

# STATE OF NEW YORK

7511

2021-2022 Regular Sessions

## IN ASSEMBLY

May 12, 2021

Introduced by M. of A. JOYNER -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to waiving pandemic unemployment assistance repayments under certain circumstances; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The labor law is amended by adding a new section 597-a to  
2 read as follows:

3 § 597-a. Waiver authority for certain overpayments of pandemic unem-  
4 ployment assistance. 1. Definitions. As used in this section: "Pandemic  
5 unemployment assistance" shall mean unemployment insurance or assistance  
6 payments made during the period of state disaster emergency declared by  
7 executive order 202 on March seventh, two thousand twenty pursuant to  
8 any programs provided for by:

9 (a) Title II of the federal CARES Act;

10 (b) The federal Continued Assistance for Unemployed Workers Act of  
11 2020 within the Consolidated Appropriations Act, 2021; or

12 (c) Title IX of the Federal American Rescue Plan Act of 2021.

13 2. Waiver of certain repayments. When a claimant has received any  
14 amount of pandemic unemployment assistance to which such claimant was  
15 not entitled, the department shall require such claimant to repay the  
16 amount of such pandemic unemployment assistance to the department,  
17 except that the commissioner shall waive such repayment if he or she  
18 determines that:

19 (a) the payment of such pandemic unemployment assistance was without  
20 fault on the part of such claimant; and

21 (b) such repayment would be contrary to equity and good conscience.

22 3. Favorability to claimant. Evidence pertaining to paragraphs (a) and  
23 (b) of subdivision two of this section shall be interpreted to be favor-

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

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1 able to the claimant to the maximum extent permissible under applicable  
2 federal law.

3 4. Notice of right to appeal or request waiver. When a determination  
4 by the commissioner or a decision by a referee, the appeal board, or a  
5 court results in a decrease or denial of any pandemic unemployment  
6 assistance payments previously dispersed to the claimant, or at any  
7 other time it is determined that an overpayment of pandemic unemployment  
8 assistance payments has occurred, the claimant shall have a right to  
9 appeal such determination in accordance with the provisions of title  
10 eight of this article. Upon such determination or decision, the claimant  
11 shall be notified in writing, by mail or electronically, within fifteen  
12 days of such determination or decision of his or her right to appeal  
13 such determination or decision and to request a waiver of recovery of  
14 such overpayment. Such notice shall include, but shall not be limited  
15 to:

16 (i) The total amount of such overpayment and the cause of such over-  
17 payment;

18 (ii) The schedule of repayment for such amounts overpaid;

19 (iii) The means by which the commissioner is entitled to collect or  
20 recover such overpayment;

21 (iv) An explanation of the claimant's right to appeal such determi-  
22 nation or decision in accordance with the provisions of this article and  
23 any rules and regulations promulgated thereunder;

24 (v) An explanation of the standards by which a claimant shall not be  
25 found liable for the amounts overpaid, as set forth in this section; and

26 (vi) The process by which the claimant may request and obtain a waiver  
27 of recovery of such overpayment.

28 5. Implementation of process. The commissioner shall develop and  
29 implement a process by which claimants may request and obtain a waiver  
30 of recovery of pandemic unemployment assistance overpayment.

31 6. Waiver as an initial determination. Nothing in this section shall  
32 be construed to limit the authority of the commissioner to make an  
33 initial determination to waive such overpayment without a request by the  
34 claimant.

35 § 2. This act shall take effect immediately and shall apply to all  
36 pandemic unemployment assistance repayments assessed on or after March  
37 27, 2020 and shall expire December 31, 2022 when upon such date the  
38 provisions of this act shall be deemed repealed; provided, however that  
39 such repeal shall not affect waivers made for the amounts received prior  
40 to that date.