

## CHAPTER 127.

[ S. S. B. 122. ]

## UNEMPLOYMENT COMPENSATION.

AN ACT relating to unemployment compensation, amending chapter 162 of the Laws of 1937, as amended by chapter 214 of the Laws of 1939, as amended by chapter 253 of the Laws of 1941, providing authority to compromise claims and limiting time for collection proceedings.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. Section 3 of chapter 162 of the Laws of 1937, as amended by section 1 of chapter 214 of the Laws of 1939, as amended by section 1 of chapter 253 of the Laws of 1941, is hereby amended to read as follows: Amendments.

Section 3. (a) *Payment of Benefits.* Twenty-four months after the date when contributions first accrue under this act, benefits shall become payable from the fund: *Provided,* That wages earned for services defined in section 19(g) (6) (viii) of this act, irrespective of when performed, shall not be included for the purpose of determining eligibility under section 4(e) or the weekly benefit amount under section 3(b) for the purposes of any benefit year commencing on or after July 1, 1939, nor shall any benefits with respect to unemployment occurring on or after July 1, 1939, be payable under section 3(d) on the basis of such wages. All benefits shall be paid through employment offices in accordance with such regulations as the Commissioner may prescribe. Benefits payable.  
Time.  
Exceptions.

Section 3. (b) *Weekly Benefit Amount.* (1) An individual's "weekly benefit amount" shall be an amount equal to one-twentieth (1/20) of his total wages during that quarter of his base year in which such total wages were highest, except that if such amount is more than fifteen dollars (\$15.00) the Weekly benefits.

Maximum. weekly benefit amount shall be deemed to be fifteen dollars (\$15.00), or if less than seven dollars (\$7.00),

Minimum. shall be deemed to be seven dollars (\$7.00), and if not a multiple of fifty cents, shall be computed to the next higher multiple of fifty cents.

Partial week. If an eligible individual is available for work for less than a full week, he shall be paid one-sixth of his weekly benefit amount for each day he is available, but if he is unavailable for three days or more of a week, he shall be considered unavailable for the entire week.

Computation for partial week. (b) (2) *Weekly Benefit for Unemployment.* Each eligible individual who is unemployed in any week shall be paid with respect to such a week a benefit in an amount equal to his weekly benefit amount less that part of the remuneration (if any) payable to him with respect to such week which is in excess of three dollars (\$3.00). Such benefit, if not a multiple of fifty cents, shall be computed to the next higher multiple of fifty cents.

Deduction for wages.

Definition: Section 3. (c) *Benefit in Seasonal Employment.*

Seasonal employer. (1) As used in this section, the term "seasonal employer" means an employer or operating unit of an employer which because of the seasonal nature of its operations customarily reduces employment each year during approximately the same period or periods to such an extent that the total pay roll for any continuous period of two calendar months is less than fifty per cent of the total pay roll for the consecutive two calendar months period of greatest employment during the preceding ten months. No employer or operating unit shall be deemed seasonal unless and until so found by the Commissioner after investigation and hearing, except that a successor in interest of a seasonal employer or operating unit shall be deemed seasonal upon the same basis as the predecessor unless determined otherwise by the Commissioner.

Determination.

The Commissioner shall specify in his determination the period or periods of seasonal operations of any employer or operating unit held to be seasonal or in lieu thereof may provide some other appropriate means for identifying the seasonal employment as distinct from the non-seasonal employment of the employers or operating units determined as seasonal.

Commissioner to designate.

Any determination once made shall remain in effect during a period of two years from the date when the determination becomes effective, but the Commissioner on his own motion may make a redetermination after investigation and a hearing prior to the expiration of such period.

Period of determination.

Redetermination.

(2) The term "seasonal worker" means an individual who has base year wage credits of which at least eighty per cent have been earned in seasonal employment for one seasonal employer or one group of seasonal employers combined in accordance with section 3 (c) (4).

Definition: Seasonal worker.

(3) For the purposes of this section, an operating unit is any unit of an employer's business which can be, and frequently is, conducted as a separate and independent business.

Definition: Operating unit.

(4) The Commissioner may classify or join employers or their operating units into groups consisting of seasonal employment of like yearly experience.

Classification.

(5) When the Commissioner has designated the operations of an employer, an operating unit or a group of employers or operating units as seasonal, then benefits shall be payable to seasonal workers employed thereby only on account of unemployment occurring during the regular period or periods of such seasonal employment.

Benefits seasonal.

(6) The Commissioner shall study and investigate the operation of this subsection with respect to its administrative practicability and its effect

Study of seasonal operation.

Study of seasonal operation.

upon the payment of benefits to persons in seasonal industries. In the event that the Commissioner should determine, as a result of such study and investigation, that changes should be made, he shall prepare and submit to the Governor not later than December 1, 1944, recommendations in keeping with his findings and conclusions.

Report to Governor.

Maximum annual benefits.

Section 3. (d) *Duration of Benefits.* The maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed whichever is the lesser of

Computation.

(1) 16 times his weekly benefit amount, and  
 (2) one-third (1/3) of the wages earned by him for employment by employers during his base year: *Provided*, That such maximum total amount of benefits, if not a multiple of fifty cents (50¢) shall be computed to the next higher multiple of fifty cents (50¢). For the purposes of this section wages shall be counted as "wages for employment by employers" for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer from whom such wages were earned has satisfied the conditions of section 8(c) or section 19(f) with respect to becoming an employer.

Amendment.

SEC. 2. Section 4 of chapter 162 of the Laws of 1937, as amended by section 2 of chapter 214 of the Laws of 1939, as amended by section 2 of chapter 253 of the Laws of 1941, is hereby amended to read as follows:

Eligibility.

Section 4. *Benefit Eligibility Conditions.* An unemployed individual shall be eligible to receive benefits with respect to any week only if the Commissioner finds that:

Conditions.

(a) He has registered for work at and thereafter has continued to report at an employment office in accordance with such regulation as the Commissioner may prescribe, except that the Commissioner

may by regulation, waive or alter either or both of the requirements of this sub-section as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he finds that the compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this act: *Provided*, That no such regulations shall conflict with section 3(a) of this act;

Eligibility conditions.

Proviso.

(b) He has made a claim for benefits in accordance with the provisions of section 6(a) of this act;

(c) He is able to work, and is available for work: *Provided*, That the word "available" shall not be construed to exclude one who, though otherwise eligible, may be pursuing in any institution of learning or training a course of study which he may optionally discontinue at any stage for an indefinite period, with refund of prepaid tuition, and which he may at any time thereafter optionally resume at the previously discontinued stage. To be available for work an individual must be ready, able and willing immediately, to accept any suitable work which may be offered to him and must be actively seeking work;

Available for work.

A woman shall be presumed not to be able or available for work who quits or is required to terminate the employment because of pregnancy, during such period in respect to said pregnancy as is provided by such regulation as the Commissioner may prescribe;

Woman in pregnancy.

This presumption may be overcome only by such evidence as complies with such regulation as the Commissioner may prescribe.

Evidence to overcome.

(d) He has been unemployed for a waiting period of one (1) week. No week shall be counted as a week of unemployment for the purpose of this subsection:

Requirements.

## Requirements.

(1) If benefits have been paid with respect thereto;

(2) Unless the individual was otherwise eligible for benefits with respect thereto;

(3) Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits;

(4) In the case of a seasonal worker, unless it falls within the operating season.

(e) He has within his base year earned wages of not less than two hundred dollars (\$200.00). For the purpose of this section wages shall be counted for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employer from whom such wages were earned has satisfied the conditions of section 8(c) or section 19(f) with respect to becoming an employer.

## Computation.

## Amendments.

SEC. 3. Section 5 of chapter 162 of the Laws of 1937, as amended by section 3 of chapter 214 of the Laws of 1939, as amended by section 3 of chapter 253 of the Laws of 1941, is hereby amended to read as follows:

## Disqualification.

Section 5. *Disqualification for Benefits.* An individual shall be disqualified for benefits:

## Conditions.

(a) For the calendar week in which he has left work voluntarily without good cause for reasons related to the work in question, if so found by the Commissioner, and for a period ensuing immediately thereafter of not less than two, nor more than five, weeks as the Commissioner shall determine (in addition to the waiting period).

(b) For the calendar week in which he has left work voluntarily for a personal reason not connected with, or related to his work, if so found by the Commissioner, and for all subsequent weeks until he has earned at least fifty dollars (\$50.00)

through performing *bona fide* services in four separate calendar weeks.

Conditions  
for disqual-  
ification.

(c) For the calendar week in which he has been discharged or suspended for misconduct connected with his work, if so found by the Commissioner, and for not less than the two nor more than the five weeks which immediately follow such week (in addition to the waiting period), as determined by the Commissioner in each case according to the seriousness of the misconduct.

(d) For the calendar week in which he has wilfully made a false statement or representation or wilfully failed to report a material fact to obtain any benefits under the provisions of this act and for not more than the twenty-six next following weeks as determined by the Commissioner according to the circumstances in each case.

(e) If the Commissioner finds that he has failed without good cause, either to apply for available, suitable work when so directed by the employment office or the Commissioner, or to accept suitable work when offered him, or to return to his customary self-employment (if any) when so directed by the Commissioner. Such disqualification shall continue for the calendar week in which such failure occurred and for not less than the one nor more than the five weeks which immediately follow such week (in addition to the waiting period) as determined by the Commissioner according to the circumstances in each case.

(1) In determining whether or not any such work is suitable for an individual or whether or not an individual has left work voluntarily without good cause, the Commissioner shall consider the degree of risk involved to his health, safety and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work

Determina-  
tion of  
conditions.

in his customary occupation, the distance of the available work from his residence, and such other factors as the Commissioner may deem pertinent including state and national emergencies.

Suitable  
work.

(2) Notwithstanding any other provisions of this act, no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

Conditions.

(a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(b) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(c) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any *bona fide* labor organization;

Exceptions.

(f) For any week with respect to which the Commissioner finds that his unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed: *Provided*, That this subsection shall not apply if it is shown to the satisfaction of the Commissioner that:

(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work, and

(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute: *Provided*, That if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate depart-



ments of the same premises, each such department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises.

SEC. 4. Section 6 of chapter 162 of the Laws of 1937, as amended by section 4 of chapter 214 of the Laws of 1939, as amended by section 4 of chapter 253 of the Laws of 1941, is hereby amended to read as follows: Amendments.

Section 6. (a) *Filing*. Claims for benefits shall be made in accordance with such regulations as the Commissioner may prescribe. Each employer shall post and maintain printed statements of such regulations in places readily accessible to individuals in his service and shall make available to each such individual at the time he becomes unemployed, a printed statement of such regulations and such notices, instructions and other material as the Commissioner may by regulation prescribe. Such printed material shall be supplied by the Commissioner to each employer without cost to him. Filing claims.  
Regulations.  
Posted by employer.

Section 6. (b) *Initial Determination*. A representative designated by the Commissioner shall take the claim. The Unemployment Compensation Division shall promptly make an initial determination thereon which shall be a determination with respect to whether or not benefits are potentially payable, the weekly benefit amount payable and the maximum amount of benefits potentially payable. The claimant, his most recent employing unit, as stated by the claimant, and any other interested party which the Commissioner by regulation prescribes shall be notified promptly by the delivery of written notice of the initial determination. The initial determination shall fix the general conditions under which benefits shall be paid during any period of unemployment occurring within the ensuing benefit year. An individual who has received an Initial de-termination.  
Findings.  
Claimant notified.  
Conditions.

**Initial de-  
termination.**

initial determination finding that benefits are potentially payable to him, shall during his benefit year receive benefits in accordance with such initial determination with respect to any week as to which the conditions of section 4

**Exception.**

of this act are met unless the individual is disqualified by the provisions of section 5 hereof. The claimant, his most recent employing unit, or any such interested party to the initial determination

**Appeal to  
commissioner.**

may file an appeal from such determination with the Commissioner within ten days after the date of notification or mailing, whichever is earlier, of such initial determination to his last known address. If, upon such initial determination, benefits are allowed, but an appeal is filed relative to the maximum amount of benefits potentially payable or the weekly benefit amount, benefits may, nevertheless, be paid to the extent of the minimum potential benefit amount or weekly benefit amount

**Minimum  
payments  
pending  
appeal.**

which the Division of Unemployment Compensation or any party to the appeal shall assert is due the claimant. If the payment of benefits shall be denied to any individual for any week within a benefit year covered by an initial determination,

**Notice of  
denial.**

the claimant shall be promptly notified of the denial and the reasons therefor, and may appeal therefrom in accordance with the procedure herein described for appeals from initial determination. A notice that benefits have been denied, delivered to

**Appeal.**

the claimant in accordance with the foregoing section, shall suffice for all subsequent weeks of unemployment during which the condition upon

**Effect of  
notice.**

which the denial was based shall continue and an appeal taken from such notice of denial shall be deemed to be an appeal as to such subsequent weeks. When the Commissioner shall determine that the cause for any denial of benefits has been removed, he shall inform the claimant, his most

**Notice when  
denial cause  
removed.**

When the Commissioner shall determine that the cause for any denial of benefits has been removed, he shall inform the claimant, his most

recent employing unit, and any other interested party, of his decision together with the date of the removal of such cause of denial, and the claimant, his most recent employing unit, or such other interested party, may appeal therefrom within ten days after communication or mailing of such notice, whichever is the earlier. In the absence of an appeal therefrom, a determination by the Commissioner that the cause for denial of benefits has been removed shall make any pending appeal inapplicable to any period subsequent to the date so determined by the Commissioner, and benefits may be paid for such subsequent period if the claimant is otherwise eligible. Except as herein specifically provided, if an appeal is taken with respect to any claim, benefits shall not be paid to the claimant prior to the final determination of such appeal. If no appeal be taken from the initial determination, a notice of denial of benefits, or from the Commissioner's decision of removal of cause of denial of benefits within the time allowed by the provisions of this section for appeal therefrom, said initial determination, notice of denial of benefits or Commissioner's decision of removal of cause of denial of benefits, as the case may be, shall be conclusively deemed to be just and correct except as hereinafter provided in respect to consideration by the Commissioner of an initial determination.

Appeal by others.

Determination final if no appeal.

Exception.

The Commissioner may on his own motion reconsider an initial determination prior to an appeal therefrom to the appeal tribunal whenever he finds that there has been an error in computation, or an error of similar character in connection therewith, or that wages of the claimant pertinent to such initial determination but not considered in connection therewith have been newly discovered; however, benefits may only be recovered in accordance with the provision of section 16(d) of this act.

Commissioner may reconsider initial determination.

Appeal  
procedure.

Section 6 (c) *Appeals*. When an appeal is taken, as provided in the foregoing section, unless such appeal is withdrawn, an appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm, modify or set aside the findings of fact and decision of the Unemployment Compensation Division. The parties shall be duly notified of such tribunal's decision, together with its reasons therefor, which shall be deemed to be the final decision on the claim, unless within ten days after the date of notification or mailing, whichever is the earlier, of such decision, further appeal is initiated pursuant to section 6(e).

Order.

Notification.

Further  
appeal.

Trial  
tribunal.

Section 6. (d) *Appeal Tribunals*. The Commissioner shall establish one or more impartial appeal tribunals each of which shall consist of a salaried examiner who shall decide the issues submitted to the tribunal. No examiner shall hear or decide any disputed claim in any case in which he is an interested party.

Examiner.

Restriction.

Review by  
commissioner.

Authority.

Section 6. (e) *Review*. The Commissioner may on his own motion, or upon the petition of any interested party shall affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence. The Commissioner may transfer to another appeal tribunal the proceedings on any claim pending before an appeal tribunal.

Procedure  
on disputed  
claims.

Section 6. (f) *Procedure*. The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers and the conduct of hearings and appeals shall be in accordance with regulations prescribed by the Commissioner for determining the rights of the parties, whether or not such regulations conform to common law or statutory rules of evidence and other technical rules of procedure. A full and

complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

Record of proceedings.

Section 6. (g) *Witness Fees.* Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the Commissioner. Such fees and all expenses of proceedings involving disputed claims excepting charges for services rendered by counsel or other agent representing the claimant, employer or other interested party shall be deemed a part of the expenses of administering this act.

Witness fees.

Expenses of proceeding.

Section 6. (h) *Appeal to Courts.* Any decision of the Commissioner in the absence of an appeal therefrom as herein provided shall become final thirty days after the date of mailing written notification thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies as provided in sections 6(c), 6(d), and 6(e). The Commissioner shall be deemed to be a party to any judicial action involving any such decision, and shall be represented in any such judicial action by the Attorney General.

Decision of commissioner final in 30 days.

Commissioner party to action on appeal.

Section 6. (i) *Court Review.* Within thirty days after final decision has been communicated to any interested party, such interested party may appeal to the Superior Court of the county of his residence, and such appeal shall be heard as a case in equity but upon such appeal only such issues of law may be raised as were properly included in his application before the appeal tribunal. The proceedings of every such appeal shall be informal and summary, but full opportunity to be heard upon the issues of law shall be had before judgment is pronounced. Such appeal shall be perfected by filing

Appeal.

In equity.

Proceedings summary.

Notice of appeal.

Filing and service.

Answer in 20 days.

No bond.

Mailing notice of decision.

Commissioner to serve and file complete record.

No filing fee for commissioner.

Decision of court.

Contents.

Proviso.

Fee fixed by court.

with the Clerk of the Court a notice of appeal and by serving a copy thereof by mail or personally on the Commissioner, and the filing and service of said notice of appeal within thirty days shall be jurisdictional. The Commissioner shall within twenty days after receipt of such notice of appeal serve and file his notice of appearance upon appellant or his attorney of record, and such appeal shall thereupon be deemed at issue. No bond shall be required on such appeal or on appeals to the Superior or the Supreme Courts. When a notice of final decision has been placed in the United States mail properly addressed, it shall be considered *prima facie* evidence of communication to the appellant and his attorney, if of record.

The Commissioner shall serve upon the appellant and file with the Clerk of the Court before trial a certified copy of his complete record of the claim which shall upon being so filed become the record in such case. No fee of any kind shall be charged the Commissioner for filing his appearance or for any other service performed by the Clerk of either the Superior or the Supreme Court.

If the Court shall determine that the Commissioner has acted within his power and has correctly construed the law, the decision of the Commissioner shall be confirmed; otherwise, it shall be reversed or modified. In case of a modification or reversal the Superior Court shall refer the same to the Commissioner with an order directing him to proceed in accordance with the findings of the Court: *Provided*, That any award shall be in accordance with the schedule of unemployment benefits set forth in this act.

It shall be unlawful for any attorney engaged in any such appeal to the courts as provided herein to charge or receive any fee therein in excess of a reasonable fee to be fixed by the Superior Court in re-

spect to the services performed in connection with the appeal taken thereto and to be fixed by the Supreme Court in the event of an appeal thereto, and if the decision of the Commissioner shall be reversed or modified, such fee and the costs shall be payable out of the Unemployment Compensation Administration Fund. In the allowance of fees the Court shall give consideration to the provisions of section 15(b). In other respects the practice in civil cases shall apply. Appeal shall lie from the judgment of the Superior Court to the Supreme Court as in other civil cases. In all court proceedings under or pursuant to this act the decision of the Commissioner shall be *prima facie* correct, and the burden of proof shall be upon the party attacking the same.

Fee on appeal.

Costs payable from fund.

Appeal to Supreme Court.

Burden of proof.

Whenever any appeal is taken from any decision of the Commissioner to any court, all expenses and costs incurred therein by said Commissioner including court reporter costs and attorney's fees and all costs taxed against such Commissioner shall be paid out of the Unemployment Compensation Administration Fund.

Commissioner's costs paid from fund.

SEC. 5. Section 7 of chapter 162 of the Laws of 1937, as amended by section 5 of chapter 214 of the Laws of 1939, as amended by section 5 of chapter 253 of the Laws of 1941, is hereby amended to read as follows:

Amendments.

Section 7. (a) *Payment.*

(1) On and after January 1, 1937, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this act, with respect to wages payable for employment (as defined in section 19 (g)) occurring during such calendar year, such contributions shall become due and be paid by each employer to the treasurer for the fund in accordance with such regulation as the Commissioner may prescribe, and

Payment of contributions.

Paid by employer.

shall not be deducted, in whole or in part, from the remuneration of individuals in his employ;

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

Contribution  
rate.

Section 7. (b) *Rate of Contribution.* Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

(1) One and eight-tenths (1.8%) per centum with respect to employment during the calendar year 1937;

(2) Two and seven-tenths (2.7%) per centum with respect to employment during the calendar years thereafter.

Experience  
rating.

Section 7. (c) *Experience Rating.*

Study and  
report.

(1) The Commissioner shall investigate, study and report to the Governor and Legislature of this state not later than January 31, 1945, upon the question of establishing an experience rating system which would equitably rate the unemployment risk and fix the contribution to the fund of each employer subject to this act. This report shall include an analysis of experience rating plans, the principles of which are in conformity with Federal requirements, projected against the contribution and benefit record of Washington Industries, as if rates by industries were effective according to such plans on January 1, 1945, and the effect of the rates upon the Unemployment Compensation Fund. This report may include data based upon the records required to be maintained under subsection (c) (2) of this section, but such data are not required to be included therein.

Contents of  
report.

Employers  
to be  
classified.

Section 7. (c) (2) The Commissioner shall immediately classify, and shall continue at all times hereafter to classify, each employer in accordance with its actual experience with regard to contributions paid by it in its own behalf and the benefits



which the Unemployment Fund has paid to its employees, or to employees whose benefits are properly chargeable against such employer. The Commissioner shall set up and maintain separate records for each employer of the amounts paid into the fund by it in its own behalf with respect to employment occurring on or after January 1, 1942, and of all benefit payments made and properly chargeable to such employer annually commencing January 1, 1942. Benefits paid to an unemployed individual during any benefit year shall be charged against the account of the employer from whom the individual earned the most wages during his base year, except that if an individual had an equal amount of base year wages from each of two or more employers, the benefit charge shall be divided equally among such employers: *Provided*, That if such individual performed services in employment for more than one employer during his base year, benefits paid to such individual for unemployment occurring on or before January 2, 1943, shall be charged against the respective accounts of such employers in the proportion that the total wages earned by such individual in employment for each such employer bears to the total wages earned by such individual in employment for all such employers during the base year. In charging employers' accounts, proper consideration shall be given to limitations set out in this section, with respect to benefit payments properly chargeable against the employer's account.

Classification according to experience.

Employer records.

Payments charged against employer account.

Proviso.

Section 7. (d) *Joint Accounts*. The Commissioner shall prescribe regulations for the establishment, maintenance and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

Joint accounts.

Amendments.

SEC. 6. Section 9 of chapter 162 of the Laws of 1937, as amended by section 7 of chapter 214 of the Laws of 1939, as amended by section 7 of chapter 253 of the Laws of 1941, is hereby amended to read as follows:

Unemploy-  
ment com-  
pensation  
fund.

Section 9. (a) *Unemployment Compensation Fund.* There is hereby established as a special fund, separate and apart from all public moneys or funds of this state, an Unemployment Compensation Fund, which shall be administered by the Commissioner exclusively for the purposes of this act, and to which section 5501 of Remington's Revised Statutes shall not be applicable. This fund shall consist of

Separate  
from all  
other state  
funds.Contents of  
fund.

- (1) All contributions collected under this Act;
  - (2) All interest collected pursuant to the provisions of this act;
  - (3) Interest earned upon any moneys in the fund;
  - (4) Any property or securities acquired through the use of moneys belonging to the fund; and
  - (5) All earnings of such property or securities.
- All money in the fund shall be mingled and undivided.

Commis-  
sioner to  
designate  
treasurer.

Section 9. (b) *Accounts and Deposit.* The Commissioner shall designate a Treasurer and Custodian of the fund who shall administer such fund in accordance with the directions of the Commissioner and shall issue his warrants upon it in accordance with such regulations as the Commissioner shall prescribe. He shall maintain within the fund three separate accounts:

Three  
separate  
accounts.

- (1) A clearing account,
- (2) An unemployment trust fund account, and
- (3) A benefit account.

Function  
of clearing  
account.

All moneys payable to the fund, upon receipt thereof by the Commissioner, shall be forwarded to the Treasurer, who shall immediately deposit them in the clearing account. Refunds payable pursuant to section 14 of this act may be paid from the clear-

ing account upon warrants issued by the Treasurer under the direction of the Commissioner. After clearance thereof, all other moneys in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this state in the Unemployment Trust Fund, established and maintained pursuant to section 904 of the Social Security Act, as amended, any provisions of law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from this state's account in the Unemployment Trust Fund. Moneys in the clearing and benefit accounts shall not be commingled with other state funds, but shall be deposited by the Treasurer, under the direction of the Commissioner, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Such moneys shall be secured by said bank or public depository to the same extent and in the same manner as required by the general depository law of the state and collateral pledged shall be maintained in a separate custody account. The Treasurer shall give a bond conditioned upon the faithful performance of his duties as Custodian of the Fund in an amount fixed by the State Administrative Board and in a form prescribed by law or approved by the Attorney General. Premiums for said bond shall be paid from the administration fund. All sums recovered on official bonds for losses sustained by the Unemployment Compensation Fund shall be deposited in such fund.

Section 9. (c) *Withdrawals.* Moneys shall be requisitioned from this state's account in the Unemployment Trust Fund solely for the payment of bene-

Deposit  
in U. S.  
treasury.

Benefit  
account.

Clearing  
and benefit  
accounts  
not to be  
mingled.

Deposit.

Security.

Bond of  
treasurer.

Withdrawals  
from state  
account.

Withdrawals solely to pay benefits.	fits and in accordance with regulations prescribed by the Commissioner. The Commissioner shall from time to time requisition from the Unemployment Trust Fund such amounts, not exceeding the amounts standing to its account therein, as he deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the Treasurer shall deposit such moneys in the benefit account and shall issue his warrants for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody, and section 5501 of Remington's Revised Statutes shall not apply. All warrants issued by the Treasurer for the payment of benefits and refunds shall bear the signature of the Treasurer and the counter signature of the Commissioner or his duly authorized agent for that purpose. Any balance of moneys requisitioned from the Unemployment Trust Fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the Commissioner, shall be re-deposited with the Secretary of the Treasury of the United States of America, to the credit of this state's account in the unemployment trust fund, as provided in section 9 (b).
Deposit.	
Expenditures.	
Act not applicable.	
Form of warrants.	
Application of balances.	
Fund operative.	Section 9. (d) <i>Management of Funds Upon Discontinuance of Unemployment Trust Fund.</i> The provisions of sections 9(a), 9(b) and 9(c) to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this state a
Period.	

separate book account of all funds deposited therein for this state for benefit purposes, together with this state's proportionate share of the earnings of such Unemployment Trust Fund, from which no other state is permitted to make withdrawals. If and when such Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties or securities therein, belonging to the Unemployment Compensation Fund of this state shall be transferred to the Treasurer of the Unemployment Compensation Fund, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties, or securities in a manner approved by the Commissioner, in accordance with the provisions of this act: *Provided*, That such moneys shall be invested in the following readily marketable classes of securities: Bonds or other interest bearing obligations of the United States of America: *And Provided further*, That such investment shall at all times be made so that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The Treasurer shall dispose of securities or other properties belonging to the Unemployment Compensation Fund only under the direction of the Commissioner.

Disposition if trust fund is discontinued.

Transfer to treasurer.

Restrictions.

SEC. 7. Section 10 of chapter 162 of the Laws of 1937, as amended by section 8 of chapter 214 of the Laws of 1939, is hereby amended to read as follows:

Amendments

Section 10. *Organization.* There are hereby created in the Office of Unemployment Compensation and Placement two coordinate divisions to be known as (a) the Unemployment Compensation Division, which shall be administered by a full-time salaried supervisor, and (b) the Washington State Employment Service Division; each of which shall be under a supervisor who shall be an assistant to the Commissioner and shall be appointed by him. Each division shall be responsible to the Commissioner for the dispatch of its distinctive functions. Each division

Two divisions created.

Each under supervisor.

Commissioner to appoint.

Each division  
a separate  
unit.

Appoint-  
ments on  
merit basis

shall be a separate administrative unit with respect to personnel, budget and duties, except in so far as the Commissioner may find that such separation is impracticable. The Commissioner is authorized to appoint, fix the compensation of, and prescribe the duties of the staff of the Washington State Unemployment Compensation Division: *Provided*, That such appointment shall be made on a non-partisan merit basis, and to appoint, fix the compensation of and prescribe the duties of the staff of the Washington State Employment Service Division in accordance with the provisions of section 11 of this act. In selecting the personnel for the subdivision of the blind in the employment service division, blind persons who are otherwise qualified and available shall be employed wherever practicable.

Amendments.

SEC. 8. Section 11 of chapter 162 of the Laws of 1937, as amended by section 9 of chapter 214 of the Laws of 1939, as amended by section 8 of chapter 253 of the Laws of 1941, is hereby amended to read as follows:

Duties and  
powers of  
Commissioner.

Make rules.

Publication  
of rules.

Organization.

Official seal.

Section 11. (a) *Duties and Powers of Commissioner*. It shall be the duty of the Commissioner to administer this act; and he shall have the power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and to take such other action as he deems necessary or suitable to that end. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of this act, which the Commissioner shall prescribe.

The Commissioner, in accordance with the provisions of this act, shall determine the organization and methods of procedure of the divisions referred to in section 10 of this act, and shall have an official seal which shall be judicially noticed. Not later than the 1st day of February of each year, he shall submit to the Governor a report covering the administration

and operation of this act during the preceding calendar year and shall make such recommendations for amendments to this act as he deems proper. Such report shall include a balance sheet of the moneys in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the Commissioner in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. Whenever the Commissioner believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, he shall promptly so inform the Governor and Legislature and make recommendations with respect thereto.

Annual  
report to  
governor.

Contents.

Make recom-  
mendations.

. Section 11. (b) *Reciprocal State Arrangements.* The Commissioner is hereby authorized to enter into arrangements with the appropriate agencies of other states, foreign governments or the Federal government whereby individuals performing services in this and other states or countries for a single employing unit under circumstances not specifically provided for in section 19(g) of this act, or under similar provisions in the unemployment compensation laws of such other states or countries, shall be deemed to be engaged in employment performed entirely within this state or within one of such other states or countries, and whereby potential rights to benefits accumulated under the unemployment compensation laws of one or more states or countries, or under such a law of the Federal government, or all of them, may constitute the basis for the payment of benefits through a single appropriate agency under terms which he finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

Reciprocal  
state ar-  
rangements.

Contents  
and  
conditions.

The commissioner is also authorized to enter into

Other ar-  
rangements.

Contents  
and con-  
ditions.

Restrictions.

Reimburse  
other agency.

Services in  
more than  
one state.

Jurisdiction.

arrangements with the appropriate agencies of other states, foreign countries or the Federal government,

(1) whereby wages or services, upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another state, country or of the Federal government, shall be deemed to be wages for employment by employers for the purposes of section 3 and section 4(e) of this act, if such other state agency, agency of a foreign government or agency of the Federal government has agreed to reimburse the fund for such portion of benefits paid under this act upon the basis of such wages or services as the Commissioner finds will be fair and reasonable as to all affected interests, and

(2) whereby the Commissioner will reimburse other state, foreign or Federal agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits paid under the law of any such other states, foreign government or of the Federal government upon the basis of employment or wages for employment by employers as the Commissioner finds will be fair and reasonable as to all affected interests. Reimbursements so payable shall be deemed to be benefits for the purposes of section 3(d) and 9 of this act. The Commissioner is hereby authorized to make to other state, foreign or Federal agencies and receive from such other state, foreign or Federal agencies reimbursements from or to the fund, in accordance with arrangements pursuant to this section, and

(3) whereby services performed by an individual for a single employing unit for which services are customarily performed in more than one state shall be deemed to be services performed entirely within any one of the states (i) in which any part of such individual's service is performed or (ii) in which such individual has his residence or (iii) in which the employing unit maintains a place of busi-



ness: *Provided*, There is in effect, as to such services, an election by the employing unit with the acquiescence of such individual, approved by the agency charged with the administration of such state's unemployment compensation law, pursuant to which all the services performed by such individual for such employing unit are deemed to be performed entirely within such state. Limitation.

(4) To the extent permissible under the laws and Constitution of the United States, the Commissioner is authorized to enter into or cooperate in arrangements whereby facilities and services provided under this act and facilities and services provided under the unemployment compensation law of any foreign government, may be utilized for the taking of claims and the payment of benefits under the employment security law of this state or under a similar law of such government. Cooperate with foreign governments.

Section 11. (c) *Regulations and General and Special Rules.* General and special rules may be adopted, amended, or rescinded by the Commissioner only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten days after filing with the Secretary of State and publication in one or more newspapers of general circulation in the state. Special rules shall become effective ten days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the Commissioner and shall become effective in the manner and at the time prescribed by him. Rules and regulations.

Section 11. (d) *Publication.* The Commissioner shall cause to be printed for distribution to the public text of this act, the regulations and general rules, his annual reports to the Governor, and any other material which he deems relevant and Hearing on rules.

Effective date.

Special rules.

Act, rules and general regulations to be published.

Distribution. suitable and shall furnish the same to any person upon application therefor.

Appoint and fix compensation of personnel.

Section 11. (e) *Personnel*. Subject to other provisions of this act, the Commissioner is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, experts, and other persons as may be necessary to carry out this act. The Commissioner may delegate to any such person so appointed such power and authority as he deems reasonable and proper for the effective administration of this act including the right to decide matters placed in his discretion under this act, and may in his discretion bond any person handling moneys or signing checks hereunder.

Delegation of power.

Governor to appoint Personnel Board.

For the purpose of insuring the impartial selection of personnel on the basis of merit, the Governor shall appoint a Personnel Board of three members who are known to be interested in the selection of efficient government personnel, and who are not officers or employees of any department or office of the State of Washington, or elected public officials. All appointments shall be for a term of six years, except that the terms of the members first taking office shall be two, four and six years, respectively. All personnel of the Office of Unemployment Compensation and Placement, and such other departments or offices of the State of Washington as the Governor may designate or as provided by law, shall be selected from registers established by the Personnel Board. The Commissioner is authorized to adopt such regulations as may be necessary to meet personnel standards promulgated by the Social Security Board pursuant to the Social Security Act, as amended, and the Act of Congress entitled "An Act to provide for the establishment of a national employment system and for cooperation with the state in promotion of such system, and for other purposes," as approved June 6, 1933, as amended, and to provide for the

Qualifications.

Terms.

Personnel selected from register.

Regulations for personnel standards.

Conform to Act of Congress.

maintenance of the merit system required under this section in conjunction with any merit system applicable to any other state agency, or agencies, which meets the personal standards promulgated by the Social Security Board and the Personnel Board in making up registers for the Office of Unemployment Compensation and Placement shall be governed by such regulations.

Merit system.

The Commissioner shall not appoint or employ any person who is an officer or committee member of any political party organization or who holds or is a candidate for any elective public office.

Limitation.

Section 11. (f) *Employment Stabilization.* The Commissioner shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts, and the state, of reserves for public works to be used in times of business depression and unemployment; to promote the reemployment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry and publish the results of investigations and research studies.

Employment stabilization.

Methods.

Section 11. (g) *Records and Reports.* Each employing unit shall keep true and accurate work records, containing such information as the Commissioner may prescribe. Such records shall be open to inspection and be subject to being copied by the Commissioner or his authorized representatives at any reasonable time and as often as may be necessary. The records of an employer maintained in this state pertaining to employment of persons in another state shall be open to representatives of the Commissioner to permit cooperation with other state unemployment compensation agencies in ascertaining information necessary to administer the unemploy-

Employer to keep records.

Records open to inspection.

Commissioner may require reports on employees.

Information confidential.

Penalty for violation.

Power to administer oaths.

Issue subpoenas.

ment compensation acts of such other states. The Commissioner may require from any employing unit any sworn or unsworn reports with respect to persons employed by it, which he deems necessary for the effective administration of this act. Each employer shall make periodic reports at such intervals as the Commissioner may, by regulation, prescribe setting forth the remuneration payable for employment to workers in its employ, the names of all such workers and such other information as the Commissioner may, by regulation, prescribe. Information thus obtained or obtained from any individual pursuant to the administration of this act shall be deemed confidential and shall not be published or be open to public inspection (other than to public employees in the performance of their public duties and then only at the discretion of and in accordance with regulations prescribed by the Commissioner) in any manner revealing an individual's or employing unit's identity, but any interested party at a hearing before an appeal tribunal or the Commissioner shall be supplied with information from such records to the extent necessary for the proper presentation of the case in question. Any employee or member of the Office of Unemployment Compensation and Placement who violates any provision of this section shall be fined not less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200.00), or imprisoned for not longer than ninety (90) days or both.

Section 11. (h) *Oaths and Witnesses.* In the discharge of the duties imposed by this act, the appeal tribunal and any duly authorized representative of the Commissioner shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection

with a disputed claim or the administration of this act.

Section 11. (i) *Subpoenas*. In case of contumacy by, or refusal to obey subpoenas issued to any person, any court of the state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by any duly authorized representative of the Commissioner, shall have jurisdiction to issue to such person an order requiring such person to appear before such authorized representative, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his power so to do, in obedience to a subpoena of the Commissioner or his authorized representative shall be punished by a fine of not less than two hundred dollars (\$200.00) or by imprisonment for not longer than sixty (60) days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

Court may order witnesses to comply with subpoenas.

Failure to obey contempt.

Penalty for contempt.

Section 11. (j) *Protection Against Self-Incrimination*. No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before any duly authorized representative of the Commissioner or any appeal tribunal in obedience to the subpoena of such representative of the Commissioner or such appeal tribunal, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or for-

Every person shall testify.

No prosecution for self-incrimination.

Perjury excepted.

Commissioner to cooperate with board.

Make reports and comply with rules.

Purpose.

Commissioner to cooperate with U. S. agencies.

State's records available to R. R. Board.

feiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-discrimination [incrimination], to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Section 11. (k) *State-Federal Cooperation.* In the administration of this act, the Commissioner shall cooperate to the fullest extent consistent with the provisions of this act, with the Social Security Board, created by the Social Security Act, approved August 14, 1935, as amended; shall make such reports, in such form and containing such information as the Social Security Board may from time to time require, and shall comply with such provisions as the Social Security Board may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the Social Security Board governing the expenditures of such sums as may be allotted and paid to this state under title III of the Social Security Act for the purpose of assisting in the administration of this act.

Upon request therefor the Commissioner shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this act.

The Commissioner may make the state's records relating to the administration of this act available to the Railroad Retirement Board and may furnish the Railroad Retirement Board, at the expense of such board, such copies thereof as the Railroad Retirement Board deems necessary for its purposes. The Commissioner may afford reasonable cooperation with every agency of the United States charged

with the administration of any unemployment insurance law.

SEC. 9. Section 12 of chapter 162 of the Laws of 1937, as amended by section 10 of chapter 214 of the Laws of 1939, as amended by section 9 of chapter 253 of the Laws of 1941, is hereby amended to read as follows: Amendments.

Section 12. (a) The Washington State Employment Service Division is hereby set up in the Office of Unemployment Compensation and Placement as a division thereof. Employment service a division of office.

The Commissioner through such division shall establish and maintain free public employment offices in such number and such places as may be necessary for the proper administration of this act and for the purpose of performing such duties as are within the purview of the Act of Congress entitled "An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system and for other purposes," approved June 6, 1933 (48 Stat. 113; U. S. C., title 29, sec. 49(c), as amended). Maintain public employment offices.

The Commissioner shall be charged with the duty to cooperate with any official or agency of the United States having powers or duties under the provisions of the said Act of Congress, as amended, and to do and perform all things necessary to secure to this state the benefits of the said Act of Congress, as amended, in the promotion and maintenance of a system of public employment offices. Compliance with Act of Congress.

The provisions of the said Act of Congress, as amended, are hereby accepted by this state, in conformity with section 4 of said act, and this state will observe and comply with the requirements thereof. Agency of state.

The Office of Unemployment Compensation and Placement is hereby designated and constituted the agency of this state for the purpose of said act. Agreement with R. R. Board.

The Commissioner may cooperate with or enter into agreements with the Railroad Retirement Board with respect to the establishment,

maintenance, and use of free employment service facilities.

Federal funds paid into employment account.

Used to establish offices.

Enter into agreements with Federal agencies to fulfill purpose.

Section 12. (b) *Financing.* All moneys received by this state under the said Act of Congress, as amended, shall be paid into the special "employment service account" in the State Treasury, and said moneys are hereby made available to the Commissioner for the Washington State Employment Service Division to be expended as provided by this section and by said Act of Congress. For the purpose of establishing and maintaining free public employment offices, the Commissioner is authorized to enter into agreements with the Railroad Retirement Board, or any other agency of the United States charged with the administration of any unemployment compensation law, with any political subdivision of this state or with any private non-profit organization, and as a part of any such agreement the Commissioner may accept moneys, services, or quarters as a contribution to the employment service account.

Amendments.

SEC. 10. Section 14 of chapter 162 of the Laws of 1937, as amended by section 12 of chapter 214 of the Laws of 1939, as amended by section 11 of chapter 253 of the Laws of 1941, is hereby amended to read as follows:

Interest on past due contributions.

Rate.

Limit.

Section 14. (a) *Interest On Past Due Contributions.* If contributions are not paid on the date on which they are due and payable as prescribed by the Commissioner, the whole or part thereof remaining unpaid shall bear interest at the rate of 1 per centum (1%) per month from and after such date until payment plus accrued interest is received by him. In computing interest for any period less than a full month, the rate shall be 1-30 of one per centum for each day or fraction thereof. Interest shall not accrue in excess of twenty-four per centum for delinquent contributions for any one contribution period. The date as of which payment of contribution, if mailed, is deemed to have been received may be



determined by such regulations as the Commissioner may prescribe. Interest collected pursuant to this section shall be paid into the Unemployment Compensation Fund. Interest shall not accrue on contributions from any estate in the hands of a receiver, executor, administrator, trustee in bankruptcy, common law assignee or other liquidating officer subsequent to the date when such receiver, executor, administrator, trustee in bankruptcy, common law assignee or other liquidating officer qualifies as such, but contributions accruing with respect to employment of persons by any receiver, executor, administrator, trustee in bankruptcy, common law assignee or other liquidating officer shall become due and shall draw interest in the same manner as contributions due from other employers. Where adequate information has been furnished the department and the department has failed to act or has advised the employer of no liability or inability to decide the issue, interest may be waived. Payments of contributions erroneously paid to an unemployment compensation fund of another state which should have been paid to this state and which thereafter shall be refunded by such other state and paid by the employer to this state, shall be deemed to have been paid to this state at the date of payment to such other state.

Credit to fund.

Exceptions.  
Estate funds.

Exception.  
Error in payment.

Section 14. (b) The claim of the Division of Unemployment Compensation for any contributions, including interest thereon, not paid when due, shall be a lien prior to all other liens, except taxes, not only against the interests of any employer, but against the interests of all others, in the plant, works, equipment and buildings improved, operated or constructed by such employer, and also upon any products or articles manufactured by such employer. Said lien shall date from the commencement of the period with respect to which said delinquent contributions are due, and shall be prior to all other liens except tax liens. In order to avail itself of the lien hereby created, the

Lien created for delinquent contributions.

Exceptions.

Filing of  
lien claims.

Division of Unemployment Compensation shall file with the County Auditor of the county in which such property shall then be situated a statement in writing describing in general terms the specific property upon which a lien is claimed and stating the amount of the lien claimed by the Division. Any such lien claimed against the interests of others than the employer shall be filed within four (4) months after the employer shall have made report of his payroll and shall have defaulted in the payment of his contributions thereon. This lien shall be separate and apart from and in addition to any other lien or claim created by, or provided for in, this act. When any such notice of lien has been so filed, the Commissioner may release the same by the filing of a certificate of release when it shall appear that the amount of delinquent contributions together with all interest thereon have been paid, or when such assurance of payment shall be made as the Commissioner may deem adequate.

Time of  
filing.

Release.

Notice of  
assessment  
for delin-  
quencies.

Section 14. (c) At any time after the Commissioner shall find that any contribution or the interest thereon has become delinquent, the Commissioner may issue a notice of assessment specifying the amount due, which notice of assessment shall be served upon the delinquent employer in the manner prescribed for the service of summons in a civil action, except that if the employer cannot be found within the state, said notice will be deemed served when mailed to the delinquent employer at his last known address by registered mail. If the amount so assessed is not paid within ten days after such service or mailing of said notice, the Commissioner or his duly authorized representative may collect the amount stated in said assessment by the distraint, seizure and sale of the property, goods, chattels and effects of said delinquent employer except as is provided in section 14(e) of this act. There shall be exempt from distraint and sale under this section

Service.

Distraint.

Exemptions.

such goods and property as are exempt from execution under the laws of this state.

Section 14. (d) The Commissioner, upon making a distraint, shall seize the property and shall make an inventory of the property distrained, a copy of which shall be mailed to the owner of such property or personally delivered to him, and shall specify the time and place when said property shall be sold. A notice specifying the property to be sold and the time and place of sale shall be posted in at least two public places in the county wherein the seizure has been made. The time of sale shall be not less than ten nor more than twenty days from the date of posting of such notices. Said sale may be adjourned from time to time at the discretion of the Commissioner, but not for a time to exceed in all sixty days. Said sale shall be conducted by the Commissioner or his authorized representative who shall proceed to sell such property by parcel or by lot at a public auction, and may set a minimum price to include the expenses of making a levy and of advertising the sale, and if the amount bid for such property at the sale is not equal to the minimum price so fixed, the Commissioner or his representative may declare such property to be purchased by the Division of Unemployment Compensation for such minimum price. The delinquent account shall be credited with the amount at which the property shall be sold. Property acquired by the Division of Unemployment Compensation as herein prescribed may be sold by the Commissioner at public or private sale, and the amount realized shall be placed in the Unemployment Compensation Trust Fund.

In all cases of sale, as aforesaid, the Commissioner shall issue a bill of sale or a deed to the purchaser and said bill of sale or deed shall be *prima facie* evidence of the right of the Commissioner to make such sale and conclusive evidence of the regularity of his proceeding in making the sale, and shall transfer to the

Procedure  
of distraint.

Notice of  
sale.

Time of sale.

Minimum  
price to  
include cost  
of sale.

Division  
may  
purchase.

Property  
accumulated  
may be sold.

Bill of sale  
or deed.

Application  
of proceeds.

purchaser all right, title and interest of the delinquent employer in said property. The proceeds of any such sale shall be first applied by the Commissioner in satisfaction of the delinquent account, and out of any sum received in excess of the amount of delinquent contributions and interest the administration fund shall be reimbursed for the costs of distraint and sale. Any excess which shall thereafter remain in the hands of the Commissioner shall be refunded to the delinquent employer. Sums so refundable to a delinquent employer may be subject to seizure or distraint in the hands of the Commissioner by any other taxing authority of the state or its political subdivisions.

Excess  
refunded.

Excess  
subject to  
distrain.

Employee  
may petition  
for hearing.

Section 14. (e) When any notice of assessment has been delivered or mailed to a delinquent employer, as heretofore provided, such employer may within ten days thereafter file a petition in writing with the Commissioner, stating that such assessment is unjust or incorrect and requesting a hearing thereon. Such petition shall set forth the reasons why the assessment is objected to and the amount of contributions, if any, which said employer admits to be due the Division of Unemployment Compensation. If no such petition be filed with the Commissioner within said ten days, said assessment shall be conclusively deemed to be just and correct: *Provided*, That in such cases the Commissioner may properly entertain a subsequent application for refund, and hearing thereon if denied, in accordance with section 14(f). The filing of a petition on a disputed assessment with the Commissioner shall stay the distraint and sale proceeding provided for in this section until a final decision thereon shall have been made, but the filing of such petition shall not affect the right of the Commissioner to perfect a lien, as provided in section 14(b), upon the property of the employer. The issues raised by such petition

Petition  
contents.

Proviso.

Petition  
to stay  
distrain.

shall be heard by the appeal tribunal, established in section 6 of this act, in the same manner and in accordance with the same procedure as is prescribed for appeals from benefit determinations, including the procedure set out in section 6 for review by the Commissioner and court: *Provided*, That the provisions of section 6(g) shall not apply to hearings before the appeal tribunal or appeals to the courts involving assessment disputes, as to such hearings and appeals, the practice in civil cases shall apply, nor shall the provisions of section 6(i) or 15(b) relating to the fixing of a reasonable fee for the services of counsel or duly authorized agents, apply to hearings on assessments or appeals to the courts involving assessment disputes.

Hearing  
before  
tribunal.

Proviso.

Section 14. (f) No later than three years after the date any contributions or interest have been paid, an employer who has paid such contributions or interest may file with the Commissioner a petition in writing for an adjustment thereof in connection with subsequent contribution payments or for a refund thereof when such adjustment cannot be made. If the Commissioner upon an *ex parte* consideration shall determine that such contributions or interest, or portion thereof, were erroneously collected, he shall allow such employer to make an adjustment thereof without interest in connection with subsequent contribution payments by him, or if such adjustment cannot be made the Commissioner shall refund said amount without interest from the fund. For like cause and within the same period, adjustment or refund may be made on the Commissioner's own initiative. If the Commissioner finds that upon *ex parte* consideration he cannot readily determine that such adjustment or refund should be allowed, he shall deny such application and notify the employer in writing. Within ten days after such notification shall have been mailed or delivered to such

Petition for  
adjustment  
or refund.

May adjust  
or refund.

Commis-  
sioner may  
refund  
without  
petition.

May deny  
*ex parte*.

Employer  
may petition  
for hearing.

Proviso.

Time for  
filing.

Petition  
heard by  
tribunal.

Commis-  
sioner may  
make report  
if employer  
falls.

May make  
jeopardy as-  
sessment.

Act  
conclusive.

employer, whichever is the earlier, the employer may file a petition in writing with the Commissioner for a hearing thereon: *Provided*, That this right shall not apply in those cases in which assessments have been appealed from and have become final as provided in section 14(e). The petition shall set forth the reasons why such hearing should be granted and the amount which the petitioner believes should be adjusted or refunded. If no such petition be filed within said ten days, the determination of the Commissioner as stated in said notice shall be final. The petition for refund shall be heard by the appeal tribunal and may be reviewed by the Commissioner and the courts in the manner prescribed for hearing appeals from benefit determinations.

Section 14. (g) If any employing unit shall fail or neglect to make or file any report or return required by this act, or any regulation made pursuant hereto, the Commissioner may upon the basis of such knowledge as may be available to him arbitrarily make a report on behalf of such employing unit, and the report so made shall be deemed *prima facie* correct.

Section 14. (h) If the Commissioner shall have reason to believe that an employer is insolvent or if any reason exists why the collection of any contributions accrued will be jeopardized by delaying collection, he may make an immediate assessment thereof and may proceed to enforce collection on said assessment immediately, but interest shall not begin to accrue upon any contributions until the date when such contributions would normally have become delinquent.

Section 14. (i) The remedies provided in this act for determining the justness or correctness of assessments or refund or adjustment claims shall be exclusive and no court shall entertain any action to enjoin an assessment or require a refund or adjust-

ment except in accordance with the provisions of this act. Matters which may be determined by the procedures herein set out shall not be the subject of any declaratory judgment.

Section 14. (j) Any employer who shall be delinquent in the payment of contributions or interest may be enjoined upon the suit of the State of Washington from continuing in business in this state or employing persons herein until the contributions and interest shall have been paid, or until the employer shall have furnished a good and sufficient bond in the amount of double the estimated contributions which will become due from such employer during the next ensuing calendar year before the same become delinquent.

Employer may be enjoined for delinquency.

Section 14. (k) *Collection.* If after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due may be collected by civil action in the name of the State of Washington, and the employer adjudged in default shall pay the cost of such action. Any lien created by this act may be foreclosed by decree of the court in any such action. Civil actions brought under this section to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this act and cases arising under the industrial insurance laws of this state.

Collections by civil procedure.

Section 14. (l) Remedies given to the state under this act for the collection of contributions and interest shall be cumulative and no action taken by the Commissioner or his duly authorized representative, the Attorney General, or any other officer shall be construed to be an election on the part of the state or any of its officers to pursue any remedy to the exclusion of any other.

Remedies cumulative.

Lien against  
assets of  
estates.

Section 14. (m) In the event of any distribution of an employer's assets pursuant to an order of any court including any receivership, probate, legal dissolution, or similar proceeding, or in case of any assignment for the benefit of creditors, composition, or similar proceeding, contributions then or thereafter due shall be a lien upon all the assets of such employer. Said lien will be prior to all other liens or claims except prior tax liens, liens filed under section 14(b) of this act and claims for remuneration for services of not more than \$250.00 to each claimant, earned within six months of the commencement of the proceeding. The mere existence of a condition of insolvency or the institution of any judicial proceeding for legal dissolution or of any proceeding for distribution of assets shall cause such a lien to attach without action on behalf of the Commissioner or the state. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as provided in that act, as amended.

Priority.

Authority  
to com-  
promise.

Section 14. (n) *Authority to Compromise.* The Commissioner may compromise any claim for contributions, interest or penalties existing or arising under this act in any case where collection of the full claim would result in the insolvency of the employing unit or individual from whom such contributions, interest or penalties are claimed.

Record of  
compromise  
to be filed.

Whenever a compromise is made by the Commissioner in any case, there shall be placed on file in the office of the Unemployment Compensation Division a statement of the amount of contributions, interest and penalties imposed by law and claimed due, a complete record of the compromise agreement and the amount actually paid in accordance with the terms of the compromise agreement.

Contents.



Any person who in connection with any compromise or offer of such compromise wilfully conceals from any officer or employee of the state any property belonging to an employing unit or individual liable in respect of the contributions, interest or penalties, or receives, destroys, mutilates, or falsifies any book, document or record, or makes under oath any false statement relating to the financial condition of the employing unit or individual liable in respect of the contributions, shall upon conviction thereof be fined not more than \$5,000.00 or be imprisoned for not more than one year or both.

Penalty for concealment.

If any such compromise is accepted by the Commissioner, within such time as may be stated in the compromise or agreed to, such compromise shall be final and conclusive and except upon showing of fraud or malfeasance or misrepresentation of a material fact the case shall not be reopened as to the matters agreed upon. In any suit, action or proceeding, such agreement or any determination, collection, payment, adjustment, refund or credit made in accordance therewith shall not be annulled, modified, set aside or disregarded.

Compromise final.

Except on showing of fraud.

Section 14. (o) *Statute of Limitation.* The amount of contributions, interest and penalties imposed by this act shall be assessed by the Commissioner in accordance with section 14(e) or section 14(h), or a suit commenced in accordance with section 14(k), within three years after a return is filed and no proceedings for the collection of such amounts shall be begun after the expiration of such period.

Statute of limitation.

In case of a false or fraudulent return with intent to evade contributions, interest or penalties or of a failure to file a return, the contributions, interest and penalties may be assessed or a proceeding in court for the collection thereof may be begun at any time.

Exception.

Sec. 11. Section 15 of chapter 162 of the Laws of 1937, as amended by section 13 of chapter 214 of

Amendment.

the Laws of 1939, as amended by section 12 of chapter 253 of the Laws of 1941, is hereby amended to read as follows:

Workmen cannot waive rights.

Section 15. (a) *Waiver of Rights Void.* Any agreement by an individual to waive, release or commute his rights to benefits or any other rights under this act shall be void. Any agreement by an individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this act from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from remuneration for services to finance the employer's contributions required from him, or require or accept any waiver of any right hereunder by any individual in his employ. Any employer or officer or agent of any employer who violates any provision of this section shall, for each offense, be fined not less than \$100.00 nor more than \$1,000.00 or be imprisoned for not more than six months, or both.

Employer not to accept contributions from workmen.

Penalty for violation.

No fees for services or court actions.

Section 15. (b) *Limitation of Fees.* No individual claiming benefits shall be charged fees of any kind in any proceeding under this act by the Commissioner or his representatives, or by an appeal tribunal or any court or any officer thereof. Any individual claiming benefits in any proceeding before the Commissioner, or an appeal tribunal may be represented by counsel or other duly authorized agent who shall neither charge nor receive a fee for such services in excess of an amount found reasonable by the officer conducting such proceeding. A legally licensed attorney shall be paid such reasonable fee for his services in the Superior or Supreme Court as such courts order in accordance with the provisions of section 6(i). Any person who violates any provision of this section shall, for each offense, be fined not less than \$50 nor more than \$500, or imprisoned for not more than six months, or both.

Attorney's fee limited.

Court to fix fee.

Penalty for violation.

Section 15. (c) *No Assignment of Benefits; Exemptions.* Any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this act shall be void; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debts; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for collection of all debts except debts incurred for necessities furnished such individual or his spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this section shall be void.

Assignments void.

Benefits exempt from execution.

Benefits kept separate are exempt.

Exception.

Waiver of exemption void.

SEC. 12. Section 16 of chapter 162 of the Laws of 1937, as amended by section 14 of chapter 214 of the Laws of 1939, as amended by section 13 of chapter 253 of the Laws of 1941, is hereby amended to read as follows:

Amendments.

Section 16. (a) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this act, either for himself or for any other person, shall be punished by a fine of not less than \$20 nor more than \$200, or by imprisonment for not longer than sixty days, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense. This penalty shall be in addition to any penalty for any other crime involved in the same transaction.

Penalty for false representation.

Penalty additional.

Section 16. (b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto,

False representation by employer.

Penalty for false representation by employer.

or to avoid becoming or remaining subject thereto or to avoid or reduce any contribution or other payment required from an employing unit under this act, or who wilfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be punished by a fine of not less than \$20 nor more than \$200, or by imprisonment for not longer than sixty days, or by both such fine and imprisonment; and each such false statement or representation or failure or refusal shall constitute a separate offense.

Penalty for any violation of act.

Section 16. (c) Any person who shall wilfully violate any provision of this act or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this act, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be punished by a fine of not less than \$20 nor more than \$200, or by imprisonment for not longer than sixty days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

Penalty for misrepresentation.

Section 16. (d) Any person who, by reason of the non-disclosure or misrepresentation by him or by another, of a material fact (irrespective of whether such non-disclosure or misrepresentation was known or fraudulent) has received any sum as benefits under this act while any conditions for the receipt of benefits imposed by this act were not fulfilled in his case, or while he was disqualified from receiving benefits, shall in the discretion of the Commissioner either be liable to have such sum deducted from any future benefits payable to him under this act or shall be liable to repay to the Commissioner for the unemployment compensation fund, a sum equal to the amount so received by him, and such

sum shall be collected in the manner provided in section 14 (k) of this act for the collection of past due contributions.

SEC. 13. Section 19 of chapter 162 of the Laws of 1937, as amended by section 16 of chapter 214 of the Laws of 1939, as amended by section 14 of chapter 253 of the Laws of 1941, is hereby amended to read as follows: Amendments.

Section 19. (a) (Reserved) Definitions.

Section 19. (b) "Benefits" means the money payments payable to an individual, as provided in this act, with respect to his unemployment.

Section 19. (c) "Commissioner" means the administrative head of the State Office of Unemployment Compensation and Placement referred to in section 10 of this act.

Section 19. (d) "Contributions" means the money payments to the state unemployment compensation fund required by this act.

Section 19. (e) "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1937, had in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this act.

Each individual employed to perform or to assist in performing the work of any agent or employee of any employing unit shall be deemed to be employed by such employing unit for all the purposes of this act, whether such individual was hired or paid directly by such employing unit or by such

Definitions. agent or employee: *Provided*, The employing unit had actual or constructive knowledge of the work.

Section 19. (f) "Employer" means:

Employer. (1) On and after July 1, 1941, any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor of any of the foregoing, or the legal representative of a deceased person which has any person in employment for it or which having become an employer, has not ceased to be an employer as provided in this act.

(2) Prior to July 1, 1941:

(a) Any employing unit which in each of twenty different weeks within either the current or the preceding calendar year (whether or not such weeks are or were consecutive) has or had in employment eight or more individuals (not necessarily simultaneously and irrespective of whether the same individuals are or were employed in each such week);

(b) Any employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this act;

(c) Any employing unit which acquired the organization, trade or business or substantially all the assets thereof, of another employing unit and which, if treated as a single unit with such other employing unit, would be an employer under paragraph (a) of this section;

(d) An employing unit which together with one or more other employing units, is owned or controlled (by legally enforceable means or otherwise) directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and

which if treated as a single unit with such other employing unit, would be an employer under paragraph (a) of this section;

Definitions.  
Employer.

(e) Any employing unit which, having become an employer under paragraph (a), (b), (c) or (d), has not, under section 8, ceased to be an employer subject to this act; or

(f) For the effective period of its election pursuant to section 8 (c), any other employing unit which has elected to become fully subject to this act.

Section 19. (g) (1) "Employment," subject to the other provisions in this sub-section, means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

Employment.

(2) The term "employment" shall include an individual's entire service performed within or both within and without this state if:

(i) The service is localized in this state; or

(ii) The service is not localized in any state but some of the service is performed in this state and

(a) The base of operations, or if there is no base of operations, then the place from which such service is directed or controlled is in this state; or

(b) The base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(3) Services not covered under paragraph (2) of this section, and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the Federal government, shall be deemed to be employment subject to this act if the individual performing such services is a resident of this state and the Commissioner approves the election of the employing unit for whom such services are performed that the

Definitions. entire service of such individual shall be deemed to  
 Employment. be employment subject to this act.

(4) Service shall be deemed to be localized within a state if:

(i) The service is performed entirely within such state; or

(ii) The service is performed both within and without such state, but the service performed without the state is incidental to the individual's service within such state, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) Services performed by an individual for remuneration shall be deemed to be employment subject to this act unless and until it is shown to the satisfaction of the Commissioner that:

(i) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of service and in fact; and

(ii) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed; and

(iii) Such individual is customarily engaged in an independently established trade, occupation, profession or business, of the same nature as that involved in the contract of service.

Exceptions. (6) The term "employment" shall not include:

Agricultural labor. (i) Agricultural Labor. The term "Agricultural Labor" includes all services performed:

Definitions. (1) On a farm, in the employ of any person, in connection with the cultivating of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals



and wild life, or in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment. Exceptions.

(2) In handling, planting, packing, packaging, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, in their raw and natural state, as an incident to the preparation of such fruits and vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with respect to services performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption. Exceptions.

(ii) Domestic service in a private home;

(iii) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(iv) Service performed by an individual in the employ of his son or daughter, or the community of which such son or daughter is a member, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(v) Service performed in the employ of a corporation, community chest fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(vi) Service performed in the employ of this

Public  
employes  
excepted.

state, or of any political sub-division thereof, or of any instrumentality of this state or its political sub-divisions;

Exceptions.  
Certain U. S.  
employes.

(vii) Service performed in the employ of any other state or its political sub-divisions, or of the United States Government, or of any instrumentality of any other state or states or their political sub-divisions or the United States; except that if the Congress of the United States shall permit states to require any instrumentality of the United States to make payments into an unemployment fund under a state unemployment compensation act, then, to the extent permitted by Congress, and from and after the date when such permission becomes effective all the provisions of this act shall be applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services: *Provided*, That if this state should not be certified by the Social Security Board under section 903 of the Social Security Act for any year, then the payment required of such instrumentalities with respect to such year shall be deemed to be erroneously collected within the meaning of section 14(f) of this act and shall be refunded by the Commissioner from the fund in accordance with such provisions of section 14(f) of this act;

Proviso.

Acts of  
Congress.

(viii) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress: *Provided*, That the Commissioner is hereby authorized to enter into agreements with the proper agencies under such act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in section 11(b) of this act for general rules, to provide reciprocal treatment to individuals who

Agreements  
with U. S.

Time  
effective.

have, after acquiring potential rights to benefits under this act, acquired right to unemployment compensation under such act of Congress, or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under this act; Exemptions.

(ix) Service performed by an insurance agent or insurance solicitor to the extent he is compensated by commission;

(x) Service as a newsboy selling or distributing newspapers on the street or from house to house;

(xi) Service in connection with the raising or harvesting of mushrooms;

(xii) Service performed in any calendar quarter in the employ of any of the following organizations, if (1) the remuneration for such services does not exceed \$45.00, or (2) such service is in connection with the collection of dues or premiums for a fraternal benefit society, order or association and is performed away from the home office or is ritualistic service in connection with any such society, order or association, or (3) such service is performed by a student who is enrolled and who is regularly attending classes at a school, college or university;

(a) Labor organizations;

(b) Mutual savings banks not having a capital stock represented by shares;

(c) Fraternal beneficiary societies, orders, or associations, (1) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and (2) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

(d) Domestic building and loan associations substantially all the business of which is confined to making loans to members; and cooperative banks

Exemptions. without capital stock organized and operated for mutual purposes and without profit;

(e) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(f) Business leagues, chambers of commerce, real estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(g) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes;

(h) Clubs organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder;

(i) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 per centum or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses;

(j) Farmers' or other mutual hail, cyclone, casualty, or fire insurance companies or associations (including inter-insurers and reciprocal underwrit-

ers) the income of which is used or held for the purpose of paying losses or expenses; Exemptions.

(k) Farmers', fruit growers', or like associations organized and operated on a cooperative basis (1) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them, or (2) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses. Exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the state of incorporation or 8 per centum per annum, which ever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than non-voting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association; nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by state law or a reasonable reserve for any necessary purpose. Such an association may market the products of non-members in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for non-members in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, providing the value of the purchases made for persons who are neither members nor pro-

## Exemptions.

ducers does not exceed 15 per centum of the value of all its purchases. Business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this paragraph;

(l) Corporations organized by an association exempt under the provisions of paragraph (k), or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the state of incorporation or 8 per centum per annum, which ever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than non-voting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, upon dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by state law or a reasonable reserve for any necessary purpose;

(m) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this chapter;

(n) Corporations organized under Act of Congress, if such corporations are instrumentalities of the United States and if, under such act, as amended and supplemented, such corporations are exempt from Federal income taxes;

(o) Teachers' retirement fund associations of a purely local character, if (1) no part of their net earnings inures (other than through payment of re-

tirement benefits) to the benefit of any private shareholder or individual, and (2) the income consists solely of amounts received from public taxation, amounts received from assessments upon the teaching salaries of members, and income in respect of investments;

(p) Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro-rata shares, whether distributed or not, of the net income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received;

(xiii) If the services performed during one-half or more of any pay period by an individual for an employer constitutes employment, all of the services of such individual for such period shall be deemed to be employment, but if the services performed during more than one-half of any such pay period by an individual for an employer do not constitute employment, then none of the services of such individual on behalf of such employer for such period shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period of not more than thirty-one consecutive days for which a payment of remuneration is ordinarily made to the employee by the person employing him;

(xiv) Casual labor not in the course of the employer's trade or business (labor which does not promote or advance the trade or business of the employer). Temporary labor in the usual course of an employer's trade or business shall not be deemed to be casual labor.

## Definitions.

Section 19. (h) "Employment office" means a free public employment office, or branch thereof, operated by this or any other state as a part of a state-controlled system of public employment offices, or by a Federal agency or any agency of a foreign government charged with the administration of an unemployment compensation program or free public employment offices. All claims for unemployment compensation benefits, registrations for employment, and all job or placement referrals received or made by any of the employment offices as above defined and pursuant to regulation of the Commissioner subsequent to December 31, 1941, are hereby declared in all respects to be valid. The Commissioner is authorized to make such investigation, secure and transmit such information, make available such services and facilities and exercise such of the other powers provided herein with respect to the administration of the act as he deems necessary or appropriate to facilitate the administration of any state or Federal unemployment compensation or public employment service law and in like manner to accept and utilize information, services and facilities made available to the state by the agency charged with the administration of any such unemployment compensation or public employment service law. Any such action taken by the Commissioner subsequent to December 31, 1941, is hereby declared to be in all respects valid.

Section 19. (i) "Fund" means the Unemployment Compensation Fund established by this act, to which all contributions required and from which all benefits provided under this act shall be paid.

Section 19. (j) "State" includes, in addition to the states of the United States of America, Alaska, Hawaii, and the District of Columbia.

Section 19. (k) "Unemployment." An individual shall be deemed "unemployed" in any week dur-



ing which he performs no services and with respect to which no remuneration is payable to him, or in any week of less than full time work if the remuneration payable to him with respect to such week, is less than his weekly benefit amount. The Commissioner shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to total unemployment, part-total unemployment and partial unemployment of individuals attached to their regular jobs, and other forms of short-time work, as the Commissioner deems necessary. Definitions.

Section 19. (l) "Unemployment Compensation Administration Fund" means the unemployment compensation administration fund established by this act, from which administrative expenses under this act shall be paid.

Section 19. (m) "Wages" means the first three thousand dollars of remuneration payable by one employer to an individual worker for employment during one calendar year: *Provided*, That if three thousand dollars (\$3,000) or more of remuneration has been payable by one employer to an individual during one calendar year, some portion of which is included in such individual's base period, the three thousand dollars (\$3,000) shall be equally prorated throughout the weeks of such year in which he was so employed for the purposes of determining whether or not the individual is eligible to receive benefits, his weekly benefit amount and the maximum total amount of benefits payable to him. "Remuneration" means all compensation payable for personal services, including commissions and bonuses and the cash value of all compensation payable in any medium other than cash. The reasonable cash value of compensation payable in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the Commissioner.

## Exclusion.

The term "wages" shall not include:

(1) The amount of any payment by an employing unit with respect to services performed after July 1, 1941, to or on behalf of an individual in its employ under a plan or system established by such employing unit which makes provision for individuals in its employ generally, or for a class or classes of such individuals (including any amount paid by an employing unit for insurance or annuities or into a fund to provide for any payment) on account of:

## Private insurance.

## Provisions.

(a) Retirement;  
 (b) Sickness or accident disability;  
 (c) Medical and hospitalization expenses in connection with sickness or accident disability; or  
 (d) Death, provided the individual in its employ

(i) has not the option to receive instead of provision for such death benefits, any part of such payment, or if such death benefit is insured, any part of the premium (or contributions to premiums) paid by his employing unit, and

(ii) has not the right under the provisions of the plan or system or policy of insurance providing for such death benefits to assign such benefits or to receive a cash consideration in lieu of such benefits, either upon his withdrawal from the plan or system providing for such benefits or upon termination of such plan or system or policy of insurance or of his services with such employing unit;

## Payments under revenue act.

(2) The payment by an employing unit (without deduction from the remuneration of the individual in its employ) of the tax imposed upon an employee under section 1400 of the Federal Internal Revenue Code with respect to services performed after July 1, 1941; or

## Provisions.

(3) Dismissal payments after July 1, 1941, which the employing unit is not legally required to make; or

(4) Any amount paid to a person in the military service for any pay period during which he performs no service for the employer. Provisions.

Section 19. (n) "Week" means any period of seven consecutive calendar days ending at midnight as the Commissioner may by regulation prescribe. The Commissioner may by regulation prescribe that a week shall be "in," "within," or "during" that benefit year which includes the greater part of such week. Definitions.

Section 19. (o) "Benefit Year," with respect to any individual means the fifty-two consecutive week period beginning with the first day of the week with respect to which the individual first files a valid claim for benefits, and thereafter, the fifty-two consecutive week period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his last preceding benefit year, except in any case where at the expiration of fifty-two weeks the establishment of a new benefit year would result in the use of a quarter in the base year that had been included in a previous base year, the benefit year shall be deemed to be fifty-three weeks. Any claim for benefits made in accordance with section 6 (a) of this act shall be deemed to be a valid claim for the purposes of this section, if the individual has earned wages for employment by employers as provided in section 4 (e) of this act.

Section 19. (p) "Base Year" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year.

Section 19. (q) "Calendar Quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, excluding, however, any calendar quarter or por-

tion thereof which occurs prior to January 1, 1938, or the equivalent thereof as the Commissioner may by regulation prescribe.

Passed the Senate February 27, 1943.

Passed the House March 9, 1943.

Approved by the Governor March 18, 1943.

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## CHAPTER 128.

[ S. S. B. 130. ]

### MOVING OF HOUSEHOLD GOODS OF TRANSFERRED STATE EMPLOYEES.

AN ACT authorizing heads of state departments to move household goods and effects of deputies or employees who are transferred from one station within the state to another, at the expense of the state, and declaring that this act shall take effect April 1, 1943.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. Whenever it shall be reasonably necessary to the successful performance of the required duty of a state office, commission, or department to transfer a deputy or other employee from one station to another within the state, thereby necessitating a change of such deputy's or employee's domicile, upon securing the approval of the Supervisor of Budget, Accounts and Control, it shall be lawful for such office, commission, or department to move such deputy's or employee's household goods and effects to the new station at the expense of the state, or to defray the actual cost of such removal by common carrier, or otherwise, at the expense of the state, in which latter event reimbursement to such deputy or employee shall be upon voucher submitted by him and approved by the department head.

Authority  
to pay cost  
of moving.

Approval  
required.

Alternative.