



General Assembly

January Session, 2011

**Raised Bill No. 6096**

LCO No. 2333

\*02333\_\_\_\_\_LAB\*

Referred to Committee on Labor and Public Employees

Introduced by:  
(LAB)

**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. Subsection (a) of section 31-273 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2011*):

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

17 by offset from such person's unemployment benefits, or (C) repayment  
18 or recoupment of such sum would defeat the purpose of the benefits or  
19 be against equity and good conscience and should be waived. In any  
20 case where the examiner determines that such sum shall be recouped  
21 by offset from a person's unemployment benefits, the deduction from  
22 benefits shall not exceed fifty per cent of the person's weekly benefit  
23 amount. Where such offset is insufficient to recoup the full amount of  
24 the overpayment, the claimant shall repay the remaining amount in  
25 accordance with a repayment schedule as determined by the examiner.  
26 If the claimant fails to repay according to the schedule, the  
27 administrator may recover such overpayment through a wage  
28 execution against the claimant's earnings upon his return to work in  
29 accordance with the provisions of section 52-361a. Any person with  
30 respect to whom a determination of overpayment has been made,  
31 according to the provisions of this subsection, shall be given notice of  
32 such determination and the provisions for repayment or recoupment  
33 of the amount overpaid. No repayment shall be required and no  
34 deduction from benefits shall be made until the determination of  
35 overpayment has become final.

36 (2) The determination of overpayment shall be final unless the  
37 claimant, within twenty-one days after notice of such determination  
38 was mailed to him at his last-known address, files an appeal from such  
39 determination to a referee, except that any such appeal that is filed  
40 after such twenty-one-day period may be considered to be timely filed  
41 if the filing party shows good cause, as defined in regulations adopted  
42 pursuant to section 31-249h, for the late filing. If the last day for filing  
43 an appeal falls on any day when the offices of the Employment  
44 Security Division are not open for business, such last day shall be  
45 extended to the next business day. If any such appeal is filed by mail,  
46 the appeal shall be considered timely filed if the appeal was received  
47 within such twenty-one-day period or bears a legible United States  
48 postal service postmark that indicates that within such twenty-one-day  
49 period the appeal was placed in the possession of postal authorities for  
50 delivery to the appropriate office. Posting dates attributable to private

51 postage meters shall not be considered in determining the timeliness of  
52 appeals filed by mail. [If the last day for filing an appeal falls on any  
53 day when the offices of the Employment Security Division are not  
54 open for business, such last day shall be extended to the next business  
55 day.]

56 (3) The appeal shall be heard in the same manner provided in  
57 section 31-242 for an appeal from the decision of an examiner on a  
58 claim for benefits. Any party aggrieved by the decision of the referee,  
59 including the administrator, may appeal to the Employment Security  
60 Board of Review in the manner provided in section 31-249. Decisions  
61 of the board may be appealed to the Superior Court in the manner  
62 provided in section 31-249b. The administrator is authorized, eight  
63 years after the payment of any benefits described in this subsection, to  
64 cancel any claim for such repayment or recoupment which in his  
65 opinion is uncollectible. Effective January 1, 1996, and annually  
66 thereafter, the administrator shall report to the joint standing  
67 committee of the General Assembly having cognizance of matters  
68 relating to finance, revenue and bonding and the joint standing  
69 committee of the General Assembly having cognizance of matters  
70 relating to labor and public employees, the aggregate number and  
71 value of all such claims deemed uncollectible and therefore cancelled  
72 during the previous calendar year. Any determination of overpayment  
73 made under this section which becomes final may be enforced by a  
74 wage execution in the same manner as a judgment of the Superior  
75 Court when the claimant fails to pay according to his repayment  
76 schedule. The court may issue a wage execution upon any final  
77 determination of overpayment in the same manner as in cases of  
78 judgments rendered in the Superior Court, and upon the filing of an  
79 application to the court for an execution, the administrator shall send  
80 to the clerk of the court a certified copy of such determination.

81 Sec. 2. Subdivision (3) of subsection (b) of section 31-273 of the  
82 general statutes is repealed and the following is substituted in lieu  
83 thereof (*Effective October 1, 2011*):

84 (3) Any person charged with the fraudulent receipt of benefits or the  
85 making of a fraudulent claim, as provided in this subsection, shall be  
86 entitled to a hearing before the administrator, or a deputy or  
87 representative designated by the administrator. Notice of the time and  
88 place of such hearing, and the reasons for such hearing, shall be given  
89 to the person not less than five days prior to the date appointed for  
90 such hearing. The administrator shall determine, on the basis of facts  
91 found by the administrator, whether or not a fraudulent act subject to  
92 the penalties of this subsection has been committed and, upon such  
93 finding, shall fix the penalty for any such offense according to the  
94 provisions of this subsection. Any person determined by the  
95 administrator to have committed fraud under the provisions of this  
96 section shall be liable for repayment to the administrator of the  
97 Unemployment Compensation Fund for any benefits determined by  
98 the administrator to have been collected fraudulently, as well as any  
99 other penalties assessed by the administrator in accordance with the  
100 provisions of this subsection. Until such liabilities have been met to the  
101 satisfaction of the administrator, such person shall forfeit any right to  
102 receive benefits under the provisions of this chapter. Notification of  
103 such decision and penalty shall be mailed to such person's last known  
104 address and shall be final unless such person files an appeal not later  
105 than twenty-one days after the mailing date of such notification, except  
106 that (A) any such appeal that is filed after such twenty-one-day period  
107 may be considered to be timely filed if the filing party shows good  
108 cause, as defined in regulations adopted pursuant to section 31-249h,  
109 for the late filing, (B) if the last day for filing an appeal falls on any day  
110 when the offices of the Employment Security Division are not open for  
111 business, such last day shall be extended to the next business day, and  
112 (C) if any such appeal is filed by mail, the appeal shall be considered  
113 timely filed if the appeal was received within such twenty-one-day  
114 period or bears a legible United States postal service postmark that  
115 indicates that within such twenty-one-day period the appeal was  
116 placed in the possession of postal authorities for delivery to the  
117 appropriate office. Posting dates attributable to private postage meters

118 shall not be considered in determining the timeliness of appeals filed  
119 by mail. [If the last day for filing an appeal falls on any day when the  
120 offices of the Employment Security Division are not open for business,  
121 such last day shall be extended to the next business day.] Such appeal  
122 shall be heard by a referee in the same manner provided in section 31-  
123 242 for an appeal from the decision of an examiner on a claim for  
124 benefits. The manner in which such appeals shall be heard and appeals  
125 taken therefrom to the board of review and then to the Superior Court,  
126 either by the administrator or the claimant, shall be in accordance with  
127 the provisions set forth in section 31-249 or 31-249b, as the case may be.  
128 Any determination of overpayment made under this subsection which  
129 becomes final on or after October 1, 1995, may be enforced in the same  
130 manner as a judgment of the Superior Court when the claimant fails to  
131 pay according to the claimant's repayment schedule. The court may  
132 issue execution upon any final determination of overpayment in the  
133 same manner as in cases of judgments rendered in the Superior Court;  
134 and upon the filing of an application to the court for an execution, the  
135 administrator shall send to the clerk of the court a certified copy of  
136 such determination.

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|---|------------------------|--------------|
| This act shall take effect as follows and shall amend the following sections: |                        |              |
| Section 1   | <i>October 1, 2011</i> | 31-273(a)    |
| Sec. 2  | <i>October 1, 2011</i> | 31-273(b)(3) |

**Statement of Purpose:**

To allow claimants to appeal after the twenty-one-day deadline, provided the claimant can demonstrate good cause for such late appeal.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*