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HOUSE BILL NO. 1767

Offered January 13, 2025

Prefiled January 5, 2025

A BILL to amend and reenact §§ 60.2-602 and 60.2-619, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to unemployment benefits; duration.

Patron—Martinez

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That §§ 60.2-602 and 60.2-619, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 60.2-602. Weekly benefit amount.

A. Beginning July 6, 2008, for claims effective on or after July 6, 2008, but before July 6, 2014, an eligible individual's weekly "benefit amount" shall be the amount appearing in Column B in the "Benefit Table" in this section on the line on which in Column A of such table, there appears the total wages for insured work paid to such individual in the two quarters of his base period in which such total wages were highest.

Benefit Table Division C Duration of Benefits beginning July 6, 2008, but before July 6, 2014

B. Beginning July 6, 2014, for claims effective on or after July 6, 2014, an eligible individual's weekly "benefit amount" shall be the amount appearing in Column B in the "Benefit Table" in this section on the line on which in Column A of such table, there appears the total wages for insured work paid to such individual in the two quarters of his base period in which such total wages were highest.

Benefit Table Division C Duration of Benefits beginning July 6, 2014

C. Beginning July 1, 2025, for claims effective on or after July 1, 2025, an eligible individual's weekly "benefit amount" shall be the amount appearing in Column B in the Benefit Table Division C Duration of Benefits beginning July 6, 2014, on the line on which in Column A of such table, there appears the total wages for insured work paid to such individual in the two quarters of his base period in which such total wages were highest, except that an eligible individual's weekly "benefit amount" shall be paid for a maximum duration of 26 weeks.

§ 60.2-619. (Effective until July 1, 2025) Determinations and decisions by deputy; appeals therefrom.

A. 1. A representative designated by the Commission as a deputy, shall promptly examine the claim. On the basis of the facts found by him, the deputy shall either:

a. Determine whether or not such claim is valid, and if valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof, except that the maximum duration of weekly benefits shall be 26 weeks for claims effective on or after July 1, 2025, pursuant to subsection C of § 60.2-602; or

b. Refer such claim or any relevant question to the Commission's Administrative Law Division's Office of First Level Appeals or to the Commission, which shall make its determination in accordance with the procedure described in § 60.2-620.

2. When the payment or denial of benefits will be determined by the provisions of subdivision A 2 of § 60.2-612, the deputy shall promptly transmit his full finding of fact with respect to that subdivision to the Commission's Administrative Law Division's Office of First Level Appeals, which shall make its determination in accordance with the procedure described in § 60.2-620.

B. Upon the filing of an initial claim for benefits, the Commission shall cause an inforamatory notice of such filing to be mailed to the most recent 30-day or 240-hour employing unit of the claimant and all subsequent employing units, and any reimbursable employing units that may be liable for reimbursement to the Commission for any benefits paid. However, the failure to furnish such notice shall not have any effect upon the claim for benefits. If a claimant has had a determination of initial eligibility for benefits under this chapter, as evidenced by the issuance of compensation or waiting-week credit, payments shall continue, subject to a presumption of continued eligibility and in accordance with the terms of this subsection, until a determination is made that provides the claimant notice and an opportunity to be heard. When a question concerning continued eligibility for benefits arises, a determination shall be made as to whether it affects future weeks of benefits or only past weeks. With respect to future weeks, presumptive payment shall be made no later than 21 days after the issue arises, regardless of the type of issue. With respect to past weeks, presumptive payment shall be issued immediately, regardless of the type of issue. Notice shall be given to individuals who receive payments under such presumption that pending eligibility may affect their

59 entitlement to the payment and may result in an overpayment that requires repayment.

60 C. Notice of determination upon a claim shall be promptly given to the claimant by delivering or by
61 mailing such notice to the claimant's last known address. In addition, notice of any determination that
62 involves the application of the provisions of § 60.2-618, together with the reasons therefor, shall be promptly
63 given in the same manner to the most recent 30-day or 240-hour employing unit by whom the claimant was
64 last employed and any subsequent employing unit which is a party. The Commission may dispense with the
65 giving of notice of any determination to any employing unit, and such employing unit shall not be entitled to
66 such notice if it has failed to respond timely or adequately to a written request of the Commission for
67 information, as required by § 60.2-528.1, from which the deputy may have determined that the claimant may
68 be ineligible or disqualified under any provision of this title. The deputy shall promptly notify the claimant of
69 any decision made by him at any time which in any manner denies benefits to the claimant for one or more
70 weeks.

71 D. Such determination or decision shall be final unless the claimant or any such employing unit files an
72 appeal from such determination or decision within 30 calendar days after such notification was mailed or, if
73 the party elects to receive electronic communications pursuant to § 60.2-121.1, electronically delivered to his
74 last known address. Electronic delivery shall include confirmation of receipt. For good cause shown, the
75 30-day period may be extended. A claim that the Commission has determined to be invalid because of
76 monetary ineligibility shall first be subject to review only upon a request for redetermination pursuant to §
77 60.2-629. The Commission shall issue a new monetary determination as a result of such review, and such
78 monetary determination shall become final unless appealed by the claimant within 30 days of the date of
79 mailing. The Commission shall clearly set out the process for requesting a redetermination and the process
80 for filing an appeal on each monetary determination issued. Monetary ineligibility does not include an appeal
81 on the effective date of the claim, unless the claimant has requested and received a redetermination of the
82 monetary determination pursuant to § 60.2-629.

83 E. Benefits shall be paid promptly in accordance with a determination or redetermination under this
84 chapter, or decision of the Commission's Administrative Law Division's Office of First Level Appeals, the
85 Commission, or a reviewing court under § 60.2-625 upon the issuance of such determination,
86 redetermination, or decision, regardless of the pendency of the period to file an appeal or petition for judicial
87 review that is provided in this chapter, or the pendency of any such appeal or review. Such benefits shall be
88 paid unless or until such determination, redetermination, or decision has been modified or reversed by a
89 subsequent redetermination or decision, in which event benefits shall be paid or denied for weeks of
90 unemployment thereafter in accordance with such modifying or reversing redetermination or decision. If a
91 decision of the Commission's Administrative Law Division's Office of First Level Appeals allowing benefits
92 is affirmed in any amount by the Commission, benefits shall continue to be paid until such time as a court
93 decision has become final so that no further appeal can be taken. If an appeal is taken from the Commission's
94 decision, benefits paid shall result in a benefit charge to the account of the employer under § 60.2-530 only
95 when, and as of the date on which, as the result of an appeal, the courts finally determine that the
96 Commission should have awarded benefits to the claimant or claimants involved in such appeal.

97 **§ 60.2-619. (Effective July 1, 2025) Determinations and decisions by deputy; appeals therefrom.**

98 A. 1. A representative designated by the Commission as a deputy shall promptly examine the claim. The
99 deputy shall only examine or consider in the claim review process information or evidence from an employer
100 or third party if the deputy (i) has provided the claimant with a reasonable opportunity to review and respond
101 to all potentially disqualifying issues or conflicting or otherwise adverse material facts within such
102 information or evidence, (ii) has documented all material responsive information received from the claimant
103 pursuant to clause (i), and (iii) considers material responsive information in the deputy's evaluation of the
104 claim. On the basis of the facts found by him, the deputy shall either:

105 a. Determine whether or not such claim is valid, and if valid, the week with respect to which benefits shall
106 commence, the weekly benefit amount payable and the maximum duration thereof, *except that the maximum*
107 *duration of weekly benefits shall be 26 weeks for claims effective on or after July 1, 2025, pursuant to*
108 *subsection C of § 60.2-602; or*

109 b. Refer such claim or any relevant question to the Commission's Administrative Law Division's Office of
110 First Level Appeals or to the Commission, which shall make its determination in accordance with the
111 procedure described in § 60.2-620.

112 2. When the payment or denial of benefits will be determined by the provisions of subdivision A 2 of §
113 60.2-612, the deputy shall promptly transmit his full finding of fact with respect to that subdivision to the
114 Commission's Administrative Law Division's Office of First Level Appeals, which shall make its
115 determination in accordance with the procedure described in § 60.2-620.

116 B. (Effective until July 1, 2028) Upon the filing of an initial claim for benefits, the Commission shall
117 cause an informatory notice of such filing to be mailed to the most recent 30-day or 240-hour employing unit
118 of the claimant and all subsequent employing units, and any reimbursable employing units that may be liable
119 for reimbursement to the Commission for any benefits paid. However, the failure to furnish such notice shall
120 not have any effect upon the claim for benefits. If a claimant has had a determination of initial eligibility for

121 benefits under this chapter, as evidenced by the issuance of compensation or waiting-week credit, payments
 122 shall continue, subject to a presumption of continued eligibility and in accordance with the terms of this
 123 subsection, until a determination is made that provides the claimant notice and an opportunity to be heard.
 124 When a question concerning continued eligibility for benefits arises, a determination shall be made as to
 125 whether it affects future weeks of benefits or only past weeks. With respect to future weeks, presumptive
 126 payment shall be made no later than 21 days after the issue arises, regardless of the type of issue. With
 127 respect to past weeks, presumptive payment shall be issued immediately, regardless of the type of issue.
 128 Notice shall be given to individuals who receive payments under such presumption that pending eligibility
 129 may affect their entitlement to the payment and may result in an overpayment that requires repayment.

130 B. (Effective July 1, 2028) Upon the filing of an initial claim for benefits, the Commission shall cause an
 131 informatory notice of such filing to be mailed to the most recent 30-day or 240-hour employing unit of the
 132 claimant and all subsequent employing units, and any reimbursable employing units that may be liable for
 133 reimbursement to the Commission for any benefits paid. However, the failure to furnish such notice shall not
 134 have any effect upon the claim for benefits.

135 C. Notice of determination upon a claim, the reasoning behind the decision, and a statement of
 136 case-specific facts material to the determination shall be promptly given to the claimant by delivering or by
 137 mailing such notice to the claimant's last known address. In addition, notice of any determination that
 138 involves the application of the provisions of § 60.2-618, together with the reasons therefor, shall be promptly
 139 given in the same manner to the most recent 30-day or 240-hour employing unit by whom the claimant was
 140 last employed and any subsequent employing unit which is a party. The Commission may dispense with the
 141 giving of notice of any determination to any employing unit, and such employing unit shall not be entitled to
 142 such notice if it has failed to respond timely or adequately to a written request of the Commission for
 143 information, as required by § 60.2-528.1, from which the deputy may have determined that the claimant may
 144 be ineligible or disqualified under any provision of this title. The deputy shall promptly notify the claimant of
 145 any decision made by the deputy, the reasoning behind the decision, and a statement of case-specific facts
 146 material to the determination at any time which in any manner denies benefits to the claimant for one or more
 147 weeks. As used in this subsection, the reasoning behind the decision means an explanation in plain language
 148 of (i) the law or regulation upon which the determination is based; (ii) the application of the law to the
 149 material information or evidence obtained from the claimant, employer, or third party; and (iii) the legal
 150 conclusion drawn from the application of the law to such information or evidence.

151 D. Such determination or decision shall be final unless the claimant or any such employing unit files an
 152 appeal from such determination or decision within 30 calendar days after such notification was mailed or, if
 153 the party elects to receive electronic communications pursuant to § 60.2-121.1, electronically delivered to his
 154 last known address. Electronic delivery shall include confirmation of receipt. For good cause shown, the
 155 30-day period may be extended. A claim that the Commission has determined to be invalid because of
 156 monetary ineligibility shall first be subject to review only upon a request for redetermination pursuant to §
 157 60.2-629. The Commission shall issue a new monetary determination as a result of such review, and such
 158 monetary determination shall become final unless appealed by the claimant within 30 days of the date of
 159 mailing. The Commission shall clearly set out the process for requesting a redetermination and the process
 160 for filing an appeal on each monetary determination issued. Monetary ineligibility does not include an appeal
 161 on the effective date of the claim, unless the claimant has requested and received a redetermination of the
 162 monetary determination pursuant to § 60.2-629.

163 E. Benefits shall be paid promptly in accordance with a determination or redetermination under this
 164 chapter, or decision of the Commission's Administrative Law Division's Office of First Level Appeals, the
 165 Commission, or a reviewing court under § 60.2-625 upon the issuance of such determination,
 166 redetermination, or decision, regardless of the pendency of the period to file an appeal or petition for judicial
 167 review that is provided in this chapter, or the pendency of any such appeal or review. Such benefits shall be
 168 paid unless or until such determination, redetermination, or decision has been modified or reversed by a
 169 subsequent redetermination or decision, in which event benefits shall be paid or denied for weeks of
 170 unemployment thereafter in accordance with such modifying or reversing redetermination or decision. If a
 171 decision of the Commission's Administrative Law Division's Office of First Level Appeals allowing benefits
 172 is affirmed in any amount by the Commission, benefits shall continue to be paid until such time as a court
 173 decision has become final so that no further appeal can be taken. If an appeal is taken from the Commission's
 174 decision, benefits paid shall result in a benefit charge to the account of the employer under § 60.2-530 only
 175 when, and as of the date on which, as the result of an appeal, the courts finally determine that the
 176 Commission should have awarded benefits to the claimant or claimants involved in such appeal.