

**341.530 Employer reserve accounts -- Reimbursing employer accounts -- Relief for improper benefit payments -- Charging of benefits -- Voluntary payments -- Payments of benefits related to state of emergency or disaster declaration. (Effective January 1, 2023)**

- (1) The Office of Unemployment Insurance shall maintain a reserve account for each subject employer making contributions to the fund and a reimbursing employer account for each subject employer making payment in lieu of contributions, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions or benefit reimbursement paid by the employer on his or her own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his or her employ prior claims or rights to the amounts paid by him or her into the fund.
- (2) Except as provided in subsection (3) of this section, all regular benefits paid to an eligible worker in accordance with KRS 341.380 plus the extended benefits paid in accordance with KRS 341.700 to 341.740, subject to the provisions of paragraphs (a) and (b) of this subsection, shall be charged against the reserve account or reimbursing employer account of his or her most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for such employer in each of ten (10) weeks whether or not consecutive back to the beginning of the worker's base period. Shared work benefits paid to an eligible worker in accordance with KRS 341.4161 to 341.4173 shall be charged against the reserve account or reimbursing employer account of the shared work employer.
  - (a) Subject employers, which are not governmental entities as defined in KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 to 341.740; and
  - (b) Subject employers which are governmental entities, as defined in KRS 341.069, shall be charged for all extended benefits paid in accordance with KRS 341.700 to 341.740 for compensable weeks occurring on or after January 1, 1979, and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.
- (3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to a contributing employer's reserve account under such subsection shall be charged against the pooled account if such worker was discharged by such employer for misconduct connected with his or her most recent work for such employer, voluntarily left his or her most recent work with such employer without good cause attributable to the employment, or the employer has continued to provide part-time employment and wages, without interruption, to the same extent that was provided from the date of hire, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the office, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing part-time employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.
- (4) Notwithstanding the provisions of subsection (3) of this section, no contributing

employer's reserve account shall be relieved of any charges for benefits relating to an improper benefit payment to a worker established after October 21, 2013, if:

- (a) The improper benefit payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the request of the secretary for information relating to a claim for benefits; and
  - (b) The employer, or an agent of the employer, has a pattern of failing to respond timely or adequately to requests under paragraph (a) of this subsection. For purposes of this paragraph, a "pattern of failing" means at least six (6) failures occur in a calendar year or the failure to respond to two percent (2%) of such requests in a calendar year, whichever is greater.
- (5) Any determination under subsection (4) of this section shall be transmitted to the last known physical or electronic address provided by the employer and may be appealed in accordance with the provisions of KRS 341.420(2).
  - (6) Each subject employer's reserve account or reimbursing account shall, unless terminated as of the computation date (as defined in subsection (5) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account or reimbursing account under subsection (2) of this section. A subject employer's reserve account or reimbursing account shall be deemed to be terminated if he or she has ceased to be subject to this chapter, and his or her account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540 or has been refunded if the employer is a reimbursing employer.
  - (7) Notwithstanding subsection (1) of this section, two (2) or more nonprofit Internal Revenue Code sec. 501(c)(3) organizations may jointly request the secretary to establish a group reserve account or reimbursing account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account or reimbursing account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he or she deems necessary for the establishment, maintenance, and dissolution of a group reserve account or reimbursing account.
  - (8) Any subject contributing employer may at any time on or before December 31, 2011, make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Effective January 1, 2012, any subject contributing employer with a negative reserve account balance may make voluntary payments to the fund every other calendar year, in addition to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid on or before the computation date and voluntary payments made within twenty (20) days

following the mailing of notices of new rates shall be credited to an employer's reserve account as of the computation date, provided no voluntary payments shall be used in computing an employer's rate unless the payment is made prior to the expiration of one hundred and twenty (120) days after the beginning of the year for which the rate is effective. Voluntary payments by any employer shall not exceed any negative balance they may have in their reserve account as of the computation date. Any employer who is delinquent in the payment of contributions, penalties, or interest as of the computation date shall be entitled to make voluntary payments only after the amount of the delinquency is paid in full.

- (9) Notwithstanding any other provisions of this chapter, any benefits paid to an eligible worker for reasons related to a state or federal state of emergency or disaster declaration shall be paid from the pooled account provided in KRS 341.550 and not from the reserve account of the employer of that individual. The reserve account shall not be charged for benefits related to a state of emergency or disaster declaration. Payments shall be accounted for separately to allow the secretary to seek reimbursement from the federal government.

**Effective:** January 1, 2023

**History:** Amended 2022 Ky. Acts ch. 21, sec. 19, effective January 1, 2023; and ch. 236, sec. 148, effective July 1, 2022. -- Amended 2021 Ky. Acts ch. 177, sec. 4, effective April 1, 2021. -- Amended 2019 Ky. Acts ch. 146, sec. 67, effective June 27, 2019. -- Amended 2013 Ky. Acts ch. 45, sec. 2, effective June 25, 2013. -- Amended 2010 (1st Extra. Sess.) Ky. Acts ch. 5, sec. 10, effective August 28, 2010. -- Amended 2006 Ky. Acts ch. 211, sec. 154, effective July 12, 2006. -- Amended 1998 Ky. Acts ch. 167, sec. 9, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 266, sec. 18, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 38, sec. 1, effective July 14, 1992. -- Amended 1984 Ky. Acts ch. 1, sec. 3, effective July 13, 1984; and ch. 326, sec. 6, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 261, sec. 7, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 389, sec. 29, effective July 1, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(23), (31). -- Amended 1972 Ky. Acts ch. 21, sec. 31. -- Amended 1964 Ky. Acts ch. 168, sec. 4. -- Amended 1958 Ky. Acts ch. 4, sec. 12. -- Amended 1950 Ky. Acts ch. 206, sec. 1. -- Amended 1948 Ky. Acts ch. 216, sec. 21. -- Amended 1944 Ky. Acts ch. 37, sec. 2. -- Amended 1942 Ky. Acts ch. 19, secs. 8 and 17. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4748g-15.

**Legislative Research Commission Note (1/1/2023).** This statute was amended by 2022 Ky. Acts chs. 21 and 236, which do not appear to be in conflict and have been codified together.

**Legislative Research Commission Note (1/1/2023).** 2022 Ky. Acts ch. 21, sec. 26, provides that the Act, which amended this statute, may be cited as the Unemployment Insurance Sustainability Act of 2022.

**Legislative Research Commission Note (4/1/2021).** 2021 Ky. Acts ch. 177, sec. 7 provides that the amendments made to this statute in that Act are retroactive to March 6, 2020.