

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

**SESSION LAW 2018-94
HOUSE BILL 931**

AN ACT TO MAKE TECHNICAL, ADMINISTRATIVE, AND CLARIFYING CHANGES
TO THE UNEMPLOYMENT INSURANCE LAWS.

The General Assembly of North Carolina enacts:

**PART I. EXCLUDE DIRECT SELLERS FROM THE DEFINITION OF EMPLOYMENT
FOR UNEMPLOYMENT INSURANCE**

SECTION 1.(a) G.S. 96-1(b)(12) reads as rewritten:

"(12) Employment. – Defined in section 3306 of the Code, with the following additions and exclusions:

- a. Additions. – The term includes service to a governmental unit, a nonprofit organization, or an Indian tribe as described in sections 3306(c)(7) and 3306(c)(8) of the Code.
- b. Exclusions. – The term excludes all of the following:
 1. Service performed by an independent contractor.
 2. Service performed for a governmental entity or nonprofit organization under sections 3309(b) and 3309(c) of the Code.
 3. Service by one or more of the following individuals if the individual is authorized to exercise independent judgment and control over the performance of the work and is compensated solely by way of commission:
 - A. A real estate broker, as defined in G.S. 93A-2.
 - B. A securities salesman, as defined in G.S. 78A-2.
 4. Service performed by a direct seller, as defined in section 3508(b)(2) of the Code. The term does not include a person defined in section 3508(b)(2)(A)(iii) of the Code.

SECTION 1.(b) This section becomes effective July 1, 2018, applies to claims for benefits filed on or after that date, and applies to tax calculations on or after that date.

**PART II. DELAY THE EFFECTIVE DATE FOR A REQUIREMENT THAT
EMPLOYERS RESPOND TO UNEMPLOYMENT INSURANCE CLAIMS IN 10 DAYS**

SECTION 2. Section 3.2(b) of S.L. 2017-8, as amended by Section 6 of S.L. 2017-203, reads as rewritten:

"**SECTION 3.2.(b)** This section becomes effective ~~July 1, 2018,~~ January 1, 2019, applies to claims for benefits filed on or after that date, and applies to tax calculations on or after that date."

**PART III. REDUCE THE NUMBER OF JOB CONTACTS PER WEEK REQUIRED
FOR UNEMPLOYMENT INSURANCE**

SECTION 3.(a) G.S. 96-14.9(e) reads as rewritten:

"(e) Actively Seeking Work. – The Division's determination of whether an individual is actively seeking work is based upon the following:



- (1) The individual is registered for employment services, as required by the Division.
- (2) The individual has engaged in an active search for employment that is appropriate in light of the employment available in the labor market and the individual's skills and capabilities.
- (3) The individual has made at least ~~five~~three job contacts with potential employers during the week.
- (4) The individual has maintained a record of the individual's work search efforts. The record must include the potential employers contacted, the method of contact, and the date contacted. The individual must provide the record to the Division upon request."

SECTION 3.(b) This section becomes effective July 1, 2018, applies to claims for benefits filed on or after that date, and applies to tax calculations on or after that date.

PART IV. REQUIRE ELECTRONIC FILING OF EMPLOYER'S QUARTERLY REPORT IF THE EMPLOYER HAS 10 OR MORE EMPLOYEES

SECTION 4.(a) G.S. 96-9.15(d) reads as rewritten:

"(d) Form of Report. – An employer must complete the tax form prescribed by the Division. An employer or an agent of an employer that reports wages for at least ~~25~~10 employees must file the portion of the "Employer's Quarterly Tax and Wage Report" that contains the name, social security number, and gross wages of each employee in an electronic format prescribed by the Division. For failure of an employer to comply with this subsection, the Division must assess a penalty of twenty-five dollars (\$25.00). For failure of an agent of an employer to comply with this subsection, the Division may deny the agent the right to report wages and file reports for that employer for a period of one year following the calendar quarter in which the agent filed the improper report. The Division may reduce or waive a penalty for good cause shown."

SECTION 4.(b) This section becomes effective January 1, 2019.

PART V. CREATE A PROCEDURE TO ALLOW WITHDRAWAL OF CLAIMS FOR GOOD CAUSE

SECTION 5.(a) G.S. 96-15(b)(1) reads as rewritten:

- "(b) (1) Initial Determination. – A representative designated by the Division shall promptly examine the claim and shall determine whether or not the claim is valid. If the claim is determined to be not valid for any reason other than lack of base period earnings, the claim shall be referred to an Adjudicator for a decision as to the issues presented. If the claim is determined to be valid, a monetary determination shall be issued showing the week with respect to when benefits shall commence, the weekly benefit amount payable, and the potential maximum duration thereof. The claimant shall be furnished a copy of such monetary determination showing the amount of wages paid him by each employer during his base period and the employers by whom such wages were paid, his benefit year, weekly benefit amount, and the maximum amount of benefits that may be paid to him for unemployment during the benefit year. When a claim is not valid due to lack of earnings in his base period, the determination shall so designate. The claimant shall be allowed 10 days from the earlier of mailing or delivery of his monetary determination to him within which to protest his monetary determination and upon the filing of such protest, unless said protest be satisfactorily resolved, the claim shall be referred to the Assistant Secretary or designee for a decision as to the issues presented. All base period employers, as well as the most recent employer of

a claimant on a temporary layoff, shall be notified upon the filing of a claim which establishes a benefit year.

No claim for benefits may be withdrawn by a claimant except upon the filing of a notice of withdrawal within 10 days from the earlier of mailing or delivery of his monetary determination to him and a finding of good cause by the Assistant Secretary or designee.

At any time within one year from the date of the making of an initial determination, the Division on its own initiative may reconsider such determination if it finds that an error in computation or identity has occurred in connection therewith or that additional wages pertinent to the claimant's benefit status have become available, or if such determination of benefit status was made as a result of a nondisclosure or misrepresentation of a material fact."

SECTION 5.(b) This section becomes effective July 1, 2018, applies to claims for benefits filed on or after that date, and applies to tax calculations on or after that date.

PART VI. EFFECTIVE DATE

SECTION 6. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of June, 2018.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 10:53 a.m. this 25th day of June, 2018