

**State of Tennessee**  
**PUBLIC CHAPTER NO. 824**

**SENATE BILL NO. 2742**

**By Johnson, Norris**

Substituted for: House Bill No. 2212

By McCormick, Matlock, Moore, Brown, Favors, Eldridge

AN ACT to amend Tennessee Code Annotated, Title 50, relative to employers and employees.

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

SECTION 1. Tennessee Code Annotated, Section 50-7-303(d)(3)(B), is amended by deleting the language "three (3)" wherever it may appear and by substituting instead the language "six (6)".

SECTION 2. Tennessee Code Annotated, Section 50-7-304(b)(2), is amended by inserting the following language as a new subdivision (E):

(E) Offset expenses and fees.

(i) In addition to any remedies authorized by this chapter, the department may offset any covered unemployment compensation debt due to the department against any federal income tax refund due to the department's claimant debtor in accordance with § 6402 of the Internal Revenue Code, 26 U.S.C. § 6402, and the federal Treasury Offset Program, 31 C.F.R. Part 285, or any successor program.

(ii) The department may exercise this right of setoff if the obligation of the debtor was the result of:

(a) Fraud or the claimant debtor's failure to report earnings; or

(b) Any penalties and interest assessed by the department on a debt contemplated by this subdivision (2)(E).

(iii) Any fee or administrative expense imposed by the United States Department of the Treasury or the United States Department of Labor in connection with such offset shall be the responsibility of the debtor.

(iv) Following such offset, the amount of credit to which a debtor is entitled shall not exceed the amount of the credit received by the department.

SECTION 3. Tennessee Code Annotated, Section 50-7-404(b), is amended by inserting the following language as a new subdivision (7):

(7)(A) In addition to any remedies authorized by this chapter, the department may offset any covered unemployment compensation debt due to the department against any federal income tax refund due to the department's taxpayer debtor in accordance with § 6402 of the Internal Revenue Code, 26 U.S.C. § 6402, and the federal Treasury Offset Program, 31 C.F.R. Part 285, or any successor program.

(B) The department may exercise this right of setoff if the obligation of the debtor was the result of:

(i) Past due contributions due to the state's unemployment fund that remain uncollected and the state has determined the taxpayer debtor to be liable for those contributions; or

(ii) Any penalties and interest assessed by the department on a debt contemplated by this subdivision (7).

(C) Any fee or administrative expense imposed by the United States Department of the Treasury or the United States Department of Labor in connection with such offset shall be the responsibility of the debtor.

(D) Following such offset, the amount of credit to which a debtor is entitled shall not exceed the amount of the credit received by the department.

SECTION 4. Tennessee Code Annotated, Section 50-7-501(a)(1), is amended by adding the following as a new subdivision (I):

(I) Fees, penalties, or interest collected in accordance with the federal Treasury Offset Program described in § 6402 of the Internal Revenue Code, 26 U.S.C. § 6402, and 31 C.F.R. Part 285, 42 U.S.C. § 503(a), and § 50-7-715.

SECTION 5. Tennessee Code Annotated, Section 50-7-501(c), is amended by deleting the first sentence in its entirety and substituting instead the following:

Money shall be requisitioned from the state's account in the unemployment trust fund and shall be used exclusively for the payment of benefits, including extended benefits authorized by § 50-7-305; for refunds pursuant to § 50-7-404; and for the payment of fees authorized under the Treasury Offset Program described in § 6402 of the Internal Revenue Code, 26 U.S.C. § 6402, and 31 C.F.R. Part 285, except that money credited to this state's account pursuant to § 903 of the Social Security Act, codified in 42 U.S.C. § 1103, by the Employment Security Administration Financing Act of 1954, shall be used for the purpose of paying benefits as provided in this section, and for any purposes for which an appropriation may be made, which general appropriations act shall specifically comply with all the requirements of § 903 of the Social Security Act, codified in 42 U.S.C. § 1103, by the Employment Security Administration Financing Act of 1954.

SECTION 6. Tennessee Code Annotated, Section 50-7-503(a)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(1) There is created in the state treasury a fund to be known as the "unemployment compensation special administrative fund," which shall consist of interest collected on delinquent payments pursuant to § 50-7-404(a) and, except as provided in § 50-7-501(a)(1)(I), all fines and penalties collected pursuant to this chapter, including the penalty rate payments collected under § 50-7-403(b)(2)(G)(i)(b), the civil money penalties collected under § 50-7-403(b)(2)(G)(ii), and fees, penalties, or interest collected in accordance with the federal Treasury Offset Program described in § 6402 of the Internal Revenue Code, 26 U.S.C. § 6402, and 31 C.F.R. Part 285, 42 U.S.C. § 503(a).

SECTION 7. Tennessee Code Annotated, Section 50-7-715, is amended by deleting the section in its entirety and by substituting instead the following:

50-7-715.

(a) Any person who has received unemployment benefits by knowingly misrepresenting, misstating, or failing to disclose any material fact, or by making a false statement or false representation without a good faith belief as to the correctness of the statement or representation, after a determination by the commissioner that such a violation has occurred, shall be required to repay the amount of benefits received.

(b)(1) The commissioner shall assess a penalty equal to fifteen percent (15%) of the overpaid benefits as described in subsection (a), to comply with the requirements of 42 U.S.C. § 503(a)(11). Monies collected by this penalty shall be deposited into the unemployment compensation fund as provided in § 50-7-501.

(2) The commissioner shall further assess a penalty equal to seven and one-half percent (7.5%) of the overpaid benefits described in subsection (a). Monies collected by this penalty shall be used to defray the costs of deterring, detecting, or collecting overpayments. The penalty provided in this subdivision (b)(2) is in addition to the penalty provided in subdivision (b)(1).

(c)(1) In addition to the requirements of subsections (a) and (b), the commissioner shall assess interest at a rate of no more than one and one-half percent (1.5%) per month on the total amount due that remains unpaid for a period of thirty (30) or more calendar days after the date on which the commissioner sends notice of the commissioner's determination that a

violation has occurred to the last known address of the claimant. For purposes of this subdivision (c)(1), "total amount due" includes the unemployment benefits received pursuant to subsection (a) and the penalties provided for in subsection (b).

(2) A pending appeal of the order of the commissioner shall not suspend the assessment of interest on unemployment benefits obtained in violation of this chapter.

(d) Monies received by the department in repayment of unemployment benefits and payment of penalties and interest pursuant to subsections (a), (b)(2), and (c) shall first be applied to the unemployment benefits received, then to any interest due. These monies shall be used by the department to defray the costs of deterring, detecting or collecting overpayments.

SECTION 8. This act shall take effect July 1, 2012, the public welfare requiring it.

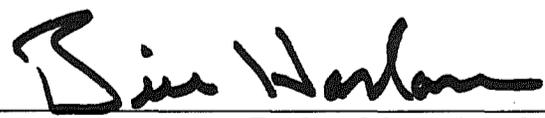
SENATE BILL NO. 2742

PASSED: April 4, 2012

  
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RON RAMSEY  
SPEAKER OF THE SENATE

  
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BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 25<sup>th</sup> day of April 2012

  
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BILL HASLAM, GOVERNOR