S T A T E O F N E W Y O R K

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I N A S S E M B L Y

April 30, 2010

Introduced by M. of A. LATIMER -- (at request of the Department of Labor) -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to protection of certain confidential information

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivisions 1, 2 and 3 of section 620 of the labor law, subdivision 1 as amended by chapter 645 of the laws of 1951, paragraph (a) of subdivision 1 as amended by chapter 589 of the laws of 1998, subdivision 2 as amended by chapter 248 of the laws of 1991 and subdivision 3 as added by chapter 705 of the laws of 1944, are amended to read as follows:

1. Disputed claims for benefits. (a) A claimant who is dissatisfied with an initial determination of his or her claim for benefits or any other party, including any employer whose employer account percentage might be affected by such determination may, within thirty days after the mailing or personal delivery of notice of such determination, request a hearing. The referee may extend the time fixed for requesting a hearing, upon evidence that the physical condition or mental incapacity of the claimant prevented the claimant from filing an appeal within thirty days of the initial determination. Any employer whose employer account percentage might be affected by such determination, irrespective of whether or not such employer was a party to a hearing brought hereunder, shall have [free] access to all records of any hearing brought hereunder by any party relating to such determination, PROVIDED, HOWEVER, THAT THOSE RECORDS SHALL BE SUBJECT TO REDACTION OR SHALL BE WITHHELD IN ACCORDANCE WITH APPLICABLE FEDERAL OR STATE STATUTORY AND REGULATORY REQUIREMENTS GOVERNING INFORMATION CONFIDENTIALITY AND PERSONAL PRIVACY, INCLUDING, BUT NOT LIMITED TO, ARTICLE SIX AND ARTICLE SIX-A OF THE PUBLIC OFFICERS LAW.

(b) When the initial determination of a claim for benefits, upon which a hearing has been requested, involves the question whether any person is or was an employer within the meaning of this article and is or was liable for the payment of contributions under this article, or the ques-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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tion whether an employer has fully complied with the obligations imposed by this article, written notice of the hearing shall be given to such persons or employer, either personally or by mail, and thereupon he, SHE OR SUCH EMPLOYER shall be deemed a party to the proceeding, entitled to be heard. Upon such notice having been given, the referee may then decide such question or questions and any other issue related thereto, and his OR HER decision shall not be deemed limited in its effect to the immediate claimant making the claim for benefits but shall be deemed a general determination of such questions with respect to all those employed by such person or employer for all the purposes of this article, and such decision shall be conclusive and binding upon [him] THE CLAIMANT AND SUCH PERSON OR EMPLOYER, subject, however, to the right to appeal hereinafter provided.

2. Contested determinations, rules, or orders. Any employer who claims to be aggrieved by the commissioner's determination of the amount of [its] THE EMPLOYER'S contributions or by any other rule or order of the commissioner under any provision of this article may apply to the commissioner for a hearing within thirty days after mailing or personal delivery of notice of such determination, rule, or order.

3. Decisions. Every hearing as herein provided for shall be held by a referee who shall render his OR HER decision within five days after the hearing is concluded. Written notice of the referee's decision, containing the reasons therefor, shall be promptly given to the claimant or employer, to the commissioner, and to any party affected thereby who appeared at the hearing. PUBLICATION OF A REFEREE'S DECISION OR OF ANY APPEAL BOARD DECISION SHALL BE SUBJECT TO REDACTION OR SHALL BE WITHHELD IN ACCORDANCE WITH APPLICABLE FEDERAL OR STATE STATUTORY AND REGULATORY REQUIREMENTS GOVERNING INFORMATION CONFIDENTIALITY AND PERSONAL PRIVACY, INCLUDING, BUT NOT LIMITED TO, ARTICLE SIX AND ARTICLE SIX-A OF THE PUBLIC OFFICERS LAW.

The decision of a referee shall be deemed the decision of the appeal board from the date of the filing thereof in the department, unless an appeal is taken from such decision to the board in accordance with the provisions of this article or unless the board on its own motion or on application duly made to it modify or rescind such decision.

S 2. Subdivision 2 of section 622 of the labor law, as added by chapter 705 of the laws of 1944, is amended to read as follows:

2. Evidence and procedure. At any hearing held as herein provided, evidence may be offered to support a determination, rule, or order or to prove that it is incorrect. The appeal board and the referees, in hearings and appeals under any provision of this article, shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure but may conduct the hearings and appeals in such manner as to ascertain the substantial rights of the parties. HEARINGS GOVERNED BY THIS ARTICLE MAY BE CLOSED AND HEARING TRANSCRIPTS MAY BE REDACTED IN ACCORDANCE WITH APPLICABLE FEDERAL OR STATE STATUTORY AND REGULATORY REQUIREMENTS GOVERNING INFORMATION CONFIDENTIALITY AND PERSONAL PRIVACY, INCLUDING, BUT NOT LIMITED TO, ARTICLE SIX AND ARTICLE SIX-A OF THE PUBLIC OFFICERS LAW.

S 3. This act shall take effect immediately.