

Repeal of and New §815.111. Transfer of Compensation Experience for Chapter 815. Unemployment Insurance

ADOPTED RULE WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*. THIS DOCUMENT WILL NOT HAVE ANY SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.

The Texas Workforce Commission (Commission) adopts the repeal of §815.111 and new §815.111. Transfer of Compensation Experience related to Chapter 815, Unemployment Insurance, Subchapter C. Tax Provisions, without changes as published in the August 2, 2002 issue of the *Texas Register* (27 TexReg 6826).

The purpose of this section is to clarify provisions related to Texas Labor Code Section 204.084, including the filing process and the definition of an identifiable and segregable part of an organization, trade, or business for transferring compensation experience.

The purpose for choosing one year as the time limit for filing the application to transfer compensation experience is to make clear a defined timeline for filing the application, while setting a distinct deadline to assist in administration. The Commission is of the opinion that one year is sufficient and not overly burdensome.

No comments were received on the proposed repeal and new rule.

For more information about the Commission and available services, see www.texasworkforce.org.

The rule is repealed under Texas Labor Code §301.061.

The adopted repeal affects Texas Labor Code, Title 4.

SUBCHAPTER C. TAX PROVISIONS

§815.111. Transfer of Compensation Experience.

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The rule is adopted under Texas Labor Code §301.061.

The adopted new rule affects Texas Labor Code, Title 4.

<new>§815.111. Transfer of Compensation Experience.

- (a) An application for transfer of compensation experience shall be filed with the Agency in one of the following formats:
 - (1) forms printed by the Agency;

- (2) magnetic or electronic media in a format prescribed by this Agency; or
 - (3) any other manner approved and prescribed by the Agency in writing.
- (b) The application shall:
- (1) contain all facts and information and documents, including waiver, necessary to make a determination under §204.084 of the Act and in accordance with the requirements of that section;
 - (2) be signed and sworn to as true and correct before a notary public; and
 - (3) be complete. Incomplete applications will be returned without being processed.
- (c) An application under this section must be filed with the Agency within one year of the date the partial transfer is completed.
- (d) To satisfy the identifiable and segregable requirements of Section 204.084(c)(3), the applicants must show that the successor employer acquired a distinct and separable part of the organization, trade, or business, that is capable of operating independently and separately from the predecessor employer. The wages attributable to the acquired part of the organization, trade, or business must be separate and distinct from other wages of the predecessor employer and must be solely attributable to services provided on behalf of the acquired part of the organization, trade, or business.

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