

341.614 Surcharge to be paid by subject contributing employers each year funds insufficient in unemployment compensation administration fund -- Percentage rate -- Annual adjustment -- Payment and collection.

- (1) Effective January 1, 2014, there shall be a surcharge upon all subject contributing employers for any year there are insufficient funds in the unemployment compensation administration fund for the payment of interest on advances under Title XII of the Social Security Act or for the repayment of money, including any interest thereon, received from any source related to the payment of interest on such advances.
- (2)
 - (a) The surcharge shall be twenty-two hundredths of one percent (0.22%) of the first nine thousand six hundred dollars (\$9,600) in wages paid to each worker by a subject contributing employer or his predecessor with respect to covered employment during any calendar year.
 - (b) Effective January 1, 2015, and each calendar year thereafter, the secretary shall adjust the surcharge percentage rate based on any increase to the taxable wage base for that calendar year as provided in KRS 341.030(7). The purpose of the adjustment shall be to maintain costs per worker comparable to the original surcharge. Any reduction in the surcharge percentage rate shall correspond to the increase to the taxable wage base for that calendar year and shall be rounded up to the nearest one-hundredth of one percent (0.01%).
 - (c) Notwithstanding paragraph (b) of this subsection, the secretary may reduce the surcharge percentage rate or suspend the surcharge for any calendar year based on the balance of the unemployment insurance interest payment fund and the projected amount due for interest on advances under Title XII of the Social Security Act and for repayment of money, including any interest thereon, received from any source related to the payment of interest on such advances.
- (3) The surcharge established in this section shall be due and payable at the same time and in the same manner as employer contributions. Any surcharge collected shall be deposited in the unemployment insurance interest payment fund.
- (4) Any surcharge unpaid on the date on which it is due and payable, pursuant to subsection (3) of this section, shall be subject to interest at the rate of one and one-half percent (1.5%) per month or fraction thereof, not to exceed ninety percent (90%) of the amount of such surcharge, from and after such date until payment is received by the cabinet, regardless of whether such delinquency has been reduced to a judgment or not as provided in subsection (6) of this section or is the subject of an administrative appeal or court action. The interest collected shall be deposited in the unemployment insurance interest payment fund.
- (5) A lien of the same nature and having the same force, effect, and priority as provided in KRS 341.310 shall commence on all property of a subject contributing employer delinquent in the payment of any surcharge or interest thereon.
- (6) If, after due notice, any subject contributing employer defaults in payment of any surcharge or interest thereon, the amount due may be collected by a civil

action instituted in the Franklin Circuit Court or the Franklin District Court depending on the jurisdictional amount in controversy, including interest and penalties, in the name of the state, and the subject contributing employer adjudged in default shall pay the costs of the action. Civil actions brought under this section shall be heard by the court, without the intervention of a jury, at the earliest possible date and shall be entitled to preference on the calendar of the court over all other civil actions, except petitions for judicial review under this chapter and cases arising under the Kentucky workers' compensation law.

- (7) At or after the commencement of an action under subsection (6) of this section, attachment may be had against the property of the liable subject contributing employer for such surcharge and interest without execution of a bond, or, after judgment has been entered, an execution may be issued against the property of such employer without the execution of a bond.
- (8) An action for the recovery of a surcharge or interest thereon under this section shall be barred, and any lien therefor shall be canceled and extinguished, unless collected or suit for collection has been filed within ten (10) years from the due date of such surcharge.
- (9) Notwithstanding subsection (6) of this section, any delinquent surcharge or interest thereon may be collected in accordance with the levy and distraint provisions of this chapter.
- (10) Any delinquent surcharge or interest collected after July 31, 2017, shall not be subject to the credit provisions contained in KRS 341.612 and shall be deposited into the penalty and interest account.
- (11) Notwithstanding any other provisions of this chapter, for the calendar years 2021 and 2022, there shall be no surcharge assessment.

Effective: March 24, 2022

History: Amended 2022 Ky. Acts ch. 29, sec. 3, effective March 24, 2022. -- Amended 2021 Ky. Acts ch. 177, sec. 5, effective April 1, 2021. -- Amended 2017 Ky. Acts ch. 133, sec. 4, effective June 29, 2017. -- Created 2012 Ky. Acts ch. 52, sec. 7, effective April 11, 2012.

Legislative Research Commission Note (3/24/2022). 2022 Ky. Acts ch. 29, sec. 5, provides that the amendments made to this statute in that Act are retroactive to January 1, 2022.

Legislative Research Commission Note (4/1/2021). The language in subsection (11) of this statute has been changed in codification from the way it was enacted to delete a reference to calendar year 2022, which was deleted in the Governor's line-item veto of 2021 HB 413 (2021 Ky. Acts ch. 177, sec. 5).

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