

Florida Unemployment Compensation Law Has Become More “Employer Friendly”

By E. Jason Tremblay



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On June 27, 2011, Florida Governor Rick Scott signed a new law implementing several significant [reforms to the Florida Unemployment Compensation Program](#). The new law is meant to save the state money, reduce taxes on employers and help get Floridians back to work. Among other reforms, the definition of “misconduct” under the new law has been expanded making it easier for employers to successfully defend unemployment insurance benefit claims. Specifically, under the new law, misconduct is defined as “any action that demonstrates conscious disregard of an employer’s interests and is found to be a deliberate disregard or violation of reasonable standards of behavior” and may include activities that do not occur at the workplace or during working hours. Therefore, this broader definition not only extends misconduct to activities that occur outside of the workplace, it also includes such events such as chronic absenteeism and tardiness, which may not have been deemed misconduct under the old definition.

Several [additional changes](#) to the Unemployment Compensation Program include the following:

- [Online Filing](#) – Effective August 1, 2011, initial and continuing claims must be filed electronically.
- [Work Search](#) – Claimants are now generally required on a weekly basis to contact at least five potential employers and provide this information by the internet during their bi-weekly certification for benefits.
- [Severance Pay](#) – Significantly, if the claimant’s severance pay per week is equal to or greater than the claimant’s weekly benefit amount, the claimant is not entitled to benefits for that week. Severance pay does not impact the total amount of benefits that could be paid on a claim; however, severance pay is now

considered disqualifying income to the extent that it is equal to or greater than the claimant's weekly benefit amount.

- Duration of Benefits – Effective January 1, 2012, the maximum duration of benefits are adjusted from the current 26 weeks to a range of between 12 to 23 weeks depending on the state's unemployment rate, which will be determined once a year.

In short, the new unemployment insurance law in Florida makes it easier for employers to show that employees were discharged for misconduct and, therefore, not entitled to unemployment compensation benefits. Additionally, the duration of benefits has been reduced and the payment of unemployment insurance may be delayed if severance payments are being made by the employer to a terminated employee.

Should you have any questions regarding the effect of this new law, or any other employment-related questions, please contact [E. Jason Tremblay](#) at 312-876-6676 or your Arnstein & Lehr LLP employment law attorney.