly from persons applying for employment or help through said free employment offices, and any officer or employee of the Department of Employment Security who shall accept, directly or indirectly any fee or compensation from any applicant or from his or her representative shall be guilty of a Class C misdemeanor, except that this Section does not prohibit referral of an individual to an apprenticeship program that is approved by and registered with the United States Department of Labor, Bureau of Apprenticeship and Training and charges an application fee of \$50 or less.

(Source: P.A. 83-1503.)

Section 15. The Unemployment Insurance Act is amended by changing Sections 206.1, 225, 245, 702, 1402, 2101, 2201, 2201.1, and 2401 and by adding Sections 502 and 1402.1 as follows:

(820 ILCS 405/206.1)

Sec. 206.1. Employment; employee leasing company.

A. For purposes of this Section:

1. "Client" means an individual or entity which has contracted with an employee leasing company to supply it with or assume responsibility for personnel management of one or more workers to perform services on an on-going basis rather than under a temporary help arrangement, as defined in Section 15 of the Employee Leasing Company Act.

2. "Employee leasing company" means an individual or entity which contracts with a client to supply or assume responsibility for personnel management of one or more workers to perform services for the client on an on-going basis rather than under a temporary help arrangement, as defined in Section 15 of the Employee Leasing Company Act.

B. Subject to subsection C, services performed by an individual under a contract between an employee leasing company and client, including but not limited to services performed in the capacity of a corporate officer of the client, are services in "employment" of the employee leasing company and are not services in "employment" of the client if all of the following conditions are met:

1. The employee leasing company pays the individual for the services directly from its own accounts; and

2. The employee leasing company, exclusively or in

conjunction with the client, retains the right to direct and control the individual in the performance of the services; and

3. The employee leasing company, exclusively or in conjunction with the client, retains the right to hire and terminate the individual; and

4. The employee leasing company reports each client in the manner the Director prescribes by regulation; and -

5. The employee leasing company has provided, and there remains in effect, such irrevocable indemnification, as the Director may require by rule, to create a primary obligation on the part of the provider to the Illinois Department of Employment Security for obligations of the employee leasing company accrued and final under this Act. The rule may prescribe the form the indemnification shall take including, but not limited to, a surety bond or an irrevocable standby letter of credit. The obligation required pursuant to the rule shall not exceed \$1,000,000.

C. Notwithstanding subsection B, services performed by an individual under a contract between an employee leasing company and client, including but not limited to services performed in the capacity of a corporate officer of the client, are services in "employment" of the client and are not services in "employment" of the employee leasing company if:

1. The contribution rate, or, where applicable, the amended contribution rate, of the client is greater than

the sum of the fund building rate established for the year pursuant to Section 1506.3 of this Act plus the greater of 2.7% or 2.7% times the adjusted state experience factor for the year; and

2. The contribution rate, or, where applicable, the amended contribution rate, of the employee leasing company is less than the contribution rate, or, where applicable, the amended contribution rate of the client by more than 1.5% absolute.

D. Except as provided in this Section and notwithstanding any other provision of this Act to the contrary, services performed by an individual under a contract between an employee leasing company and client, including but not limited to services performed in the capacity of a corporate officer of the client, are services in "employment" of the client and are not services in "employment" of the employee leasing company.

E. Nothing in this Section shall be construed or used to effect the existence of an employment relationship other than for purposes of this Act.

(Source: P.A. 91-890, eff. 7-6-00.)

(820 ILCS 405/225) (from Ch. 48, par. 335)

Sec. 225. This Section, and not Section 212 of this Act, controls the determination of employment status for services performed by individuals in the delivery or distribution of newspapers or shopping news.

(A) The term "employment" shall not include services performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news.

(B) The term "employment" does not include the performance of freelance editorial or photographic work for a newspaper.

(B-5) The employment status of individuals engaged in the delivery of newspapers or shopping news shall be determined as provided in this subsection. The term "employment" does not include the delivery or distribution of newspapers or shopping news if at least one of the following 4 elements is present:

(1) The individual performing the services gains the profits and bears the losses of the services.

(2) The person or firm for whom the services are performed does not represent the individual as an employee to its customers.

(3) The individual hires his or her own helpers or employees, without the need for approval from the person or firm for whom the services are performed, and pays them without reimbursement from that person or firm.

(4) Once the individual leaves the premises of the person or firm for whom the services are performed or the printing plant, the individual operates free from the direction and control of the person or firm, except as is necessary for the person or firm to ensure quality control of the newspapers or shopping news, including, but not limited to, the condition of the newspapers or shopping

news upon delivery and the location and timing of delivery of the newspapers or shopping news.

(C) Notwithstanding subsection (B-5), ~~the~~ term "employment" does not include the delivery or distribution of newspapers or shopping news to the ultimate consumer if:

(1) substantially all of the remuneration for the performance of the services is directly related to sales, "per piece" fees, or other output, rather than to the number of hours worked; and

(2) the services are performed under a written contract between the individual and the person or firm for whom the services are performed, and the contract provides that the individual will not be treated as an employee for federal tax purposes.

(3) Delivery or distribution to the ultimate consumer does not include:

(i) delivery or distribution for sale or resale, including, but not limited to, distribution to a newsrack or newsbox, salesperson, newsstand or retail establishment;

(ii) distribution for further distribution, regardless of subsequent sale or resale.

(D) Subsections (B-5) and Subsection ~~(C)~~ shall not apply in the case of any individual who provides delivery or distribution services for a newspaper pursuant to the terms of a collective bargaining agreement and shall not be construed to

alter or amend the application or interpretation of any existing collective bargaining agreement. Further, subsections (B-5) and ~~subsection~~ (C) shall not be construed as evidence of the existence or non-existence of an employment relationship under any other Sections of this Act or other existing laws.

(E) Subsections (B), (B-5), and (C) shall not apply to services that are required to be covered as a condition of approval of this Act by the United States Secretary of Labor under Section 3304 (a)(6)(A) of the Federal Unemployment Tax Act.

(Source: P.A. 87-1178.)

(820 ILCS 405/245) (from Ch. 48, par. 370)

Sec. 245. Coordination with Federal Unemployment Tax Act. Notwithstanding any provisions of this Act to the contrary, excepting the exemptions from the definition of employment contained in Sections 212.1, 217.1, 217.2, 226, and 231 and subsections (B), (B-5), and (C) ~~B and C~~ of Section 225:

A. The term "employer" includes any employing unit which is an "employer" under the provisions of the Federal Unemployment Tax Act, or which is required, pursuant to such Act, to be an "employer" under this Act as a condition for the Federal approval of this Act requisite to the full tax credit, against the tax imposed by the Federal Act, for contributions paid by employers pursuant to this Act.

B. The term "employment" includes any services performed

within the State which constitute "employment" under the provisions of the Federal Unemployment Tax Act, or which are required, pursuant to such Act, to be "employment" under this Act as a condition for the Federal approval of this Act requisite to the full tax credit, against the tax imposed by the Federal Act, for contributions paid by employers pursuant to this Act.

C. The term "wages" includes any remuneration for services performed within this State which is subject to the payment of taxes under the provisions of the Federal Unemployment Tax Act. (Source: P.A. 89-252, eff. 8-8-95; 89-649, eff. 8-9-96.)

(820 ILCS 405/502 new)

Sec. 502. Eligibility for benefits under the Short-Time Compensation Program.

A. The Director may by rule establish a short-time compensation program consistent with this Section. No short-time compensation shall be payable except as authorized by rule.

B. As used in this Section:

"Affected unit" means a specified plant, department, shift, or other definable unit that includes 2 or more workers to which an approved short-time compensation plan applies.

"Health and retirement benefits" means employer-provided health benefits and retirement benefits under a defined benefit pension plan (as defined in Section 414(j) of the Internal

Revenue Code) or contributions under a defined contribution plan (defined in Section 414(i) of the Internal Revenue Code), which are incidents of employment in addition to the cash remuneration earned.

"Short-time compensation" means the unemployment benefits payable to employees in an affected unit under an approved short-time compensation plan, as distinguished from the unemployment benefits otherwise payable under this Act.

"Short-time compensation plan" means a plan submitted by an employer, for approval by the Director, under which the employer requests the payment of short-time compensation to workers in an affected unit of the employer to avert layoffs.

"Usual weekly hours of work" means the usual hours of work for full-time or part-time employees in the affected unit when that unit is operating on its regular basis, not to exceed 40 hours and not including hours of overtime work.

"Unemployment insurance" means the unemployment benefits payable under this Act other than short-time compensation and includes any amounts payable pursuant to an agreement under any Federal law providing for compensation, assistance, or allowances with respect to unemployment.

C. An employer wishing to participate in the short-time compensation program shall submit a signed written short-time compensation plan to the Director for approval. The Director shall develop an application form to request approval of a short-time compensation plan and an approval process. The

application shall include:

1. The employer's unemployment insurance account number, the affected unit covered by the plan, including the number of full-time or part-time workers in such unit, the percentage of workers in the affected unit covered by the plan, identification of each individual employee in the affected unit by name and social security number, and any other information required by the Director to identify plan participants.

2. A description of how workers in the affected unit will be notified of the employer's participation in the short-time compensation plan if such application is approved, including how the employer will notify those workers in a collective bargaining unit as well as any workers in the affected unit who are not in a collective bargaining unit. If the employer will not provide advance notice to workers in the affected unit, the employer shall explain in a statement in the application why it is not feasible to provide such notice.

3. The employer's certification that it has the approval of the plan from all collective bargaining representatives of employees in the affected unit and has notified all employees in the affected unit who are not in a collective bargaining unit of the plan.

4. The employer's certification that it will not hire additional part-time or full-time employees for, or

transfer employees to, the affected unit, while the program is in operation.

5. A requirement that the employer identify the usual weekly hours of work for employees in the affected unit and the specific percentage by which their hours will be reduced during all weeks covered by the plan. An application shall specify the percentage of reduction for which a short-time compensation application may be approved which shall be not less than 20% and not more than 60%. If the plan includes any week for which the employer regularly provides no work (due to a holiday or other plant closing), then such week shall be identified in the application.

6. Certification by the employer that, if the employer provides health and retirement benefits to any employee whose usual weekly hours of work are reduced under the program, such benefits will continue to be provided to the employee participating in the short-time compensation program under the same terms and conditions as though the usual weekly hours of work of such employee had not been reduced or to the same extent as other employees not participating in the short-time compensation program. For defined benefit retirement plans, the hours that are reduced under the short-time compensation plan shall be credited for purposes of participation, vesting, and accrual of benefits as though the usual weekly hours of

work had not been reduced. The dollar amount of employer contributions to a defined contribution plan that are based on a percentage of compensation may be less due to the reduction in the employee's compensation. Notwithstanding any other provision to the contrary, a certification that a reduction in health and retirement benefits is scheduled to occur during the duration of the plan and will be applicable equally to employees who are not participating in the short-time compensation program and to those employees who are participating satisfies this paragraph.

7. Certification by the employer that the aggregate reduction in work hours is in lieu of layoffs (temporary or permanent layoffs, or both). The application shall include an estimate of the number of workers who would have been laid off in the absence of the short-time compensation plan.

8. Agreement by the employer to: furnish reports to the Director relating to the proper conduct of the plan; allow the Director or his or her authorized representatives access to all records necessary to approve or disapprove the plan application, and after approval of a plan, to monitor and evaluate the plan; and follow any other directives the Director deems necessary for the agency to implement the plan and which are consistent with the requirements for plan applications.

9. Certification by the employer that participation in

the short-time compensation plan and its implementation is consistent with the employer's obligations under applicable Federal and Illinois laws.

10. The effective date and duration of the plan, which shall expire no later than the end of the 12th full calendar month after the effective date.

11. Any other provision added to the application by the Director that the United States Secretary of Labor determines to be appropriate for purposes of a short-time compensation program.

D. The Director shall approve or disapprove a short-time compensation plan in writing within 45 days of its receipt and promptly communicate the decision to the employer. A decision disapproving the plan shall clearly identify the reasons for the disapproval. The disapproval shall be final, but the employer shall be allowed to submit another short-time compensation plan for approval not earlier than 30 days from the date of the disapproval.

E. The short-time compensation plan shall be effective on the mutually agreed upon date by the employer and the Director, which shall be specified in the notice of approval to the employer. The plan shall expire on the date specified in the notice of approval, which shall be mutually agreed on by the employer and Director but no later than the end of the 12th full calendar month after its effective date. However, if a short-time compensation plan is revoked by the Director, the

plan shall terminate on the date specified in the Director's written order of revocation. An employer may terminate a short-time compensation plan at any time upon written notice to the Director. Upon receipt of such notice from the employer, the Director shall promptly notify each member of the affected unit of the termination date. An employer may submit a new application to participate in another short-time compensation plan at any time after the expiration or termination date.

F. The Director may revoke approval of a short-time compensation plan for good cause at any time, including upon the request of any of the affected unit's employees or their collective bargaining representative. The revocation order shall be in writing and shall specify the reasons for the revocation and the date the revocation is effective. The Director may periodically review the operation of each employer's short-time compensation plan to assure that no good cause exists for revocation of the approval of the plan. Good cause shall include, but not be limited to, failure to comply with the assurances given in the plan, termination of the approval of the plan by a collective bargaining representative of employees in the affected unit, unreasonable revision of productivity standards for the affected unit, conduct or occurrences tending to defeat the intent and effective operation of the short-time compensation plan, and violation of any criteria on which approval of the plan was based.

G. An employer may request a modification of an approved

plan by filing a written request to the Director. The request shall identify the specific provisions proposed to be modified and provide an explanation of why the proposed modification is appropriate for the short-time compensation plan. The Director shall approve or disapprove the proposed modification in writing within 30 days of receipt and promptly communicate the decision to the employer. The Director, in his or her discretion, may approve a request for modification of the plan based on conditions that have changed since the plan was approved provided that the modification is consistent with and supports the purposes for which the plan was initially approved. A modification may not extend the expiration date of the original plan, and the Director must promptly notify the employer whether the plan modification has been approved and, if approved, the effective date of modification. An employer is not required to request approval of plan modification from the Director if the change is not substantial, but the employer must report every change to plan to the Director promptly and in writing. The Director may terminate an employer's plan if the employer fails to meet this reporting requirement. If the Director determines that the reported change is substantial, the Director shall require the employer to request a modification to the plan.

H. An individual is eligible to receive short-time compensation with respect to any week only if the individual is eligible for unemployment insurance pursuant to subsection E of

Section 500, not otherwise disqualified for unemployment insurance, and:

1. During the week, the individual is employed as a member of an affected unit under an approved short-time compensation plan, which was approved prior to that week, and the plan is in effect with respect to the week for which short-time compensation is claimed.

2. Notwithstanding any other provision of this Act relating to availability for work and actively seeking work, the individual is available for the individual's usual hours of work with the short-time compensation employer, which may include, for purposes of this Section, participating in training to enhance job skills that is approved by the Director, including but not limited to as employer-sponsored training or training funded under the Workforce Investment Act of 1998.

3. Notwithstanding any other provision of law, an individual covered by a short-time compensation plan is deemed unemployed in any week during the duration of such plan if the individual's remuneration as an employee in an affected unit is reduced based on a reduction of the individual's usual weekly hours of work under an approved short-time compensation plan.

I. The short-time compensation weekly benefit amount shall be the product of the percentage of reduction in the individual's usual weekly hours of work multiplied by the sum

of the regular weekly benefit amount for a week of total unemployment plus any applicable dependent allowance pursuant to subsection C of Section 401.

1. An individual may be eligible for short-time compensation or unemployment insurance, as appropriate, except that no individual shall be eligible for combined benefits (excluding any payments attributable to a dependent allowance pursuant to subsection C of Section 401) in any benefit year in an amount more than the maximum benefit amount, nor shall an individual be paid short-time compensation benefits for more than 52 weeks under a short-time compensation plan.

2. The short-time compensation paid to an individual (excluding any payments attributable to a dependent allowance pursuant to subsection C of Section 401) shall be deducted from the maximum benefit amount established for that individual's benefit year.

3. Provisions applicable to unemployment insurance claimants shall apply to short-time compensation claimants to the extent that they are not inconsistent with short-time compensation provisions. An individual who files an initial claim for short-time compensation benefits shall receive a monetary determination.

4. The following provisions apply to individuals who work for both a short-time compensation employer and another employer during weeks covered by the approved

short-time compensation plan:

i. If combined hours of work in a week for both employers do not result in a reduction of at least 20% of the usual weekly hours of work with the short-time compensation employer, the individual shall not be entitled to benefits under this Section.

ii. If combined hours of work for both employers results in a reduction equal to or greater than 20% of the usual weekly hours of work for the short-time compensation employer, the short-time compensation benefit amount payable to the individual is reduced for that week and is determined by multiplying the percentage by which the combined hours of work have been reduced by the sum of the weekly benefit amount for a week of total unemployment plus any applicable dependent allowance pursuant to subsection C of Section 401. A week for which benefits are paid under this subparagraph shall be reported as a week of short-time compensation.

iii. If an individual worked the reduced percentage of the usual weekly hours of work for the short-time compensation employer and is available for all his or her usual hours of work with the short-time compensation employer, and the individual did not work any hours for the other employer either because of the lack of work with that employer or because the

individual is excused from work with the other employer, the individual shall be eligible for short-time compensation for that week. The benefit amount for such week shall be calculated as provided in the introductory clause of this subsection I.

iv. An individual who is not provided any work during a week by the short-time compensation employer, or any other employer, and who is otherwise eligible for unemployment insurance shall be eligible for the amount of regular unemployment insurance determined without regard to this Section.

v. An individual who is not provided any work by the short-time compensation employer during a week, but who works for another employer and is otherwise eligible may be paid unemployment insurance for that week subject to the disqualifying income and other provisions applicable to claims for regular unemployment insurance.

J. Short-time compensation shall be charged to employers in the same manner as unemployment insurance is charged under Illinois law. Employers liable for payments in lieu of contributions shall have short-time compensation attributed to service in their employ in the same manner as unemployment insurance is attributed. Notwithstanding any other provision to the contrary, to the extent that short-term compensation payments under this Section are reimbursed by the federal

government, no benefit charges or payments in lieu of contributions shall be accrued by a participating employer.

K. A short-time compensation plan shall not be approved for an employer that is delinquent in the filing of any reports required or the payment of contributions, payments in lieu of contributions, interest, or penalties due under this Act through the date of the employer's application.

L. Overpayments of other benefits under this Act may be recovered from an individual receiving short-time compensation under this Act in the manner provided under Sections 900 and 901. Overpayments under the short-time compensation plan may be recovered from an individual receiving other benefits under this Act in the manner provided under Sections 900 and 901.

M. An individual who has received all of the short-time compensation or combined unemployment insurance and short-time compensation available in a benefit year shall be considered an exhaustee for purposes of extended benefits, as provided under the provisions of Section 409, and, if otherwise eligible under those provisions, shall be eligible to receive extended benefits.

(820 ILCS 405/702) (from Ch. 48, par. 452)

Sec. 702. Determinations. The claims adjudicator shall for each week with respect to which the claimant claims benefits or waiting period credit, make a "determination" which shall state whether or not the claimant is eligible for such benefits or

waiting period credit and the sum to be paid the claimant with respect to such week. The claims adjudicator shall promptly notify the claimant and such employing unit as shall, within the time and in the manner prescribed by the Director, have filed a sufficient allegation that the claimant is ineligible to receive benefits or waiting period credit for said week, of his "determination" and the reasons therefor. The Director may, by rule adopted with the advice and aid of the Employment Security Advisory Board, require that an employing unit with 25 ~~50~~ or more individuals in its employ during a ~~the prior~~ calendar year, or an entity representing 5 or more employing units during a ~~the prior~~ calendar year, file an allegation of ineligibility electronically in a manner prescribed by the Director for the one year period commencing on July 1 of the immediately succeeding calendar year and ending on June 30 of the second succeeding calendar year. In making his "determination," the claims adjudicator shall give consideration to the information, if any, contained in the employing unit's allegation, whether or not the allegation is sufficient. The claims adjudicator shall deem an employing unit's allegation sufficient only if it contains a reason or reasons therefor (other than general conclusions of law, and statements such as "not actively seeking work" or "not available for work" shall be deemed, for this purpose, to be conclusions of law). If the claims adjudicator deems an allegation insufficient, he shall make a decision accordingly,

and shall notify the employing unit of such decision and the reasons therefor. Such decision may be appealed by the employing unit to a Referee within the time limits prescribed by Section 800 for appeal from a "determination". Any such appeal, and any appeal from the Referee's decision thereon, shall be governed by the applicable provisions of Sections 801, 803, 804 and 805.

(Source: P.A. 97-621, eff. 11-18-11.)

(820 ILCS 405/1402) (from Ch. 48, par. 552)

Sec. 1402. Penalties.

A. If any employer fails, within the time prescribed in this Act as amended and in effect on October 5, 1980, and the regulations of the Director, to file a report of wages paid to each of his workers, or to file a sufficient report of such wages after having been notified by the Director to do so, for any period which begins prior to January 1, 1982, he shall pay to the Department as a penalty a sum determined in accordance with the provisions of this Act as amended and in effect on October 5, 1980.

B. Except as otherwise provided in this Section, any employer who fails to file a report of wages paid to each of his workers for any period which begins on or after January 1, 1982, within the time prescribed by the provisions of this Act and the regulations of the Director, or, if the Director pursuant to such regulations extends the time for filing the

report, fails to file it within the extended time, shall, in addition to any sum otherwise payable by him under the provisions of this Act, pay to the Department as a penalty a sum equal to the lesser of (1) \$5 for each \$10,000 or fraction thereof of the total wages for insured work paid by him during the period or (2) \$2,500, for each month or part thereof of such failure to file the report. With respect to an employer who has elected to file reports of wages on an annual basis pursuant to Section 1400.2, in assessing penalties for the failure to submit all reports by the due date established pursuant to that Section, the 30-day period immediately following the due date shall be considered as one month.

If the Director deems an employer's report of wages paid to each of his workers for any period which begins on or after January 1, 1982, insufficient, he shall notify the employer to file a sufficient report. If the employer fails to file such sufficient report within 30 days after the mailing of the notice to him, he shall, in addition to any sum otherwise payable by him under the provisions of this Act, pay to the Department as a penalty a sum determined in accordance with the provisions of the first paragraph of this subsection, for each month or part thereof of such failure to file such sufficient report after the date of the notice.

For wages paid in calendar years prior to 1988, the penalty or penalties which accrue under the two foregoing paragraphs with respect to a report for any period shall not be less than

\$100, and shall not exceed the lesser of (1) \$10 for each \$10,000 or fraction thereof of the total wages for insured work paid during the period or (2) \$5,000. For wages paid in calendar years after 1987, the penalty or penalties which accrue under the 2 foregoing paragraphs with respect to a report for any period shall not be less than \$50, and shall not exceed the lesser of (1) \$10 for each \$10,000 or fraction of the total wages for insured work paid during the period or (2) \$5,000. With respect to an employer who has elected to file reports of wages on an annual basis pursuant to Section 1400.2, for purposes of calculating the minimum penalty prescribed by this Section for failure to file the reports on a timely basis, a calendar year shall constitute a single period. For reports of wages paid after 1986, the Director shall not, however, impose a penalty pursuant to either of the two foregoing paragraphs on any employer who can prove within 30 working days after the mailing of a notice of his failure to file such a report, that (1) the failure to file the report is his first such failure during the previous 20 consecutive calendar quarters, and (2) the amount of the total contributions due for the calendar quarter of such report (or, in the case of an employer who is required to file the reports on a monthly basis, the amount of the total contributions due for the calendar quarter that includes the month of such report) is less than \$500.

For any month which begins on or after January 1, 2013, a

report of the wages paid to each of an employer's workers shall be due on or before the last day of the month next following the calendar month in which the wages were paid if the employer is required to report such wages electronically pursuant to the regulations of the Director; otherwise a report of the wages paid to each of the employer's workers shall be due on or before the last day of the month next following the calendar quarter in which the wages were paid.

Any employer who willfully ~~wilfully~~ fails to pay any contribution or part thereof, based upon wages paid prior to 1987, when required by the provisions of this Act and the regulations of the Director, with intent to defraud the Director, shall in addition to such contribution or part thereof pay to the Department a penalty equal to 50 percent of the amount of such contribution or part thereof, as the case may be, provided that the penalty shall not be less than \$200.

Any employer who willfully fails to pay any contribution or part thereof, based upon wages paid in 1987 and in each calendar year thereafter, when required by the provisions of this Act and the regulations of the Director, with intent to defraud the Director, shall in addition to such contribution or part thereof pay to the Department a penalty equal to 60% of the amount of such contribution or part thereof, as the case may be, provided that the penalty shall not be less than \$400.

However, all or part of any penalty may be waived by the Director for good cause shown.

C. With regard to an employer required to report monthly pursuant to this Section, in addition to each employee's name, social security number, and wages for insured work paid during the period, the Director may, by rule, require a report to provide the following information concerning each employee: the employee's occupation, hours worked during the period, hourly wage, if applicable, and work location if the employer has more than one physical location. Notwithstanding any other provision of any other law to the contrary, information obtained pursuant to this subsection shall not be disclosed to any other public official or agency of this State or any other state to the extent it relates to a specifically identified individual or entity or to the extent that the identity of a specific individual or entity may be discerned from such information. The additional data elements required to be reported pursuant to the rule authorized by this subsection may be reported in the same electronic format as in the system maintained by the employer or employer's agent and need not be reformatted.

(Source: P.A. 97-689, eff. 6-14-12; 97-791, eff. 1-1-13; 98-463, eff. 8-16-13.)

(820 ILCS 405/1402.1 new)

Sec. 1402.1. Processing fee.

A. The Director may, by rule, establish a processing fee of \$50 with regard to a report of contributions due that is not

required to be submitted electronically if the employer fails to submit the report on the form designated by the Director or otherwise provide all of the information required by the form designated by the Director. With respect to the first instance of such a failure after the effective date of the rule, the Director shall issue the employer a written warning instead of a processing fee, and no such processing fee shall be assessed unless the Director has issued the employer a written warning for a prior failure.

B. The Director may, by rule, establish a processing fee of \$50 with regard to any payment of contributions, payment in lieu of contributions, interest, or penalty that is not made through electronic funds transfer if the employer fails to enclose the payment coupon provided by the Director with its payment or otherwise provide all of the information the coupon would provide, regardless of the amount due. With respect to the first instance of such a failure after the effective date of the rule, the Director shall issue the employer a written warning instead of a processing fee, and no such processing fee shall be assessed unless the Director has issued the employer a written warning for a prior failure.

(820 ILCS 405/2101) (from Ch. 48, par. 661)

Sec. 2101. Special administrative account. Except as provided in Section 2100, all interest and penalties collected pursuant to this Act shall be deposited in the special

administrative account. The amount in this account in excess of \$100,000 on the close of business of the last day of each calendar quarter shall be immediately transferred to this State's account in the unemployment trust fund. However, subject to Section 2101.1, such funds shall not be transferred where it is determined by the Director that it is necessary to accumulate funds in the account in order to have sufficient funds to pay interest that may become due under the terms of Section 1202 (b) of the Federal Social Security Act, as amended, upon advances made to the Illinois Unemployment Insurance Trust Fund under Title XII of the Federal Social Security Act or where it is determined by the Director that it is necessary to accumulate funds in the special administrative account in order to have sufficient funds to expend for any other purpose authorized by this Section. The balance of funds in the special administrative account that are in excess of \$100,000 on the first day of each calendar quarter and not transferred to this State's account in the unemployment trust fund, minus the amount reasonably anticipated to be needed to make payments from the special administrative account pursuant to subsections C through I, shall be certified by the Director and transferred by the State Comptroller to the Title III Social Security and Employment Fund in the State Treasury within 30 days of the first day of the calendar quarter. The Director may certify and the State Comptroller shall transfer such funds to the Title III Social Security and Employment Fund

on a more frequent basis. The moneys available in the special administrative account shall be expended upon the direction of the Director whenever it appears to him that such expenditure is necessary for:

A. 1. The proper administration of this Act and no Federal funds are available for the specific purpose for which such expenditure is to be made, provided the moneys are not substituted for appropriations from Federal funds, which in the absence of such moneys would be available and provided the monies are appropriated by the General Assembly.

2. The proper administration of this Act for which purpose appropriations from Federal funds have been requested but not yet received, provided the special administrative account will be reimbursed upon receipt of the requested Federal appropriation.

B. To the extent possible, the repayment to the fund established for financing the cost of administration of this Act of moneys found by the Secretary of Labor of the United States of America, or other appropriate Federal agency, to have been lost or expended for purposes other than, or in amounts in excess of, those found necessary by the Secretary of Labor, or other appropriate Federal agency, for the administration of this Act.

C. The payment of refunds or adjustments of interest or penalties, paid pursuant to Sections 901 or 2201.

D. The payment of interest on refunds of erroneously paid

contributions, penalties and interest pursuant to Section 2201.1.

E. The payment or transfer of interest or penalties to any Federal or State agency, pursuant to reciprocal arrangements entered into by the Director under the provisions of Section 2700E.

F. The payment of any costs incurred, pursuant to Section 1700.1.

G. Beginning January 1, 1989, for the payment for the legal services authorized by subsection B of Section 802, up to \$1,000,000 per year for the representation of the individual claimants and up to \$1,000,000 per year for the representation of "small employers".

H. The payment of any fees for collecting past due contributions, payments in lieu of contributions, penalties, and interest shall be paid (without an appropriation) from interest and penalty monies received from collection agents that have contracted with the Department under Section 2206 to collect such amounts, provided however, that the amount of such payment shall not exceed the amount of past due interest and penalty collected.

I. The payment of interest that may become due under the terms of Section 1202 (b) of the Federal Social Security Act, as amended, for advances made to the Illinois Unemployment Insurance Trust Fund.

The Director shall annually on or before the first day of

March report in writing to the Employment Security Advisory Board concerning the expenditures made from the special administrative account and the purposes for which funds are being accumulated.

If Federal legislation is enacted which will permit the use by the Director of some part of the contributions collected or to be collected under this Act, for the financing of expenditures incurred in the proper administration of this Act, then, upon the availability of such contributions for such purpose, the provisions of this Section shall be inoperative and interest and penalties collected pursuant to this Act shall be deposited in and be deemed a part of the clearing account. In the event of the enactment of the foregoing Federal legislation, and within 90 days after the date upon which contributions become available for expenditure for costs of administration, the total amount in the special administrative account shall be transferred to the clearing account, and after clearance thereof shall be deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this State in the unemployment trust fund, established and maintained pursuant to the Federal Social Security Act, as amended.

(Source: P.A. 94-1083, eff. 1-19-07.)

(820 ILCS 405/2201) (from Ch. 48, par. 681)

Sec. 2201. Refund or adjustment of contributions. Not

later than 3 years after the date upon which the Director first notifies ~~any contributions, interest or penalties thereon were paid,~~ an employing unit that it ~~which~~ has paid ~~such~~ contributions, interest or penalties thereon erroneously, the employing unit may file a claim with the Director for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof where such adjustment cannot be made; provided, however, that no refund or adjustment shall be made of any contribution, the amount of which has been determined and assessed by the Director, if such contribution was paid after the determination and assessment of the Director became final, and provided, further, that any such adjustment or refund, involving contributions with respect to wages on the basis of which benefits have been paid, shall be reduced by the amount of benefits so paid. Upon receipt of a claim the Director shall make his determination, either allowing such claim in whole or in part, or ordering that it be denied, and serve notice upon the claimant of such determination. Such determination of the Director shall be final at the expiration of 20 days from the date of service of such notice unless the claimant shall have filed with the Director a written protest and a petition for hearing, specifying his objections thereto. Upon receipt of such petition within the 20 days allowed, the Director shall fix the time and place for a hearing and shall notify the claimant thereof. At any hearing held as herein provided, the determination of the Director shall be prima

facie correct and the burden shall be upon the protesting employing unit to prove that it is incorrect. All of the provisions of this Act applicable to hearings conducted pursuant to Section 2200 shall be applicable to hearings conducted pursuant to this Section. Upon the conclusion of such hearing, a decision shall be made by the Director and notice thereof given to the claimant. If the Director shall decide that the claim be allowed in whole or in part, or if such allowance be ordered by the Court pursuant to Section 2205 and the judgment of said Court has become final, the Director shall, if practicable, make adjustment without interest in connection with subsequent contribution payments by the claimant, and if adjustments thereof cannot practicably be made in connection with such subsequent contribution payments, then the Director shall refund to the claimant the amount so allowed, without interest except as otherwise provided in Section 2201.1 from moneys in the benefit account established by this Act. Nothing herein contained shall prohibit the Director from making adjustment or refund upon his own initiative, within the time allowed for filing claim therefor, provided that the Director shall make no refund or adjustment of any contribution, the amount of which he has previously determined and assessed, if such contribution was paid after the determination and assessment became final.

If this State should not be certified for any year by the Secretary of Labor of the United States of America, or other

appropriate Federal agency, under Section 3304 of the Federal Internal Revenue Code of 1954, the Director shall refund without interest to any instrumentality of the United States subject to this Act by virtue of permission granted in an Act of Congress, the amount of contributions paid by such instrumentality with respect to such year.

The Director may by regulation provide that, if there is a total credit balance of less than \$2 in an employer's account with respect to contributions, interest, and penalties, the amount may be disregarded by the Director; once disregarded, the amount shall not be considered a credit balance in the account and shall not be subject to either an adjustment or a refund.

(Source: P.A. 90-554, eff. 12-12-97.)

(820 ILCS 405/2201.1) (from Ch. 48, par. 681.1)

Sec. 2201.1. Interest on Overpaid Contributions, Penalties and Interest. The Director shall semi-annually ~~quarterly~~ furnish each employer with a statement of credit balances in the employer's account where the balances with respect to all contributions, interest and penalties combined equal or exceed \$2. Under regulations prescribed by the Director and subject to the limitations of Section 2201, the employer may file a request for an adjustment or refund of the amount erroneously paid. Interest shall be paid on refunds of erroneously paid contributions, penalties and interest imposed by this Act,

except that if any refund is mailed by the Director within 90 days after the date of the refund claim, no interest shall be due or paid. The interest shall begin to accrue as of the date of the refund claim and shall be paid at the rate of 1.5% per month computed at the rate of 12/365 of 1.5% for each day or fraction thereof. Interest paid pursuant to this Section shall be paid from monies in the special administrative account established by Sections 2100 and 2101. This Section shall apply only to refunds of contributions, penalties and interest which were paid as the result of wages paid after January 1, 1988.

(Source: P.A. 90-554, eff. 12-12-97.)

(820 ILCS 405/2401) (from Ch. 48, par. 721)

(Text of Section after amendment by P.A. 98-107)

Sec. 2401. Recording and release of lien. A. The lien created by Section 2400 shall be invalid only as to any innocent purchaser for value of stock in trade of any employer in the usual course of such employer's business, and shall be invalid as to any innocent purchaser for value of any of the other assets to which such lien has attached, unless notice thereof has been filed by the Director in the office of the recorder of the county within which the property subject to the lien is situated. The Director may, in his discretion, for good cause shown ~~and upon the reimbursement of any recording fees paid by the Director with respect to the lien,~~ issue a certificate of withdrawal of notice of lien filed against any

employer, which certificate shall be recorded in the same manner as herein provided for the recording of notice of liens. Such withdrawal of notice of lien shall invalidate such lien as against any person acquiring any of such employer's property or any interest therein, subsequent to the recordation of the withdrawal of notice of lien, but shall not otherwise affect the validity of such lien, nor shall it prevent the Director from re-recording notice of such lien. In the event notice of such lien is re-recorded, such notice shall be effective as against third persons only as of the date of such re-recordation.

B. The recorder of each county shall procure at the expense of the county a file labeled "Unemployment Compensation Contribution Lien Notice" and an index book labeled "Unemployment Compensation Contribution Lien Index." When a notice of any such lien is presented to him for filing, he shall file it in numerical order in the file and shall enter it alphabetically in the index. The entry shall show the name and last known business address of the employer named in the notice, the serial number of the notice, the date and hour of filing, and the amount of contribution, interest and penalty thereon due and unpaid. When a certificate of complete or partial release of such lien issued by the Director is presented for filing in the office of the recorder where a notice of lien was filed, the recorder shall permanently attach the certificate of release to the notice of lien and shall

enter the certificate of release and the date in the Unemployment Compensation Contribution Lien Index on the line where the notice of lien is entered. In case title to land to be affected by the Notice of Lien is registered under the provisions of "An Act Concerning Land Titles", approved May 1, 1897, as amended, such notice shall be filed in the office of the Registrar of Titles of the county within which the property subject to the lien is situated and shall be entered upon the register of titles as a memorial or charge upon each folium of the register of title affected by such notice, and the Director shall not have a preference over the rights of any bona fide purchaser, mortgagee, judgment creditor or other lien holder arising prior to the registration of such notice.

C. The Director shall have the power to issue a certificate of partial release of any part of the property subject to the lien, ~~upon the reimbursement of any recording fees paid by the Director with respect to the lien,~~ if he shall find that the fair market value of that part of such property remaining subject to the lien is at least equal to the amount of all prior liens upon such property plus double the amount of the liability for contributions, interest and penalties thereon remaining unsatisfied.

D. Where the amount of or the liability for the payment of any contribution, interest or penalty is contested by any employing unit against whose property a lien has attached, and the determination of the Director with reference to such

contribution has not become final, the Director may issue a certificate of release of lien upon the ~~reimbursement of any recording fees paid by the Director with respect to the lien and the~~ furnishing of bond by such employing unit in 125% the amount of the sum of such contribution, interest and penalty, for which lien is claimed, with good and sufficient surety to be approved by the Director conditioned upon the prompt payment of such contribution, together with interest and penalty thereon, by such employing unit to the Director immediately upon the decision of the Director in respect to the liability for such contribution, interest and penalty becoming final.

E. When a lien obtained pursuant to this Act has been satisfied ~~and upon the reimbursement of any recording fees paid by the Director with respect to the lien,~~ the Department shall issue a release to the person, or his agent, against whom the lien was obtained and such release shall contain in legible letters a statement as follows:

FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL
BE FILED WITH THE RECORDER OR THE REGISTRAR
OF TITLES, IN WHOSE OFFICE, THE LIEN WAS FILED.

F. The Director may, by rule, require, as a condition of withdrawing, releasing, or partially releasing a lien recorded pursuant to this Section, that the employer reimburse the Department for any recording fees paid with respect to the lien.

(Source: P.A. 98-107, eff. 7-1-14.)

(820 ILCS 405/1704.1 rep.)

Section 20. The Unemployment Insurance Act is amended by repealing Section 1704.1.

Section 99. Effective date. This Act takes effect July 1, 2014, except that the changes to Sections 2201 and 2201.1 of the Unemployment Insurance Act take effect January 1, 2015.