

HOUSE BILL No. 5239

September 28, 2005, Introduced by Reps. Hune, Gaffney and Vander Veen and referred to the Committee on Employment Relations, Training, and Safety.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 28a (MCL 421.28a), as amended by 1994 PA 162.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 28a. (1) For benefit years beginning before the
2 conversion date prescribed in section 75, and notwithstanding any
3 other provision of this act, an unemployed individual who has a
4 benefit year in effect and who has not exhausted benefit
5 entitlement may have unused credit weeks preserved during a period
6 of continuous involuntary disability if a written request from the
7 individual to preserve the unused credit weeks is received by the
8 commission within 90 days after the commencement of the period of
9 disability, within 90 days after being advised of his or her rights
10 by the commission, or if the individual is unable to submit the

1 written request due to a medical inability, within 90 days after
2 the end of that medical inability. For benefit years beginning
3 after the conversion date prescribed in section 75, and
4 notwithstanding any other provision of this act, an unemployed
5 individual who has a benefit year in effect and who has not
6 exhausted benefit entitlement may have unused benefit entitlement
7 preserved during a period of continuous involuntary disability if a
8 written request from the individual to preserve the unused benefit
9 entitlement is received by the commission within 90 days after the
10 commencement of the period of disability, within 90 days after
11 being advised of his or her rights by the commission, or if the
12 individual is unable to submit the written request due to a medical
13 inability, within 90 days after the end of that medical inability.

14 (2) For benefit years beginning before the conversion date
15 prescribed in section 75, unused credit weeks shall not be
16 preserved pursuant to this section unless the commission receives a
17 written statement from the individual's physician **OR CERTIFIED**
18 **NURSE PRACTITIONER** within 90 days after the commencement of the
19 disability, within 90 days after the individual is advised of his
20 or her rights by the commission, or if the individual is unable to
21 submit the written statement due to a medical inability, within 90
22 days after the end of that medical inability the commission
23 receives the written statement from the individual's physician **OR**
24 **CERTIFIED NURSE PRACTITIONER**. The written statement from the
25 individual's physician **OR CERTIFIED NURSE PRACTITIONER** shall
26 certify all of the following:

27 (a) The nature of the injury, illness, or hospitalization.

1 (b) That, based upon the examination of the physician OR
2 **CERTIFIED NURSE PRACTITIONER**, the individual is not able and
3 available to perform full-time work as described in section
4 28(1)(c).

5 (c) The probable duration of the injury, illness, or
6 hospitalization.

7 For benefit years beginning after the conversion date
8 prescribed in section 75, unused benefit entitlement shall not be
9 preserved pursuant to this section unless the commission receives a
10 written statement from the individual's physician OR **CERTIFIED**
11 **NURSE PRACTITIONER** within 90 days after the commencement of the
12 disability, within 90 days after the individual is advised of his
13 or her rights by the commission, or if the individual is unable to
14 submit the written statement due to a medical inability, within 90
15 days after the end of that medical inability the commission
16 receives the written statement from the individual's physician OR
17 **CERTIFIED NURSE PRACTITIONER**. The written statement from the
18 individual's physician OR **CERTIFIED NURSE PRACTITIONER** shall
19 certify all of the following:

20 (a) The nature of the injury, illness, or hospitalization.

21 (b) That, based upon the examination of the physician OR
22 **CERTIFIED NURSE PRACTITIONER**, the individual is not able and
23 available to perform full-time work as described in section
24 28(1)(c).

25 (c) The probable duration of the injury, illness, or
26 hospitalization.

27 (3) The commission immediately shall provide a copy of the

1 statement required by subsection (2) to the individual's last
2 employer and all base period employers.

3 (4) For benefit years beginning before the conversion date as
4 prescribed in section 75, an individual who has unused credit weeks
5 preserved pursuant to this section shall receive an extension of
6 his or her benefit year equal in weeks to the number of weeks the
7 period of disability continued during the benefit year. The
8 extension shall begin with the week after the week in which the
9 disability terminated. Benefits may be paid for weeks of
10 unemployment after the period of disability if the individual is
11 eligible and qualified but benefits shall not be payable under this
12 section for any week that commences more than 156 weeks after the
13 first week of the benefit year. For benefit years beginning after
14 the conversion date prescribed in section 75, an individual who has
15 unused benefit entitlement preserved pursuant to this section shall
16 receive an extension of his or her benefit year equal in weeks to
17 the number of weeks the period of disability continued during the
18 benefit year. The extension shall begin with the week after the
19 week in which the disability terminated. Benefits may be paid for
20 weeks of unemployment after the period of disability if the
21 individual is eligible and qualified but benefits shall not be
22 payable under this section for any week that commences more than
23 156 weeks after the first week of the benefit year.

24 (5) As used in this section, a period of "continuous
25 disability" means a period continuing for more than 14 consecutive
26 days during which an unemployed individual is not able and
27 available to perform full-time work, as described in section

1 28(1)(c), due to injury, illness, or hospitalization.

2 (6) For benefit years beginning before the conversion date
3 prescribed in section 75, an unemployed individual who has been
4 unable to establish a benefit year solely due to a period of
5 continuous disability may preserve all credit weeks earned by the
6 individual in the 52 week period preceding the individual's first
7 week of unemployment, as defined in section 48, caused by the
8 disability. However, credit weeks may be preserved if the
9 commission receives a written request and a physician's **OR**
10 **CERTIFIED NURSE PRACTITIONER'S** statement, as described in
11 subsections (1) and (2) within 90 days after the commencement of
12 the unemployment, within 90 days after being advised of his or her
13 rights by the commission, or if the individual is unable to submit
14 the written statement and request due to a medical inability,
15 within 90 days after the end of that medical inability. The
16 individual's benefit year shall begin the first week the individual
17 was both unemployed and disabled, and the benefit year shall be
18 extended pursuant to subsection (4). For benefit years beginning
19 after the conversion date prescribed in section 75, an unemployed
20 individual who has been unable to establish a benefit year solely
21 due to an inability to file a claim because of a period of
22 continuous disability may preserve all unused benefit entitlement
23 in the base period preceding the individual's first week of
24 unemployment, as defined in section 48, caused by the disability.
25 However, benefit entitlement may be preserved if the commission
26 receives a written request and a physician's **OR CERTIFIED NURSE**
27 **PRACTITIONER'S** statement, as described in subsections (1) and (2)

1 within 90 days after the commencement of the unemployment, within
2 90 days after being advised of his or her rights by the commission,
3 or if the individual is unable to submit the written statement and
4 request due to a medical inability, within 90 days after the end of
5 that medical inability. The individual's benefit year shall begin
6 the first week the individual was both unemployed and disabled, and
7 the benefit year shall be extended pursuant to subsection (4).

8 (7) For benefit years beginning before the conversion date
9 prescribed in section 75, if an individual has sufficient credit
10 weeks to establish a new benefit year under section 46 after the
11 termination of the period of continuous disability, and is
12 otherwise eligible and qualified for benefits, the individual shall
13 cease to be entitled to benefits under this section. For benefit
14 years beginning after the conversion date prescribed in section 75,
15 if an individual has sufficient base period wages to establish a
16 new benefit year under section 46 after the termination of the
17 period of continuous disability, and is otherwise eligible and
18 qualified for benefits, the individual shall cease to be entitled
19 to benefits under this section.

20 (8) This section shall apply to all benefit years that
21 commence after ~~the effective date of this section~~ **JUNE 14, 1979.**

22 (9) The commission shall disseminate information on this
23 section to potential interested parties including the legal
24 profession, employers, and unions.

25 (10) For benefit years beginning before the conversion date
26 prescribed in section 75, and notwithstanding any other provision
27 of this section, a request for preservation of credit weeks must be

1 made within 3 years after the date the disability began. For
2 benefit years beginning after the conversion date prescribed in
3 section 75, and notwithstanding any other provision of this
4 section, a request for preservation of benefit entitlement must be
5 made within 3 years after the date the disability began.