

1 ENGROSSED HOUSE
2 BILL NO. 2204

By: McDaniel (Randy), McNiell
and Russ of the House

3 and

4 Newberry of the Senate

5
6
7 (labor - amending 10 sections in Title 40 -
8 Employment Security Act of 1980 - Oklahoma
9 Employment Security Commission - codification -
10 effective date)

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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SECTION 1. AMENDATORY 40 O.S. 2011, Section 2-204, is

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amended to read as follows:

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Section 2-204. REGISTRATION FOR EMPLOYMENT. The unemployed

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individual must register for work ~~at and thereafter continue to~~

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~~report at an employment office~~ within seven (7) days of filing his

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or her initial claim for unemployment benefits in accordance with

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such rules as the Commission may prescribe, except that the

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Commission may, ~~by rule, waive or alter either or both~~ the

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requirements of this section as to individuals attached to regular

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jobs ~~and as to such other cases or,~~ situations involving mass

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layoffs, or individuals in areas not served by an established

1 employment office, ~~with respect to which~~ or Internet service when it
2 finds that compliance with ~~such~~ these requirements would be
3 oppressive, or would be inconsistent with the purpose of this act.

4 SECTION 2. AMENDATORY 40 O.S. 2011, Section 2-207, is
5 amended to read as follows:

6 Section 2-207. WAGE REQUIREMENT DURING BASE PERIOD.

7 A. The unemployed individual, during the individual's base
8 period, shall have been paid:

9 1. Taxable wages of not less than One Thousand Five Hundred
10 Dollars (\$1,500.00); and

11 2. Total wages of not less than one and one-half (1 1/2) times
12 the amount of wages during that quarter of the individual's base
13 period in which the wages were highest.

14 B. Notwithstanding the ~~preceding provision, an individual with~~
15 ~~base period wages equal to or more than the highest annual amount of~~
16 ~~taxable wages that applies to any calendar year in which the claim~~
17 ~~for unemployment benefits was filed~~ provisions in subsection A of
18 this section, an unemployed individual shall be eligible for
19 benefits if, during the individual's base period, he or she shall
20 have been paid:

21 1. Taxable wages of any amount; and

22 2. Total wages equal to or more than the annual amount of
23 taxable wages that applies to any calendar year in which the claim
24 for unemployment benefits was filed.

1 C. 1. If an individual lacks sufficient base period wages
2 under subsection A or B of this section to establish a claim for
3 benefits, any wages paid in the individual's alternative base period
4 shall be considered as the individual's base period wages.

5 2. If the Commission has not received wage information from the
6 individual's employer for the most recent calendar quarter of the
7 alternative base period, the Commission shall accept an affidavit
8 from the individual supported by wage information such as check
9 stubs, deposit slips, or other supporting documentation to determine
10 wages paid.

11 3. A determination of benefits based on an alternative base
12 period shall be adjusted when the quarterly wage report is received
13 from the employer, if the wage information in the report differs
14 from that reported by the individual.

15 4. If alternative base period wages are established by
16 affidavit of the individual, the employer to which the wages are
17 attributed will have the right to protest the wages reported. If a
18 protest is made, the employer must provide documentary evidence of
19 wages paid to the individual. The Commission will determine the
20 wages paid based on the preponderance of the evidence presented by
21 each party.

22 5. Provided, no wages used to establish a claim under an
23 alternative base period shall be subsequently used to establish a
24 second benefit year.

1 SECTION 3. AMENDATORY 40 O.S. 2011, Section 2-503, is
2 amended to read as follows:

3 Section 2-503. CLAIMS, NOTICES AND OBJECTIONS.

4 A. Claims for benefits shall be made in accordance with ~~such~~
5 ~~rule as~~ all rules that the Oklahoma Employment Security Commission
6 may prescribe.

7 B. Promptly after an initial claim or an additional initial
8 claim is filed, the Commission shall give written notice of the
9 claim to the last employer of the claimant for whom he or she worked
10 at least fifteen (15) working days. Promptly after the Commission
11 is notified of the claimant's separation from an employment obtained
12 by a claimant during a continued claim series, the Commission shall
13 give written notice of the claim to the last separating employer.
14 Notices to separating employers during a continued claim series will
15 be given to the last employer in the claim week without regard to
16 length of employment.

17 C. Promptly after the claim is paid for the fifth week of
18 benefits the Commission shall give written notice of the claim to
19 all other employers of the claimant during the claimant's base
20 period. The notice will be given pursuant to Section 3-106 of this
21 title.

22 D. Notices shall be deemed given when the Commission deposits
23 the same in the United States mail addressed to the employer's last-
24 known address. Notice shall be presumed prima facie to have been

1 given to the employer to whom addressed on the date stated in the
2 written notice. If the employer has elected to be notified by
3 electronic means according to procedures set out in Oklahoma
4 Employment Security Commission rules, notice shall be deemed to be
5 given when the Commission transmits the notification by electronic
6 means.

7 E. Within ten (10) days after the date on the notice or the
8 date of the postmark on the envelope in which the notice was sent,
9 whichever is later, an employer may file with the Commission at the
10 address prescribed in the notice written objections to the claim
11 setting forth specifically the facts which:

12 1. Make the claimant ineligible for benefits under Sections 2-
13 201 through ~~2-209~~ 2-210 of this title;

14 2. Disqualify the claimant from benefits under Sections 2-401
15 through 2-418 of this title; or

16 3. Relieve such employer from being charged for the benefits
17 wages of such claimant.

18 SECTION 4. AMENDATORY 40 O.S. 2011, Section 2-507, is
19 amended to read as follows:

20 Section 2-507. NOTICE OF DETERMINATIONS.

21 Notice of a determination upon a claim shall be given promptly
22 to the claimant by delivery thereof or by mailing ~~such~~ the notice to
23 the claimant's last-known address or by electronic means if the
24 claimant elected this form of notification through procedures set

1 out by Oklahoma Employment Security Commission rules. Notice of a
2 determination shall also be given promptly to the last employer of
3 the claimant, for whom the claimant worked at least fifteen (15)
4 working days, that objected to the claim in accordance with the
5 provisions of subsection E of Section 2-503 of this title and to
6 each other employer who timely filed a written objection to the
7 claim. If the employer has elected to be notified by electronic
8 means according to procedures set out in Oklahoma Employment
9 Security Commission rules, notice shall be deemed to be given when
10 the Commission transmits the notification by electronic means.

11 SECTION 5. AMENDATORY 40 O.S. 2011, Section 2-613, is
12 amended to read as follows:

13 Section 2-613. BENEFIT OVERPAYMENTS.

14 An overpayment of unemployment benefits shall be classified in
15 one of three ways with recovery and recoupment to be conducted as
16 follows:

17 1. Fraud overpayment: in which an individual intentionally
18 makes a false statement or representation or fails to disclose a
19 material fact, and has received any sum as benefits to which the
20 individual was not entitled. The individual shall be liable to
21 repay this sum, plus a penalty of twenty-five percent (25%) of the
22 amount of the original overpayment and interest at the rate of one
23 percent (1%) per month on the unpaid balance of the overpayment, to
24 the Oklahoma Employment Security Commission. Three-fifths (3/5) of

1 the penalty amount collected shall be deposited in the Unemployment
2 Trust Fund for the State of Oklahoma and the remaining two-fifths
3 (2/5) shall be deposited in the Oklahoma Employment Security
4 Commission Revolving Fund. The interest shall cease to accrue when
5 the total accrued interest equals the amount of the overpayment. If
6 an overpayment is modified, the interest shall cease to accrue when
7 the total accrued interest equals the amount of the modified
8 overpayment. The Commission shall deduct the principal sum from any
9 future benefits payable to the individual;

10 2. Claimant error overpayment: in which an individual, by
11 mistake of law or fact, makes a false statement or representation or
12 fails to disclose a material fact and has received any sum as
13 benefits to which the individual was not entitled. The individual
14 shall be liable to repay this sum, plus interest at the rate of one
15 percent (1%) per month on the unpaid balance of the overpayment, to
16 the Commission. The interest shall cease to accrue when the total
17 accrued interest equals the amount of the overpayment. If an
18 overpayment is modified, the interest shall cease to accrue when the
19 total accrued interest equals the amount of the modified
20 overpayment. The Commission shall deduct the principal sum from any
21 future benefits payable to the individual; or

22 3. Administrative overpayment - in which:
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1 a. an individual has received any sum as benefits under
2 this act due to an error by the Commission or an
3 employer, or

4 b. an individual has received benefits and, under a
5 redetermination or a reversal of a decision on appeal,
6 the individual has been found to be not entitled to
7 benefits.

8 The individual shall be liable to have this sum deducted from any
9 future benefits payable to the individual with respect to the
10 benefit year current at the time of the receipt and the next
11 subsequent benefit year that begins within one (1) year after the
12 expiration of the benefit year current at the time of the receipt.
13 No interest shall accrue on administrative overpayments.

14 SECTION 6. AMENDATORY 40 O.S. 2011, Section 3-102, is
15 amended to read as follows:

16 Section 3-102. CONTRIBUTIONS.

17 A. Contributions shall accrue and become payable by each
18 employer for each calendar year in which the employer is subject to
19 this act, with respect to wages for employment. Such contributions
20 shall become due and be paid by each employer to the Oklahoma
21 Employment Security Commission for the Unemployment Compensation
22 Fund in accordance with such rules as the Commission may prescribe,
23 and shall not be deducted, in whole or in part, from the wages of
24 individuals in the employer's employ.

1 B. In the payment of any contributions, a fractional part of a
2 cent shall be disregarded unless it amounts to one-half cent
3 (\$0.005) or more, in which case it shall be increased to one cent
4 (\$0.01).

5 C. Each employer shall be notified of its contribution rate for
6 a given calendar year on or before September 30 of the previous
7 calendar year. The rate notice shall ~~become conclusive and binding~~
8 ~~upon~~ be mailed to the employer unless within twenty (20) days after
9 ~~the mailing of the notice of the contribution rate, to~~ at the
10 employer's last-known address, 7. If the employer files a written
11 request for a review and redetermination setting forth the
12 employer's reasons for the review has elected to be notified by
13 electronic means according to procedures set out in Oklahoma
14 Employment Security Commission rules, notice shall be deemed to be
15 given when the Commission transmits the notification by electronic
16 means. The employer shall file an appeal to the rate notice within
17 twenty (20) days after the mailing of the notice of the contribution
18 rate, or the date of transmission by electronic means. The Upon the
19 filing of a timely appeal, the Commission shall provide for a review
20 and issue a determination to the employer. If the employer does not
21 file a timely appeal, the contribution rate of the employer shall
22 become conclusive and binding.

23 D. Within fourteen (14) days after the date of mailing of the
24 notice of the determination, the employer may file with the

1 Commission at the address prescribed in the notice the employer's
2 specific written objections to the contribution rate so determined.
3 The matter will be heard upon those specific written objections by a
4 representative appointed by the Commission. The decision shall be
5 made in writing and notice shall be mailed to the employer. The
6 employer may appeal to the district court by filing a petition for
7 review with the clerk of that court within thirty (30) days after
8 the date of mailing stated upon the notice of decision.

9 SECTION 7. AMENDATORY 40 O.S. 2011, Section 3-106, is
10 amended to read as follows:

11 Section 3-106. BENEFIT WAGES CHARGED AND RELIEF THEREFROM.

12 A. The Oklahoma Employment Security Commission shall give
13 notice to each base period employer of a claimant promptly after the
14 claimant is issued his or her fifth week of benefits by the
15 Commission or promptly after the Commission receives notice of the
16 amounts paid as benefits by another state under a reciprocal
17 arrangement. Notice shall be deemed given under this subsection
18 when the Commission deposits the same with the United States Postal
19 Service addressed to the employer at an address designated by the
20 employer to receive the notice or at the employer's last-known
21 address. If the employer has elected to be notified by electronic
22 means according to procedures set out in Oklahoma Employment
23 Security Commission rules, notice shall be deemed to be given when
24 the Commission transmits the notification by electronic means.

1 Notice shall be presumed prima facie to have been given to the
2 employer to whom addressed on the date stated in the written notice.
3 This notice shall give the name and Social Security Number of the
4 claimant, the date the claim was filed, and the amount of benefit
5 wages charged to the employer in each quarter of the base period.

6 B. Within twenty (20) days from the date stated upon the notice
7 provided for in subsection A of this section, the employer may file
8 with the Commission written objections to being charged with the
9 benefit wages upon one or more of the grounds for objection set
10 forth in subsection G of this section. The employer's written
11 objection must set forth specifically:

12 1. The date on which the employment was terminated;

13 2. Full particulars as to the circumstances of the termination
14 including the reason given by the individual for voluntarily leaving
15 the employment, or the nature of the misconduct for which
16 discharged, as the case may be;

17 3. Full particulars as to the regular scheduled part-time or
18 full-time employment of the employee including the starting date,
19 and ending date if any, of the continuous period of such part-time
20 or full-time employment; and

21 4. Such other information as called for by the notice.

22 C. Upon receipt of the employer's written objections, the
23 Commission shall make a determination as to whether or not the
24 employer is entitled to be relieved from the charging of benefit

1 wages. The Commission shall promptly notify the employer of that
2 determination. Provided further, the twenty-day time period for
3 filing written objections with the Commission as provided for in
4 subsection B of this section may be waived for good cause shown.
5 Provided further, the Commission shall not relieve an employer of a
6 charge of benefit wages when it is determined that the employer or
7 an agent of the employer:

8 1. Was at fault for failing to respond timely or adequately to
9 the request of the Commission for information relating to an
10 unemployment benefit claim that was subsequently overpaid; and

11 2. Has established a pattern of failing to respond timely or
12 adequately to requests from the Commission for information relating
13 to claims for unemployment benefits. A pattern of failure to
14 respond timely or adequately means two or more instances of such
15 behavior by the employer or an agent of the employer.

16 D. Within fourteen (14) days after the mailing of the
17 determination provided for in subsection C of this section, the
18 employer may file with the Commission or its representative a
19 written protest to the determination and request an oral hearing de
20 novo to present evidence in support of its protest. The Commission
21 or its representative shall, by written notice, advise the employer
22 of the date of the hearing, which shall not be less than ten (10)
23 days from the date of mailing of the written notice. At the
24 discretion of the Commission, this hearing shall be conducted by the

1 Commission or its representative appointed by the Commission for
2 this purpose. Pursuant to the hearing, the Commission or its
3 representative shall, as soon as practicable, make a written order
4 setting forth its findings of fact and conclusions of law, and shall
5 send it to the employer.

6 E. If any employer fails to file a written protest within the
7 period of fourteen (14) days, as provided by subsection D of this
8 section, then the determination shall be final, and no appeal shall
9 thereafter be allowed.

10 F. The employer or the Commission may appeal the order of the
11 Commission or its representative to the district court by filing a
12 petition for review with the clerk of that court within thirty (30)
13 days after the date the order was mailed to all parties. The
14 mailing date shall be specifically stated in the order.

15 G. The benefit wages charged to an employer for a given
16 calendar year shall be the total of the benefit wages stated in the
17 notices given to the employer by the Commission. Provided, that an
18 employer shall be relieved of a benefit wage charge if the employer
19 proves to the satisfaction of the Commission that the benefit wage
20 charge includes wages paid by the employer to any employee or former
21 employee, who:

22 1. Left employment with that employer, or with his or her last
23 employer, voluntarily without good cause connected to the work;

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1 2. Was discharged from such employment for misconduct connected
2 with his or her work;

3 3. Was a regular scheduled employee of that employer prior to
4 the week the employee separated from other employment, and continued
5 to work for the employer through the fifth compensable week of
6 unemployment in his or her established benefit year;

7 4. Was separated from his or her employment as a direct result
8 of a major natural disaster, declared as such by the President
9 pursuant to the Disaster Relief Act of 1974, P.L. 93-288, and such
10 employee would have been entitled to disaster unemployment
11 assistance if he or she had not received unemployment insurance
12 benefits;

13 5. Was discharged by an employer for unsatisfactory performance
14 during an initial employment probationary period. As used in this
15 paragraph, "probationary period" means a period of time set forth in
16 an established probationary plan which applies to all employees or a
17 specific group of employees and does not exceed ninety (90) calendar
18 days from the first day a new employee begins work. The employee
19 must be informed of the probationary period within the first seven
20 (7) work days. There must be conclusive evidence to establish that
21 the individual was separated due to unsatisfactory work performance;

22 6. Left employment to attend training approved under the Trade
23 Act of 1974 and is allowed unemployment benefits pursuant to Section
24 2-416 of this title; or

1 7. Was separated from employment for compelling family
2 circumstances as defined in Section 2-210 of this title.

3 H. If an employer recalls an employee deemed unemployed as
4 defined by the Employment Security Act of 1980 and the employee
5 continues to be employed or the employee voluntarily terminates
6 employment or is discharged for misconduct within the benefit year,
7 the employer shall be entitled to have the benefit wage charged
8 against the employer's experience rating for the employee reduced by
9 the ratio of the number of weeks of remaining eligibility of the
10 employee to the total number of weeks of entitlement.

11 I. An employer shall not be charged with benefit wages of a
12 laid-off employee if the employer lists as an objection in a
13 statement filed in accordance with subsection B of this section that
14 said employee collecting benefits was hired to replace a United
15 States serviceman or servicewoman called into active duty and laid-
16 off upon the return to work by that serviceman or servicewoman. The
17 Unemployment Compensation Fund shall be charged with the benefit
18 wages of the laid-off employee.

19 J. If the Commission receives a notice of amounts paid as
20 benefits by another state under a reciprocal agreement, and the
21 notice is received after three (3) years from the effective date of
22 the underlying benefit claim, no benefit wage charge will be made
23 against the employer identified in the notice, or if a benefit wage
24 charge is made based on such a notice, the employer will be relieved

1 of the charge when the facts are brought to the attention of the
2 Commission.

3 SECTION 8. AMENDATORY 40 O.S. 2011, Section 3-115, is
4 amended to read as follows:

5 Section 3-115. APPEAL OF DETERMINATIONS.

6 A. If a determination is made by the Oklahoma Employment
7 Security Commission on any aspect of an employer's account, and a
8 method of appeal or protest of the determination is not set out in
9 the statute or rule under which the determination was made, the
10 employer may appeal or protest the determination under the procedure
11 set forth in subsection B of this section.

12 B. 1. All determinations affecting an employer account must be
13 made by the Commission in writing in a Notice of Determination and
14 mailed to the employer at the employer's last-known address with the
15 mailing date and appeal rights set out in the document. If the
16 employer has elected to be notified by electronic means according to
17 procedures set out in Oklahoma Employment Security Commission rules,
18 notice shall be deemed to be given when the Commission transmits the
19 notification by electronic means.

20 2. Within twenty (20) days after the mailing or transmission of
21 the Notice of Determination as provided for in paragraph 1 of this
22 subsection, the employer may file with the Commission, or its
23 representative, a written request for a review and redetermination
24 setting forth the employer's reasons therefor. If any employer

1 fails to file a written request for review and redetermination
2 within twenty (20) days, then the initial determination of the
3 Commission shall be final, and no further appeal or protest shall be
4 allowed.

5 3. If a written request for review and redetermination is
6 filed, the Commission shall provide for a review and issue a Notice
7 of Redetermination in the matter. The employer may appeal the
8 redetermination by filing a written protest within fourteen (14)
9 days of the date of the mailing of the Notice of Redetermination.
10 If the employer fails to file a written protest within the time
11 allowed, the redetermination of the Commission shall be final and no
12 further appeal or protest shall be allowed.

13 4. Upon the timely filing of a written protest, the Commission
14 shall provide for an oral hearing de novo to allow the employer to
15 present evidence in support of the protest. The Commission or its
16 representatives shall, by written notice, advise the employer of the
17 date of the hearing, which shall not be less than ten (10) days from
18 the date of the mailing of the written notice. At the discretion of
19 the Commission, this hearing shall be conducted by the Commission,
20 or by a representative appointed by the Commission for this purpose.

21 5. Pursuant to the hearing, the Commission or its
22 representative shall, as soon as practicable, make a written order
23 setting forth its findings of fact and conclusions of law, and shall
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1 mail it to the employer at the employer's last-known address with
2 the mailing date and appeal rights set out in the document.

3 6. The employer or the Commission may appeal the order to the
4 district court of the county in which the employer has its principal
5 place of business by filing a Petition for Review with the clerk of
6 the court within thirty (30) days after the date the order was
7 mailed to all parties. If the employer does not have a principal
8 place of business in any county in Oklahoma, then the Petition for
9 Review shall be filed with the Oklahoma County District Court. All
10 appeals shall be governed by Part 4 of Article 3 of the Employment
11 Security Act of 1980. If the employer fails to file an appeal to
12 the district court within the time allowed, the order shall be final
13 and no further appeal shall be allowed.

14 SECTION 9. AMENDATORY 40 O.S. 2011, Section 3-309, is
15 amended to read as follows:

16 Section 3-309. COLLECTION OF DELINQUENT CONTRIBUTIONS,
17 PENALTIES ~~OR,~~ INTEREST OR FEES. ~~Upon a hearing with notice~~ When a
18 determination that an employer owes delinquent contributions,
19 penalties, interest or fees becomes final, the Oklahoma Employment
20 Security Commission shall be entitled to proceed by ~~garnishment~~ levy
21 to collect any delinquent contribution and to collect any penalty,
22 interest or fees due and owing as a result of the delinquency.
23 Provided, that upon proper application under the procedures outlined
24 herein, the ~~court~~ Assessment Board of the Oklahoma Employment

1 Security Commission may issue an order continuing or modifying the
2 ~~garnishment~~ levy for the collection of delinquent contributions,
3 penalties, interest or fees.

4 SECTION 10. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 3-511 of Title 40, unless there
6 is created a duplication in numbering, reads as follows:

7 A. As used in the Employment Security Act of 1980, Sections 3-
8 501 through 3-510 of Title 40 of the Oklahoma Statutes:

9 1. "Earnings" means any form of payment to any individual
10 including, but not limited to, salary, wages, commissions, or other
11 compensation;

12 2. "Employer" means any person, partnership, corporation,
13 limited liability company or legal entity of any kind that owes
14 earnings to a tax debtor;

15 3. "Contract proceeds" means any payment or exchange of assets
16 due to a tax debtor from any contract the tax debtor is a party to
17 or a beneficiary of;

18 4. "Contracting entity" means any person, partnership,
19 corporation, limited liability company or legal entity of any kind
20 that owes money to a tax debtor due to the provisions of a contract
21 the entity is bound by; and

22 5. "Tax debtor" means any person, partnership, corporation,
23 limited liability company or legal entity of any kind that owes the
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1 Oklahoma Employment Security Commission any amount for delinquent
2 state unemployment taxes, interest, penalties, fees or surcharge.

3 B. If any tax debtor shall fail to pay his or her indebtedness
4 to the Oklahoma Employment Security Commission after the tax debtor
5 has been notified of the amount due and demand for payment has been
6 made, it shall be lawful for the Oklahoma Employment Security
7 Commission to collect the amount owed by levy upon any earnings or
8 contract proceeds of the tax debtor.

9 C. To levy upon the earnings of a tax debtor or contract
10 proceeds owed to a tax debtor, the Oklahoma Employment Security
11 Commission must serve a Notice of Levy on the employer who employs
12 the tax debtor or the contracting entity that owes money under
13 contract to the tax debtor, along with the tax warrants covering all
14 quarters in which the tax debtor owes unemployment taxes, interest,
15 penalties, fees or surcharge. The levy will have the same priority,
16 and be subject to the same exceptions, as a continuing earnings
17 garnishment provided for in Section 1173.4 of Title 12 of the
18 Oklahoma Statutes. The following procedures will apply to a Notice
19 of Levy served on an employer or contracting entity:

20 1. The employer or contracting entity shall answer the Notice
21 of Levy on a form provided by the Commission. The employer or
22 contracting entity shall follow the procedure for answering a
23 Continuing Earnings Garnishment as set out in subsection F of
24 Section 1173.4 of Title 12 of the Oklahoma Statutes;

1 2. The Notice of Levy shall be a lien on the debtor's property
2 in the same manner as provided for in subsection G of Section 1173.4
3 of Title 12 of the Oklahoma Statutes. The Notice of Levy shall also
4 be subject to the procedures and time limits set out in subsections
5 H, I, J and K of Section 1173.4 of Title 12 of the Oklahoma
6 Statutes, except that when a document is required to be filed with
7 the clerk of the court, the document will instead be filed with the
8 Commission as directed on the forms provided; and

9 3. The employer or contracting entity shall deliver all funds
10 subject to the levy up to the amount of indebtedness indicated on
11 the tax warrants plus accrued interest pursuant to subsection A of
12 Section 3-301 of Title 40 of the Oklahoma Statutes and any fees for
13 service of process to the representative of the Commission indicated
14 on the Notice of Levy. The delivery of this money shall occur
15 within ten (10) days of the date the earnings or contract proceeds
16 are due to be paid to the tax debtor.

17 D. Service of the Notice of Levy and tax warrants shall be made
18 on the employer or contracting entity in the same manner as provided
19 in Section 2004 of Title 12 of the Oklahoma Statutes for service of
20 process in civil actions.

21 E. The sheriff's department that serves the Notice of Levy on
22 the employer or contracting entity shall be entitled to a service
23 fee of Fifty Dollars (\$50.00) that is to be paid by the Oklahoma
24 Employment Security Commission and added to the tax debtor's

1 indebtedness as a fee in the latest calendar quarter for which the
2 tax debtor has any type of indebtedness.

3 F. Claims for Exemption and any other matter related to the
4 levy shall be filed with the Assessment Board of the Oklahoma
5 Employment Security Commission. An Order of Exemption may relate
6 back no more than thirty (30) days before the filing of the Claim
7 for Exemption and shall extend no further than the expiration date
8 or termination of the levy. Appeal from the Assessment Board shall
9 be governed by the appeal procedures set out in Part 4 of Article
10 III of the Employment Security Act of 1980, and the Administrative
11 Rules of the Oklahoma Employment Security Commission pertaining
12 thereto.

13 SECTION 11. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4-319 of Title 40, unless there
15 is created a duplication in numbering, reads as follows:

16 In order to encourage the improvement and modernization of
17 employment, training, and placement services for veterans, and to
18 recognize local offices, divisions, or units of the Oklahoma
19 Employment Security Commission for excellence in the provision of
20 services to veterans, or for having made demonstrable improvements
21 in the provision of services to veterans, the Veterans Services
22 Division of the Oklahoma Employment Security Commission is directed
23 to establish a recognition program for these entities. The Oklahoma
24 Employment Security Commission is hereby authorized to award funds

1 to a local office, division, or unit meeting criteria established by
2 the Veterans Services Division of the Oklahoma Employment Security
3 Commission, provided funds exist from United States Department of
4 Labor grants for the payment of the awards. The funds awarded under
5 this section shall be held by the Finance and Administrative
6 Services Division on behalf of the local office, division, or unit,
7 and can be utilized to purchase supplies, equipment, furniture, or
8 other goods that would assist the employees of the local office,
9 division, or unit. The money shall be drawn using purchase orders
10 through the normal requisition system at the discretion of the
11 supervisor of the local office, division, or unit.

12 SECTION 12. AMENDATORY 40 O.S. 2011, Section 4-508, is
13 amended to read as follows:

14 Section 4-508. INFORMATION TO BE KEPT CONFIDENTIAL -
15 DISCLOSURE.

16 A. Except as otherwise provided by law, information obtained
17 from any employing unit or individual pursuant to the administration
18 of the Employment Security Act of 1980, the Workforce Investment Act
19 of 1998, and determinations as to the benefit rights of any
20 individual shall be kept confidential and shall not be disclosed or
21 be open to public inspection in any manner revealing the
22 individual's or employing unit's identity. Any claimant or employer
23 or agent of such person as authorized in writing shall be supplied
24 with information from the records of the Oklahoma Employment

1 Security Commission, to the extent necessary for the proper
2 presentation of the claim or complaint in any proceeding under the
3 Employment Security Act of 1980, with respect thereto.

4 B. Upon receipt of written request by any employer who
5 maintains a Supplemental Unemployment Benefit (SUB) Plan, the
6 Commission or its designated representative may release to such
7 employer information regarding weekly benefit amounts paid its
8 workers during a specified temporary layoff period, provided such
9 Supplemental Unemployment Benefit (SUB) Plan requires benefit
10 payment information before Supplemental Unemployment Benefits can be
11 paid to such workers. Any information disclosed under this
12 provision shall be utilized solely for the purpose outlined herein
13 and shall be held strictly confidential by the employer.

14 C. The provisions of this section shall not prevent the
15 Commission from disclosing the following information and no
16 liability whatsoever, civil or criminal, shall attach to any member
17 of the Commission or any employee thereof for any error or omission
18 in the disclosure of such information:

19 1. The delivery to taxpayer or claimant a copy of any report or
20 other paper filed by the taxpayer or claimant pursuant to the
21 Employment Security Act of 1980;

22 2. The disclosure of information to any person for a purpose as
23 authorized by the taxpayer or claimant pursuant to a waiver of
24

1 confidentiality. The waiver shall be in writing and shall be
2 notarized;

3 3. The Oklahoma Department of Commerce may have access to data
4 obtained pursuant to the Employment Security Act of 1980 pursuant to
5 rules promulgated by the Commission. The information obtained shall
6 be held confidential by the Department and any of its agents and
7 shall not be disclosed or be open to public inspection. The
8 Oklahoma Department of Commerce, however, may release aggregated
9 data, either by industry or county, provided that such aggregation
10 meets disclosure requirements of the Commission;

11 4. The publication of statistics so classified as to prevent
12 the identification of a particular report and the items thereof;

13 5. The disclosing of information or evidence to the Attorney
14 General or any district attorney when the information or evidence is
15 to be used by the officials or other parties to the proceedings to
16 prosecute or defend allegations of violations of the Employment
17 Security Act of 1980. The information disclosed to the Attorney
18 General or any district attorney shall be kept confidential by them
19 and not be disclosed except when presented to a court in a
20 prosecution of a violation of Section 1-101 et seq. of this title,
21 and a violation by the Attorney General or district attorney by
22 otherwise releasing the information shall be a felony;

23 6. The furnishing, at the discretion of the Commission, of any
24 information disclosed by the records or files to any official person

1 or body of this state, any other state or of the United States who
2 is concerned with the administration of assessment of any similar
3 tax in this state, any other state or the United States;

4 7. The furnishing of information to other state agencies for
5 the limited purpose of aiding in the collection of debts owed by
6 individuals to the requesting agencies or the Oklahoma Employment
7 Security Commission;

8 8. The release to employees of the Department of Transportation
9 or any Metropolitan Planning Organization as defined in 23 U.S.C.,
10 Section 134 and 49 U.S.C., Section 5303 of information required for
11 use in federally mandated regional transportation planning, which is
12 performed as a part of its official duties;

13 9. The release to employees of the State Treasurer's office of
14 information required to verify or evaluate the effectiveness of the
15 Oklahoma Small Business Linked Deposit Program on job creation;

16 10. The release to employees of the Attorney General, the State
17 Insurance Fund, the Department of Labor, the Workers' Compensation
18 Court, and the Insurance Department for use in investigation of
19 workers' compensation fraud;

20 11. The release to employees of the Oklahoma State Bureau of
21 Investigation or release to employees of the Oklahoma State Bureau
22 of Narcotics and Dangerous Drugs Control for use in criminal
23 investigations and the location of missing persons or fugitives from
24 justice;

1 12. The release to employees of the Center of International
2 Trade, Oklahoma State University, of information required for the
3 development of International Trade for employers doing business in
4 the State of Oklahoma;

5 13. The release to employees of the Oklahoma State Regents for
6 Higher Education of information required for use in the default
7 prevention efforts and/or collection of defaulted student loans
8 guaranteed by the Oklahoma Guaranteed Student Loan Program. Any
9 information disclosed under this provision shall be utilized solely
10 for the purpose outlined herein and shall be held strictly
11 confidential by the Oklahoma State Regents for Higher Education;

12 14. The release to employees of the Center for Economic and
13 Management Research of the University of Oklahoma, the Center for
14 Economic and Business Development at Southwestern Oklahoma State
15 University, or a center of economic and business research or
16 development at a comprehensive or regional higher education
17 institution within the Oklahoma State System of Higher Education of
18 information required to identify economic trends. The information
19 obtained shall be kept confidential by the higher education
20 institution and shall not be disclosed or be open to public
21 inspection. The higher education institution may release aggregated
22 data, provided that such aggregation meets disclosure requirements
23 of the Commission;

24

1 15. The release to employees of the Office of State Finance of
2 information required to identify economic trends. The information
3 obtained shall be kept confidential by the Office of State Finance
4 and shall not be disclosed or be open to public inspection. The
5 Office of State Finance may release aggregate data, provided that
6 such aggregation meets disclosure requirements of the Commission;

7 16. The release to employees of the Department of Mental Health
8 and Substance Abuse Services of information required to evaluate the
9 effectiveness of mental health and substance abuse treatment and
10 state or local programs utilized to divert persons from inpatient
11 treatment. The information obtained shall be kept confidential by
12 the Department and shall not be disclosed or be open to public
13 inspection. The Department of Mental Health and Substance Abuse
14 Services, however, may release aggregated data, either by treatment
15 facility, program or larger aggregate units, provided that such
16 aggregation meets disclosure requirements of the Oklahoma Employment
17 Security Commission;

18 17. The release to employees of the Attorney General, the
19 Oklahoma State Bureau of Investigation, and the Insurance Department
20 for use in the investigation of insurance fraud and health care
21 fraud;

22 18. The release to employees of public housing agencies for
23 purposes of determining eligibility pursuant to 42 U.S.C., Section
24 503(i);

1 19. The release of wage and benefit claim information, at the
2 discretion of the Commission, to an agency of this state or its
3 political subdivisions, or any nonprofit corporation that operates a
4 program or activity designated as a partner in the Workforce
5 Investment Act One-Stop delivery system pursuant to 29 U.S.C.A.,
6 Section 2481 (b), based on a showing of need made to the Commission
7 and after an agreement concerning the release of information is
8 entered into with the entity receiving the information;

9 20. The release of information to the wage record interchange
10 system, at the discretion of the Commission;

11 21. The release of information to the Bureau of the Census of
12 the U.S. Department of Commerce for the purpose of economic and
13 statistical research;

14 22. The release of employer tax information and benefit claim
15 information to the Oklahoma Health Care Authority for use in
16 determining eligibility for a program that will provide subsidies
17 for health insurance premiums for qualified employers, employees,
18 self-employed persons, and unemployed persons;

19 23. The release of employer tax information and benefit claim
20 information to the State Department of Rehabilitation Services for
21 use in assessing results and outcomes of clients served;

22 24. The release of information to any state or federal law
23 enforcement authority when necessary in the investigation of any
24 crime in which the Commission is a victim. Information that is

1 confidential under this section shall be held confidential by the
2 law enforcement authority unless and until it is required for use in
3 court in the prosecution of a defendant in a criminal prosecution;
4 ~~or~~

5 25. The release of information to vendors that contract with
6 the Oklahoma Employment Security Commission to provide for the
7 issuance of debit cards, to conduct electronic fund transfers, to
8 perform computer programming operations, or to perform computer
9 maintenance or replacement operations; provided the vendor agrees to
10 protect and safeguard the information it receives and to destroy the
11 information when no longer needed for the purposes set out in the
12 contract; or

13 26. The release to employees of the Office of Juvenile Affairs
14 of information for use in assessing results and outcomes of clients
15 served as well as the effectiveness of state and local juvenile and
16 justice programs including prevention and treatment programs. The
17 information obtained shall be kept confidential by the Office of
18 Juvenile Affairs and shall not be disclosed or be open to public
19 inspection. The Office of Juvenile Affairs may release aggregated
20 data for programs or larger aggregate units, provided that the
21 aggregation meets disclosure requirements of the Oklahoma Employment
22 Security Commission.

23 D. Subpoenas to compel disclosure of information made
24 confidential by this statute shall not be valid, except for

1 administrative subpoenas issued by federal, state, or local
2 governmental agencies that have been granted subpoena power by
3 statute or ordinance. Confidential information maintained by the
4 Commission can be obtained by order of a court of record that
5 authorizes the release of the records in writing. All
6 administrative subpoenas or court orders for production of documents
7 must provide a minimum of twenty (20) days from the date it is
8 served for the Commission to produce the documents. If the date on
9 which production of the documents is required is less than twenty
10 (20) days from the date of service, the subpoena or order shall be
11 considered void on its face as an undue burden or hardship on the
12 Commission.

13 E. Should any of the disclosures provided for in this section
14 require more than casual or incidental staff time, the Commission
15 shall charge the cost of such staff time to the party requesting the
16 information.

17 F. It is further provided that the provisions of this section
18 shall be strictly interpreted and shall not be construed as
19 permitting the disclosure of any other information contained in the
20 records and files of the Commission.

21 SECTION 13. AMENDATORY 40 O.S. 2011, Section 5-108, is
22 amended to read as follows:

23 Section 5-108. OTHER PENALTIES IN THIS ACT.
24

1 Other penalties are provided in the following sections of this
2 title:

3 Employer violations of employee rights - Section 2-301

4 Impermissible charges to claimants - Section 2-302

5 Disqualification of benefit claims for fraud - Section 2-402

6 Recovery of benefits paid upon false statement - Section 2-613

7 SUTA dumping prohibition - Section 3-111.1

8 Fraud overpayment penalty - Section 2-613

9 SECTION 14. This act shall become effective November 1, 2012.

10 Passed the House of Representatives the 8th day of March, 2012.

11

12

13 _____
14 Presiding Officer of the House of
Representatives

15 Passed the Senate the ____ day of _____, 2012.

16

17

18 _____
19 Presiding Officer of the Senate

20

21

22

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24