

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 197
HOUSE BILL 701

AN ACT TO PROVIDE NONPROFIT ORGANIZATIONS WITH THE
ALTERNATIVE OF PROVIDING A LETTER OF CREDIT AS SECURITY FOR
PAYMENTS TO THE EMPLOYMENT SECURITY FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-9 is amended by adding a new subsection at the end to
read:

"(h)

- (1) Any nonprofit organization which has been paying contributions on a reimbursement basis for at least three consecutive calendar years during none of which years the benefit charges exceeded four tenths of one percent (.4%) of its taxable payroll may, before November 1 of the fourth or subsequent calendar year, elect to pay contributions by special reimbursement on the basis provided for in subdivision (2) below but only upon the following conditions:
 - a. Benefit charges in the year of election are less than four tenths of one percent (.4%) of taxable payroll.
 - b. The election shall apply to no less than the four calendar years following the year of election unless terminated by the Commission under subdivision (3) below.
 - c. All reimbursements during the year of election and the three preceding years were paid when due.
 - d. The election of special reimbursement shall not entitle the electing nonprofit organization to any refund of any portion of its account balance.
 - e. No later than January 1 of the first year to which its election applies, the electing nonprofit organization shall furnish the Commission a letter of credit in an amount equal to one hundred fifty percent (150%) of the account balance required under subdivision (2) below.
 - f. The Commission shall by regulation prescribe the form of the letter of credit and the criteria for the financial institution issuing such letter of credit along with the form of election under this section.

- (2) Any qualified nonprofit organization that meets the conditions of subdivision (1) above shall, upon the approval of its election by the Commission, pay contributions by special reimbursement as follows:
- a. The organization's account shall have a required minimum balance that shall be computed on August 1 of each calendar year for the following calendar year and shall be equal to the greater of:
 1. one-half the largest amount of claims charged to it during any of the three calendar years preceding the computation date; or,
 2. one-tenth of one percent (0.1%) of the highest total taxable payroll during any of the three calendar years preceding the computation date.
 - b. On the first day of each quarter of any calendar year, the Commission shall bill the employer for an amount necessary to bring its account to the required minimum balance, and the amount so billed is due no later than 25 days after the bill is mailed.
- (3) If any electing organization shall fail to make any quarterly payment when due:
- a. The Commission may draw the full amount of the letter of credit for application to the employer's account;
 - b. The organization's required minimum balance shall immediately and without notice become the greater of:
 1. a sum equal to its current minimum balance plus the full amount of the current letter of credit; or
 2. a sum equal to five tenths of one percent (.5%) of its total taxable payroll. Any amount necessary, after the application of any funds drawn from the letter of credit, to bring the employer's account to such balance shall be payable upon demand.
 - c. If, after demand, the organization shall fail to pay any sums required under paragraph b. above, the Commission may revoke the organization's election for special reimbursement and any difference between the employer's account balance and one percent (1%) of its total taxable payroll shall become immediately due and payable.
 - d. The Commission may, in addition, exercise any of the powers granted to it in G.S. 96-10 to collect any amount due.
 - e. Pursuant to such regulations as the Commission may adopt, the Commission shall afford any organization affected by this paragraph a hearing to determine if any increase in the organization's minimum required balance should be reduced, in whole or in part, or if any revocation of a special

reimbursement election should be rescinded. If the Commission, in its sole discretion, is satisfied that the conditions giving rise to the increase or revocation have been corrected, it may reduce such increase or rescind such revocation provided that it may require as a condition of such reduction or rescission a new letter of credit up to three times the amount normally required.

- f. When used in the subsection, 'total taxable payroll' means the highest total taxable payroll during the three most recent, completed calendar years."

Sec. 2. This act shall become effective January 1, 1988.

In the General Assembly read three times and ratified this the 15th day of May, 1987.