

By the Policy and Steering Committee on Ways and Means; the
Committee on Commerce; and Senator Garcia

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1 A bill to be entitled
2 An act relating to unemployment compensation;
3 reviving, readopting, and amending s. 443.1117, F.S.;
4 providing for retroactive application; establishing
5 temporary state extended benefits for weeks of
6 unemployment; revising definitions; providing for
7 state extended benefits for certain weeks and for
8 periods of high unemployment; providing applicability;
9 amending s. 55.204, F.S.; specifying the duration of
10 liens securing the payment of unemployment
11 compensation tax obligations; amending s. 95.091,
12 F.S.; creating an exception to a limit on the duration
13 of tax liens for certain tax liens relating to
14 unemployment compensation taxes; amending s. 213.25,
15 F.S.; authorizing the Department of Revenue to reduce
16 a tax refund or credit owing to a taxpayer to the
17 extent of liability for unemployment compensation
18 taxes; amending s. 443.036, F.S.; revising
19 definitions; conforming cross-references; providing
20 for the treatment of a single-member limited liability
21 company as the employer for purposes of unemployment
22 compensation; amending s. 443.091, F.S.; requiring
23 claimants to register with the Agency for Workforce
24 Innovation and report to the local one-stop career
25 center; specifying exemptions; clarifying that an
26 individual must report regardless of any pending
27 appeals relating to eligibility; amending s. 443.1215,
28 F.S.; conforming a cross-reference; amending s.
29 443.131, F.S.; conforming provisions to changes made

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30 by the act; deleting a requirement for employer
31 response; revising a date triggering the calculating
32 of a positive adjustment factor based on the balance
33 of the Unemployment Compensation Trust Fund; amending
34 s. 443.141, F.S.; providing penalties for erroneous,
35 incomplete, or insufficient reports relating to
36 unemployment compensation taxes; authorizing a waiver
37 of the penalty under certain circumstances; defining a
38 term; authorizing the Agency for Workforce Innovation
39 and the state agency providing unemployment
40 compensation tax collection services to adopt rules;
41 providing an expiration date for liens for
42 contributions and reimbursements; updating a cross-
43 reference; amending s. 443.151, F.S.; requiring the
44 process for filing a claim to incorporate the process
45 for registering for work with the workforce
46 information system; authorizing the agency to adopt
47 rules; providing for monetary and nonmonetary
48 determinations as part of the notice of claim;
49 requiring employers to respond to a notice of claim
50 within a certain period; providing for chargeability
51 of benefits; providing for rulemaking; limiting
52 collection of overpayments under certain conditions;
53 amending s. 443.163, F.S.; increasing penalties for
54 failing to file Employers Quarterly Reports by means
55 other than approved electronic means; revising the
56 conditions under which the electronic filing
57 requirement may be waived; deleting obsolete
58 provisions related to telefile; amending s. 443.1715,

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59 F.S.; specifying that an employer may obtain employee
60 wage information from the agency; amending s. 443.101,
61 F.S.; correcting a cross-reference; providing that the
62 act fulfills an important state interest; providing
63 effective dates.

64

65 Be It Enacted by the Legislature of the State of Florida:

66

67 Section 1. Notwithstanding the expiration date contained in
68 section 1 of chapter 2010-1, Laws of Florida, operating
69 retroactive to February 27, 2010, and expiring April 5, 2010,
70 section 443.1117, Florida Statutes, is revived, readopted, and
71 amended to read:

72 443.1117 Temporary extended benefits.—

73 (1) APPLICABILITY OF EXTENDED BENEFITS STATUTE.—Except if
74 ~~when~~ the result is inconsistent with ~~the~~ other provisions of
75 this section, s. 443.1115(2), (3) ~~the provisions of s.~~
76 ~~443.1115(3)~~, (4), (6), and (7) apply to all claims covered by
77 this section.

78 (2) DEFINITIONS.—For the purposes of this section, the
79 term:

80 (a) "Regular benefits" and "extended benefits" have the
81 same meaning as in s. 443.1115.

82 (b) "Eligibility period" means the ~~period consisting of the~~
83 weeks in an individual's benefit year or emergency benefit
84 period which begin in an extended benefit period and, if the
85 benefit year or emergency benefit period ends within that
86 extended benefit period, any subsequent weeks beginning in that
87 period.

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88 (c) "Emergency benefits" means Emergency Unemployment
89 Compensation paid pursuant to Pub. L. No. 110-252, Pub. L. No.
90 110-449, Pub. L. No. 111-5, Pub. L. No. 111-92, ~~and~~ Pub. L. No.
91 111-118, and Pub. L. No. 111-144.

92 (d) "Extended benefit period" means a period that:
93 1. Begins with the third week after a week for which there
94 is a state "on" indicator; and

95 2. Ends with any of the following weeks, whichever occurs
96 later:

97 a. The third week after the first week for which there is a
98 state "off" indicator;

99 b. The 13th consecutive week of that period.

100

101 However, an extended benefit period may not begin by reason of a
102 state "on" indicator before the 14th week after the end of a
103 prior extended benefit period that was in effect for this state.

104 (e) "Emergency benefit period" means the period during
105 which an individual receives emergency benefits as defined in
106 paragraph (c).

107 (f) "Exhaustee" means an individual who, for any week of
108 unemployment in her or his eligibility period:

109 1. Has received, before that week, all of the regular
110 benefits and emergency benefits, if any, available under this
111 chapter or any other law, including dependents' allowances and
112 benefits payable to federal civilian employees and ex-
113 servicemembers under 5 U.S.C. ss. 8501-8525, in the current
114 benefit year or emergency benefit period that includes that
115 week. For the purposes of this subparagraph, an individual has
116 received all of the regular benefits and emergency benefits, if

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117 any, available although, as a result of a pending appeal for
118 wages paid for insured work which were not considered in the
119 original monetary determination in the benefit year, she or he
120 may subsequently be determined to be entitled to added regular
121 benefits;

122 2. Had a benefit year which expired before that week, and
123 was paid no, or insufficient, wages for insured work on the
124 basis of which she or he could establish a new benefit year that
125 includes that week; and

126 3.a. Has no right to unemployment benefits or allowances
127 under the Railroad Unemployment Insurance Act or other federal
128 laws as specified in regulations issued by the United States
129 Secretary of Labor; and

130 b. Has not received and is not seeking unemployment
131 benefits under the unemployment compensation law of Canada; but
132 if an individual is seeking those benefits and the appropriate
133 agency finally determines that she or he is not entitled to
134 benefits under that law, she or he is considered an exhaustee.

135 (g) "State 'on' indicator" means, with respect to weeks of
136 unemployment beginning on or after February 1, 2009, and ending
137 on or before March 13 ~~January 30~~, 2010, the occurrence of a week
138 in which the average total unemployment rate, seasonally
139 adjusted, as determined by the United States Secretary of Labor,
140 for the ~~period consisting of the~~ most recent 3 months for which
141 data for all states are published by the United States
142 Department of Labor:

143 1. Equals or exceeds 110 percent of the average of those
144 rates for the corresponding 3-month period ending in each of the
145 preceding 2 calendar years; and

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146 2. Equals or exceeds 6.5 percent.

147 (h) "High unemployment period" means, with respect to weeks
148 of unemployment beginning on or after February 1, 2009, and
149 ending on or before March 13 ~~January 30~~, 2010, any week in which
150 the average total unemployment rate, seasonally adjusted, as
151 determined by the United States Secretary of Labor, for the
152 ~~period consisting of the~~ most recent 3 months for which data for
153 all states are published by the United States Department of
154 Labor:

155 1. Equals or exceeds 110 percent of the average of those
156 rates for the corresponding 3-month period ending in each of the
157 preceding 2 calendar years; and

158 2. Equals or exceeds 8 percent.

159 (i) "State 'off' indicator" means the occurrence of a week
160 in which there is no state "on" indicator or which does not
161 constitute a high unemployment period.

162 (3) TOTAL EXTENDED BENEFIT AMOUNT.—Except as provided in
163 subsection (4):

164 (a) For any week for which there is an "on" indicator
165 pursuant to paragraph (2)(g), the total extended benefit amount
166 payable to an eligible individual for her or his applicable
167 benefit year is the lesser of:

168 1. Fifty percent of the total regular benefits payable
169 under this chapter in the applicable benefit year; or

170 2. Thirteen times the weekly benefit amount payable under
171 this chapter for a week of total unemployment in the applicable
172 benefit year.

173 (b) For any high unemployment period ~~as defined in~~
174 ~~paragraph (2)(h)~~, the total extended benefit amount payable to

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175 an eligible individual for her or his applicable benefit year is
176 the lesser of:

177 1. Eighty percent of the total regular benefits payable
178 under this chapter in the applicable benefit year; or

179 2. Twenty times the weekly benefit amount payable under
180 this chapter for a week of total unemployment in the applicable
181 benefit year.

182 (4) EFFECT ON TRADE READJUSTMENT.—Notwithstanding any other
183 provision of this chapter, if the benefit year of an individual
184 ends within an extended benefit period, the number of weeks of
185 extended benefits the individual is entitled to receive in that
186 extended benefit period for weeks of unemployment beginning
187 after the end of the benefit year, except as provided in this
188 section, is reduced, but not to below zero, by the number of
189 weeks for which the individual received, within that benefit
190 year, trade readjustment allowances under the Trade Act of 1974,
191 as amended.

192 Section 2. The provisions of s. 443.1117, Florida Statutes,
193 as revived, readopted, and amended by this act, apply only to
194 claims for weeks of unemployment in which an exhaustee
195 establishes entitlement to extended benefits pursuant to that
196 section which are established for the period between February
197 22, 2009, and April 5, 2010.

198 Section 3. Section 55.204, Florida Statutes, is amended to
199 read:

200 55.204 Duration and continuation of judgment lien;
201 destruction of records.—

202 (1) Except as provided in this section, a judgment lien
203 acquired under s. 55.202 lapses and becomes invalid 5 years

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204 after the date of filing the judgment lien certificate.

205 (2) Liens securing the payment of child support or tax
206 obligations under ~~as set forth in~~ s. 95.091(1)(b) ~~shall not~~
207 lapse ~~until~~ 20 years after the date of the original filing of
208 the warrant or other document required by law to establish a
209 lien. Liens securing the payment of unemployment tax obligations
210 lapse 10 years after the date of the original filing of the
211 notice of lien. A ~~no~~ second lien based on the original filing
212 may not be obtained.

213 (3) At any time within 6 months before or 6 months after
214 the scheduled lapse of a judgment lien under subsection (1), the
215 judgment creditor may acquire a second judgment lien by filing a
216 new judgment lien certificate. The effective date of the second
217 judgment lien is the date and time on which the judgment lien
218 certificate is filed. The second judgment lien is a new judgment
219 lien and not a continuation of the original judgment lien. The
220 second judgment lien permanently lapses and becomes invalid 5
221 years after its filing date, and ~~no~~ additional liens based on
222 the original judgment or any judgment based on the original
223 judgment may not be acquired.

224 (4) A judgment lien continues only as to itemized property
225 for an additional 90 days after lapse of the lien. Such judgment
226 lien continues ~~will continue~~ only if:

227 (a) The property was ~~had been~~ itemized and its location
228 described with sufficient particularity in the instructions for
229 levy to permit the sheriff to act;

230 (b) The instructions for the levy had been delivered to the
231 sheriff before ~~prior to~~ the date of lapse of the lien; and

232 (c) The property was located in the county in which the

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233 sheriff has jurisdiction at the time of delivery of the
234 instruction for levy. Subsequent removal of the property does
235 not defeat the lien. A court may order continuation of the lien
236 beyond the 90-day period on a showing that extraordinary
237 circumstances have prevented levy.

238 (5) The date of lapse of a judgment lien whose
239 enforceability has been temporarily stayed or enjoined as a
240 result of any legal or equitable proceeding is tolled until 30
241 days after the stay or injunction is terminated.

242 (6) If a ~~no~~ second judgment lien is not filed, the
243 Department of State shall maintain each judgment lien file and
244 all information contained therein for a minimum of 1 year after
245 the judgment lien lapses in accordance with this section. If a
246 second judgment lien is filed, the department shall maintain
247 both files and all information contained in such files for a
248 minimum of 1 year after the second judgment lien lapses.

249 (7) ~~Nothing in~~ This section does not ~~shall be construed to~~
250 extend the life of a judgment lien beyond the time that the
251 underlying judgment, order, decree, or warrant otherwise expires
252 or becomes invalid pursuant to law.

253 Section 4. Section 95.091, Florida Statutes, is amended to
254 read:

255 95.091 Limitation on actions to collect taxes.—

256 (1) (a) Except for ~~in the case of~~ taxes for which
257 certificates have been sold, taxes enumerated in s. 72.011, or
258 tax liens issued under s. 196.161 or s. 443.141, any tax lien
259 granted by law to the state or any of its political
260 subdivisions, any municipality, any public corporation or body
261 politic, or any other entity having authority to levy and

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262 collect taxes expires ~~shall expire~~ 5 years after the date the
263 tax is assessed or becomes delinquent, whichever is later. An ~~No~~
264 action ~~may be begun~~ to collect any tax may not be commenced
265 after the expiration of the lien securing the payment of the
266 tax.

267 (b) Any tax lien granted by law to the state or any of its
268 political subdivisions for any tax enumerated in s. 72.011 or
269 any tax lien imposed under s. 196.161 expires ~~shall expire~~ 20
270 years after the last date the tax may be assessed, after the tax
271 becomes delinquent, or after the filing of a tax warrant,
272 whichever is later. An action to collect any tax enumerated in
273 s. 72.011 may not be commenced after the expiration of the lien
274 securing the payment of the tax.

275 (2) If a ~~no~~ lien to secure the payment of a tax is not
276 provided by law, an ~~no~~ action ~~may be begun~~ to collect the tax
277 may not be commenced ~~after~~ 5 years after ~~from~~ the date the tax
278 is assessed or becomes delinquent, whichever is later.

279 (3) (a) With the exception of taxes levied under chapter 198
280 and tax adjustments made pursuant to ss. 220.23 and 624.50921,
281 the Department of Revenue may determine and assess the amount of
282 any tax, penalty, or interest due under any tax enumerated in s.
283 72.011 which it has authority to administer and the Department
284 of Business and Professional Regulation may determine and assess
285 the amount of any tax, penalty, or interest due under any tax
286 enumerated in s. 72.011 which it has authority to administer:

287 1.a. For taxes due before July 1, 1999, within 5 years
288 after the date the tax is due, any return with respect to the
289 tax is due, or such return is filed, whichever occurs later; and
290 for taxes due on or after July 1, 1999, within 3 years after the

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291 date the tax is due, any return with respect to the tax is due,
292 or such return is filed, whichever occurs later;

293 b. Effective July 1, 2002, notwithstanding sub-subparagraph
294 a., within 3 years after the date the tax is due, any return
295 with respect to the tax is due, or such return is filed,
296 whichever occurs later;

297 2. For taxes due before July 1, 1999, within 6 years after
298 the date the taxpayer ~~either~~ makes a substantial underpayment of
299 tax, ~~or~~ files a substantially incorrect return;

300 3. At any time while the right to a refund or credit of the
301 tax is available to the taxpayer;

302 4. For taxes due before July 1, 1999, at any time after the
303 taxpayer ~~has~~ filed a grossly false return;

304 5. At any time after the taxpayer ~~has~~ failed to make any
305 required payment of the tax, ~~has~~ failed to file a required
306 return, or ~~has~~ filed a fraudulent return, except that for taxes
307 due on or after July 1, 1999, the limitation prescribed in
308 subparagraph 1. applies if the taxpayer ~~has~~ disclosed in writing
309 the tax liability to the department before the department
310 contacts ~~has contacted~~ the taxpayer; or

311 6. In any case in which ~~there has been~~ a refund of tax has
312 erroneously been made for any reason:

313 a. For refunds made before July 1, 1999, within 5 years
314 after making such refund; and

315 b. For refunds made on or after July 1, 1999, within 3
316 years after making such refund,

317
318 or at any time after making such refund if it appears that any
319 part of the refund was induced by fraud or the misrepresentation

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320 of a material fact.

321 (b) For the purpose of this paragraph, a tax return filed
322 before the last day prescribed by law, including any extension
323 thereof, is ~~shall be~~ deemed to have been filed on such last day,
324 and payments made before ~~prior to~~ the last day prescribed by law
325 are ~~shall be~~ deemed to have been paid on such last day.

326 (4) If administrative or judicial proceedings for review of
327 the tax assessment or collection are initiated by a taxpayer
328 within the period of limitation prescribed in this section, the
329 running of the period is ~~shall be~~ tolled during the pendency of
330 the proceeding. Administrative proceedings ~~shall~~ include
331 taxpayer protest proceedings initiated under s. 213.21 and
332 department rules.

333 Section 5. Effective July 1, 2010, section 213.25, Florida
334 Statutes, is amended to read:

335 213.25 Refunds; credits; right of setoff.—If ~~In any~~
336 ~~instance that a taxpayer has a~~ tax refund or tax credit is due
337 to a taxpayer for an overpayment of taxes assessed under any of
338 ~~the chapters specified in s. 72.011(1),~~ the department may
339 reduce the ~~such~~ refund or credit to the extent of any billings
340 not subject to protest under s. 213.21 or chapter 443 for ~~the~~
341 ~~same or any other~~ tax owed by the ~~same~~ taxpayer.

342 Section 6. Subsection (9) and paragraph (d) of subsection
343 (20) of section 443.036, Florida Statutes, are amended to read:

344 443.036 Definitions.—As used in this chapter, the term:

345 (9) "Benefit year" means, for an individual, the 1-year
346 period beginning with the first day of the first week for which
347 the individual first files a valid claim for benefits and,
348 thereafter, the 1-year period beginning with the first day of

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349 the first week for which the individual next files a valid claim
350 for benefits after the termination of his or her last preceding
351 benefit year. Each claim for benefits made in accordance with s.
352 443.151(2) is a "valid claim" under this subsection if the
353 individual was paid wages for insured work in accordance with s.
354 443.091(1)(g) ~~the provisions of s. 443.091(1)(f)~~ and is
355 unemployed as defined in subsection (43) at the time of filing
356 the claim. However, the Agency for Workforce Innovation may
357 adopt rules providing for the establishment of a uniform benefit
358 year for all workers in one or more groups or classes of service
359 or within a particular industry if ~~when~~ the agency determines,
360 after notice to the industry and to the workers in the industry
361 and an opportunity to be heard in the matter, that those groups
362 or classes of workers in a particular industry periodically
363 experience unemployment resulting from layoffs or shutdowns for
364 limited periods of time.

365 (20) "Employing unit" means an individual or type of
366 organization, including a partnership, limited liability
367 company, association, trust, estate, joint-stock company,
368 insurance company, or corporation, whether domestic or foreign;
369 the receiver, trustee in bankruptcy, trustee, or successor of
370 any of the foregoing; or the legal representative of a deceased
371 person, which has or had in its employ one or more individuals
372 performing services for it within this state.

373 (d) A limited liability company shall be treated as having
374 the same status as it is classified for federal income tax
375 purposes. However, a single-member limited liability company
376 shall be treated as the employer.

377 Section 7. Paragraphs (b) through (g) of subsection (1) of

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378 section 443.091, Florida Statutes, are amended to read:

379 443.091 Benefit eligibility conditions.—

380 (1) An unemployed individual is eligible to receive
381 benefits for any week only if the Agency for Workforce
382 Innovation finds that:

383 (b) She or he has registered with the agency for work ~~with,~~
384 and subsequently reports to the one-stop career center as
385 directed by the regional workforce board for reemployment
386 services continued to report to, the Agency for Workforce
387 Innovation in accordance with its rules. These rules must not
388 conflict with the requirement in s. 443.111(1) (b) that each
389 claimant must continue to report regardless of any appeal or
390 pending appeal relating to her or his eligibility or
391 disqualification for benefits. The Agency for Workforce
392 Innovation may by rule waive this paragraph for individuals
393 attached to regular jobs. These rules must not conflict with s.
394 443.111(1). This requirement does not apply to persons who are:

395 1. Non-Florida residents;

396 2. On a temporary layoff, as defined in s. 443.036(42);

397 3. Union members who customarily obtain employment through a
398 union hiring hall; or

399 4. Claiming benefits under an approved short-time
400 compensation plan as provided in s. 443.1116.

401 (c) To make continued claims for benefits, she or he is
402 reporting to the agency in accordance with its rules. These
403 rules may not conflict with s. 443.111(1) (b), including the
404 requirement that each claimant continue to report regardless of
405 any pending appeal relating to her or his eligibility or
406 disqualification for benefits.

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407 (d)~~(e)~~1. She or he is able to work and is available for
408 work. In order to assess eligibility for a claimed week of
409 unemployment, the agency ~~for Workforce Innovation~~ shall develop
410 criteria to determine a claimant's ability to work and
411 availability for work. However:

412 1.2. Notwithstanding any other provision of this paragraph
413 or paragraphs (b) and (e) ~~(d)~~, an otherwise eligible individual
414 may not be denied benefits for any week because she or he is in
415 training with the approval of the agency ~~for Workforce~~
416 ~~Innovation, and such an individual may not be denied benefits~~
417 ~~for any week in which she or he is in training with the approval~~
418 ~~of the Agency for Workforce Innovation by reason of subparagraph~~
419 ~~1. relating to availability for work, or by reason of s.~~

420 443.101(2) relating to failure to apply for, or refusal to
421 accept, suitable work. Training may be approved by the agency
422 ~~for Workforce Innovation~~ in accordance with criteria prescribed
423 by rule. A claimant's eligibility during approved training is
424 contingent upon satisfying eligibility conditions prescribed by
425 rule.

426 2.3. Notwithstanding any other provision of this chapter,
427 an otherwise eligible individual who is in training approved
428 under s. 236(a)(1) of the Trade Act of 1974, as amended, may not
429 be determined ~~to be~~ ineligible or disqualified for benefits due
430 ~~with respect~~ to her or his enrollment in such training or
431 because of leaving work that is not suitable employment to enter
432 such training. As used in this subparagraph, the term "suitable
433 employment" means, ~~for a worker,~~ work of a substantially equal
434 or higher skill level than the worker's past adversely affected
435 employment, as defined for purposes of the Trade Act of 1974, as

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436 amended, the wages for which are at least 80 percent of the
437 worker's average weekly wage as determined for purposes of the
438 Trade Act of 1974, as amended.

439 ~~3.4.~~ Notwithstanding any other provision of this section,
440 an otherwise eligible individual may not be denied benefits for
441 any week ~~by reason of subparagraph 1.~~ because she or he is
442 before any state or federal court pursuant to ~~of the United~~
443 ~~States or any state under~~ a lawfully issued summons to appear
444 for jury duty.

445 ~~(e)-(d)~~ She or he participates in reemployment services,
446 such as job search assistance services, whenever the individual
447 has been determined, by a profiling system established by agency
448 ~~rule of the Agency for Workforce Innovation,~~ to be likely to
449 exhaust regular benefits and to be in need of reemployment
450 services.

451 ~~(f)-(e)~~ She or he has been unemployed for a waiting period
452 of 1 week. A week may not be counted as a week of unemployment
453 under this subsection:

454 1. Unless it occurs within the benefit year that includes
455 the week for which she or he claims payment of benefits.

456 2. If benefits have been paid for that week.

457 3. Unless the individual was eligible for benefits for that
458 week as provided in this section and s. 443.101, except for the
459 requirements of this subsection and of s. 443.101(5).

460 ~~(g)-(f)~~ She or he has been paid wages for insured work equal
461 to 1.5 times her or his high quarter wages during her or his
462 base period, except that an unemployed individual is not
463 eligible to receive benefits if the base period wages are less
464 than \$3,400.

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465 (h)~~(g)~~ She or he submitted to the agency ~~for Workforce~~
466 ~~Innovation~~ a valid social security number assigned to her or
467 him. The agency ~~for Workforce Innovation~~ may verify the social
468 security number with the United States Social Security
469 Administration and may deny benefits if the agency is unable to
470 verify the individual's social security number, ~~if~~ the social
471 security number is invalid, or ~~if~~ the social security number is
472 not assigned to the individual.

473 Section 8. Paragraph (b) of subsection (2) of section
474 443.1215, Florida Statutes, is amended to read:

475 443.1215 Employers.—

476 (2)

477 (b) In determining whether an employing unit for which
478 service, other than agricultural labor, is also performed is an
479 employer under paragraph (1) (a), paragraph (1) (b), paragraph
480 (1) (c), or subparagraph (1) (d)2., the wages earned or the
481 employment of an employee performing service in agricultural
482 labor may not be taken into account. If an employing unit is
483 determined to be an employer of agricultural labor, the
484 employing unit is considered an employer for purposes of
485 paragraph (1) (a) ~~subsection (1)~~.

486 Section 9. Paragraphs (a) and (e) of subsection (3) of
487 section 443.131, Florida Statutes, as amended by chapter 2010-1,
488 Laws of Florida, are amended to read:

489 443.131 Contributions.—

490 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
491 EXPERIENCE.—

492 (a) *Employment records*.—The regular and short-time
493 compensation benefits paid to an eligible individual shall be

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494 charged to the employment record of each employer who paid the
495 individual wages of at least \$100 during the individual's base
496 period in proportion to the total wages paid by all employers
497 who paid the individual wages during the individual's base
498 period. Benefits may not be charged to the employment record of
499 an employer who furnishes part-time work to an individual who,
500 because of loss of employment with one or more other employers,
501 is eligible for partial benefits while being furnished part-time
502 work by the employer on substantially the same basis and in
503 substantially the same amount as the individual's employment
504 during his or her base period, regardless of whether this part-
505 time work is simultaneous or successive to the individual's lost
506 employment. Further, as provided in s. 443.151(3), benefits may
507 not be charged to the employment record of an employer who
508 furnishes the Agency for Workforce Innovation with notice, as
509 prescribed in ~~the~~ agency's rules, that any of the following
510 apply:

511 1. If ~~When~~ an individual leaves his or her work without
512 good cause attributable to the employer or is discharged by the
513 employer for misconduct connected with his or her work, benefits
514 subsequently paid to the individual based on wages paid by the
515 employer before the separation may not be charged to the
516 employment record of the employer.

517 2. If ~~When~~ an individual is discharged by the employer for
518 unsatisfactory performance during an initial employment
519 probationary period, benefits subsequently paid to the
520 individual based on wages paid during the probationary period by
521 the employer before the separation may not be charged to the
522 employer's employment record. ~~The employer must notify the~~

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523 ~~Agency for Workforce Innovation of the discharge in writing~~
524 ~~within 10 days after the mailing date of the notice of initial~~
525 ~~determination of a claim.~~ As used in this subparagraph, the term
526 "initial employment probationary period" means an established
527 probationary plan that applies to all employees or a specific
528 group of employees and that does not exceed 90 calendar days
529 following the first day a new employee begins work. The employee
530 must be informed of the probationary period within the first 7
531 days of work. The employer must demonstrate by conclusive
532 evidence that the individual was separated because of
533 unsatisfactory work performance and not because of lack of work
534 due to temporary, seasonal, casual, or other similar employment
535 that is not of a regular, permanent, and year-round nature.

536 3. Benefits subsequently paid to an individual after his or
537 her refusal without good cause to accept suitable work from an
538 employer may not be charged to the employment record of the
539 employer if ~~when~~ any part of those benefits are based on wages
540 paid by the employer before the individual's refusal to accept
541 suitable work. As used in this subparagraph, the term "good
542 cause" does not include distance to employment caused by a
543 change of residence by the individual. The Agency for Workforce
544 Innovation shall adopt rules prescribing~~7~~ for the payment of all
545 benefits~~7~~ whether this subparagraph applies regardless of
546 whether a disqualification under s. 443.101 applies to the
547 claim.

548 4. If ~~When~~ an individual is separated from work as a direct
549 result of a natural disaster declared under the Robert T.
550 Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C.
551 ss. 5121 et seq., benefits subsequently paid to the individual

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552 based on wages paid by the employer before the separation may
553 not be charged to the employment record of the employer.

554 (e) *Assignment of variations from the standard rate.*—For
555 the calculation of contribution rates effective January 1, 2010,
556 and thereafter:

557 1. The tax collection service provider shall assign a
558 variation from the standard rate of contributions for each
559 calendar year to each eligible employer. In determining the
560 contribution rate, varying from the standard rate to be assigned
561 each employer, adjustment factors computed under sub-
562 subparagraphs a.-d. are ~~shall be~~ added to the benefit ratio.
563 This addition shall be accomplished in two steps by adding a
564 variable adjustment factor and a final adjustment factor. The
565 sum of these adjustment factors computed under sub-subparagraphs
566 a.-d. shall first be algebraically summed. The sum of these
567 adjustment factors shall next be divided by a gross benefit
568 ratio determined as follows: Total benefit payments for the 3-
569 year period described in subparagraph (b)2. are ~~shall be~~ charged
570 to employers eligible for a variation from the standard rate,
571 minus excess payments for the same period, divided by taxable
572 payroll entering into the computation of individual benefit
573 ratios for the calendar year for which the contribution rate is
574 being computed. The ratio of the sum of the adjustment factors
575 computed under sub-subparagraphs a.-d. to the gross benefit
576 ratio is ~~shall be~~ multiplied by each individual benefit ratio
577 that is less than the maximum contribution rate to obtain
578 variable adjustment factors; except that if ~~in any instance in~~
579 ~~which~~ the sum of an employer's individual benefit ratio and
580 variable adjustment factor exceeds the maximum contribution

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581 rate, the variable adjustment factor is ~~shall be~~ reduced in
582 order for that the sum to equal ~~equals~~ the maximum contribution
583 rate. The variable adjustment factor for each of these employers
584 is multiplied by his or her taxable payroll entering into the
585 computation of his or her benefit ratio. The sum of these
586 products is ~~shall be~~ divided by the taxable payroll of the
587 employers who entered into the computation of their benefit
588 ratios. The resulting ratio is ~~shall be~~ subtracted from the sum
589 of the adjustment factors computed under sub-subparagraphs a.-d.
590 to obtain the final adjustment factor. The variable adjustment
591 factors and the final adjustment factor must ~~shall~~ be computed
592 to five decimal places and rounded to the fourth decimal place.
593 This final adjustment factor is ~~shall be~~ added to the variable
594 adjustment factor and benefit ratio of each employer to obtain
595 each employer's contribution rate. An employer's contribution
596 rate may not, however, be rounded to less than 0.1 percent.

597 a. An adjustment factor for noncharge benefits is ~~shall be~~
598 computed to the fifth decimal place and rounded to the fourth
599 decimal place by dividing the amount of noncharge benefits
600 during the 3-year period described in subparagraph (b)2. by the
601 taxable payroll of employers eligible for a variation from the
602 standard rate who have a benefit ratio for the current year
603 which is less than the maximum contribution rate. For purposes
604 of computing this adjustment factor, the taxable payroll of
605 these employers is the taxable payrolls for the 3 years ending
606 June 30 of the current calendar year as reported to the tax
607 collection service provider by September 30 of the same calendar
608 year. As used in this sub-subparagraph, the term "noncharge
609 benefits" means benefits paid to an individual from the

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610 Unemployment Compensation Trust Fund, but which were not charged
611 to the employment record of any employer.

612 b. An adjustment factor for excess payments is ~~shall be~~
613 computed to the fifth decimal place, and rounded to the fourth
614 decimal place by dividing the total excess payments during the
615 3-year period described in subparagraph (b)2. by the taxable
616 payroll of employers eligible for a variation from the standard
617 rate who have a benefit ratio for the current year which is less
618 than the maximum contribution rate. For purposes of computing
619 this adjustment factor, the taxable payroll of these employers
620 is the same figure used to compute the adjustment factor for
621 noncharge benefits under sub-subparagraph a. As used in this
622 sub-subparagraph, the term "excess payments" means the amount of
623 benefits charged to the employment record of an employer during
624 the 3-year period described in subparagraph (b)2., less the
625 product of the maximum contribution rate and the employer's
626 taxable payroll for the 3 years ending June 30 of the current
627 calendar year as reported to the tax collection service provider
628 by September 30 of the same calendar year. As used in this sub-
629 subparagraph, the term "total excess payments" means the sum of
630 the individual employer excess payments for those employers that
631 were eligible ~~to be considered~~ for assignment of a contribution
632 rate different from the standard rate.

633 c. With respect to computing a positive adjustment factor:

634 (I) Beginning January 1, 2012, if the balance of the
635 Unemployment Compensation Trust Fund on September 30 ~~June 30~~ of
636 the calendar year immediately preceding the calendar year for
637 which the contribution rate is being computed is less than 4
638 percent of the taxable payrolls for the year ending June 30 as

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639 reported to the tax collection service provider by September 30
640 of that calendar year, a positive adjustment factor shall be
641 computed. The positive adjustment factor is ~~shall be~~ computed
642 annually to the fifth decimal place and rounded to the fourth
643 decimal place by dividing the sum of the total taxable payrolls
644 for the year ending June 30 of the current calendar year as
645 reported to the tax collection service provider by September 30
646 of that calendar year into a sum equal to one-third of the
647 difference between the balance of the fund as of September 30
648 ~~June 30~~ of that calendar year and the sum of 5 percent of the
649 total taxable payrolls for that year. The positive adjustment
650 factor remains in effect for subsequent years until the balance
651 of the Unemployment Compensation Trust Fund as of September 30
652 ~~June 30~~ of the year immediately preceding the effective date of
653 the contribution rate equals or exceeds 5 percent of the taxable
654 payrolls for the year ending June 30 of the current calendar
655 year as reported to the tax collection service provider by
656 September 30 of that calendar year.

657 (II) Beginning January 1, 2015, and for each year
658 thereafter, the positive adjustment ~~authorized by this section~~
659 shall be computed by dividing the sum of the total taxable
660 payrolls for the year ending June 30 of the current calendar
661 year as reported to the tax collection service provider by
662 September 30 of that calendar year into a sum equal to one-
663 fourth of the difference between the balance of the fund as of
664 September 30 ~~June 30~~ of that calendar year and the sum of 5
665 percent of the total taxable payrolls for that year. The
666 positive adjustment factor remains in effect for subsequent
667 years until the balance of the Unemployment Compensation Trust

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668 Fund as of September 30 ~~June 30~~ of the year immediately
669 preceding the effective date of the contribution rate equals or
670 exceeds 4 percent of the taxable payrolls for the year ending
671 June 30 of the current calendar year as reported to the tax
672 collection service provider by September 30 of that calendar
673 year.

674 d. If, beginning January 1, 2015, and each year thereafter,
675 the balance of the Unemployment Compensation Trust Fund as of
676 September 30 ~~June 30~~ of the year immediately preceding the
677 calendar year for which the contribution rate is being computed
678 exceeds 5 percent of the taxable payrolls for the year ending
679 June 30 of the current calendar year as reported to the tax
680 collection service provider by September 30 of that calendar
681 year, a negative adjustment factor must ~~shall~~ be computed. The
682 negative adjustment factor shall be computed annually beginning
683 on January 1, 2015, and each year thereafter, to the fifth
684 decimal place and rounded to the fourth decimal place by
685 dividing the sum of the total taxable payrolls for the year
686 ending June 30 of the current calendar year as reported to the
687 tax collection service provider by September 30 of the calendar
688 year into a sum equal to one-fourth of the difference between
689 the balance of the fund as of September 30 ~~June 30~~ of the
690 current calendar year and 5 percent of the total taxable
691 payrolls of that year. The negative adjustment factor remains in
692 effect for subsequent years until the balance of the
693 Unemployment Compensation Trust Fund as of September 30 ~~June 30~~
694 of the year immediately preceding the effective date of the
695 contribution rate is less than 5 percent, but more than 4
696 percent of the taxable payrolls for the year ending June 30 of

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697 the current calendar year as reported to the tax collection
698 service provider by September 30 of that calendar year. The
699 negative adjustment authorized by this section is suspended in
700 any calendar year in which repayment of the principal amount of
701 an advance received from the federal Unemployment Compensation
702 Trust Fund under 42 U.S.C. s. 1321 is due to the Federal
703 Government.

704 e. The maximum contribution rate that may be assigned to an
705 employer is 5.4 percent, except employers participating in an
706 approved short-time compensation plan may be assigned a maximum
707 contribution rate that is 1 percent greater than the maximum
708 contribution rate for other employers in any calendar year in
709 which short-time compensation benefits are charged to the
710 employer's employment record.

711 f. As used in this subsection, "taxable payroll" shall be
712 determined by excluding any part of the remuneration paid to an
713 individual by an employer for employment during a calendar year
714 in excess of the first \$7,000. Beginning January 1, 2012,
715 "taxable payroll" shall be determined by excluding any part of
716 the remuneration paid to an individual by an employer for
717 employment during a calendar year as described in s.
718 443.1217(2). For the purposes of the employer rate calculation
719 that will take effect in January 1, 2012, and in January 1,
720 2013, the tax collection service provider shall use the data
721 available for taxable payroll from 2009 based on excluding any
722 part of the remuneration paid to an individual by an employer
723 for employment during a calendar year in excess of the first
724 \$7,000, and from 2010 and 2011, the data available for taxable
725 payroll based on excluding any part of the remuneration paid to

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726 an individual by an employer for employment during a calendar
727 year in excess of the first \$8,500.

728 2. If the transfer of an employer's employment record to an
729 employing unit under paragraph (f) which, before the transfer,
730 was an employer, the tax collection service provider shall
731 recompute a benefit ratio for the successor employer based on
732 the combined employment records and reassign an appropriate
733 contribution rate to the successor employer effective on the
734 first day of the calendar quarter immediately after the
735 effective date of the transfer.

736 Section 10. Subsection (1), paragraph (a) of subsection
737 (3), and subsection (5) of section 443.141, Florida Statutes, as
738 amended by chapter 2010-1, Laws of Florida, are amended to read:

739 443.141 Collection of contributions and reimbursements.—

740 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,
741 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—

742 (a) *Interest.*—Contributions or reimbursements unpaid on the
743 date due ~~shall~~ bear interest at the rate of 1 percent per month
744 from and after that date until payment plus accrued interest is
745 received by the tax collection service provider, unless the
746 service provider finds that the employing unit has ~~or had~~ good
747 reason for failing failure to pay the contributions or
748 reimbursements when due. Interest collected under this
749 subsection must be paid into the Special Employment Security
750 Administration Trust Fund.

751 (b) *Penalty for delinquent, erroneous, incomplete, or*
752 *insufficient reports.*—

753 1. An employing unit that fails to file any report required
754 by the Agency for Workforce Innovation or its tax collection

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755 service provider, in accordance with rules for administering
756 this chapter, shall pay to the ~~tax collection~~ service provider
757 for each delinquent report the sum of \$25 for each 30 days or
758 fraction thereof that the employing unit is delinquent, unless
759 the agency or its service provider, whichever required the
760 report, finds that the employing unit has ~~or had~~ good reason for
761 failing ~~failure~~ to file the report. The agency or its service
762 provider may assess penalties only through the date of the
763 issuance of the final assessment notice. However, additional
764 penalties accrue if the delinquent report is subsequently filed.

765 2. An employing unit that files an erroneous, incomplete,
766 or insufficient report with the Agency for Workforce Innovation
767 or its tax collection service provider shall pay a penalty of
768 \$50 or 10 percent of any tax due, whichever is greater, but no
769 more than \$300 per report. The penalty shall be added to any
770 tax, penalty, or interest otherwise due.

771 a. The agency or its tax collection service provider shall
772 waive the penalty if the employing unit files an accurate,
773 complete, and sufficient report within 30 days after a penalty
774 notice is issued to the employing unit. The penalty may not be
775 waived pursuant to this subparagraph more than once during a 12-
776 month period.

777 b. As used in this subsection, the term "erroneous,
778 incomplete, or insufficient report" means a report so lacking in
779 information, completeness, or arrangement that the report cannot
780 be readily understood, verified, or reviewed. Such reports
781 include, but are not limited to, reports having missing wage or
782 employee information, missing or incorrect social security
783 numbers, or illegible entries; reports submitted in a format

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784 that is not approved by the agency or its tax collection service
785 provider; and reports showing gross wages that do not equal the
786 total wages of each employee. The term does not include a report
787 that merely contains inaccurate data that was supplied to the
788 employer by the employee if the employer was unaware of the
789 inaccuracy.

790 3.2. Sums collected as Penalties imposed pursuant to this
791 paragraph under subparagraph 1. must be deposited in the Special
792 Employment Security Administration Trust Fund.

793 4.3. The penalty and interest for a delinquent, erroneous,
794 incomplete, or insufficient report may be waived if when the
795 penalty or interest is inequitable. The provisions of s.
796 213.24(1) apply to any penalty or interest that is imposed under
797 this section.

798 (c) Application of partial payments.—If when a delinquency
799 exists in the employment record of an employer not in
800 bankruptcy, a partial payment less than the total delinquency
801 amount shall be applied to the employment record as the payor
802 directs. In the absence of specific direction, the partial
803 payment shall be applied to the payor's employment record as
804 prescribed in the rules of the Agency for Workforce Innovation
805 or the state agency providing tax collection services.

806 (d) Adoption of rules.—The Agency for Workforce Innovation
807 and the state agency providing unemployment tax collection
808 services may adopt rules to administer this subsection.

809 (3) COLLECTION PROCEEDINGS.—

810 (a) Lien for payment of contributions or reimbursements.—

811 1. ~~There is created~~ A lien exists in favor of the tax
812 collection service provider upon all the property, both real and

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813 personal, of an ~~any~~ employer liable for payment of any
814 contribution or reimbursement levied and imposed under this
815 chapter for the amount of the contributions or reimbursements
816 due, together with any interest, costs, and penalties. If any
817 contribution or reimbursement imposed under this chapter or any
818 portion of that contribution, reimbursement, interest, or
819 penalty is not paid within 60 days after becoming delinquent,
820 the tax collection service provider may file ~~subsequently issue~~
821 a notice of lien ~~that may be filed~~ in the office of the clerk of
822 the circuit court of any county in which the delinquent employer
823 owns property or conducts or has conducted business. The notice
824 of lien must include the periods for which the contributions,
825 reimbursements, interest, or penalties are demanded and the
826 amounts due. A copy of the notice of lien must be mailed to the
827 employer at the employer's ~~her or his~~ last known address. The
828 notice of lien may not be filed ~~issued and recorded~~ until 15
829 days after the date the assessment becomes final under
830 subsection (2). Upon filing ~~presentation of the notice of lien,~~
831 the clerk of the circuit court shall record the notice of lien
832 ~~it~~ in a book maintained for that purpose, ~~and~~ The amount of the
833 ~~notice of~~ lien, together with the cost of recording and interest
834 accruing upon the amount of the contribution or reimbursement,
835 becomes a lien upon the title to and interest, whether legal or
836 equitable, in any real property, chattels real, or personal
837 property of the employer against whom the notice of lien is
838 issued, in the same manner as a judgment of the circuit court
839 docketed in the office of the circuit court clerk, with
840 execution issued to the sheriff for levy. This lien is prior,
841 preferred, and superior to all mortgages or other liens filed,

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842 recorded, or acquired after the notice of lien is filed. Upon
843 the payment of the amounts due, or upon determination by the tax
844 collection service provider that the notice of lien was
845 erroneously issued, the lien is satisfied when the service
846 provider acknowledges in writing that the lien is fully
847 satisfied. A lien's satisfaction does not need to be
848 acknowledged before any notary or other public officer, and the
849 signature of the director of the tax collection service provider
850 or ~~his or her~~ designee is conclusive evidence of the
851 satisfaction of the lien, which satisfaction shall be recorded
852 by the clerk of the circuit court who receives the fees for
853 those services.

854 2. The tax collection service provider may subsequently
855 issue a warrant directed to any sheriff in this state,
856 commanding him or her to levy upon and sell any real or personal
857 property of the employer liable for any amount under this
858 chapter within his or her jurisdiction, for payment, with the
859 added penalties and interest and the costs of executing the
860 warrant, together with the costs of the clerk of the circuit
861 court in recording and docketing the notice of lien, and to
862 return the warrant to the service provider with payment. The
863 warrant may only be issued and enforced for all amounts due to
864 the tax collection service provider on the date the warrant is
865 issued, together with interest accruing on the contribution or
866 reimbursement due from the employer to the date of payment at
867 the rate provided in this section. However, if there is a ~~In the~~
868 ~~event of~~ sale of any assets of the employer, ~~however,~~ priorities
869 under the warrant shall be determined in accordance with the
870 priority established by any notices of lien filed by the tax

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871 collection service provider and recorded by the clerk of the
872 circuit court. The sheriff shall execute the warrant in the same
873 manner prescribed by law for executions issued by the clerk of
874 the circuit court for judgments of the circuit court. The
875 sheriff is entitled to the same fees for executing the warrant
876 as for a writ of execution out of the circuit court, and these
877 fees must be collected in the same manner.

878 3. The lien expires 10 years after filing a notice of lien
879 with the clerk of court. An action to collect amounts due under
880 this chapter may not be commenced after the expiration of the
881 lien securing the payment of the amounts owed.

882 (5) PRIORITIES UNDER LEGAL DISSOLUTION OR DISTRIBUTIONS.—In
883 the event of any distribution of an ~~any~~ employer's assets
884 pursuant to an order of any court under the laws of this state,
885 including any receivership, assignment for the benefit of
886 creditors, adjudicated insolvency, composition, administration
887 of estates of decedents, or other similar proceeding,
888 contributions or reimbursements then or subsequently due must be
889 paid in full before all other claims except claims for wages of
890 \$250 or less to each claimant, earned within 6 months after the
891 commencement of the proceeding, and on a parity with all other
892 tax claims wherever those tax claims are given priority. In the
893 administration of the estate of a ~~any~~ decedent, the filing of
894 notice of lien is a proceeding required upon protest of the
895 claim filed by the tax collection service provider for
896 contributions or reimbursements due under this chapter, and the
897 claim must be allowed by the circuit judge. However, the
898 personal representative of the decedent, ~~however,~~ may l by
899 petition to the circuit court, l object to the validity of the tax

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900 collection service provider's claim, and proceedings shall be
901 conducted in the circuit court for the determination of the
902 validity of the service provider's claim. Further, the bond of
903 the personal representative may not be discharged until the
904 claim is finally determined by the circuit court. If ~~When~~ a bond
905 is not given by the personal representative, the assets of the
906 estate may not be distributed until the final determination by
907 the circuit court. Upon distribution of the assets of the estate
908 ~~of any decedent~~, the tax collection service provider's claim has
909 a class 8 priority as established in s. 733.707(1)(h), subject
910 to the above limitations with reference to wages. In the event
911 of an ~~any~~ employer's adjudication in bankruptcy, judicially
912 confirmed extension proposal, or composition, under the Federal
913 Bankruptcy Reform Act of 1978 ~~1898~~, as amended, contributions or
914 reimbursements then or subsequently due are entitled to priority
915 as is provided in 11 U.S.C. s. 507(a)(8) ~~s. 64B of that act~~
916 ~~(U.S.C. Title II, s. 104(b), as amended).~~

917 Section 11. Effective July 1, 2010, subsections (2) and
918 (3), paragraph (b) of subsection (5), and subsection (6) of
919 section 443.151, Florida Statutes, are amended to read:

920 443.151 Procedure concerning claims.—

921 (2) FILING OF CLAIM INVESTIGATIONS; NOTIFICATION OF
922 CLAIMANTS AND EMPLOYERS.—

923 (a) In general.—Claims for benefits must be made in
924 accordance with the rules adopted by the Agency for Workforce
925 Innovation. The agency ~~for Workforce Innovation~~ must notify
926 claimants and employers regarding monetary and nonmonetary
927 determinations of eligibility. Investigations of issues raised
928 in connection with a claimant which may affect a claimant's

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929 eligibility for benefits or charges to an employer's employment
930 record shall be conducted by the agency through written,
931 telephonic, or electronic means ~~for Workforce Innovation~~ as
932 prescribed by rule.

933 (b) Process.—When the Unemployment Compensation Claims and
934 Benefits Information System described in s. 443.1113 is fully
935 operational, the process for filing claims must incorporate the
936 process for registering for work with the workforce information
937 systems established pursuant to s. 445.011. A claim for benefits
938 may not be processed until the work registration requirement is
939 satisfied. The Agency for Workforce Innovation may adopt rules
940 as necessary to administer the work registration requirement set
941 forth in this paragraph.

942 (3) DETERMINATION OF ELIGIBILITY.—

943 (a) Notices of claim ~~In general~~.—The Agency for Workforce
944 Innovation shall promptly provide a notice of claim to the
945 claimant's most recent employing unit and all employers whose
946 employment records are liable for benefits under the monetary
947 determination ~~make an initial determination for each claim filed~~
948 ~~under subsection (2).~~ The employer must respond to the notice of
949 claim within 20 days after the mailing date of the notice, or in
950 lieu of mailing, within 20 days after the delivery of the
951 notice. If a contributing employer fails to timely respond to
952 the notice of claim, the employer's account may not be relieved
953 of benefit charges as provided in s. 443.131(3) (a),
954 notwithstanding paragraph (5) (b). The agency may adopt rules as
955 necessary to implement the processes described in this paragraph
956 relating to notices of claim.

957 (b) Monetary determinations.—In addition to the notice of

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958 claim, the agency shall also promptly provide an initial
959 monetary determination to the claimant and each base period
960 employer whose account is subject to being charged for its
961 respective share of benefits on the claim. The monetary
962 determination must include a statement of whether and in what
963 amount the claimant is entitled to benefits, and, in the event
964 of a denial, must state the reasons for the denial. A monetary
965 determination for the first week of a benefit year must also
966 include a statement of whether the claimant was paid the wages
967 required under s. 443.091(1)(g) ~~443.091(1)(f)~~ and, if so, the
968 first day of the benefit year, the claimant's weekly benefit
969 amount, and the maximum total amount of benefits payable to the
970 claimant for a benefit year. ~~The Agency for Workforce Innovation~~
971 ~~shall promptly notify the claimant, the claimant's most recent~~
972 ~~employing unit, and all employers whose employment records are~~
973 ~~liable for benefits under the determination of the initial~~
974 ~~determination.~~ The monetary determination is final unless within
975 20 days after the mailing of the notices to the parties' last
976 known addresses, or in lieu of mailing, within 20 days after the
977 delivery of the notices, an appeal or written request for
978 reconsideration is filed by the claimant or other party entitled
979 to notice. The agency may adopt rules as necessary to implement
980 the processes described in this paragraph relating to notices of
981 monetary determinations and the appeals or reconsideration
982 requests filed in response to such notices.

983 (c) *Nonmonetary determinations.*—If the agency receives
984 information that may result in a denial of benefits, the agency
985 must complete an investigation of the claim required by
986 subsection (2) and provide notice of a nonmonetary determination

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987 to the claimant and the employer from whom the claimant's reason
988 for separation affects his or her entitlement to benefits. The
989 determination must state the reason for the determination and
990 whether the unemployment tax account of the contributing
991 employer is charged for benefits paid on the claim. The
992 nonmonetary determination is final unless within 20 days after
993 the mailing of the notices to the parties' last known addresses,
994 or in lieu of mailing, within 20 days after the delivery of the
995 notices, an appeal or written request for reconsideration is
996 filed by the claimant or other party entitled to notice. The
997 agency may adopt rules as necessary to implement the processes
998 described in this paragraph relating to notices of nonmonetary
999 determination and the appeals or reconsideration requests filed
1000 in response to such notices, and may adopt rules prescribing the
1001 manner and procedure by which employers within the base period
1002 of a claimant become entitled to notice of nonmonetary
1003 determination.

1004 (d) ~~(b)~~ *Determinations in labor dispute cases.*—Whenever any
1005 claim involves a labor dispute described in s. 443.101(4), the
1006 Agency for Workforce Innovation shall promptly assign the claim
1007 to a special examiner who shall make a determination on the
1008 issues involving unemployment due to the labor dispute. The
1009 special examiner shall make the determination after an
1010 investigation, as necessary. The claimant or another party
1011 entitled to notice of the determination may appeal a
1012 determination under subsection (4).

1013 (e) ~~(c)~~ *Redeterminations.*—

1014 1. The Agency for Workforce Innovation may reconsider a
1015 determination if ~~when~~ it finds an error or if ~~when~~ new evidence

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1016 or information pertinent to the determination is discovered
1017 after a prior determination or redetermination. A
1018 redetermination may not be made more than 1 year after the last
1019 day of the benefit year unless the disqualification for making a
1020 false or fraudulent representation under ~~in~~ s. 443.101(6) is
1021 applicable, in which case the redetermination may be made within
1022 2 years after the false or fraudulent representation. The agency
1023 ~~for Workforce Innovation~~ must promptly give notice of
1024 redetermination to the claimant and to any employers entitled to
1025 notice in the manner prescribed in this section for the notice
1026 of an initial determination.

1027 2. If the amount of benefits is increased by the
1028 redetermination, an appeal of the redetermination based solely
1029 on the increase may be filed as provided in subsection (4). If
1030 the amount of benefits is decreased by the redetermination, the
1031 redetermination may be appealed by the claimant if ~~when~~ a
1032 subsequent claim for benefits is affected in amount or duration
1033 by the redetermination. If the final decision on the
1034 determination or redetermination to be reconsidered was made by
1035 an appeals referee, the commission, or a court, the Agency for
1036 Workforce Innovation may apply for a revised decision from the
1037 body or court that made the final decision.

1038 3.2. ~~If~~ If an appeal of an original determination is pending
1039 when a redetermination is issued, the appeal unless withdrawn is
1040 treated as an appeal from the redetermination.

1041 ~~(d) Notice of determination or redetermination. Notice of~~
1042 ~~any monetary or nonmonetary determination or redetermination~~
1043 ~~under this chapter, together with the reasons for the~~
1044 ~~determination or redetermination, must be promptly given to the~~

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1045 ~~claimant and to any employer entitled to notice in the manner~~
1046 ~~provided in this subsection. The Agency for Workforce Innovation~~
1047 ~~shall adopt rules prescribing the manner and procedure by which~~
1048 ~~employers within the base period of a claimant become entitled~~
1049 ~~to notice.~~

1050 (5) PAYMENT OF BENEFITS.—

1051 (b) The Agency for Workforce Innovation shall promptly pay
1052 benefits, regardless of whether a determination is under appeal
1053 if, ~~when~~ the determination allowing benefits is affirmed in any
1054 amount by an appeals referee or is affirmed by the commission,
1055 or if a decision of an appeals referee allowing benefits is
1056 affirmed in any amount by the commission. In these instances, a
1057 court may not issue an injunction, supersedeas, stay, or other
1058 writ or process suspending payment of benefits. A contributing
1059 employer that responded to the notice of claim within the time
1060 limit provided in subsection (3) may not, however, be charged
1061 with benefits paid under an erroneous determination if the
1062 decision is ultimately reversed. Benefits are not paid for any
1063 subsequent weeks of unemployment involved in a reversal.

1064 (6) RECOVERY AND RECOUPMENT.—

1065 (a) Any person who, by reason of her or his fraud, receives
1066 benefits under this chapter to which she or he is not entitled
1067 is liable for repaying ~~to repay~~ those benefits to the Agency for
1068 Workforce Innovation on behalf of the trust fund or, in the
1069 agency's discretion, to have those benefits deducted from future
1070 benefits payable to her or him under this chapter. To enforce
1071 this paragraph, the agency ~~for Workforce Innovation~~ must find
1072 the existence of fraud through a redetermination or decision
1073 under this section within 2 years after the fraud was committed.

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1074 Any recovery or recoupment of ~~these~~ benefits must be effected
1075 within 5 years after the redetermination or decision.

1076 (b) Any person who, by reason other than her or his fraud,
1077 receives benefits under this chapter to which, under a
1078 redetermination or decision pursuant to this section, she or he
1079 is ~~found~~ not entitled, is liable for repaying ~~to repay~~ those
1080 benefits to the Agency for Workforce Innovation on behalf of the
1081 trust fund or, in the agency's discretion, to have those
1082 benefits deducted from any future benefits payable to her or him
1083 under this chapter. Any recovery or recoupment of benefits must
1084 be effected within 3 years after the redetermination or
1085 decision.

1086 (c) Any person who, by reason other than fraud, receives
1087 benefits under this chapter to which she or he is not entitled
1088 as a result of an employer's failure to respond to a claim
1089 within the timeframe provided in subsection (3) is not liable
1090 for repaying those benefits to the Agency for Workforce
1091 Innovation on behalf of the trust fund or to have those benefits
1092 deducted from any future benefits payable to her or him under
1093 this chapter.

1094 (d) ~~(e)~~ Recoupment from future benefits is not permitted if
1095 the benefits are received by any ~~such~~ person without fault on
1096 the person's part and recoupment would defeat the purpose of
1097 this chapter or would be inequitable and against good
1098 conscience.

1099 (e) ~~(d)~~ The Agency for Workforce Innovation shall collect
1100 the repayment of benefits without interest by the deduction of
1101 benefits through a redetermination or by a civil action.

1102 (f) ~~(e)~~ Notwithstanding any other provision of this chapter,

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1103 any person who is determined by this state, a cooperating state
 1104 agency, the United States Secretary of Labor, or a court ~~of~~
 1105 ~~competent jurisdiction~~ to have received any payments under the
 1106 Trade Act of 1974, as amended, to which the person was not
 1107 entitled shall have those payments deducted from any regular
 1108 benefits, as defined in s. 443.1115(1)(e), payable to her or him
 1109 under this chapter. Each such deduction ~~under this paragraph~~ may
 1110 not exceed 50 percent of the amount otherwise payable. The
 1111 payments deducted shall be remitted to the agency that issued
 1112 the payments under the Trade Act of 1974, as amended, for return
 1113 to the United States Treasury. Except for overpayments
 1114 determined by a court ~~of competent jurisdiction~~, a deduction may
 1115 not be made under this paragraph until a determination by the
 1116 state agency or the United States Secretary of Labor is final.

1117 Section 12. Effective July 1, 2010, subsection (2) of
 1118 section 443.163, Florida Statutes, is amended to read:

1119 443.163 Electronic reporting and remitting of contributions
 1120 and reimbursements.—

1121 (2) (a) An employer who is required by law to file an
 1122 Employers Quarterly Report (UCT-6) by approved electronic means,
 1123 but who files the report by a means other than approved
 1124 electronic means, is liable for a penalty of \$50 ~~\$10~~ for that
 1125 report and \$1 for each employee. This penalty, ~~which~~ is in
 1126 addition to any other ~~applicable~~ penalty provided by this
 1127 chapter. However, unless the penalty does not apply if employer
 1128 ~~first obtains a waiver of this requirement from the tax~~
 1129 collection service provider waives the electronic filing
 1130 requirement in advance. An employer who fails to remit
 1131 contributions or reimbursements by approved electronic means as

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1132 required by law is liable for a penalty of \$50 ~~\$10~~ for each
1133 remittance submitted by a means other than approved electronic
1134 means. This penalty, ~~which~~ is in addition to any other
1135 ~~applicable~~ penalty provided by this chapter.

1136 (b) A person who prepared and reported for 100 or more
1137 employers in any quarter during the preceding state fiscal year,
1138 but who fails to file an Employers Quarterly Report (UCT-6) for
1139 each calendar quarter in the current calendar year by approved
1140 electronic means ~~as required by law~~, is liable for a penalty of
1141 \$50 ~~\$10~~ for that report and \$1 for each employee. This penalty,
1142 ~~which~~ is in addition to any other ~~applicable~~ penalty provided by
1143 this chapter. However, ~~unless~~ the penalty does not apply if
1144 ~~person first obtains a waiver of this requirement from the tax~~
1145 collection service provider waives the electronic filing
1146 requirement in advance.

1147 Section 13. Paragraph (c) of subsection (3) of section
1148 443.163, Florida Statutes, is amended to read:

1149 443.163 Electronic reporting and remitting of contributions
1150 and reimbursements.—

1151 (3) The tax collection service provider may waive the
1152 requirement to file an Employers Quarterly Report (UCT-6) by
1153 electronic means for employers that are unable to comply despite
1154 good faith efforts or due to circumstances beyond the employer's
1155 reasonable control.

1156 (c) The Agency for Workforce Innovation or the state agency
1157 providing unemployment tax collection services may establish by
1158 rule the length of time a waiver is valid and may determine
1159 whether subsequent waivers will be authorized, based on this
1160 subsection; ~~however, the tax collection service provider may~~

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1161 ~~only grant a waiver from electronic reporting if the employer~~
1162 ~~timely files the Employers Quarterly Report (UCT-6) by telefile,~~
1163 ~~unless the employer wage detail exceeds the service provider's~~
1164 ~~telefile system capabilities.~~

1165 Section 14. Paragraph (b) of subsection (2) of section
1166 443.1715, Florida Statutes, is amended to read:

1167 443.1715 Disclosure of information; confidentiality.—

1168 (2) DISCLOSURE OF INFORMATION.—

1169 (b)~~1~~. The employer or the employer's workers' compensation
1170 carrier against whom a claim for benefits under chapter 440 has
1171 been made, or a representative of either, may request from the
1172 Agency for Workforce Innovation ~~division~~ records of wages of the
1173 employee reported to the agency ~~division~~ by any employer for the
1174 quarter that includes the date of the accident that is the
1175 subject of such claim and for subsequent quarters.

1176 1. The request must be made with the authorization or
1177 consent of the employee or any employer who paid wages to the
1178 employee after ~~subsequent to~~ the date of the accident.

1179 2. The employer or carrier shall make the request on a form
1180 prescribed by rule for such purpose by the agency ~~division~~. Such
1181 form shall contain a certification by the requesting party that
1182 it is a party entitled to the information requested ~~as~~
1183 ~~authorized by this paragraph.~~

1184 3. The agency ~~division~~ shall provide the most current
1185 information readily available within 15 days after receiving the
1186 request.

1187 Section 15. Paragraph (a) of subsection (1) of section
1188 443.101, Florida Statutes, is amended to read:

1189 443.101 Disqualification for benefits.—An individual shall

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1190 be disqualified for benefits:

1191 (1) (a) For the week in which he or she has voluntarily left
1192 ~~his or her~~ work without good cause attributable to his or her
1193 employing unit or in which the individual has been discharged by
1194 the ~~his or her~~ employing unit for misconduct connected with his
1195 or her work, based on a finding by the Agency for Workforce
1196 Innovation. As used in this paragraph, the term "work" means any
1197 work, whether full-time, part-time, or temporary.

1198 1. Disqualification for voluntarily quitting continues for
1199 the full period of unemployment next ensuing after the
1200 individual ~~he or she~~ has left his or her full-time, part-time,
1201 or temporary work voluntarily without good cause and until the
1202 individual has earned income equal to or in excess of 17 times
1203 his or her weekly benefit amount. As used in this subsection,
1204 the term "good cause" includes only that cause attributable to
1205 the employing unit or which consists of the individual's illness
1206 or disability ~~of the individual~~ requiring separation from his or
1207 her work. Any other disqualification may not be imposed. An
1208 individual is not disqualified under this subsection for
1209 voluntarily leaving temporary work to return immediately when
1210 called to work by the permanent employing unit that temporarily
1211 terminated his or her work within the previous 6 calendar
1212 months. ~~For benefit years beginning on or after July 1, 2004,~~ An
1213 individual is not disqualified under this subsection for
1214 voluntarily leaving work to relocate as a result of his or her
1215 military-connected spouse's permanent change of station orders,
1216 activation orders, or unit deployment orders.

1217 2. Disqualification for being discharged for misconduct
1218 connected with his or her work continues for the full period of

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1219 unemployment next ensuing after having been discharged and until
1220 the individual is ~~has become~~ reemployed and has earned income of
1221 at least 17 times his or her weekly benefit amount and for not
1222 more than 52 weeks that immediately follow that week, as
1223 determined by the agency ~~for Workforce Innovation~~ in each case
1224 according to the circumstances in each case or the seriousness
1225 of the misconduct, under the agency's rules adopted for
1226 determinations of disqualification for benefits for misconduct.

1227 3. If ~~When~~ an individual has provided notification to the
1228 employing unit of his or her intent to voluntarily leave work
1229 and the employing unit discharges the individual for reasons
1230 other than misconduct before ~~prior to~~ the date the voluntary
1231 quit was to take effect, the individual, if otherwise entitled,
1232 shall ~~will~~ receive benefits from the date of the employer's
1233 discharge until the effective date of his or her voluntary quit.

1234 4. If ~~When~~ an individual is notified by the employing unit
1235 of the employer's intent to discharge the individual for reasons
1236 other than misconduct and the individual quits without good
1237 cause, as defined in this section, before ~~prior to~~ the date the
1238 discharge was to take effect, the claimant is ineligible for
1239 benefits pursuant to s. 443.091(1)(d) ~~443.091(1)(c)1.~~ for
1240 failing to be available for work for the week or weeks of
1241 unemployment occurring before ~~prior to~~ the effective date of the
1242 discharge.

1243 Section 16. The Legislature finds that this act fulfills an
1244 important state interest.

1245 Section 17. Except as otherwise expressly provided in this
1246 act, this act shall take effect upon becoming a law.