



SPONSOR: Sen. Walsh & Rep. Osienski
Sen. Delcollo; Reprs. Brady, Longhurst, Matthews,
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DELAWARE STATE SENATE
150th GENERAL ASSEMBLY
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 128

AN ACT TO AMEND TITLE 19 AND TITLE 29 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 3319, Title 19 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 3319. Appointment, organization, disqualification and compensation of appeal tribunals.

4 To hear and decide disputed claims, protests under § 3368(e) of this title, and hearings under § 3369 of this title,
5 the Department shall appoint 1 or more impartial appeal tribunals consisting in each case of either a salaried examiner, to be
6 known as a referee, or a body consisting of 3 members, 1 of whom shall be a referee who shall serve as chairperson, 1 of
7 whom shall be a representative of employers and the other of whom shall be a representative of employees. Each of the
8 latter 2 members shall serve at the pleasure of the Department and be paid a fee of not more than \$10 per day of active
9 service on such tribunal plus necessary expenses. No person shall participate on behalf of the Department in any case in
10 which that person is an interested party. The Department may designate alternates to serve in the absence or disqualification
11 of any member of an appeal tribunal. The chairperson shall act alone in the absence or disqualification of any other member
12 and that member's alternates. In no case shall the hearing proceed unless the chairperson of the appeal tribunal is present.

13 Section 2. Amend § 3360, Title 19 of the Delaware Code by making deletions as shown by strike through and
14 insertions as shown by underline as follows:

15 § 3360. Assessments, penalties and interest as debt to Fund; reduction to judgment; other means of collection.

16 (a) The assessments, penalties and interest due from the employer under this chapter, from the time they become
17 due, shall be a debt of the employer to the Unemployment Compensation Fund and may be reduced to judgment in
18 accordance with §§ 3358 and 3361 of this title, except that the interest and penalty from the employer under this title after
19 September 30, 1967, and the additional emergency assessment required under § 3391 of this title shall be a debt of the
20 employer to the Special Administration Fund of the Department of Labor.

21 (b) The Department shall collect assessments, penalties, and interest due from an employer under this chapter and
22 the Department may establish the mode or time for the collection of any amount due under this chapter.

23 ~~(b)~~ (c) In addition to the methods of collection authorized by this chapter, the Department may collect
24 overpayments, interest, penalties, and other liabilities due from any employer under this chapter as provided in § 545 of
25 Title 30, § 6402 of the Federal Internal Revenue Code (26 U.S.C. § 6402), § 303(m) of the Social Security Act (42 U.S.C. §
26 503(m)), and any other means available under federal or state law.

27 Section 3. Amend § 3361, Title 19 of the Delaware Code by making deletions as shown by strike through and
28 insertions as shown by underline as follows:

29 § 3361. Special procedure to obtain judgment; notice and lien of judgment; judicial review.

30 (a) As an additional or alternative remedy the Department may issue, under its seal and the hand of the Secretary
31 of Labor of the State, to the prothonotary of the Superior Court in and for any county of this State a certificate that any
32 employer is indebted under this chapter in an amount which ~~shall~~ must be stated in such certificate. Thereupon the
33 prothonotary ~~to whom such certificate has been issued~~ shall immediately enter upon the record of docketed judgments the
34 name of ~~such~~ the employer, the name of the Department, the amount of the debt ~~so~~ certified, a brief description of the
35 employer's liability under this ~~chapter~~ chapter, and the date of making ~~such~~ the entries.

36 (1) ~~The~~ Except as provided under paragraph (a)(2) and subsection (d) of this section, the making of such
37 entries shall under this section have the same force and effect in all respects as the entries of docketed ~~judgment~~
38 judgments in the office of ~~such~~ the prothonotary, and the Department ~~shall have~~ has all the remedies and may take all
39 the proceedings for the collection of the debt which could be had or taken upon a judgment in an action of law upon
40 debt or contract.

41 (2) Notwithstanding the provisions under §§ 4711 and 4713 of Title 10, the length of a judgment lien obtained
42 under this section is as follows:

43 a. A judgment lien obtained under this section on or after [the effective date of the Act] automatically
44 continues for 20 years from the date of the lien's entry.

45 b.1. A judgment lien obtained under predecessor provisions of this section by virtue of a certificate filed
46 before [the effective date of the Act] and that is within the initial 10 year term as provided under § 4711 of Title
47 10, continues for 20 years from the original date of the judgment lien's entry notwithstanding either of the
48 following:

49 A. That when the certificate was filed, the predecessor provision may have provided for a period
50 of less than 20 years.

51 B. The provisions under subsection (c) of this section.

52 2. The Department shall provide notice to the judgment debtor, at the judgment debtor's last known
53 address, of the length of the judgment lien under paragraph (a)(2)b.1. of this section.

54 (b) ~~Such~~ The debt, from the time of the docketing thereof, ~~shall be~~ is a lien on and ~~bind~~ binds the lands, ~~tenements~~
55 tenements, and hereditaments of the debtor. Promptly upon the entry of the debt as a judgment the prothonotary shall send
56 by registered letter to the debtor, at the debtor's last known address within this State, notice of the entry of the judgment
57 together with the ~~amount thereof.~~ amount.

58 (c) Within 10 days from the date of the notice, the debtor may file a petition in the Superior Court to review the
59 legality or validity of the indebtedness, and upon the filing of the petition all proceedings on ~~such~~ the judgment shall be
60 stayed until the final determination of the cause. ~~Such~~ The review ~~shall be~~ under this subsection is limited to the correct
61 amount of ~~such~~ the indebtedness or the correct identity of the debtors.

62 (d)(1) Notwithstanding the provisions under §§ 4711 and 4713 of Title 10, the Department may renew and extend
63 the lien of a judgment for a term of 20 years by filing a renewal certificate under paragraph (d)(2) of this section in the
64 office of the prothonotary of Superior Court of any county of this State, under the Department's seal and the hand of the
65 Secretary, before the expiration of the 20 year term under paragraph (a)(2) of this section.

66 (2) A renewal certificate under paragraph (d)(1) of this section must contain all of the following:

67 a. A statement that the employer remains indebted under this chapter in the amount stated in the renewal
68 certificate.

69 b. The name and last known address of the employer liable for the amount stated in the renewal
70 certificate.

71 c. The amount due.

72 d. A statement that 15 days or more before filing the renewal certificate, the Department provided the
73 judgment debtor with notice of the renewal and extension of the lien of a judgment to the judgment debtor's last
74 known address.

75 e. A statement that the Department has complied with all provisions under this title in preparing the
76 renewal certificate.

77 (3) The prothonotary of Superior Court shall immediately enter the filed renewal certificate upon the record of
78 docketed judgments.

79 (4) An entry upon the record of docketed judgments under this subsection has the same force and effect in all
80 respects as other entries of docketed judgments filed in the office of the prothonotary of Superior Court, and the

81 Department has all of the remedies and may take any of the proceedings for collection of the debt entered under this
82 subsection which can be had or taken upon a judgment in an action of law upon debt or contract.

83 Section 4. Amend Chapter 33, Title 19 of the Delaware Code by making deletions as shown by strike through and
84 insertions as shown by underline as follows:

85 § 3368. Execution of judgments.

86 (a) In general. If an employer liable to pay any assessment, interest, or penalty under this title neglects or refuses to
87 pay the amount after a judgment has been obtained under § 3361 of this title, or otherwise, the Department may execute on
88 the judgment.

89 (b) Warrants for levy and sale of property. The Department may issue a warrant directed to the sheriff of any
90 county of this State commanding the sheriff to levy on and sell the personal or real property of the employer for the
91 payment of the amount of the judgment and the cost of executing the warrant. The sheriff shall return the warrant to the
92 Department and pay to the Department the money collected by virtue thereof within 60 days after receipt of the warrant. A
93 copy of the warrant must be filed with the prothonotary of Superior Court and noticed on the regular judgment docket. All
94 sales of real and personal property under authority of this section must be made under the provisions of Title 10.

95 (c) Garnishment of bank accounts of employers. Notwithstanding §§ 3502 or 4913(b) of Title 10, the Department
96 may issue a notice of garnishment directed to a bank, commanding the garnishee to set aside, account for, and pay over to
97 the Department on account of the debt any property owed to or held for the employer debtor by the bank on the date of
98 service of the notice of garnishment. A copy of the notice of garnishment or an abstract thereof must be filed with the
99 prothonotary of Superior Court and the fact of the garnishment noticed on the regular judgment docket.

100 (d) Garnishment of wages, salaries, and other amounts due from employers. The Department may issue a notice of
101 garnishment directed to a person owing to or holding for an employer who is a judgment debtor any wages, salaries,
102 money, credits and effects, contract rights, or securities. The notice of garnishment must command the garnishee to set
103 aside, account for, and pay over to the Department on account of the judgment all property then in the garnishee's
104 possession or which may become due to the judgment debtor by the garnishee, until the judgment and costs of execution
105 are paid. A copy of the notice of garnishment or an abstract thereof must be filed with the prothonotary of Superior Court
106 and the fact of the garnishment noticed on the regular judgment docket. The Department shall notify the garnishee in
107 writing when the judgment and costs have been satisfied.

108 (e) Duties of garnishee and penalties for failure to garnish.

109 (1) A person receiving a notice of garnishment under subsection (c) or (d) of this section shall respond to the
110 Department within 20 days after service of the notice, not counting the date of service.

111 (2) A garnishee who knowingly fails to comply with a notice of garnishment after notice and assessment
112 under this chapter, is liable for a penalty equal to the amount the garnishee was required to set aside, account for, and
113 pay over to the Department.

114 (3) Within 30 days after the date of mailing of a notice of proposed assessment of a penalty under this
115 subsection, the garnishee may file a written protest against the proposed assessment of penalty with the Department in
116 which the garnishee must set forth the grounds on which the protest is based. If a protest is filed, the Director of the
117 Division of Unemployment Insurance, as designee of the Secretary of Labor, shall reconsider the proposed assessment
118 of penalty and, if requested by the garnishee, shall grant the garnishee an oral hearing before an appeals tribunal under
119 § 3319 of this title. The appeals tribunal decision is final and not subject to further appeal.

120 (4) A penalty under paragraph (e)(2) of this section becomes final 30 days after the mailing of the notice of
121 proposed assessment of the penalty, except for those amounts for which the garnishee has filed a timely written protest
122 with the Department under paragraph (e)(3) of this section.

123 (f) Notwithstanding § 3502 of Title 10, property, legal or equitable, wages, salaries, deposits, or moneys in banks,
124 savings institutions, or loan associations, or other property or income of an employer owing tax assessments to the
125 Department is not exempt from execution or attachment process issued on, or from collection of, a judgment obtained under
126 § 3361 of this title.

127 § 3369. Professional and occupational licenses; denial or suspension.

128 (a) Definitions. As used in this section:

129 (1) "Debt" means any amount owed for overpayment of benefits, including any interest and penalties, and for
130 unemployment compensation tax assessments, including any interest and penalties, payable under this title that
131 exceeds, in aggregate, \$1,000 and that has been reduced to a judgment under § 3325 or § 3361 of this title.

132 (2) "Debtor" means a person liable for a debt.

133 (3) "Director of the Division of Professional Regulation" means the Director of the Division of Professional
134 Regulation of the Department of State, or the designee of the Director of the Division of Professional Regulation.

135 (4) "Director of Unemployment Insurance" means the Director of the Division of Unemployment Insurance of
136 the Department of Labor, or the designee of the Director of Unemployment Insurance.

137 (5) "License" means a license, permit, certificate, approval, registration, or other similar form of permission or
138 authorization to practice or engage in any profession, occupation, calling, or business issued or renewed by any
139 commission, board, or agency under the authority of the Division of Professional Regulation of the Department of
140 State under § 8735 of Title 29.

141 (b) Cooperative agreements for tax assessment enforcement and for the collection of overpayments of benefits.

142 (1)a. To provide for enforcement of the unemployment compensation laws of this State by means of the denial

143 or suspension of licenses issued to or applied for by debtors, the Director of the Division of Professional Regulation

144 shall enter into a cooperative agreement with the Director of Unemployment Insurance to exchange information about

145 any debtor who owes a debt to this State and who applies for or holds a license issued or renewed by any commission,

146 board, or agency under the authority of the Division of Professional Regulation.

147 b. The specific information and the manner and frequency with which information is made available or

148 otherwise exchanged between the Division of Unemployment Insurance and the Division of Professional

149 Regulation is to be determined by cooperative agreement, but must be made available or otherwise provided no

150 less than 1 time each calendar year.

151 c. Each cooperative agreement must contain provisions for ensuring the confidentiality of the information

152 to be exchanged under State and federal laws governing confidentiality of unemployment compensation

153 information.

154 d. Each cooperative agreement must be revised as necessary to effectuate the provisions and purposes of

155 this section.

156 (2) From the information provided by the Division of Professional Regulation under paragraph (b)(1) of this

157 section, the Division of Unemployment Insurance, at such intervals as it determines, may identify applicants or

158 licensees who are debtors, and undertake enforcement action under this section.

159 (c) Notice of intent to deny or suspend license. Subject to the provisions for notice and the right to a hearing under

160 subsections (d) and (e) of this section, the Director of Unemployment Insurance shall give written notice to a debtor that a

161 license issued or renewed by any commission, board, or agency under the authority of the Division of Professional

162 Regulation may be denied, suspended, or will not be issued or renewed.

163 (d) Contents of notice. The notice provided under this subsection must be sent by registered or certified mail to

164 the debtor's last address known to the Division of Unemployment Insurance and must inform the debtor of all of the

165 following:

166 (1) The nature and amount of the debt.

167 (2) That the debt has been reduced to judgment under §§ 3325 or 3361 of this title.

168 (3) That a copy of the judgment was provided to the debtor on or before the date of the notice.

169 (4) That under this section and § 8735 of Title 29, this information will be sent to the Division of Professional
170 Regulation for the purposes of suspending or denying the issue or renewal of the debtor's license unless, within 60 days
171 of the notice, the debtor has done any of the following:

172 a. Paid the debt in full.

173 b. Entered into a written agreement with the Director of Unemployment Insurance for payment of the
174 debt with such terms as the Director of Unemployment Insurance may require.

175 c. Requested a hearing under subsection (e) of this section.

176 (e) Request for hearing on proposed suspension or denial of license.

177 (1) If a debtor mails or delivers a written request for hearing to the Director of Unemployment Insurance
178 within 20 days from the date of mailing the notice of intent to deny or suspend a license, an appeals tribunal under §
179 3319 of this title shall conduct a hearing for the limited purpose of determining if the debt exceeds \$1,000 and if the
180 debt was reduced to judgment under § 3325 or § 3361 of this title.

181 a. The appeals tribunal shall give written notice of the hearing to the debtor.

182 b. The debtor may present evidence, be represented by counsel of debtor's choice and at debtor's expense,
183 and appear personally or by other representative.

184 c. The appeals tribunal cannot receive evidence at the hearing regarding the appropriateness or validity of
185 the final assessment of the unemployment compensation tax, including any interest and penalty, or the
186 overpayment of benefits, including any interest and penalty, that has been reduced to judgment under § 3325 or §
187 3361 of this title.

188 d. The appeals tribunal must reach a decision based on the evidence received at the appeals tribunal
189 hearing and issue a decision to the debtor after the hearing. The appeals tribunal decision is final and not subject to
190 further appeal.

191 (f) Denial or suspension of professional or occupation license.

192 (1) On certification by the Director of Unemployment Insurance to the Director of the Division of
193 Professional Regulation of compliance with this section, the Director of the Division of Professional Regulation shall
194 immediately suspend all licenses issued to the debtor by any commission, board, or agency; deny any applications to
195 issue or renew any such license or licenses by the debtor; and give written notice of the suspension or denial to the
196 debtor.

197 (2) The debtor remains ineligible for the issuance, renewal, or reinstatement of any license until the Director
198 of Unemployment Insurance provides written certification to the Director of the Division of Professional Regulation
199 that the grounds for denial or suspension of a license under this section no longer exist.

200 (3) The Director of Unemployment Insurance shall provide the written certification under paragraph (f)(2) of
201 this section to the Director of the Division of Professional Regulation within 30 days from the time that the grounds for
202 denial or suspension of a license under this section no longer exist.

203 (4) The Director Unemployment Insurance shall provide notice to the debtor when the written certification
204 under paragraph (f)(2) of this section is provided to the Director of the Division of Professional Regulation.

205 (g) Regulations. The Director of Unemployment Insurance may promulgate regulations necessary to implement
206 the provisions of this section.

207 (h) Remedies not exclusive. The remedies provided under this section are in addition to any other remedies for the
208 enforcement of tax assessment obligations and the collection of overpayments of benefits.

209 Section 5. Amend § 8735, Title 29 of the Delaware Code by making deletions as shown by strike through and
210 insertions as shown by underline as follows:

211 § 8735. Division of Professional Regulation.

212 (1)(1) The provisions of §§ 516(g) and § 2216 of Title 13, § 3368 of Title 19, and § 547 of Title 30 shall
213 supersede any provisions of this section to the contrary and any provisions or procedures, by statute or regulation, of any
214 commission, ~~board~~ board, or agency named in this section with respect to matters involving any applicant or licensee under
215 § 516(g) or § 2216 of Title 13, § 3368 of Title 19, and § 547 of Title 30.

216 (2) Upon receipt of notification from the Family Court pursuant to § 516(g) of Title 13, or notice from the
217 Director of the Division of Child Support Services pursuant to § 2216 of Title 13 or notice from the Director of the
218 Division of Revenue pursuant to § 547 of Title 30 regarding a licensee or applicant, the Director of the Division of
219 Professional Regulation shall forthwith suspend, or deny to such licensee or applicant the issuance or renewal of, any
220 license, permit, certificate, approval, ~~registration~~ registration, or other similar form of permission or authorization to
221 practice or engage in any profession, ~~occupation~~ occupation, or business of any commission, ~~board~~ board, or agency
222 named in this section (but section, but not including any license issued on behalf of a nonprofit applicant by the Board
223 of Charitable Gaming as set forth in under Chapter 15 of Title 28) 28, on receipt of notification regarding a licensee or
224 applicant from any of the following:

225 a. The Family Court under § 516(g) of Title 13.

226 b. The Director of the Division of Child Support Services under § 2216 of Title 13.

227

c. The Director of the Division of Unemployment Insurance under § 3368 of Title 19.

228

d. The Director of the Division of Revenue under § 547 of Title 30.

SYNOPSIS

This Act expands the collection procedures available to the Division of Unemployment Insurance to more closely match the collection procedures currently available to the Division of Revenue providing the Division of Unemployment Insurance with streamlined procedures to allow it to more quickly and easily execute on judgments for unpaid unemployment insurance tax assessments. These procedures include obtaining warrants for the levy and sale of property; extending liens; garnishments of wages, bank accounts, and other property; and denying or suspending professional licenses of judgment debtors. This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

This Substitute differs from Senate Bill No. 128 as follows:

1. Provides authority for appeals tribunals to hear protests under § 3368 of Title 19 and hearings under § 3369 of Title 19.
2. Aligns the length of a lien of a judgment under Chapter 33 of Title 19 with the length of a lien of judgment obtained by the Division of Revenue.
3. Removes debts owed due to overpayments from garnishment.
4. Makes clarifications and technical corrections.

Author: Senator Walsh