

2014 -- H 7431

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO TEMPORARY DISABILITY INSURANCE - GENERAL PROVISIONS

Introduced By: Representatives MacBeth, and Dickinson

Date Introduced: February 12, 2014

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-39-2 of the General Laws in Chapter 28-39 entitled "Temporary
2 Disability Insurance - General Provisions" is hereby amended to read as follows:

3 **28-39-2. Definitions. --** The following words and phrases, as used in chapters 39 -- 41 of
4 this title, have the following meanings unless the context clearly requires otherwise:

5 (1) "Average weekly wage" means the amount determined by dividing the individual's
6 total wages earned for services performed in employment within his or her base period by the
7 number of that individual's credit weeks within the base period;

8 (2) "Base period" with respect to an individual's benefit year when the benefit year
9 begins on or after October 7, 1990, means the first four (4) of the most recently completed five
10 (5) calendar quarters immediately preceding the first day of an individual's benefit year; provided,
11 that for any individual's benefit year when the benefit year begins on or after October 4, 1992,
12 and for any individual deemed monetarily ineligible for benefits under the "base period" as
13 defined in this subdivision, the department shall make a re-determination of entitlement based
14 upon an alternate base period which consists of the last four (4) completed calendar quarters
15 immediately preceding the first day of the claimant's benefit year. Notwithstanding anything
16 contained to the contrary in this subdivision, the base period shall not include any calendar
17 quarter previously used to establish a valid claim for benefits; provided, however, that the "base
18 period" with respect to members of the United States military service, the Rhode Island National
19 Guard, or a United States military reserve force, and who served in a United States declared

1 combat operation during their military service, who file a claim for benefits following their
2 release from their state or federal active military service and who are deemed to be monetarily
3 ineligible for benefits under this section, shall mean the first four (4) of the most recently
4 completed five (5) calendar quarters immediately preceding the first day the individual was called
5 into that state or federal active military service; provided, that for any individual deemed
6 monetarily ineligible for benefits under the "base period" as defined in this section, the
7 department shall make a re-determination of entitlement based upon an alternative base period
8 which consists of the last four (4) completed calendar quarters immediately preceding the first
9 day the claimant was called into that state or federal active military service. In addition, the
10 computation for the base period to be used for a member of the United States military service, the
11 Rhode Island National Guard, or a United States military reserve force, who served in a United
12 States declared combat operation during their military service, shall exclude the period of
13 deployment. Notwithstanding any provision of this section of the general or public laws to the
14 contrary, the base period shall not include any calendar quarter previously used to establish a
15 valid claim for benefits;

16 (3) "Benefit" means the money payable, as provided in chapters 39 -- 41 of this title, to
17 an individual as compensation for his or her unemployment caused by sickness;

18 (4) "Benefit credits" means the total amount of money payable to an individual as
19 benefits, as provided in section 28-41-7;

20 (5) "Benefit rate" means the money payable to an individual as compensation, as
21 provided in chapters 39 -- 41 of this title, for his or her wage losses with respect to any week
22 during which his or her unemployment is caused by sickness;

23 (6) "Benefit year" with respect to any individual who does not already have a benefit
24 year in effect, and who files a valid claim for benefits as of November 16, 1958 or any later date,
25 means fifty-two (52) consecutive calendar weeks, the first of which shall be the week containing
26 the day as of which he or she first files that valid claim in accordance with regulations adopted as
27 subsequently prescribed; provided, that for any benefit year beginning on or after October 7,
28 1990, the benefit year shall be fifty-three (53) consecutive calendar weeks if the subsequent filing
29 of a new valid claim immediately following the end of a previous benefit year would result in the
30 overlapping of any quarter of the base period of the prior new claim. In no event shall a new
31 benefit year begin prior to the Sunday next following the end of the old benefit year;

32 (i) For benefit years that begin on or after July 1, 2012, an individual's benefit year will
33 begin on the Sunday of the calendar week in which an individual first became unemployed due to
34 sickness and for which the individual has filed a valid claim for benefits;

1 (7) "Board" means the board of review as created under chapter 19 of title 42;

2 (8) "Calendar quarter" has the same definition as contained in chapter 42 of this title;

3 (9) "Credit week" means any week within an individual's base period in which that
4 individual earns wages amounting to at least twenty (20) times the minimum hourly wage as
5 defined in chapter 12 of this title, for performing services in employment for one or more
6 employers subject to chapters 39 -- 41 of this title;

7 (10) "Director" means the director of the department of labor and training;

8 (11) "Employee" means any person who is or has been employed by an employer subject
9 to chapters 39 -- 41 of this title and in employment subject to those chapters;

10 (12) "Employer" means any employing unit that is an employer under chapters 42 -- 44
11 of this title;

12 (13) "Employing unit" has the same definition as contained in chapter 42 of this title and
13 includes any governmental entity that elects to become subject to the provisions of chapters 39 --
14 41 of this title, in accordance with the provisions of sections 28-39-3.1 and 28-39-3.2;

15 (14) "Employment" has the same definition as contained in chapter 42 of this title;

16 (15) "Employment office" has the same definition as contained in chapter 42 of this title;

17 (16) "Fund" means the Rhode Island temporary disability insurance fund established by
18 this chapter;

19 (17) "Partial unemployment due to sickness" For weeks beginning on or after January 1,
20 2006 an individual shall be deemed partially unemployed due to sickness in any week of less than
21 full-time work if he or she fails to earn in wages for services for that week an amount equal to the
22 weekly benefit rate for total unemployment due to sickness to which he or she would be entitled
23 if totally unemployed due to sickness and eligible.

24 (i) For the purposes of this subdivision and subdivision (22) of this section, "Wages"
25 includes only that part of remuneration for any work, which is in excess of one-fifth (1/5) of the
26 weekly benefit rate for total unemployment, rounded to the next lower multiple of one dollar
27 (\$1.00), to which the individual would be entitled if totally unemployed and eligible in any one
28 week, and "services" includes only that part of any work for which remuneration in excess of
29 one-fifth (1/5) of the weekly benefit rate for total unemployment, rounded to the next lower
30 multiple of one dollar (\$1.00), to which the individual would be entitled if totally unemployed
31 and eligible in any one week is payable; provided, that nothing contained in this paragraph shall
32 permit any individual to whom remuneration is payable for any work performed in any week in
33 an amount equal to, or greater than, his or her weekly benefit rate to receive benefits under this
34 subdivision for that week.

1 (18) "Reserve fund" means the temporary disability insurance reserve fund established
2 by section 28-39-7;

3 (19) "Services" means all endeavors undertaken by an individual that are paid for by
4 another or with respect to which the individual performing the services expects to receive wages
5 or profits;

6 (20) "Sickness". An individual shall be deemed to be sick in any week in which, because
7 of his or her physical or mental condition, including pregnancy, he or she is unemployed and
8 unable to perform his or her regular or customary work or services;

9 (21) (i) "Taxes" means the money payments required by chapters 39 -- 41 of this title, to
10 be made to the temporary disability insurance fund or to the temporary disability insurance
11 reserve fund.

12 (ii) Wherever and whenever in chapters 39 -- 41 of this title, the words "contribution"
13 and/or "contributions" appear, those words shall be construed to mean the "taxes," as defined in
14 this subdivision, which are the money payments required by those chapters to be made to the
15 temporary disability insurance fund or to the temporary disability insurance reserve fund;

16 (22) "Wages" has the same definition as contained in chapter 42 of this title; provided,
17 that no individual shall be denied benefits under chapters 39 -- 41 of this title because his or her
18 employer continues to pay to that individual his or her regular wages, or parts of them, while he
19 or she is unemployed due to sickness and unable to perform his or her regular or customary work
20 or services. The amount of any payments, whether or not under a plan or system, made to or on
21 behalf of an employee by his or her employer after the expiration of six (6) calendar months
22 following the last calendar month in which the employee performed actual bona fide personal
23 services for his or her employer, shall not be deemed to be wages either for the purpose of paying
24 contributions thereon under chapter 40 of this title, or for the purpose of being used as a basis for
25 paying benefits under chapter 41 of this title; and

26 (23) "Week" has the same definition as contained in chapter 42 of this title.

27 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO TEMPORARY DISABILITY INSURANCE - GENERAL PROVISIONS

- 1 This act would exclude the period of military deployment in the computation of the base
- 2 period used in the determination of benefit amount.
- 3 This act would take effect upon passage.

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