

SYNOPSIS

RULES

OF

GEORGIA DEPARTMENT OF LABOR

CHAPTER 300-2-3-.05

EMPLOYMENT SECURITY LAW

Rule 300-2-3-.05 Charges to Experience Rating Account. Amended.

- This is a Repeal of the existing Rule and Replace with the Proposed Rule.
- This Rule will remain in effect pending conforming legislation by the General Assembly.
- This Rule:
 - Is being replaced to bring the rule into conformity with federal law.
 - Sets forth the application of certain charges to Employer's Experience Rating Account.
- Specifically, paragraph (2) of the proposed Rule provides that effective October 22, 2013, to comply with the requirements of Section 252 of the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), amending Section 3303 of the Federal Unemployment Tax Act (FUTA) at subsection (f) and interpreting the same for Section 3309(a)(2) employers electing reimbursable status under O.C.G.A. § 34-8-158, an employer may not be relieved of charges to their experience rating account under certain conditions.
- An employer's account shall be charged and may not be relieved of charges, regardless of whether the associated determination to pay benefits is later reversed on appeal or if an overpayment is established, if the employer or an agent of the employer was at fault for failing to respond timely or adequately to a departmental request of information relating to the claim with improper benefits and the employer or an agent of the employer also failed to timely or adequately respond during the previous twelve calendar months to any requested reports with respect to three (3) individual claims established.

- The restriction on relief from charges for the claim shall be imposed for each week of state or federal unemployment benefits that is determined to be an overpayment until the claimant is no longer eligible for unemployment benefits and no additional benefit payments are issued to the claimant.
- The restriction on relief from charges in subparagraph (2) shall be applicable to both contributory and reimbursable account employers.
- As of the effective date of this subsection, the limitations on charges to employers under O.C.G.A. §34-8-157(b)(2) regarding wages paid at subsection (b)(2)(A), waiver of overpayments at subsection (b)(2)(C), and benefits paid for unemployment that is directly caused by a presidentially declared natural disaster at subsection (b)(2)(D), shall not apply to provide relief from charges restricted under this subsection.
- To establish “Substantial good cause” shall require a showing of:
 - Extenuating circumstances which prevented the timely or adequate filing by the employer, or an agent of the employer; and
 - Such extenuating circumstances were beyond the employer’s or the employer’s agent’s control.

SYNOPSIS
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CHAPTER 300-2-4
EMPLOYMENT SECURITY LAW

Rule 300-2-4-.08 Overpayments. Amended.

- This is a Repeal of the existing Rule and Replace with the Proposed Rule.
- This Rule:
 - Is being replaced to bring the rule into conformity with federal law.
 - Sets forth the Overpayments Penalties to be imposed on individuals who commit fraud in connection with state or federal unemployment insurance benefits.
 - Paragraph (1) is a renumbering of the proposed repealed rule.
- Paragraph (2) provides effective October 22, 2013, pursuant to requirements of Section 251 of the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), amending Section 303 of the Social Security Act (42 U.S.C. 503) at subparagraph (a)(11)(A), and the authority of the Commissioner of Labor under O.C.G.A. § 34-8-93, the monetary penalty imposed by O.C.G.A. § 34-8-255 on individuals who commit fraud in connection with state or federal unemployment insurance benefits paid from this state's Unemployment Trust Fund is increased from 10 percent to a mandatory penalty of 15 percent of the overpayment.
- This Rule will remain in effect pending conforming legislation by the General Assembly.
- Notices advising claimants of fraud overpayments shall include:
 - Penalty amount
 - An explanation of the reason for the overpayment,
 - Reason the penalty has been applied, and
 - Individual's appeal rights.

- Such penalty amounts may not be waived by the department or the Commissioner except pursuant to an order of a court with competent jurisdiction so ruling.
- Penalties imposed and collected under O.C.G.A. §34-8-255 and subparagraph (2) (a) of this Rule shall be deposited in the clearing account of the Unemployment Compensation Fund and, after clearance thereof, shall be immediately deposited with the secretary of the treasury of the United States to the credit of the account of this state in the Unemployment Trust Fund, pending conforming legislation by the General Assembly.

SYNOPSIS

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OF
GEORGIA DEPARTMENT OF LABOR**

CHAPTER 300-2-9

EMPLOYMENT SECURITY LAW

Rule 300-2-9-.07 Educational Service Workers. Amended.

- The proposed rule change amends the existing Rule.
- This amendment to the Rule modifies the language of subsection (1) of the Rule to apply only to educational service workers employed with a governmental or non-profit educational institution or any educational service agency.
- This modification is at the request of the United States Department of Labor.