

House Bill 255

By: Representatives Fludd of the 66<sup>th</sup>, Stephens of the 164<sup>th</sup>, Harbin of the 118<sup>th</sup>, and Mosby of the 90<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to  
2 employment security, so as to provide for a self-employment assistance program; to provide  
3 a short title; to provide definitions; to establish the maximum allowable amount of weekly  
4 self-employment assistance; to determine eligibility; to limit the number of individuals  
5 receiving a self-employment assistance allowance; to provide for a self-employment  
6 assistance allowance to be charged or assessed to an employer's account; to provide for  
7 appeal of nonacceptance into a self-employment assistance program; to provide for reports  
8 by the Commissioner of Labor; to provide for automatic repeal; to provide for related  
9 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment  
13 security, is amended by revising subsection (b) of Code Section 34-8-220, relating to  
14 appointment of hearing officers to hear and decide appealed decisions, as follows:

15 "(b) Unless an appeal is withdrawn, an administrative hearing officer, after affording the  
16 parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact  
17 and initial determination or shall make a decision after hearing on issues referred by the  
18 Commissioner pursuant to subsection (b) of Code Section 34-8-192 or subsection (b) of  
19 Code Section 34-8-307. The parties shall be duly notified of such decision, together with  
20 the reasons therefor, which shall be deemed to be the final decision of the Commissioner,  
21 unless within 15 days after the date of notification or mailing of such decision further  
22 appeal is initiated pursuant to subsection (a) of Code Section 34-8-221."

23 style="text-align:center">**SECTION 2.**

24 Said chapter is further amended by revising subsection (a) of Code Section 34-8-223, relating  
25 to procedure for judicial review of final decisions of board of review, as follows:

26 "(a) Any decision of the board of review, in the absence of a reconsideration as provided  
 27 in subsection ~~(d)~~ (c) of Code Section 34-8-192 or subsection (c) of Code Section 34-8-307,  
 28 shall become final 15 days after the date of notification or mailing. Judicial review shall  
 29 be permitted only after any party claiming to be aggrieved thereby has exhausted his or her  
 30 administrative remedies as provided by this chapter. The Commissioner shall be deemed  
 31 to be a party to any judicial action involving any such decision and shall be represented in  
 32 any such judicial action by the Attorney General."

33 **SECTION 3.**

34 Said chapter is further amended by adding a new article to read as follows:

35 "ARTICLE 11

36 34-8-300.

37 This article shall be known and may be cited as the 'Self-employment Assistance Program.'

38 34-8-301.

39 As used in this article, unless the context otherwise indicates, the term:

40 (1) 'Regular benefits' means benefits payable to an individual under this chapter  
 41 including benefits payable to federal civilian employees and to former members of the  
 42 United States armed forces pursuant to Title 5 U.S.C. Chapter 85, other than additional  
 43 benefits, extended benefits, and extended benefits for dislocated workers.

44 (2) 'Self-employment assistance activities' means activities approved by the  
 45 Commissioner in which an individual participates for the purpose of establishing a  
 46 business and becoming self-employed. Such activities shall include but are not limited  
 47 to entrepreneurial training, business counseling, and technical assistance.

48 (3) 'Self-employment assistance allowance' means an allowance payable, in lieu of  
 49 regular benefits, from the Employment Security Administration Fund to an individual  
 50 who meets the requirements of this article.

51 (4) 'Self-employment assistance program' means a program under which an individual  
 52 who meets the requirements described in Code Section 34-8-304 is eligible to receive an  
 53 allowance in lieu of regular benefits for the purpose of assisting that individual in  
 54 establishing a business and becoming self-employed.

55 34-8-302.

56 The weekly amount of a self-employment assistance allowance payable to an individual  
57 under this article shall be equal to the weekly benefit amount for regular benefits otherwise  
58 payable under Code Section 34-8-193.

59 34-8-303.

60 The sum of the self-employment assistance allowance paid under this article and regular  
61 benefits paid under other provisions of this chapter may not exceed the maximum amount  
62 of benefits established under Code Section 34-8-193 with respect to any benefit year.

63 34-8-304.

64 The following eligibility requirements apply to the payment of a self-employment  
65 assistance allowance under this article:

66 (1) An individual may receive a self-employment assistance allowance if that individual:

67 (A) Is eligible to receive regular benefits or would be eligible to receive regular  
68 benefits but for the requirements described in paragraph (2) of this Code section;

69 (B) Is identified by a worker profiling system as an individual likely to exhaust regular  
70 benefits;

71 (C) Has filed an application for participation in a self-employment assistance program  
72 within 60 days of filing an initial application for regular benefits and has provided the  
73 information the Commissioner requires;

74 (D) Has, at the time the application for participation in a self-employment assistance  
75 program is filed, a balance of regular benefits equal to at least 18 times the individual's  
76 weekly benefits amount and at least 18 weeks remaining in the individual's benefit year;

77 (E) Has been accepted into a program approved by the Commissioner that will provide  
78 self-employment assistance activities;

79 (F) Is participating in self-employment assistance activities;

80 (G) Is actively engaged on a full-time basis in activities, which may include training,  
81 related to establishing a business and becoming self-employed; and

82 (H) Has filed a weekly claim for the self-employment assistance allowance and  
83 provided the information the Commissioner requires, including a log of  
84 self-employment activities; and

85 (2) A self-employment assistance allowance is payable to an individual at the same  
86 interval, on the same terms, and subject to the same conditions as regular benefits except  
87 that:

88 (A) The requirements of subparagraph (A) of paragraph (3) of Code Section 34-8-194,  
89 relating to refusal to accept work, are not applicable to the individual;

90 (B) The requirements of subparagraph (a)(3)(A) of Code Section 34-8-195, relating to  
91 availability for work and active search for work, are not applicable to the individual;  
92 (C) An individual is considered unemployed for the purposes of Code Section  
93 34-8-195; and  
94 (D) An individual who fails to participate in self-employment assistance activities or  
95 who fails to actively engage on a full-time basis in activities, which may include  
96 training, related to establishing a business and becoming self-employed shall be denied  
97 benefits for the week the failure occurs.

98 34-8-305.

99 The aggregate number of individuals receiving self-employment assistance allowance at  
100 any time shall not exceed 5 percent of the number of individuals receiving regular benefits  
101 at that time.

102 34-8-306.

103 All self-employment assistance allowances under this chapter shall be charged or assessed  
104 to the general account of the department.

105 34-8-307.

106 (a) Employees of the department designated by the Commissioner shall take the initial  
107 claim. An initial determination thereon shall be made promptly and shall include a written  
108 determination of whether or not benefits are payable, the week benefits shall commence,  
109 the weekly benefit amount payable, and the maximum duration of benefits.

110 (b) Whenever a determination involves the application of difficult issues of fact or law, the  
111 Commissioner may appoint a panel of three administrative hearing officers for hearing and  
112 decision in accordance with subsection (a) of Code Section 34-8-220. The claimant and  
113 any other parties to the determination or redetermination shall be promptly notified in  
114 writing of the decision and the reasons therefor.

115 (c) A determination shall be final unless a party entitled to notice applies for  
116 reconsideration of the determination or appeals the determination within 15 days after the  
117 notice was mailed to the party's last known address or otherwise delivered to the party.  
118 Before a determination becomes final as provided in this Code section, the Commissioner  
119 may issue a redetermination if good cause is shown. Such redetermination is subject to  
120 further appeal by any party entitled to notice.

121 (d) Any appeal of initial determination or redetermination may be appealed in the same  
122 manner as provided for appeals of unemployment compensation determinations set forth  
123 in Article 8 of this chapter.

124 34-8-308.

125 The Commissioner may adopt rules necessary to implement a self-employment assistance  
126 program including, but not limited to, criteria for approval of programs that provide  
127 self-employment activities, eligibility criteria for acceptance into and participation in these  
128 programs in accordance with federal guidelines, and the review and appeal process for  
129 determination of individual eligibility for these programs.

130 34-8-309.

131 Annually by March 1, the Commissioner shall report to the standing committees of the  
132 General Assembly having jurisdiction over labor matters on the self-employment assistance  
133 program. This report shall include data on outcomes and successes as well as the number  
134 of individuals participating in the program and the number of businesses developed under  
135 the program, business survival, the cost of operating the program, and compliance with  
136 program requirements and data related to business income, the number of employees and  
137 wages paid in the new businesses, and the incidence and duration of unemployment after  
138 business start-up. The report may also include any recommended changes in the program.

139 34-8-310.

140 This chapter shall stand repealed in its entirety effective on June 30, 2013."

141 **SECTION 4.**

142 This Act shall become effective on July 1, 2011.

143 **SECTION 5.**

144 All laws and parts of laws in conflict with this Act are repealed.