



# House of Representatives

**File No. 284**

General Assembly

January Session, 2009

**(Reprint of File No. 58)**

House Bill No. 6184  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
March 27, 2009

**AN ACT PRESERVING GOOD CAUSE FOR LATE FILING OF CERTAIN  
UNEMPLOYMENT COMPENSATION APPEALS.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Section 31-273 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) Any person who, through error, has received any sum as  
4 benefits under this chapter while any condition for the receipt of  
5 benefits imposed by this chapter was not fulfilled in his case, or has  
6 received a greater amount of benefits than was due him under this  
7 chapter, shall be charged with an overpayment of a sum equal to the  
8 amount so overpaid to him, provided such error has been discovered  
9 and brought to his attention within one year of the date of receipt of  
10 such benefits. A person whose receipt of such a sum was not due to  
11 fraud, wilful misrepresentation or wilful nondisclosure by himself or  
12 another shall be entitled to a hearing before an examiner designated by  
13 the administrator. Such examiner shall determine whether: [(A)] (1)  
14 Such person shall repay such sum to the administrator for the  
15 Unemployment Compensation Fund, [(B)] (2) such sum shall be

16 recouped by offset from such person's unemployment benefits, or [(C)]  
17 (3) repayment or recoupment of such sum would defeat the purpose of  
18 the benefits or be against equity and good conscience and should be  
19 waived. In any case where the examiner determines that such sum  
20 shall be recouped by offset from a person's unemployment benefits,  
21 the deduction from benefits shall not exceed fifty per cent of the  
22 person's weekly benefit amount. Where such offset is insufficient to  
23 recoup the full amount of the overpayment, the claimant shall repay  
24 the remaining amount in accordance with a repayment schedule as  
25 determined by the examiner. If the claimant fails to repay according to  
26 the schedule, the administrator may recover such overpayment  
27 through a wage execution against the claimant's earnings upon his  
28 return to work in accordance with the provisions of section 52-361a.  
29 Any person with respect to whom a determination of overpayment has  
30 been made, according to the provisions of this subsection, shall be  
31 given notice of such determination and the provisions for repayment  
32 or recoupment of the amount overpaid. No repayment shall be  
33 required and no deduction from benefits shall be made until the  
34 determination of overpayment has become final. The determination of  
35 overpayment shall be final unless the claimant, within twenty-one  
36 days after notice of such determination was mailed to him at his last-  
37 known address, files an appeal from such determination to a referee,  
38 provided (A) any such appeal or motion that is filed after such twenty-  
39 one-day period may be considered to be timely if the filing party  
40 shows good cause, as defined in regulations adopted pursuant to  
41 section 31-249h, for the late filing, and (B) if the last day for filing an  
42 appeal or motion falls on any day when the offices of the Employment  
43 Security Division are not open for business, such last day shall be  
44 extended to the next business day. If any such appeal or motion is filed  
45 by mail, such appeal or motion shall be considered to be timely filed if  
46 it was received within such twenty-one-day period or bears a legible  
47 United States Postal Service postmark indicating that, within such  
48 twenty-one-day period, it was placed in the possession of such postal  
49 authorities for delivery to the appropriate office. Posting dates  
50 attributable to private postage meters shall not be considered in

51 determining the timeliness of appeals or motions filed by mail. [If the  
52 last day for filing an appeal falls on any day when the offices of the  
53 Employment Security Division are not open for business, such last day  
54 shall be extended to the next business day.] The appeal shall be heard  
55 in the same manner provided in section 31-242 for an appeal from the  
56 decision of an examiner on a claim for benefits. Any party aggrieved  
57 by the decision of the referee, including the administrator, may appeal  
58 to the Employment Security Board of Review in the manner provided  
59 in section 31-249. Decisions of the board may be appealed to the  
60 Superior Court in the manner provided in section 31-249b. The  
61 administrator is authorized, eight years after the payment of any  
62 benefits described in this subsection, to cancel any claim for such  
63 repayment or recoupment which in his opinion is uncollectible.  
64 Effective January 1, 1996, and annually thereafter, the administrator  
65 shall report to the joint standing committee of the General Assembly  
66 having cognizance of matters relating to finance, revenue and bonding  
67 and the joint standing committee of the General Assembly having  
68 cognizance of matters relating to labor and public employees, the  
69 aggregate number and value of all such claims deemed uncollectible  
70 and therefore cancelled during the previous calendar year. Any  
71 determination of overpayment made under this section which becomes  
72 final may be enforced by a wage execution in the same manner as a  
73 judgment of the Superior Court when the claimant fails to pay  
74 according to his repayment schedule. The court may issue a wage  
75 execution upon any final determination of overpayment in the same  
76 manner as in cases of judgments rendered in the Superior Court, and  
77 upon the filing of an application to the court for an execution, the  
78 administrator shall send to the clerk of the court a certified copy of  
79 such determination.

80 (b) (1) Any person who, by reason of fraud, wilful misrepresentation  
81 or wilful nondisclosure by such person or by another of a material fact,  
82 has received any sum as benefits under this chapter while any  
83 condition for the receipt of benefits imposed by this chapter was not  
84 fulfilled in such person's case, or has received a greater amount of

85 benefits than was due such person under this chapter, shall be charged  
86 with an overpayment and shall be liable to repay to the administrator  
87 for the Unemployment Compensation Fund a sum equal to the  
88 amount so overpaid to such person. If such person does not make  
89 repayment in full of the sum overpaid, the administrator shall recoup  
90 such sum by offset from such person's unemployment benefits. The  
91 deduction from benefits shall be one hundred per cent of the person's  
92 weekly benefit entitlement until the full amount of the overpayment  
93 has been recouped. Where such offset is insufficient to recoup the full  
94 amount of the overpayment, the claimant shall repay the remaining  
95 amount plus, for any determination of an overpayment made on or  
96 after July 1, 2005, interest at the rate of one per cent of the amount so  
97 overpaid per month, in accordance with a repayment schedule as  
98 determined by the examiner. If the claimant fails to repay according to  
99 the schedule, the administrator may recover such overpayment plus  
100 interest through a wage execution against the claimant's earnings upon  
101 the claimant's return to work in accordance with the provisions of  
102 section 52-361a. In addition, the administrator may request the  
103 Commissioner of Administrative Services to seek reimbursement for  
104 such amount pursuant to section 12-742. The administrator is  
105 authorized, eight years after the payment of any benefits described in  
106 this subsection, to cancel any claim for such repayment or recoupment  
107 which in the administrator's opinion is uncollectible. Effective January  
108 1, 1996, and annually thereafter, the administrator shall report to the  
109 joint standing committee of the General Assembly having cognizance  
110 of matters relating to finance, revenue and bonding and the joint  
111 standing committee of the General Assembly having cognizance of  
112 matters relating to labor and public employees, the aggregate number  
113 and value of all such claims deemed uncollectible and therefore  
114 cancelled during the previous calendar year.

115 (2) Any person who has made a claim for benefits under this  
116 chapter and has knowingly made a false statement or representation or  
117 has knowingly failed to disclose a material fact in order to obtain  
118 benefits or to increase the amount of benefits to which such person

119 may be entitled under this chapter shall forfeit benefits for not less  
120 than one or more than thirty-nine compensable weeks following  
121 determination of such offense or offenses, during which weeks such  
122 person would otherwise have been eligible to receive benefits. For the  
123 purposes of section 31-231b, such person shall be deemed to have  
124 received benefits for such forfeited weeks. This penalty shall be in  
125 addition to any other applicable penalty under this section and in  
126 addition to the liability to repay any moneys so received by such  
127 person and shall not be confined to a single benefit year.

128 (3) Any person charged with the fraudulent receipt of benefits or the  
129 making of a fraudulent claim, as provided in this subsection, shall be  
130 entitled to a hearing before the administrator, or a deputy or  
131 representative designated by the administrator. Notice of the time and  
132 place of such hearing, and the reasons for such hearing, shall be given  
133 to the person not less than five days prior to the date appointed for  
134 such hearing. The administrator shall determine, on the basis of facts  
135 found by the administrator, whether or not a fraudulent act subject to  
136 the penalties of this subsection has been committed and, upon such  
137 finding, shall fix the penalty for any such offense according to the  
138 provisions of this subsection. Any person determined by the  
139 administrator to have committed fraud under the provisions of this  
140 section shall be liable for repayment to the administrator of the  
141 Unemployment Compensation Fund for any benefits determined by  
142 the administrator to have been collected fraudulently, as well as any  
143 other penalties assessed by the administrator in accordance with the  
144 provisions of this subsection. Until such liabilities have been met to the  
145 satisfaction of the administrator, such person shall forfeit any right to  
146 receive benefits under the provisions of this chapter. Notification of  
147 such decision and penalty shall be mailed to such person's last known  
148 address and shall be final unless such person files an appeal not later  
149 than twenty-one days after the mailing date of such notification,  
150 provided (A) any such appeal or motion that is filed after such twenty-  
151 one-day period may be considered to be timely if the filing party  
152 shows good cause, as defined in regulations adopted pursuant to

153 section 31-249h, for the late filing, and (B) if the last day for filing an  
154 appeal or motion falls on any day when the offices of the Employment  
155 Security Division are not open for business, such last day shall be  
156 extended to the next business day. If any such appeal or motion is filed  
157 by mail, such appeal or motion shall be considered to be timely filed if  
158 it was received within such twenty-one-day period or bears a legible  
159 United States Postal Service postmark indicating that, within such  
160 twenty-one-day period, it was placed in the possession of such postal  
161 authorities for delivery to the appropriate office. Posting dates  
162 attributable to private postage meters shall not be considered in  
163 determining the timeliness of appeals or motions filed by mail. [If the  
164 last day for filing an appeal falls on any day when the offices of the  
165 Employment Security Division are not open for business, such last day  
166 shall be extended to the next business day.] Such appeal shall be heard  
167 by a referee in the same manner provided in section 31-242 for an  
168 appeal from the decision of an examiner on a claim for benefits. The  
169 manner in which such appeals shall be heard and appeals taken  
170 therefrom to the board of review and then to the Superior Court, either  
171 by the administrator or the claimant, shall be in accordance with the  
172 provisions set forth in section 31-249 or 31-249b, as the case may be.  
173 Any determination of overpayment made under this subsection which  
174 becomes final on or after October 1, 1995, may be enforced in the same  
175 manner as a judgment of the Superior Court when the claimant fails to  
176 pay according to the claimant's repayment schedule. The court may  
177 issue execution upon any final determination of overpayment in the  
178 same manner as in cases of judgments rendered in the Superior Court;  
179 and upon the filing of an application to the court for an execution, the  
180 administrator shall send to the clerk of the court a certified copy of  
181 such determination.

182 (c) Any person, firm or corporation who knowingly employs a  
183 person and pays such employee without declaring such payment in  
184 the payroll records shall be guilty of a class A misdemeanor.

185 (d) If, after investigation, the administrator determines that there is  
186 probable cause to believe that the person, firm or corporation has

187 wilfully failed to declare payment of wages in the payroll record, the  
188 administrator shall provide an opportunity for a hearing on the matter.  
189 If a hearing is requested, it shall be conducted by the administrator, or  
190 a deputy or representative designated by him. Notice of the time and  
191 place of such hearing, and the reasons therefor, shall be given to the  
192 person, firm, or corporation not less than five days prior to the date  
193 appointed for such hearing. If the administrator determines, on the  
194 basis of the facts found by him, that such nondeclaration occurred and  
195 was wilful, the administrator shall fix the payments and penalties in  
196 accordance with the provisions of subsection (e) of this section. Such  
197 person, firm or corporation may appeal to the superior court for the  
198 judicial district of Hartford or for the judicial district in which the  
199 employer's principal place of business is located. Such court shall give  
200 notice of a time and place of hearing to the administrator. At such  
201 hearing the court may confirm or correct the administrator's  
202 determination. If the administrator's determination is confirmed, the  
203 cost of such proceedings, as in civil actions, shall be assessed against  
204 such person, firm or corporation. No costs shall be assessed against the  
205 state on such appeal.

206 (e) If the administrator determines that any person, firm or  
207 corporation has wilfully failed to declare the payment of wages on  
208 payroll records, the administrator may impose a penalty of ten per  
209 cent of the total contributions past due to the administrator, as  
210 determined pursuant to section 31-270. Such penalty shall be in  
211 addition to any other applicable penalty and interest under section 31-  
212 266. In addition, the administrator may require the person, firm or  
213 corporation to make contributions at the maximum rate provided in  
214 section 31-225a for a period of one year following the determination by  
215 the administrator concerning the wilful nondeclaration. If the person,  
216 firm or corporation is paying or should have been paying, the  
217 maximum rate at the time of the determination, the administrator may  
218 require that such maximum rate continue for a period of three years  
219 following the determination.

220 (f) Any person who knowingly makes a false statement or

221 representation or fails to disclose a material fact in order to obtain,  
222 increase, prevent or decrease any benefit, contribution or other  
223 payment under this chapter, or under any similar law of another state  
224 or of the United States in regard to which this state acted as agent  
225 pursuant to an agreement authorized by section 31-225, whether to be  
226 made to or by himself or any other person, and who receives any such  
227 benefit, pays any such contribution or alters any such payment to his  
228 advantage by such fraudulent means (1) shall be guilty of a class A  
229 misdemeanor if such benefit, contribution or payment amounts to five  
230 hundred dollars or less or (2) shall be guilty of a class D felony if such  
231 benefit, contribution or payment amounts to more than five hundred  
232 dollars. Notwithstanding the provisions of section 54-193, no person  
233 shall be prosecuted for a violation of the provisions of this subsection  
234 committed on or after October 1, 1977, except within five years next  
235 after such violation has been committed.

236 (g) Any person, firm or corporation who knowingly fails to pay  
237 contributions or other payments due under this chapter shall be guilty  
238 of a class A misdemeanor. Notwithstanding the provisions of section  
239 54-193, no person shall be prosecuted for a violation of the provisions  
240 of this subsection committed on or after October 1, 1987, except within  
241 five years after such violation has been committed.

242 (h) Any person who knowingly violates any provision of this  
243 chapter for which no other penalty is provided by law shall be fined  
244 not more than two hundred dollars or imprisoned not more than six  
245 months or both.

246 (i) Any person who wilfully violates any regulation made by the  
247 administrator or the board under the authority of this chapter, for  
248 which no penalty is specifically provided, shall be fined not more than  
249 two hundred dollars.

250 (j) All interest payments collected by the administrator under  
251 subsection (b) of this section shall be deposited in the Employment  
252 Security Administration Fund.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	31-273

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill explicitly allows the late filing of certain unemployment compensation appeals and has no fiscal impact as it conforms to current practice by the Department of Labor (DOL).

House "A" strikes the requirement that DOL issue regulations defining "good cause" for a late filing and has no fiscal impact.

***The Out Years***

None

**OLR Bill Analysis****HB 6184 (as amended by House "A")\******AN ACT PRESERVING GOOD CAUSE FOR LATE FILING OF CERTAIN UNEMPLOYMENT COMPENSATION APPEALS.*****SUMMARY:**

Under current law, an unemployment compensation claimant has 21 days to appeal a decision that he or she received either (1) an overpayment of benefits or (2) benefits through fraud. This bill allows appeals after 21 days of either type of decision if the claimant shows good cause for the late filing. Under law and unchanged by the bill, the 21 days for appeal begins when the decision notice is mailed to the claimant.

The bill also permits an appeal or motion to be timely within the 21-day period if it bears a U.S. Postal Service postmark indicating it was mailed within 21 days. It specifies that appeals with postmarks from private postage meters are not timely if received after the 21 days.

\*House Amendment "A" strikes the requirement that the Labor Department issue regulations defining "good cause" for a late filing by January 1, 2011.

EFFECTIVE DATE: October 1, 2009

**BACKGROUND*****Benefits Due to Fraud and Overpayments***

By law, a claimant found to have received benefits through fraud must repay the benefits and may be ordered to pay other penalties. The labor commissioner, or her designee, makes determinations of fraud after holding a hearing, of which the claimant is notified, to help determine the facts.

By law, a claimant can be charged for a benefit overpayment if he or she received an amount that was greater than what was due under law, as long as the error causing the overpayment is discovered and brought to the claimant's attention within a year of the receipt of the benefits. Claims examiners make overpayment determinations.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable

Yea 11    Nay 0    (02/26/2009)