

Foreclosure
of lien.

to run until the actual receipt by the department of such payroll report. From and after the filing of such claim of lien, the department shall be entitled to commence suit to cause such lien to be foreclosed in the manner provided by law for the foreclosure of other liens on real or personal property, and in such suit the certificate of the department stating the date of the actual receipt by the department of such payroll report shall be *prima facie* evidence of such fact.

[R.C.W. 51.16.170 was derived from subsection (c) of R.R.S. § 7682.]

Passed the Senate March 1, 1951.

Passed the House March 6, 1951.

Approved by the Governor March 17, 1951.

CHAPTER 215.

[S. B. 183.]

UNEMPLOYMENT COMPENSATION.

AN ACT relating to unemployment compensation; amending sections 50.04.070, 50.12.080, 50.12.110, 50.20.140, 50.20.150, 50.20.160, 50.20.180, 50.20.190, 50.24.160, 50.32.020, 50.20.010, 50.20.050, 50.20.060, 50.20.080, 50.20.130, 50.28.010 and 50.28.050, R.C.W.

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

Amendment.

SECTION 1. Section 50.04.070, R.C.W., as derived from section 8, chapter 35, Laws of 1945, is amended to read as follows:

"Contributions."

"Contributions" means the money payments, including the application of experience rating credits, to the state unemployment compensation fund.

[Am. Rem. Supp. 1945, § 9998-147.]

Amendment.

SEC. 2. Section 50.12.080, R.C.W., as derived from section 47, chapter 35, Laws of 1945, is amended to read as follows:

If any employing unit fails to make or file any report or return required by this title, 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 to be *prima facie* correct. In any action or proceedings brought for the recovery of contributions and interest due upon the payroll of an employer, the certificate of the department that an audit has been made of the payroll of such employer pursuant to the direction of the department, or a certificate that a return has been filed by or for an employer or estimated by reason of lack of a return, shall be *prima facie* evidence of the amount of such payroll for the period stated in the certificate.

[Am. Rem. Supp. 1945, § 9998-185.]

SEC. 3. Section 50.12.110, R.C.W., as derived from section 50, chapter 35, Laws of 1945, is amended to read as follows:

Information obtained from employing unit records under the provisions of this title or obtained from any individual pursuant to the administration of this title shall be 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 the 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: *Provided, however,* Records, with any necessary authentication thereof, required in the prosecution of any criminal action brought by another state, the United States or a foreign government for misrepresentation to ob-

Reports and returns; commissioner may file where employing unit fails.

Proceeding for recovery of contributions; certificate as prima facie evidence.

Amendment.

Disclosure of information obtained pursuant to administration.

Records required for criminal prosecutions.

tain benefits under the law of this state shall be made available to the agency administering the employment security law of any such state, the United States or a foreign government for the purpose of such prosecution.

[Am. Rem. Supp. 1945, § 9998-188.]

Amendment. SEC. 4. Section 50.20.140, R.C.W., as derived from section 82, chapter 35, Laws of 1945, is amended to read as follows:

Applications and claims. Commissioner may prescribe regulations.

Application for initial determination; who may file.

Regulations; posting and distribution of.

An application for initial determination, a claim for waiting period, or a claim for benefits shall be filed in accordance with such regulations as the commissioner may prescribe. An application for an initial determination may be made by any individual whether unemployed or not. Each employer shall post and maintain printed statements of such regulations in places readily accessible to individuals in his employment 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.

"Application for initial determination."
"Claim for waiting period."

"Claim for benefits."

The term "application for initial determination" shall mean a request in writing for an initial determination. The term "claim for waiting period" shall mean a certification, after the close of a given week, that the requirements stated herein for eligibility for waiting period have been met. The term "claim for benefits" shall mean a certification, after the close of a given week, that the requirements stated herein for eligibility for receipt of benefits have been met.

Applications taken.

A representative designated by the commissioner shall take the application for initial determination and for the claim for waiting period credit or for benefits. When an application for initial determina-

tion has been made, the employment security department shall promptly make an initial determination which shall be a statement of the applicant's base year wages, his weekly benefit amount, his maximum amount of benefits potentially payable and his benefit year. Such determination shall fix the general conditions under which waiting period credit shall be granted and under which benefits shall be paid during any period of unemployment occurring within the benefit year fixed by such determination.

Initial determination; contents.

[Am. Rem. Supp. 1945, § 9998-220.]

SEC. 5. Section 50.20.150, R.C.W., as derived from section 83, chapter 35, Laws of 1945, is amended to read as follows:

Amendment.

The applicant for initial determination, his most recent employing unit as stated by the applicant, and any other interested party which the commissioner by regulation prescribes, shall, if not previously notified within the same continuous period of unemployment, be given notice promptly in writing that an application for initial determination has been filed and such notice shall contain the reasons given by the applicant for his last separation from work. If, during the benefit year, the applicant becomes unemployed after having accepted subsequent work, and files a claim for waiting period credit or benefits, a similar notice shall be given promptly to his then most recent employing unit as stated by him, or to any other interested party which the commissioner by regulation prescribes.

Notice of application for initial determination.

[Am. Rem. Supp. 1945, § 9998-221.]

SEC. 6. Section 50.20.160, R.C.W., as derived from section 84, chapter 35, Laws of 1945, is amended to read as follows:

Amendment.

Within one year from the date of delivery or mailing of an initial determination or a determination of denial of benefits and within thirty days from the date of the allowance of benefits, the commis-

Redetermination.

sioner may reconsider and redetermine such determination whenever he finds that there has been an error in identity, computation, or statement of amount of wages earned, or an error or omission with respect to the facts, or in order to comply with a final court decision applicable to an initial determination or determination of denial or allowance of benefits.

Notice.

Written notice of any such redetermination shall be promptly given by mail or delivered to such interested parties as were notified of the initial determination or determination of denial or allowance of benefits and any new interested party or parties who, pursuant to such regulation as the commissioner may prescribe, would be an interested party.

[Am. Rem. Supp. 1945, § 9998-222.]

Amendment.

SEC. 7. Section 50.20.180, R.C.W., as derived from section 86, chapter 35, Laws of 1945, is amended to read as follows:

Denial of credit or benefits.

If waiting period credit or the payment of benefits shall be denied to any claimant for any week or weeks, the claimant and such other interested party as the commissioner by regulation prescribes shall

Notice.

be promptly issued written notice of the denial and the reasons therefor. In any case where the department is notified in accordance with such regulation as the commissioner prescribes or has reason to believe that the claimant's right to waiting period credit or benefits is in issue because of his separation from work for any reason other than lack of work, the department shall promptly issue a determination of allowance or denial of waiting period credit or benefits and the reasons therefor to the claimant, his most recent employing unit as stated by the claimant, and such other interested party as the commissioner by regulation prescribes.

Determination of allowance or denial of credits or benefits.

Notice.

Notice that waiting period credit or benefits are allowed or denied shall suffice for the particular weeks stated in the notice

or until the condition upon which the allowance or denial was based has been changed.

[Am. Rem. Supp. 1945, § 9998-224.]

SEC. 8. Section 50.20.190, R.C.W., as derived from section 18, chapter 215, Laws of 1947, is amended to read as follows: Amendment.

Any individual who has received any sum as benefits from the unemployment compensation fund, when not entitled thereto, shall be liable to the fund for the sum improperly paid to him. Liability for benefits improperly received.

As soon as the commissioner has knowledge of payment of benefits to an individual under the circumstances mentioned in this section, he shall promptly prepare and deliver or mail to the individual at his last known address, a notice of determination of liability declaring that the individual has been determined liable to refund the amount of benefits paid under the circumstances mentioned in this section. Such amount, if not previously collected, shall be deducted from any future benefits payable to the individual. Notice of determination of liability.

Appeal from any determination of liability herein provided may be had in the same manner and to the same extent as provided for appeals relating to determinations in respect to claims for benefits: *Provided*, That an appeal from any determination covering overpayment only, shall be deemed to be an appeal from the determination which was the basis for establishing the overpayment unless the merits involved in the issue set forth in such determination have already been heard and passed upon by the appeal tribunal. If no such appeal is taken to the appeal tribunal by the individual within ten days of the delivery of the notice of determination of liability, or within ten days of the mailing of the notice of determination, whichever is the earlier, said determination of liability shall be deemed conclusive and final, and the court shall, upon application of the Deduction from future benefits.

Appeal.
Determination conclusive if appeal not timely taken.

Judgment. commissioner, enter a judgment in the amount provided by the notice of determination, which judgment shall have and be given the same effect as if entered pursuant to civil action. On request of any agency which administers an employment security law of another state, the United States or a foreign government and which has found in accordance with the provisions of such law that a claimant is liable to repay benefits received under such law by reason of having knowingly made a false statement or misrepresentation of a material fact with respect to a claim taken in this state as an agent for such agency, the commissioner may collect the amount of such benefits from such claimant to be refunded to such agency. In any case in which under this section a claimant is liable to repay any amount to the agency of another state, the United States or a foreign government, such amounts may be collected without interest by civil action in the name of the commissioner acting as agent for such agency if the other state, the United States or the foreign government extends such collection rights to the employment security department of the state of Washington, and provided that the court costs be paid by the governmental agency benefiting from such collection.

[Am. Rem. Supp. 1947, § 9998-225.]

Amendment. SEC. 9. Section 50.24.160, R.C.W., as derived from section 104, chapter 35, Laws of 1945, is amended to read as follows:

Election of coverage. Any employing unit for which services that do not constitute employment as defined in this title are performed, may file with the commissioner a written election that all such services performed by any distinct class or group of individuals or by all individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this title for not less than two calendar years. Upon the

written approval of such election by the commissioner, such services shall be deemed to constitute employment subject to this title from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January first of any calendar year subsequent to such two calendar years, only if the employing unit files with the commissioner prior to the fifteenth day of January of such year a written application for termination of coverage. The commissioner on his own motion may effectuate the same termination of coverage as of January first of any calendar year subsequent to such two calendar years by notifying such employing unit in writing of such termination prior to the fifteenth day of January of such year.

Termination.

[Am. Rem. Supp. 1945, § 9998-242.]

[This section (R.C.W. 50.24.160) was also amended by sec. 8, ch. 265, Laws of 1951.]

SEC. 10. Section 50.32.020, R.C.W., as derived from section 118, chapter 35, Laws of 1945, is amended to read as follows:

Amendment.

The applicant or claimant, his most recent employing unit or any interested party which the commissioner by regulation prescribes, may file an appeal from any determination or redetermination with the appeal tribunal within ten days after the date of notification or mailing, whichever is earlier, of such determination or redetermination to his last known address: *Provided*, That in the event an appeal with respect to any determination is pending as of the date when a redetermination thereof is issued, such appeal, unless withdrawn, shall be treated as an appeal from such redetermination. Any appeal from a determination of denial of benefits which is effective for an indefinite period shall be deemed to be an appeal as to all weeks subsequent to the effective date of the denial for which benefits have already been denied. If no appeal is taken from any determination, or redetermination, within the time allowed by the provisions of this section for appeal

Appeal from any determination or redetermination.

Effect of redetermination while appeal pending.

Determination or redetermination conclusive if appeal not timely taken.

therefrom, said determination, or redetermination, as the case may be, shall be conclusively deemed to be correct except as hereinbefore provided in respect to reconsideration by the commissioner of any determination.

[Am. Rem. Supp. 1945, § 9998-256.]

Amendment. SEC. 11. Section 50.20.010, R.C.W., as derived from section 9, chapter 214, Laws of 1949, is amended to read as follows:

Conditions to credit or benefits. An unemployed individual shall be eligible to receive waiting period credit or benefits with respect to any week only if the commissioner finds that:

Registration for work. (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 subdivision 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 title;

Application filed. (b) He has filed an application for an initial determination and made a claim for waiting period credit or for benefits in accordance with the provisions of this title;

Able and available for work. (c) He is able to work, and is available for work in any trade, occupation, profession or business for which he is reasonably fitted. 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;

Unemployed for one week. (d) He has been unemployed for a waiting period of one week; and

Base year wages. (e) He has within the base year been paid wages of not less than the minimum amount now or hereafter fixed by law as the minimum amount to be

earned in order to allow the individual to receive unemployment benefits.

[Am. Rem. Supp. 1949, § 9998-206.]

[This section (R.C.W. 50.20.010) was also amended by sec. 9, ch. 265, Laws of 1951.]

SEC. 12. Section 50.20.050, R.C.W., as derived from section 12, chapter 214, Laws of 1949, is amended to read as follows: Amendment.

An individual shall be disqualified for benefits for the calendar week in which he has left work voluntarily without good cause and for the five calendar weeks which immediately follow such week. Disqualification for leaving work.

[Am. Rem. Supp. 1949, § 9998-211.]

SEC. 13. Section 50.20.060, R.C.W., as derived from section 13, chapter 214, Laws of 1949, is amended to read as follows: Amendment.

An individual shall be disqualified for benefits for the calendar week in which he has been discharged or suspended for misconduct connected with his work and for the five calendar weeks which immediately follow such week. Disqualification for discharge for misconduct.

[Am. Rem. Supp. 1949, § 9998-212.]

SEC. 14. Section 50.20.080, R.C.W., as derived from section 15, chapter 214, Laws of 1949, is amended to read as follows: Amendment.

An individual is disqualified for benefits, 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 the five calendar weeks which immediately follow such week. Disqualification for failure to apply for work.

[Am. Rem. Supp. 1949, § 9998-214.]

SEC. 15. Section 50.20.130, R.C.W., as derived from section 17, chapter 214, Laws of 1949, is amended to read as follows: Amendment.

If an eligible individual is available for work for

Available for
work less
than full
week.

less than a full week, he shall be paid his weekly benefit amount reduced by one-seventh of such amount for each day that he is unavailable for work: *Provided*, That if he is unavailable for work for three days or more of a week, he shall be considered unavailable for the entire week.

Amount
of weekly
benefits.

Each eligible individual who is unemployed in any week shall be paid with respect to such 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 eight dollars. Such benefit, if not a multiple of one dollar, shall be computed to the next higher multiple of one dollar.

[Am. Rem. Supp. 1949, § 9998-219.]

Amendment.

SEC. 16. Section 50.28.010, R.C.W., as derived from section 2, chapter 235, Laws of 1949, is amended to read as follows:

As used in this chapter:

"Computation date."

"Computation date" means January first of any year;

"Cut-off date."

"Cut-off date" means March thirty-first next following the computation date;

"Effective date."

"Effective date" means June thirtieth next following the computation date;

"Credit year."

"Credit year" means the four consecutive calendar quarters immediately following the effective date;

"Payroll."

"Payroll" means all wages paid by an employer to individuals in his employment;

"Acquire."

"Acquire" means the right to occupy or use the operating assets formerly in the possession of a predecessor employer whether that acquisition be by purchase, lease, gift, or by any legal process;

"Contributions."

Experience rating credits applied in payment of contributions shall be deemed to be "contributions."

[R.C.W. 50.28.010 was derived from Rem. Supp. § 9998-246a (part; 1st five definitions). Remainder of § 9998-246a is codified as R.C.W. 50.28.020 and 50.28.030.]

SEC. 17. Section 50.28.050, R.C.W., as derived

from section 4, chapter 235, Laws of 1949, is amended to read as follows: Amendment.

Within three years from the effective date the commissioner may reconsider the credit allowed any employer whenever he finds that there has been an error in the computation evident from the payroll data or other facts submitted by the employer prior to the cut-off date. When an increase is due, he shall issue to such employer a supplementary credit notice reflecting the increase in the employer's credit; however, when a credit notice has been issued to an employer whose credit is reduced, such notice shall be deemed cancelled and a revised notice issued. If the credit shown by the incorrect notice has already been applied in payment of contributions in excess of the correct credit, the employer shall thereupon become liable for payment into the fund in an amount equal to the excess of the credit taken by him over the credit to which he is entitled and such amount shall be deemed and collected as contributions payable under this title. Redetermination of credit allowed employer.

Notice.

(1) Corrections or modifications of an employer's payroll shall not be taken into account for the purpose of an increase of his credit unless such corrections or modifications were established on or before the cut-off date. Correction or modification of employer's payroll.

(2) Corrections or modifications of an employer's payroll may be taken into account within three years after the cut-off date, for the purpose of a reduction of his credit.

Increases or reductions of an employer's credit shall not affect the credits established or to be established for any other employer, and shall further not affect any other computation made under this title. Other employers and other computations not affected.

[R.C.W. 50.28.050 was derived from Rem. Supp. § 9998-246c, subsections (a), (b), and (c). Subsection (d) of § 9998-246c is codified as R.C.W. 50.28.060.]

Passed the Senate February 23, 1951.

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