

### **341.415 Recovery and recoupment limitations.**

- (1)
  - (a) Any person who has received any sum as benefits under this chapter or any other state's unemployment insurance statutes or any United States Department of Labor unemployment insurance benefit program, providing the secretary has signed a reciprocal agreement with such other state or the United States Department of Labor as provided in KRS 341.145, while any condition for the receipt of such benefits was not fulfilled in his case, or while he was disqualified from receiving benefits, or if he has received benefits in weeks for which he later receives a back pay award, shall, in the discretion of the secretary, either have such sum deducted from any future benefits payable to him under this chapter or repay the Office of Employment and Training, Department of Workforce Investment, for the fund a sum equal to the amount so received by him.
  - (b) If after due notice, the recipient of such sum fails to remit or arrange for remittance of the sum, the sum may be collected in the manner provided in KRS 341.300(2) for collection of past-due contributions and any sums so collected shall be credited to the pooled account or the appropriate reimbursing employer account.
  - (c) The appropriate reimbursing employer account shall not receive credit for sums collected under this subsection or KRS 341.550(2)(b) if a determination has been made that an improper benefit payment established after October 21, 2013, was due to the reimbursing employer, or an agent of the employer, in accordance with the provisions of KRS 341.530(4)(a) and (b). The sums collected shall be credited to the pooled account.
  - (d) If any benefit was paid as a result of office error as defined by administrative regulation, there shall be no recoupment or recovery of an improperly paid benefit, except by deduction from any future benefits payable to him under this chapter. For purposes of this section, overpayments as a result of a reversal of entitlement to benefits in the appeal or review process shall not be construed to be the result of office error.
- (2) At or after the commencement of an action under subsection (1) of this section, attachment may be had against property of the recipient of improperly paid benefits in the manner provided in KRS 341.300(3).
- (3) A lien on a parity with state, county, and municipal ad valorem tax liens, is hereby created in favor of the office upon all property of any recipient of improperly paid benefits. This lien shall be for a sum equal to the amount of the overpayment finally determined and shall continue until the amount of the overpayment plus any subsequent assessment of additional improperly paid benefits, penalty, interest, and fees are fully paid. The lien shall commence from such time as the recipient has exhausted or abandoned the appeal procedure set forth in this chapter and the amount of the overpayment is finally fixed. A notice of lien may be filed in the same manner as that provided for in KRS 341.310.
- (4) Any amount paid to a person as benefits, which he has been found liable to repay or to have deducted from future benefits under subsections (1), (2), and (3) of this

section, which has neither been repaid nor so deducted within a period of five (5) years following the last day of the benefit year within which it was paid, may be deemed to be uncollectible and shall be permanently charged to the pooled account, except that if such payment was made by reason of fraudulent representations, no future benefits shall be paid such person within a period of ten (10) years of the last day of the benefit year within which such payments were made at which time these amounts may be declared uncollectible. Nothing in this subsection shall be deemed to affect collection of improperly paid benefits pursuant to a judgment or other legal remedy.

- (5) In the event benefits have been paid as a result of a false statement, misrepresentation, or concealment of material information by a recipient of benefits and have not been repaid by the recipient within one (1) calendar year from the date of the first notice, interest at the rate of one and five-tenths percent (1.5%) per month or any part thereof, shall be imposed on and added to the unpaid balance each successive month, providing due notice has been given to the recipient. Such interest shall be paid into the unemployment compensation administration account.
- (6) A recipient of benefits paid as a result of a false statement, misrepresentation, or concealment of material information by the recipient shall be assessed a fifteen percent (15%) penalty of the amount of improperly paid benefits. The penalty under this subsection shall be collected in the same manner as improperly paid benefits in this section and paid into the unemployment trust fund.
- (7) The deduction from future benefits specified in subsection (1) of this section shall be limited to twenty-five percent (25%) of the benefit amount otherwise payable under this chapter unless the overpayment resulted from a backpay award, false statement, misrepresentation, or concealment of material information by a recipient of benefits. In these instances, the rate of deduction shall be one hundred percent (100%). The rate of deduction from benefits payable by another state or the United States of America shall be determined by the applicable state or federal statute.

**Effective:** June 25, 2013

**History:** Amended 2013 Ky. Acts ch. 45, sec. 1, effective June 25, 2013. -- Amended 2006 Ky. Acts ch. 211, sec. 150, effective July 12, 2006. -- Amended 1998 Ky. Acts ch. 167, sec. 6, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 266, sec. 14, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 133, sec. 3, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 106, sec. 1, effective July 15, 1988. -- Amended 1982 Ky. Acts ch. 261, sec. 8, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 385, sec. 9, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 389, sec. 26, effective July 1, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(21),(23). -- Created 1950 Ky. Acts ch. 206, sec. 1.

**Legislative Research Commission Note (6/25/2013).** Under the authority of KRS 7.136(1), the Reviser of Statutes has inserted paragraph designations into subsection (1) of this statute. The words in the text were not changed, except for the insertion of the word "that" after the word "made" in paragraph (c) to correct a manifest clerical or typographical error.