

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 422
SENATE BILL 319

AN ACT TO AMEND THE EMPLOYMENT SECURITY LAW PERTAINING TO
WAIVER OF LATE FILING PENALTIES.

The General Assembly of North Carolina enacts:

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

"(j) The Commission shall have the power to reduce or waive any penalty provided in G.S. 96-10(a) or 96-10(g). The late filing penalty under G.S. 96-10(g) shall be waived when the mailed report bears a postmark that discloses that it was mailed by midnight of the due date but was addressed or delivered to the wrong State or federal agency. The late payment penalty and the late filing penalty imposed by G.S. 96-10(a) and G.S. 96-10(g) shall be waived where the delay was caused by any of the following:

- (1) The death or serious illness of the employer or a member of his immediate family, or by the death or serious illness of the person in the employer's organization responsible for the preparation and filing of the report;
- (2) Destruction of the employer's place of business or business records by fire or other casualty;
- (3) Failure of the Commission to furnish proper forms upon timely application by the employer, by reason of which failure the employer was unable to execute and file the report on or before the due date;
- (4) The inability of the employer or the person in the employer's organization responsible for the preparation and filing of reports to obtain an interview with a representative of the Commission upon a personal visit to the central office or any local office for the purpose of securing information or aid in the proper preparation of the report, which personal interview was attempted to be had within the time during which the report could have been executed and filed as required by law had the information at the time been obtained;
- (5) The entrance of one or more of the owners, officers, partners, or the majority stockholder into the Armed Forces of the United States, or any of its allies, or the United Nations, provided that the entrance was unexpected and is not the annual two weeks training for reserves; and
- (6) Other circumstances where, in the opinion of the Chairman, the Assistant Administrator, or their designees, the imposition of penalties would be inequitable.

In the waiver of any penalty, the burden shall be upon the employer to establish to the satisfaction of the Chairman, the Assistant Administrator, or their designees, that the delinquency for which the penalty was imposed was due to any of the foregoing facts or circumstances. Such waiver shall be valid and binding upon the Commission. No employer shall receive a penalty waiver within 24 months succeeding its last penalty waiver. The reason for any such reduction or waiver shall be made a part of the permanent records of the employing unit to which it applies."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of June, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives