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CHAPTER 39.

EMPLOYMENT SECURITY ‑ PROTECTION OF RIGHTS AND BENEFITS

**SECTION 41‑39‑10.** Validity of waiver of rights, employee’s agreement to pay employer’s contributions and the like.

No agreement by an individual to waive, release or commute his rights to benefits or any other rights under Chapters 27 through 41 of this Title shall be valid. No agreement by any individual in the employ of any person or concern to pay all or any portion of an employer’s contributions, payments in lieu of contributions or reimbursement of benefits required under Chapters 27 through 41 of this Title from such employer shall be valid. No employer shall directly or indirectly make, require or accept any deduction from wages to finance the employer’s contributions, payments in lieu of contributions, or reimbursement of benefits or require or accept any waiver of any right under Chapters 27 through 41 of this Title by any individual in his employ. Any employer or officer or agent of an employer who violates any provision of this section shall, for each offense, be fined not less than one hundred dollars nor more than one thousand dollars or be imprisoned for not more than six months or both.

**SECTION 41‑39‑20.** Validity of assignment, pledge or encumbrance of benefits; exemption of benefits.

No assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under Chapters 27 through 41 of this title is valid and such rights to benefits are exempt from levy, execution, attachment, or any other remedy whatsoever, provided for the collection of debt, except as provided for in Section 41‑35‑140 of this title. Benefits received by an individual, so long as they are not mingled with other funds of the recipient, are exempt from any remedy whatsoever for the collection of all debts except those incurred for necessaries furnished to such individual or his spouse or a dependent during the time when such individual was unemployed. No waiver of any exception provided for in this section is valid.

**SECTION 41‑39‑30.** Limitation on charging and amount of fees.

No individual claiming benefits shall be charged fees of any kind in any proceeding under Chapters 27 through 41 of this Title by the Commission or its representatives or by any court or any officer (except an attorney) thereof. Any individual claiming benefits in any proceeding before the Commission or a court may be represented by an attorney or other duly authorized agent, but no such attorney or agent shall either charge or receive for such services more than an amount approved by the Commission. Any person who violates any provision of this section shall, for each such offense, be fined not less than fifty dollars nor more than five hundred dollars or imprisoned for not more than six months or both.

**SECTION 41‑39‑40.** Income tax withholding from unemployment compensation.

(A) As of January 1, 1997, an individual filing an initial claim for unemployment compensation must be advised at the time of the filing of the claim that:

(1) Unemployment compensation is subject to federal and state income taxation;

(2) Requirements exist pertaining to estimated tax payments;

(3) The individual may elect to have federal income tax deducted and withheld from the individual’s payment of unemployment compensation at the rate specified in the Internal Revenue Code of 1986;

(4) The individual may elect to have South Carolina state income tax deducted and withheld from the individual’s payment of unemployment compensation at the rate of seven percent;

(5) The individual is permitted to change a previously elected withholding of income tax at least once.

(B) Amounts deducted and withheld from unemployment compensation shall remain in the Unemployment Trust Fund until transferred to the federal or state taxing authority as a payment of income tax. The date of transfer to the South Carolina Department of Revenue must be the same date as the transfer to the Internal Revenue Service.

(C) The commission shall follow all procedures specified by the United States Department of Labor and the Internal Revenue Service pertaining to the deducting and withholding of income tax.

(D) Amounts must be deducted and withheld under this section only after amounts are deducted and withheld for any overpayments of unemployment compensation, child support obligations, or any other amount required to be deducted and withheld under this title.