

Pennsylvania Unemployment Compensation Law



pennsylvania
DEPARTMENT OF LABOR & INDUSTRY

2013 Edition

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Unemployment Compensation Law.

PENNSYLVANIA UNEMPLOYMENT COMPENSATION LAW

“UNEMPLOYMENT COMPENSATION LAW” (1937 P.L.)
Act of Dec. 5, 1936, Special Session 2, P.L. 2897, No. 1 **CL43**
Special Session No. 2 of 1936
No. 1936-1

AN ACT

Establishing a system of unemployment compensation to be administered by the Department of Labor and Industry and its existing and newly created agencies with personnel (with certain exceptions) selected on a civil service basis; requiring employers to keep records and make reports, and certain employers to pay contributions based on payrolls to provide moneys for the payment of compensation to certain unemployed persons; providing procedure and administrative details for the determination, payment and collection of such contributions and the payment of such compensation; providing for cooperation with the Federal Government and its agencies; creating certain special funds in the custody of the State Treasurer; and prescribing penalties.

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ARTICLE I PRELIMINARY PROVISIONS

Section 1. Enacting Clause.--Be it enacted, &c., That,

Section 2. Short Title.--This act shall be known, and may be cited, as the “Unemployment Compensation Law.”

Section 3. Declaration of Public Policy.--Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of the Commonwealth. Involuntary unemployment and its resulting burden of indigency falls with crushing force upon the unemployed worker, and ultimately upon the Commonwealth and its political subdivisions in the form of poor relief assistance. Security against unemployment and the spread of indigency can best be provided by the systematic setting aside of financial reserves to be used as compensation for loss of wages by employes during periods when they become unemployed through no fault of their own. The principle of the accumulation of financial reserves, the sharing of risks, and the payment of compensation with respect to unemployment meets the need of protection against the hazards of unemployment and indigency. The Legislature, therefore, declares that in its considered judgment the public good and the general welfare of the citizens of this Commonwealth require the exercise of the police powers of the Commonwealth in the enactment of this act for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own.

Section 4. Definitions.--The following words and phrases, as used in this act, shall have the following meanings, unless the context clearly requires otherwise.

- (a) “Base year” means the first four of the last five completed calendar quarters immediately preceding the first day of an individual’s benefit year.

(a) amended July 10, 1980, P.L.521, No.108
- (b) “Benefit Year” with respect to an individual who files or has filed a “Valid Application for Benefits” means the fifty-two consecutive week period beginning with the day as of which such “Valid Application for Benefits” is filed, and thereafter the fifty-two consecutive week period beginning with the day as of which such individual next files a “Valid Application for Benefits” after the termination of his last preceding benefit year.

(b) amended Dec. 5, 1974, P.L.771, No.262)

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- (c) “Board” means the Unemployment Compensation Board of Review established by this act.
- ((c) amended May 23, 1949, P.L.1738, No.530)
- (d) “Calendar quarter” means the period of three consecutive calendar months ending on March thirty-first, June thirtieth, September thirtieth or December thirty-first, or the equivalent thereof, as determined in accordance with general rules of the department.
- ((d) amended May 23, 1949, P.L.1738, No.530)
- (e) ((e) repealed June 22, 1964, Sp.Sess., P.L.112, No.7)
- (f) “Compensation” means:
 - (1) money payments payable to individuals with respect to their unemployment as provided in this act; and
 - (2) to the extent permitted by law, that part of the principal owed on bonds issued under Article XIV of this act that is attributable to repayment of the principal of advances under Title XII of the Social Security Act (58 Stat. 790, 42 U.S.C. § 1321 et seq.), exclusive of any interest or administrative costs associated with the bonds.
- ((f) amended June 12, 2012, P.L.577, No.60)
- (g) “Contributions” means the money payments required to be paid into the Unemployment Compensation Fund by employers, with respect to employment, which payments shall be used for the creation of financial reserves for the payment of compensation as provided in this act. This meaning includes, where appropriate in the enforcement provisions of this act, payments in lieu of contributions required to be paid by employers operating on a reimbursement basis as provided in Articles X, XI and XII of this act. “Contributions” also means, where appropriate in this act, money payments required to be paid into the Unemployment Compensation Fund by employees as provided in this act.
- ((g) amended July 21, 1983, P.L.68, No.30)
- (g.1) “Credit week” means any calendar week in an individual’s base year with respect to which he was paid in employment as defined in this act, remuneration of not less than:

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- (1) One hundred dollars (\$100). This paragraph shall expire December 31, 2014.
- (2) Sixteen (16) times the minimum hourly wage required by the act of January 17, 1968 (P.L.11, No.5), known as “The Minimum Wage Act of 1968.” This paragraph shall take effect January 1, 2015.

Only one credit week can be established with respect to any one calendar week.

((g.1) amended June 20, 2011, P.L.16, No.6)

(h) “Department” means the Department of Labor and Industry of the Commonwealth of Pennsylvania.

((h) amended May 23, 1949, P.L.1738, No.530)

(h.1) “Disaster” means a fire, flood or other physical occurrence, beyond the employer’s control, caused naturally or accidentally.

((h.1) added Dec. 19, 1996, P.L.1476, No.189)

(i) “Employe” means every individual, whether male, female, citizen, alien or minor, who is performing or subsequent to January first, one thousand nine hundred thirty-six, has performed services for an employer in an employment subject to this act.

((i) amended May 23, 1949, P.L.1738, No.530)

(j) (1) “Employer” means the Commonwealth of Pennsylvania, its political subdivisions, and their instrumentalities and every individual, copartnership, association, corporation (domestic or foreign) or other entity, the legal representative, trustee in bankruptcy, receiver or trustee of any individual, copartnership, association or corporation or other entity, or the legal representative of a deceased person, who or which employed or employs any employe in employment subject to this act for some portion of a day during a calendar year, or who or which has elected to become fully subject to this act, and whose election remains in force.

(2) Each individual employed to perform or to assist in performing work of any agent or employe of an employer shall be deemed

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to be employed by such employer for all the purposes of this act, whether such individual was hired or paid directly by such employer or by such agent or employe, provided the employer had actual or constructive knowledge of the work (except as provided in subsection (1)(3)(G) of this section).

- (2.1) An individual or entity that transfers some or all of its work force to the payroll of another individual or entity, directly or indirectly, as part of or resulting in an arrangement whereby the individual or entity shares employer functions with respect to some or all of its work force with the other individual or entity shall be the employer of the employe or employes covered by the arrangement with the other individual or entity. This paragraph shall include, without limitation, an arrangement known as a professional employer arrangement or employe leasing arrangement. This paragraph does not include a temporary help arrangement in which an individual or entity utilizes one or more workers supplied by another individual or entity to supplement its work force in special, temporary work situations such as absences, skill shortages, seasonal work loads and special assignments.
- (3) Where an employer maintains more than one place of employment within this Commonwealth, all of the employes at the several places of employment shall be treated, for the purposes of this act, as if employed by a single employer.
- (4) Any individual, copartnership, association, corporation or other entity who or which is not subject to this act may elect to become subject thereto by filing with the department his or its written application.
- (5) An employer subject to this act may elect to include within the term "employment," subject to this act, services performed by his or its employes with respect to which no contributions are required and paid under an unemployment compensation law of any other state, (a) if the employe or employes, included in such election, maintain a domicile within this Commonwealth and the services of such employe or employes, are performed entirely without this Commonwealth, or (b) if the employe or employes included in the election maintains no domicile within this Commonwealth but the services of such employe or employes are (A) performed without this Commonwealth and (B) are directed from this Commonwealth.

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- (6) An employer, subject to this act, may elect to include within the term “employment,” subject to this act, services performed by his or its employes which are exempt under the provisions of subsection (l) of section four of this act.
 - (7) Any election shall be subject to the approval of the department and shall become binding for not less than two calendar years.
 - (8) Any services performed for an employer covered by an election, pursuant to this subsection, shall, during the effective period of such election, be deemed to be employment for all the purposes of this act. Any election approved by the department, pursuant to this subsection, shall cease to be effective only as of the first day of January of any calendar year subsequent to the initial two calendar years thereof, and only if, at least thirty (30) days prior to such first day of January, the employer has filed with the department a notice of termination of his election. Notwithstanding any provisions of this subsection to the contrary, the department may at any time, on its own motion, cancel an election approved under the provisions of this subsection.
- (j) amended June 15, 2005, P.L.8, No.5)
- (k) “Employer’s Reserve Account” means the separate account established and maintained by the department for each employer in the manner provided in section three hundred two hereof, including any balance of the reserve account of any other employer whose reserve account may have been transferred to such employer.
- ((k) amended May 26, 1949, P.L.1854, No.551)
- (l) (1) “Employment” means all personal service performed for remuneration by an individual under any contract of hire, express or implied, written or oral, including service in interstate commerce, and service as an officer of a corporation.
 - (2) The term “Employment” shall include an individual’s entire service performed within or both within and without this Commonwealth, if--
 - (A) The service is localized within this Commonwealth, or
 - (B) The service is not localized in any state but some of the service

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is performed within this Commonwealth and (a) the base for operations or place from which such service is directed or controlled is in this Commonwealth, or (b) the base for 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 Commonwealth. Service shall be deemed to be localized within this Commonwealth if-- (a) the service is performed entirely within this Commonwealth, or (b) the service is performed both within and without this Commonwealth, but the service performed without this Commonwealth is incidental to the individual's service within this Commonwealth as for example where it is temporary or transitory in nature or consists of isolated transactions. Services performed without this Commonwealth shall not be included within the term "Employment" if contributions are required and paid with respect to such services under an unemployment compensation law of any other state.

Services performed by an individual for wages shall be deemed to be employment subject to this act, unless and until it is shown to the satisfaction of the department that--(a) such individual has been and will continue to be free from control or direction over the performance of such services both under his contract of service and in fact; and (b) as to such services such individual is customarily engaged in an independently established trade, occupation, profession or business.

- (C) The term "Employment" shall include an individual's services wherever performed within the United States, the Virgin Islands or Canada if--
 - (i) such service is not covered under the unemployment compensation law of any other state, the Virgin Islands or Canada, and
 - (ii) the place from which the service is directed or controlled is in this Commonwealth.
- (3) "Employment" shall also include--
 - (A) Services covered by an election pursuant to section 4 (j) of this act, and

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- (B) Services covered by an arrangement pursuant to section 312 of this act between the department and the agency of any other state or Federal Unemployment Compensation Law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this State, shall be deemed to be employment if the department has approved an election of an employing entity for whom such services are performed, pursuant to which the entire service of such individual during the period covered by such election is deemed to be employment.

- (C) Notwithstanding any other provisions of section 4(l), an individual's entire service as an officer or member of a crew of an American vessel on or in connection with such vessel, wherever performed, and whether in intrastate or interstate or foreign commerce, if the employer maintains within this State the operating office from which the operations of the American vessel, in respect to which such services are performed, are ordinarily and regularly managed, supervised, directed and controlled.

- (D) Service of an individual who is a citizen of the United States after December 31, 1971, performed outside the United States (except in Canada and in the case of the Virgin Islands after December 31, 1971, and before January 1 of the year following the year in which the Secretary of Labor approves for the first time an unemployment insurance law submitted to him by the Virgin Islands for approval) in the employ of an American employer (other than service which is deemed "employment" under the provisions of paragraph (2) of this subsection or the parallel provisions of another state's law), if:
 - (a) the employer's principal place of business in the United states is located in this State; or

 - (b) the employer has no place of business in the United States, but
 - (i) the employer is an individual who is a resident of this State; or

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- (ii) the employer is a corporation which is organized under the laws of this State; or
 - (iii) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this State is greater than the number who are residents of any one other state; or
- (c) none of the criteria of divisions (a) and (b) of this subparagraph is met but the employer has elected coverage in this State, or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under this act.
- (d) an “American employer” for purposes of this subparagraph, means a person who is
 - (i) an individual who is a resident of the United States; or
 - (ii) a partnership if two-thirds or more of the partners are residents of the United States; or
 - (iii) a trust, if all of the trustees are residents of the United States; or
 - (iv) a corporation organized under the laws of the United States or of any state.
- (E) Service by an individual other than one who is an employe under paragraphs (1) and (2) of this subsection who performs services for remuneration for any person--
 - (a) as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his principal;
 - (b) as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the

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transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations: Provided, That for the purposes of this subparagraph, the term "employment" shall include services described in (a) and (b) above performed after December 31, 1971 only if:

- (i) the contract of service contemplates that substantially all of the services are to be performed personally by such individual;
 - (ii) the individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and
 - (iii) the services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.
- (F) Services performed after December 31, 1971 by an individual as defined under the provisions of Articles X, XI and XII of this act except for services excluded from employment pursuant to such articles.
- (G) Notwithstanding any other provisions of this act, service performed after December 31, 1977, by an individual in agricultural labor as defined in section 4(1)(4)(1) when:
- (a) Such service is performed for a person who--
 - (1) during any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor (not taking into account service in agricultural labor performed before January 1, 1982, by an alien referred to in section 4(1)(3)(G)(a.1) or 4(1)(2)(G)(a.1)); or

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- (2) for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor (not taking into account service in agricultural labor performed before January 1, 1982, by an alien referred to in section 4(1)(3)(G)(a.1)) ten or more individuals, regardless of whether they were employed at the same moment of time.
- ((a) amended July 10, 1980, P.L.521, No.108)
- (a.1) Such service is not performed in agricultural labor if performed before January 1, 1982, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act. ((a.1) amended July 10, 1980, P.L.521, No.108)
- (b) For the purposes of this subsection any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employe of such crew leader--
 - (1) if such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and
 - (2) if such individual is not an employe of such other person within the meaning of division (a)(1) and (2) above.
- (c) For the purposes of this subparagraph (G), in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employe of such crew leader--

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- (1) such other person and not the crew leader shall be treated as the employer of such individual; and
 - (2) such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his own behalf or on behalf of such other person) for the service in agricultural labor performed for such other person.
- (d) The term “crew leader” means an individual who--
 - (1) furnishes individuals to perform service in agricultural labor for any other person;
 - (2) pays (either on his own behalf or on behalf of such other person) the individuals so furnished by him for the service in agricultural labor performed by them; and
 - (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employe of the farm operator.
- (H) Notwithstanding any other provisions of this act, domestic service after December 31, 1977, in a private home, local college club or local chapter of a college fraternity or sorority performed for a person who paid cash remuneration of one thousand dollars or more after December 31, 1977, in any calendar quarter in the current calendar year or the preceding calendar year to individuals employed in such domestic service.
- (4) The word “employment” shall not include--
 - (1) Agricultural labor which shall include all services performed except those services defined in 4(l)(3)(G)--
 - (a) On a farm in the employ of any person in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity,

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including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife.

- (b) 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 or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.
- (c) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended (46 Stat. 1550, sec. 3:12 U.S.C.A. 1141j), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs or waterways not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.
- (d)
 - (1) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than one-half of the commodity with respect to which such service is performed.
 - (2) In the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in (d)(1) above, but only if such operators produced more than one-half of the commodity with respect to which such service is performed.
 - (3) The provisions of (d)(1) and (d)(2) above shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its

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delivery to a terminal market for distribution for consumption.

- (e) On a farm operated for profit if such service is not in the course of the employer's trade or business.
 - (f) As used in this subparagraph the term "farm" includes stock dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards.
- (2) Domestic service in a private home, local college club or local chapter of a college fraternity or sorority.
 - (3) Service not in the course of the employer's trade or business performed in any calendar quarter by an employe unless the cash remuneration paid for such service is fifty dollars or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this subparagraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if
 - (i) on each of some twenty-four days during such quarter, such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or
 - (ii) such individual was regularly employed (as determined under clause (i)) by such employer in the performance of such service during the preceding calendar quarter.
 - (4) Service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft if the employe is employed on or in connection with such vessel or aircraft when outside the United States.
 - (5) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under

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the age of eighteen (18) in the employ of his father or mother.

- (6) Service performed in the employ of the United States Government or of an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this act, except that, to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this act shall be applicable to such instrumentalities in the same manner to the same extent and on the same terms as to all other employers. In the event that this State shall not be certified for any year by the Social Security Board under section three thousand three hundred four (c) of the Federal Internal Revenue Code of 1954, as amended, the payments required of such instrumentalities with respect to such year shall be refunded by the department from the fund in the same manner and within the same period as is provided in section three hundred eleven of this act with respect to contributions erroneously collected.
- (7) ((7) deleted July 6, 1977, P.L.41, No.22)
- (8) For the purposes of Articles X, XI, XII—
 - (a) Service performed in the employ of
 - (i) a church or convention or association of churches or
 - (ii) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches; or
 - (b) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or
 - (c) ((c) deleted July 6, 1977, P.L.41, No.22)

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- (d) in a facility conducted for the purpose of carrying out a program of (i) rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or (ii) providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or
 - (e) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any Federal agency or an agency of a State or political subdivision thereof, by an individual receiving such work relief or work training; or
 - (f) prior to January 1, 1978 for a hospital in a State prison or other State correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution.
- (9) Service performed after June thirtieth, one thousand nine hundred and thirty-nine, either as an employe, representative, or service performed in the employ of an employer when such employe, representative, or employer is determined to be subject to the Act of Congress known as the Railroad Unemployment Insurance Act (52 U.S. Stat. 1094) or to an Act of Congress establishing an unemployment compensation system for maritime employes by the agency or agencies empowered to make such determinations.
- (10) (A) Service performed in any calendar quarter in the employ of an organization exempt from income tax under section 501(a) of the Federal Internal Revenue Code of 1954, as amended, (other than an organization described in section 401(a) of said code) or under section 521 of said code if the remuneration for such service is less than fifty dollars; or
- (B) Service performed in the employ of a school, college or university if such service is performed (i) by a student who is enrolled and is regularly attending classes at such school, college or university or (ii) by the spouse of such a student if such spouse is advised at the time such spouse commences to perform such service that (i) the

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employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college or university and (ii) such employment will not be covered by any program of unemployment insurance; or

- (C) Service performed by an individual under the age of twenty-two who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution which combines academic instruction with work experience, if such service is an integral part of such program and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers; or
 - (D) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital as defined in section 4(m.1) of this act.
- (11) Service performed in the employ of an international organization.
 - (12) Service performed by a nonresident, alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Federal Immigration and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be.
 - (14) Service performed in the employ of a foreign government (including service as a consular or other office or employe or a nondiplomatic representative).
 - (15) Service performed in the employ of an instrumentality wholly owned by a foreign government,
 - (i) if the service is of a character similar to that performed in foreign countries by employes of the United States

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Government or of an instrumentality thereof, and

- (ii) if the Secretary of State of the United States shall certify to the Secretary of the Treasury of the United States that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employes of the United States Government and of instrumentalities thereof.
- (16) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to the laws of this Commonwealth and services performed as an interne in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to the laws of this Commonwealth.
- (17) Service performed by an individual for an employer as an insurance agent or real estate salesman or as an insurance solicitor or as a real estate broker or as a solicitor of applications for, or salesman of, shares of or certificates issued by an investment company, or as an agent of an investment company, if all such service performed by such individual for such employer is performed for remuneration solely by way of commission, or services performed by an individual as an unsalaried correspondent for a newspaper, who receives no compensation, or compensation only for copy accepted for publication.
- (18) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.
- (19) Service covered by an arrangement between the department and the agency charged with the administration of any other state or Federal Unemployment Compensation Law, pursuant to which all services performed by an individual for an employing entity during the period covered by such employing unit's duly approved

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election, are deemed to be performed entirely within such agency's state or under such Federal law.

(20) Services performed as a direct seller.

(A) The term "direct seller" means any person

- (i) engaged in the trade or business of selling or soliciting the sale of consumer products to any buyer on a buy-sell basis or a deposit-commission basis, or any similar basis which the United States Secretary of Treasury or his delegate prescribes by regulations for resale by the buyer or any other person in the home or otherwise than in a permanent retail establishment, or
- (ii) engaged in the trade or business of selling or soliciting the sale of consumer products in the home or otherwise than in a permanent retail establishment.

(B) To be a "direct seller,"

- (i) substantially all the remuneration whether or not paid in cash for the performance of the services described under this definition must be directly related to sales or other output, including the performance of services, rather than to the number of hours worked, and
- (ii) the services performed by the person must be performed pursuant to a written contract between the person and the person for whom the services are performed and the contract provides that the person will not be treated as an employe with respect to the services for Federal tax purposes.

((20) added Oct. 30, 1996, P.L.738, No.133)

(21) Services performed by a full-time student in the employ of an organized camp if:

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- (A) the camp did not operate for more than seven months in the calendar year and did not operate for more than seven months in the preceding calendar year; or had average gross receipts for any six months in the preceding calendar year which were not more than thirty-three and one-third per centum ($33\frac{1}{3}\%$) of its average gross receipts for the other six months in the preceding calendar year; and
- (B) the full-time student performs services in the employ of the camp for less than thirteen calendar weeks in any such year.
- (C) For purposes of this subparagraph, an individual shall be treated as a full-time student for any period during which the individual is enrolled as a full-time student at an educational institution; or which is between academic years or terms if the individual was enrolled as a full-time student at academic year or term and there is a reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term.
- (D) For purposes of this subparagraph, the term "education institution" shall mean any educational institution of secondary, higher educational, professional or vocational educational training.
- (E) For purposes of this subparagraph, the term "camp" shall mean a children's overnight camp or a summer day camp of any variety.

((21) added Oct. 30, 2013, P.L.637, No.75)

- (5) If the services performed during one-half or more of any pay period by an employe for the person employing him constitute employment, all the services of such employe 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 employe for the person employing him do not constitute employment, then none of the services of such employe 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 employe by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by

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an employe for the person employing him where any of such service is excepted by paragraph (9) of subsection (l)(4) of this section.

- (6) Notwithstanding any of the other provisions of section 4(l), services shall be deemed to be in employment, if with respect to such services a tax is required to be paid under any Federal law imposing a tax, against which credit may be taken for contributions required to be paid into a State Unemployment Compensation Fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act are required to be covered under this act.

((l) amended July 6, 1977, P.L.41, No.22)

(m) "Employment Office" means a public employment office or branch thereof, operated by the department or by any other state or by the Federal Government under agreement with the department. ((m) amended May 23, 1949, P.L.1738, No.530)

(m.1) "Hospital" means an institution which has been licensed, certified or approved by the Department of Public Welfare of the Commonwealth of Pennsylvania as a hospital. ((m.1) added Sept. 27, 1971, P.L.460, No.108)

(m.2) "Institution of higher education" means an educational institution which--

- (1) admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of such a certificate;
- (2) is legally authorized in this Commonwealth to provide a program of education beyond high school;
- (3) provides an educational program for which it awards a bachelor's or higher degree or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies or a program of training to prepare students for gainful employment in a recognized occupation; and
- (4) is a public or other nonprofit institution. Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this Commonwealth are institutions of higher education for purposes of this act.

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((m.2) added Sept. 27, 1971, P.L.460, No.108)

(m.3) “Partial Benefit Credit” means that part of the remuneration, if any paid or payable to an individual with respect to a week for which benefits are claimed under the provisions of this act, which is not in excess of thirty per centum (30%) of the individual’s weekly benefit rate or six dollars whichever is the greater. Such partial benefit credit if not a multiple of one dollar (\$1) shall be computed to the next higher multiple of one dollar (\$1).

((m.3) amended June 12, 2012, P.L.577, No.60)

(n) “Referee” means a referee appointed to hear appeals under this act.

((n) amended May 23, 1949, P.L.1738, No.530)

(o) “Secretary” means the Secretary of Labor and Industry of this Commonwealth, or his duly authorized representative.

((o) amended May 23, 1949, P.L.1738, No.530)

(p) “Social Security Act” means the act enacted by the Congress of the United States, approved the fourteenth day of August, one thousand nine hundred and thirty-five, entitled “An act to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes,” as amended.

((p) amended May 23, 1949, P.L.1738, No.530)

(q) “Social Security Board” means the Social Security Board established by the Social Security Act or such other agency or agencies of the United States to which the authority of the Social Security Board may be transferred.

((q) amended May 23, 1949, P.L.1738, No.530)

(r) “State” includes Puerto Rico, Virgin Islands and the District of Columbia.

((r) amended Sept. 14, 1961, P.L.1301, No.570)

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- (s) ((s) repealed June 22, 1964, Sp.Sess., P.L.112, No.7)
- (t) “Suitable Work” means all work which the employe is capable of performing. In determining whether or not any work is suitable for an individual, the department shall consider the degree of risk involved to his health, safety and morals, his physical fitness, prior training and experience, and the distance of the available work from his residence. The department shall also consider among other factors the length of time he has been unemployed and the reasons therefor, the prospect of obtaining local work in his customary occupation, his previous earnings, the prevailing condition of the labor market generally and particularly in his usual trade or occupation, prevailing wage rates in his usual trade or occupation, and the permanency of his residence. However, notwithstanding any other provisions of this subsection no work shall be deemed suitable in which
 - (1) the position offered is vacant, due directly to a strike, lockout, or other labor dispute, or
 - (2) the remuneration, hours or other conditions of the work offered are substantially less favorable to the employe than those prevailing for similar work in the locality, or
 - (3) as a condition of being employed, the employe would be required to join a company union, or to resign from, or refrain from joining, any bona fide labor organization.
- ((t) amended May 23, 1949, P.L.1738, No.530)
- (u) “Unemployed.”--An individual shall be deemed unemployed (I) with respect to any week
 - (i) during which he performs no services for which remuneration is paid or payable to him and
 - (ii) with respect to which no remuneration is paid or payable to him, or (II) with respect to any week of less than his full-time work if the remuneration paid or payable to him with respect to such week is less than his weekly benefit rate plus his partial benefit credit. Notwithstanding any other provisions of this act, an employe who is unemployed during a plant shutdown for vacation purposes shall not be deemed ineligible for compensation merely by reason of the fact

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that he or his collective bargaining agents agreed to the vacation. No employe shall be deemed eligible for compensation during a plant shutdown for vacation who receives directly or indirectly any funds from the employer as vacation allowance.

((u) amended Mar. 24, 1964, Sp.Sess., P.L.53, No.1)

(v) “Unemployment Trust Fund” means the Unemployment Trust Fund established by the Social Security Act.

((v) amended May 23, 1949, P.L.1738, No.530)

(w) (1) A “Valid Application for Benefits” means an application for benefits on a form prescribed by the department, which is filed by an individual, as of a day not included in the benefit year previously established by such individual, who (1) has been separated from his work or who during the week commencing on the Sunday previous to such day has worked less than his full time due to lack of work and (2) is qualified under the provisions of section four hundred and one (a), (b) and (d).

(2) An application for benefits filed after the termination of a preceding benefit year by an individual shall not be considered a Valid Application for Benefits within the meaning of this subsection, unless such individual has, subsequent to the beginning of such preceding benefit year and prior to the filing of such application, worked and earned wages in “employment” as defined in this act in an amount equal to or in excess of six (6) times his weekly benefit rate in effect during such preceding benefit year.

((w) amended June 12, 2012, P.L.577, No.60)

(x) “Wages” means all remuneration, (including the cash value of mediums of payment other than cash, except that only cash wages shall be used to determine the coverage of agricultural labor as defined in section 4(1)(3) (G) and domestic service as defined in section 4(1)(3)(H)), paid by an employer to an individual with respect to his employment except that the term “wages” shall not include: (intro. par. amended June 12, 2012, P.L.577, No.60)

(1) For purposes of paying employer contributions, that part of the remuneration paid to an individual by each of his employers during

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a calendar year that exceeds eight thousand five hundred dollars (\$8,500) for calendar year 2013, eight thousand seven hundred fifty dollars (\$8,750) for calendar year 2014, nine thousand dollars (\$9,000) for calendar year 2015, nine thousand five hundred dollars (\$9,500) for calendar year 2016, nine thousand seven hundred fifty dollars (\$9,750) for calendar year 2017 and ten thousand dollars (\$10,000) for calendar year 2018 and thereafter: Provided, That an employer may take credit under this subsection for remuneration which his predecessor-in-interest has paid to an individual during the same calendar year with respect to employment; and provided also, that an employer may take credit under this subsection for remuneration which he or his predecessor-in-interest has paid to an individual in the same calendar year on which contributions have been required and paid by such employer under an unemployment compensation law of another state, but no such credit may be taken for remuneration which has been paid by another employer to such individual, whether or not contributions have been paid thereon by such other employer under this act or under any state unemployment compensation law.

- ((1) amended June 12, 2012, P.L.577, No.60)
- (2) The amount of any payment made after December thirty-first, one thousand nine hundred fifty, (including any amount paid by an employing unit for insurance or annuities or into a fund to provide for any such payment), to or on behalf of an individual or any of his dependents under a plan or system established by an employer who makes provision generally for individuals performing service for it (or for such individuals generally and their dependents), or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents), on account of
 - (i) retirement, or
 - (ii) sickness or accident disability, or
 - (iii) medical or hospitalization expenses in connection with sickness or accident disability, or
 - (iv) death.
- ((2) amended Sept. 29, 1951, P.L.1580, No.408)

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- (3) The payment by an employer (without deduction from remuneration of the employe) of the tax imposed upon an employe under section three thousand one hundred one of the Federal Internal Revenue Code of 1954, as amended.
 - ((3) amended June 22, 1964, Sp.Sess., P.L.112, No.7)
- (4) Dismissal payments before the first day of January, one thousand nine hundred fifty-two, which the employer is not legally required to make.
 - ((4) amended Sept. 29, 1951, P.L.1580, No.408)
- (5) Payments made by an employer to employes while in the military or naval service of the United States and performing no services for the employer.
 - ((5) amended Sept. 29, 1951, P.L.1580, No.408)
- (6) Notwithstanding any other provisions of this subsection, wages shall include all remuneration for services with respect to which a tax is required to be paid under any Federal law imposing a tax against which credit may be taken for contributions to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act are required to be included under this act.
 - ((6) amended Sept. 27, 1971, P.L.460, No.108)
- (7) The amount of any payment made after December thirty-first, one thousand nine hundred fifty, by an employer to or on behalf of an individual performing services for him, (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment), on account of retirement.
 - ((7) added Sept. 29, 1951, P.L.1580, No.408)
- (8) The amount of any payment on account of sickness or accident disability or medical or hospitalization expenses in connection with sickness or accident disability made after the thirty-first day of December, one thousand nine hundred fifty, by an employer to or on behalf of an individual performing services for it after the expiration

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of six calendar months following the last calendar month in which the individual performed services for such employer.

- (8) added Sept. 29, 1951, P.L.1580, No.408)
- (9) The amount of any payment made after the thirty-first day of December, one thousand nine hundred fifty, by an employer to or on behalf of an individual performing services for it, or his beneficiary,
 - (i) from or to a trust exempt from tax under section 401(a) of the Federal Internal Revenue Code of 1954, as amended, at the time of such payment, unless such payment is made to an individual performing services for the trust as remuneration for such services and not as a beneficiary of the trust, or
 - (ii) under or to an annuity plan which at the time of such payments is a plan described in section 403(a) of said code, or
 - (iii) under or to a bond purchase plan which at the time of such payment is a qualified bond purchase plan described in section 405(a) of said code.
- (9) amended June 22, 1964, Sp.Sess., P.L.112, No.7)
- (10) ((10) repealed Sept. 27, 1971, P.L.460, No.108)
- (11) The amount of any remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business.
- ((11) added June 22, 1964, Sp.Sess., P.L.112, No.7)
- (y) ((y) repealed June 22, 1964, Sp.Sess., P.L.112, No.7)
- (z) "Week" means any calendar week ending at midnight Saturday, or the equivalent thereof, as determined in accordance with general rules adopted by the department: Provided, however, That for the purposes of computation of the partial benefit credit if the workday of an individual includes parts of two calendar days, all the work performed by such individual during such workdays shall be deemed to have been performed during the day in which the preponderance of the work was performed. If the work performed is

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equally divided over two calendar days the work shall be deemed to have been performed in the day in which the shift began.

((z) amended Mar. 17, 1978, P.L.14, No.8)

(z.1) “American Vessel” means any vessel documented and numbered under the laws of the United States, including any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state and the term “American aircraft” means an aircraft registered under the laws of the United States.

((z.1) amended June 22, 1964, Sp.Sess., P.L.112, No.7)

(z.2) “Shipping Articles” means “Articles of Agreement” purporting to comply with section five hundred sixty-four of Title forty-six of the United States Code, or any other agreement under which officers or members of the crew are employed on the high seas and under which they are not entitled to a final settlement of wages until the termination of the period of the employment.

((z.2) amended May 23, 1949, P.L.1738, No.530)

(z.3) “Computation Date” means June thirtieth of the year preceding the effective date of new rates of contribution, which date shall be January first of the succeeding year.

((z.3) added May 26, 1949, P.L.1854, No.551)

(z.4) “Annual Payroll” means the total amount of “wages,” as herein defined, paid by any employer during the twelve consecutive calendar month period ending on June thirtieth of any year, including such wages paid by any other employer appertaining to that balance of the reserve account of such other employer which may have been transferred to such employer.

((z.4) added May 26, 1949, P.L.1854, No.551)

(z.5) “Average Annual Payroll” means the average of the last three consecutive “annual payrolls” of any employer: Provided, That for any employer in Groups 1 and 2 as defined in section 301.1(b) who has not paid wages for three “annual payrolls,” the “average annual payroll” means the average of

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such fewer “annual payrolls.”

((z.5) amended Dec. 17, 1959, P.L.1893, No.693)

(z.6) “Annual Benefits” means the total amount of benefits charged to an employer’s account during the twelve consecutive calendar month period ending on June thirty of any year.

((z.6) added Dec. 17, 1959, P.L.1893, No.693)

(z.7) “Average Annual Benefits” means the average of the last three consecutive “annual benefits” of any employer: Provided, That for any employer in Groups 1 and 2 as defined in section 301.1(b) who has not paid wages for three “annual payrolls,” the “average annual benefits” means the average of such fewer “annual benefits.”

((z.7) added Dec. 17, 1959, P.L.1893, No.693)

Compiler's Note: Section 6(1) of Act 75 of 2013, which added subsec. (1)(4)(21), provided that subsec. (1)(4)(21) shall apply to services performed on or after the effective date for section 6. Section 7 of Act 75 provided that section 6 shall take effect immediately.

Compiler's Note: Section 18(7)(i) of Act 60 of 2012, which amended subsecs. (f), (m.3), (w) and (x), provided that the amendment of subsecs. (m.3) and (w) shall apply to benefit years which begin after December 31, 2012.

Compiler's Note: Section 9(6) of Act 6 of 2011, which amended subsec. (g.1), provided that the amendment shall apply to benefit years that begin on or after January 1, 2013.

Section 5. Constitutional Construction.--The provisions of this act are severable, and if any provisions hereof are held unconstitutional, such decision shall not be construed to impair any other provision of this act. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional provision not been included herein.

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ARTICLE II ADMINISTRATION OF ACT

Section 201. General Powers and Duties of Department.--

- (a) It shall be the duty of the department to administer and enforce this act through such employment service and public employment offices as have been or may be constituted in accordance with the provisions of this act and existing laws. It shall have power and authority to adopt, amend, and rescind such rules and regulations, require such reports from employers, employes, the board and from any other person deemed by the department to be affected by this act, make such investigations, and take such other action as it deems necessary or suitable. Such rules and regulations shall not be inconsistent with the provisions of this act. The department shall submit to the Governor and the General Assembly a biennial report covering the administration and operation of this act and shall make such recommendations for amendments to this act as it deems proper. The department shall establish procedures to identify the transfer or acquisition of a business in accordance with section 303(k)(1)(E) of the Social Security Act (49 Stat. 620, 42 U.S.C. § 503(k)(1)(E)). In the discharge of the duties imposed by this act, the Secretary and any agent duly authorized in writing by him shall have the power to administer oaths and affirmations, take depositions, and certify to official acts. The department shall have the power to issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary in the administration of this act.
- ((a) amended June 15, 2005, P.L.8, No.5)
- (b) The department and the Department of Property and Supplies are hereby authorized to acquire land and buildings or to use land in or in the immediate vicinity of the City of Harrisburg, now owned by the Commonwealth, deemed necessary by the Secretary of Labor and Industry, with the approval of the Governor, and in the case of the use of land now owned by the Commonwealth, the approval of the board or other agency of the Commonwealth having jurisdiction over the same, for the administration of this act.

As all property acquired under the provisions of this subsection shall be used exclusively for the performance of essential governmental functions, no taxes shall be required to be paid or assessments made upon any such property from the time that the Commonwealth actually takes title to

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such property in the event of outright purchase, or from the time that the Commonwealth takes possession of such property under a lease-purchase agreement as provided herein.

((b) amended May 17, 1957, P.L.153, No.72)

Section 202. Personnel and Employment Offices.--The secretary shall have power to establish such offices and to appoint and fix the compensation of such employes in such offices and in the department as he may deem necessary to administer this act, subject to the provisions of the act, approved the fifth day of August, one thousand nine hundred and forty-one (Pamphlet Laws, seven hundred fifty-two).

The department is authorized to cooperate with or to enter into agreements with the Railroad Retirement Board or any other agency of the United States charged with the administration of an unemployment compensation law, with any political subdivision of this State, or with any private nonprofit organization, with respect to the establishment, maintenance, and use of free employment service facilities and free public employment offices, and, as a part of any such agreement, may accept moneys, services, or quarters as a contribution to the administration fund.

(202 amended May 29, 1945, P.L.1145, No.408)

Section 203. Unemployment Compensation Board of Review.--

- (a) There is hereby created in the department an Unemployment Compensation Board of Review. The board shall consist of three members nominated and appointed by the Governor, by and with the advice and consent of two-thirds of all the members of the Senate, for terms of six years each, and until their successors shall have been appointed and qualified, except that the terms of the members first taking office shall expire on July first, one thousand nine hundred thirty-nine; July first, one thousand nine hundred forty-one; and July first, one thousand nine hundred forty-three, respectively, as designated by the Governor at the time of appointment and until their successors shall have been appointed and qualified. The Governor shall designate one of the members as chairman. Vacancies in said board shall be filled for the unexpired terms. The chairman of the board shall receive a salary at the rate of nine thousand dollars per annum. The other members of the board shall receive salaries at the rate of eight thousand five hundred dollars per annum. Such salaries shall be paid from the Administration Fund. Two members of the board shall be a quorum, and no action of the board shall be valid unless it shall have the concurrence of at least two members. A vacancy on the board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the board.

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- (b) The secretary may appoint a secretary to the board to hold office at his pleasure. Such secretary, if appointed, shall have such powers and perform such duties, not contrary to law, as the board shall prescribe, and shall receive such compensation as the secretary, with the approval of the Governor, shall determine.

- (b) amended Sept. 27, 1971, P.L.460, No.108)

- (c) The board shall be a departmental administrative board, and shall have all the powers and perform all the duties generally vested in, and imposed upon, departmental administrative boards and commissions by The Administrative Code of one thousand nine hundred twenty-nine and its amendments.

- (d) It shall be the duty of the board to hear appeals arising from claims for compensation, adopt, amend or rescind such rules of procedure, undertake such investigations, and take such action required for the hearing and disposition of appeals as it deems necessary and consistent with this act. Such rules of procedure shall be effective in such manner as the board shall prescribe and shall not be inconsistent with this act. Any investigation, hearing or appeal which the board has power to undertake, hold, hear or determine, may be undertaken, held or heard by or before any one or more of the members of the board, but any determination, ruling or order of a member or members upon any such investigation, hearing or appeal undertaken, held or heard by him or them, shall not become and be effective until approved and confirmed by at least a quorum of the board. The chairman of the board, or his representative, shall have the power as often as he may deem the work of the board requires to designate the time and place for the conducting of investigations, hearings and appeals, and to assign cases to a member or members for such purposes.

- (e) The secretary shall appoint and fix the compensation of such referees as may be deemed necessary with power to take testimony in any appeals coming before the board. Such appointment shall be subject to the provisions of the act, approved the fifth day of August, one thousand nine hundred and forty-one (Pamphlet Laws 752): Provided, That any person who, on the first day of July, one thousand nine hundred fifty-one, was employed as a referee and as of said date shall have completed one or more years of satisfactory service in such position, may make application to the Civil Service Commission, prior to the first day of October, one thousand nine hundred fifty-one, for appointment as a referee under the regular classified service and, notwithstanding any provisions of said act or any

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other act to the contrary, upon finding by said commission that he or she possesses the minimum qualifications therefor, shall be so appointed. It shall be the duty of a referee, under the supervision, direction and administrative control of the board, to hear and decide disputes in accordance with the provisions of this act and to conduct such other and further hearings in connection with the foregoing as may be required by the board.

- (e) amended Sept. 27, 1971, P.L.460, No.108)
- (f) The board shall submit to the department a biennial report concerning the performance of its powers and duties and shall make such recommendations for the improvement of its service and the amendment of this act as it deems proper.

Compiler's Note: Section 2 of Act 11 of 1989 repealed section 203

- (a) insofar as it is inconsistent with Act 11.

Section 204. Advisory Council.--(204 repealed July 1, 1985, P.L.96, No.30)

Section 204.1. State Unemployment Compensation Advisory Council.--

- (a) There is hereby created the State Unemployment Compensation Advisory Council to be composed of nineteen members which shall consist of:
 - (1) The Secretary of Labor and Industry or his designee.
 - (2) The Chairman and Minority Chairman of the Senate Committee on Labor and Industry or their designees.
 - (3) The Chairman and Minority Chairman of the House Committee on Labor Relations or their designees.
 - (4) Fourteen individuals appointed by the Governor which shall include:
 - (i) Four employe representatives who shall be appointed from a list supplied by the Pennsylvania AFL-CIO.
 - (ii) Four employer representatives who shall be appointed from a list supplied by the Pennsylvania Chamber of Commerce.

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- (iii) Six individuals, of whom no more than three shall represent employers and no more than three shall represent labor organizations.
- (b) Members shall be appointed for two-year terms commencing on February 1 of each odd-numbered year. Initial appointments shall be made within sixty days of final enactment of this act and shall expire on January 30, 1987.
- (c) Members of the council shall receive no compensation but shall be entitled to receive an allowance for expenses incurred in the performance of their duties.
- (d) The Secretary of Labor and Industry shall be the chairman of the council. The council shall meet at least four times each year.
- (e) The council may, upon a majority vote, appoint an executive director and one clerical assistant, and establish their compensation, to aid the council in the performance of its functions. The compensation of such employees and the amount allowed them for traveling and other incidental expenses shall be deemed part of the expenses incurred in connection with the administration of this act.
- (f) The council shall consider and advise the department upon all matters related to the administration of this act, including the formulation of policies assuring impartiality and freedom from political influence in its administration, and making studies relating to unemployment and unemployment compensation payments. Such council may recommend to the Governor and the General Assembly, upon its own initiative, such changes in the provisions of this act, and in the administration thereof, as it deems necessary and shall make periodic reports to the Governor and the General Assembly regarding the findings of its studies and the performance of its duties and functions. The council shall have full access to information relating to the purpose of this act, provided the department shall not be required to provide any information which would specifically identify any employer, employee or claimant.
- (g) The Governor shall have the power to create such local advisory councils as the State Advisory Council may deem necessary for the efficient performance of its functions. Such local advisory councils shall be composed of an equal number of members representing employers, employees and the public and shall be appointed by the Governor.

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- (h) The members of local advisory councils shall serve without compensation but shall be entitled to be reimbursed out of the administration fund for all necessary expenses incurred in the discharge of their duties.
- (i) The State Advisory Council upon request shall be given copies of any report made by the department to the United States Department of Labor and shall have access to any other information requested by the council, including, but not limited to:
 - (1) Statistics relating to population, labor force and covered labor force.
 - (2) Claims data.
 - (3) Payment data.
 - (4) Minimum, maximum, average weekly benefit amount and minimum earnings requirement.
 - (5) Federal-State extended benefits program.
 - (6) Number of nonmonetary determinations for unemployment benefits.
 - (7) Experience of reimbursable and contributory employers.
 - (8) Tax rates by industry, taxable payroll, total payroll and number of employers.
 - (9) Disbursements from the Unemployment Compensation Fund.
 - (10) Income of the Unemployment Compensation Fund.
 - (11) Difference between income and disbursements of the Unemployment Compensation Fund.
 - (12) Status of the Unemployment Compensation Fund.
 - (13) Experience rating factors of insured employers.
 - (14) Net reserve or deficit of active employer accounts.
 - (15) Reserve ratio contributions received.

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(16) Benefit ratio contributions received.

At the discretion of the council, this information shall be provided on computer tape if the information is on computer tape. The department shall not be required to provide any information which would specifically identify any employer, employe or claimant.

- (j) The council shall have the authority to authorize the preparation of an annual financial analysis of the Unemployment Compensation Fund and may contract with an independent actuarial firm of certified actuaries and such other consultants as may be necessary to perform such thorough annual financial analysis. The department shall supply the actuaries with all information required to perform this analysis as the actuaries may require, provided the department shall not be required to provide any information which would specifically identify any employer, employe or claimant. This analysis, if authorized, shall be completed by September 1 of each year for the previous calendar year. The analysis report shall be given to the Governor, the secretary, the State Advisory Council and the General Assembly and shall be made available to the public. The analysis shall include, but not be limited to, the following:
- (1) The solvency of the fund.
 - (2) The effect upon the fund of:
 - (i) changes in State and Federal law;
 - (ii) State and Federal court decisions; or
 - (iii) the State and national economic situation.
 - (3) A three-year projection of the condition of the fund.
- (k) The department shall also prepare and present to the Governor and the General Assembly, on or before the first day of March of each year, an evaluation of the financial operations of the unemployment compensation program, together with its findings and recommendations for developing and improving solvency of the fund and adjusting and regulating income and disbursements in the fields of contributions and benefits. Such report shall include the presentation of the current economic trends, statistics and analyses on which the evaluation is based. This evaluation shall include all of the following:

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- (1) Statistics relating to population, labor force and covered labor force.
- (2) Claims data.
- (3) Payment data.
- (4) Minimum, maximum, average weekly benefit amount and minimum earnings requirement.
- (5) Federal-State extended benefits program.
- (6) Number of nonmonetary determinations for unemployment benefits.
- (7) Experience of reimbursable and contributory employers.
- (8) Tax rates by industry, taxable payroll, total payroll and number of employers.
- (9) Disbursements from the unemployment fund.
- (10) Income of the unemployment fund.
- (11) Difference between income and disbursements of the unemployment fund.
- (12) Status of the unemployment fund.
- (13) Experience rating factors of insured employers.
- (14) Net reserve or deficit of active employer accounts.
- (15) Reserve ratio contributions received.
- (16) Benefit ratio contributions received.

(204.1 added July 1, 1985, P.L.96, No.30)

Section 205. Stabilization of Employment; Partial and Seasonal Unemployments.--

The department shall take appropriate steps to--(a) reduce and prevent unemployment, (b) encourage and assist in the adoption of practical methods of vocational training and guidance, (c) investigate, recommend, advise and assist in the establishment, by political subdivisions, of reserves for public works to be used in times of business depression and unemployment, and (d) promote the reemployment of unemployed workers.

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(205 amended May 23, 1949, P.L.1738, No.530)

Section 206. Records of and Reports by Employers.--

- (a) Each employer (whether or not liable for the payment of contributions under this act) shall keep accurate employment records containing such information, as may be prescribed by the rules and regulations adopted by the department. Such records shall be open to inspection by the department and its agents at any reasonable time, and as often as may be deemed necessary, but employers need not retain such records more than four (4) years after contributions relating to such records have been paid. The department may require from such employers such reports as it deems necessary, which shall be sworn to, if required by the department.
- (b) Information thus obtained shall not be made public or be open to public inspection, other than to the members of the board, the officers and employees of the department and other public employees in the performance of their public duties, but any employe or employer at a hearing on an appeal shall, upon request, be supplied with information from such records to the extent necessary for the proper presentation and consideration of the appeal.
- (c) Any officer or employe of the department or the board, or any other public employe, who shall violate any of the provisions of this section shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than twenty dollars (\$20) nor more than two hundred dollars (\$200) and in default of the payment of such fine and cost of prosecution shall be sentenced to imprisonment for not longer than thirty (30) days.
- (d) Any employer who has been determined by the department to be subject to the reporting provisions of this act and has been so notified, and who neglects or refuses to file or to complete in such manner as the department may prescribe either the periodic report required by the department to establish the amount of such contributions or the periodic report required by the department showing the amount of wages paid to each employe, or both, on or before the date such reports are required to be filed, shall pay a penalty of ten per centum (10%) of the total amount of contributions paid or payable by the employer or employe as the case may be for the period: Provided, That such penalty shall be not less than twenty-five dollars (\$25) or more than two hundred and fifty dollars (\$250). Such penalty shall apply to the reports for each period with respect to which such reports are required to be filed: Provided, That such penalty shall not apply to reports for any period with respect to which the last day for filing such reports is prior to a date on

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which the department has notified the employer that he has been determined an employer subject to the reporting provisions of this act, unless the reports for such prior periods are not filed within thirty (30) days after the employer has been so notified. The penalties provided by this section shall be in addition to all other penalties provided for in this act.

((d) amended Nov. 17, 1995, P.L.615, No.64)

(206 amended July 21, 1983, P.L.68, No.30)

Section 207. Cooperation with Social Security Board and Other Agencies.--

(a) (1) In the administration of this act, the secretary shall cooperate with the Department of Labor to the fullest extent consistent with the provisions of this act, and shall take such action through the adoption of appropriate rules, regulations, administrative methods and standards, as may be necessary to secure to this Commonwealth and its citizens all advantages available under the provisions of the Social Security Act that relate to unemployment compensation, the Federal Unemployment Tax Act, the Wagner-Peyser Act and the Federal-State Extended Unemployment Compensation Act of 1970.

((1) amended Sept. 27, 1971, P.L.460, No.108)

(2) In the administration of the provisions of Article IV-A of this act which are enacted to conform with the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, the secretary shall take such action as may be necessary

(i) to ensure that the provisions are so interpreted and applied as to meet the requirements of such Federal Act as interpreted by the United States Department of Labor and

(ii) to secure to this Commonwealth the full reimbursement of the Federal share of extended and regular benefits paid under this act that are reimbursable under the Federal Act.

((2) amended Sept. 27, 1971, P.L.460, No.108)

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(b) Upon request therefor, the department 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 compensation, and such recipient's rights as to further compensation under this act.

((b) amended Apr. 23, 1942, Sp. Sess., P.L.60, No.23)

(c) The department 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.

((c) amended Apr. 23, 1942, Sp. Sess., P.L.60, No.23)

(d) The department may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

((d) amended Apr. 23, 1942, Sp. Sess., P.L.60, No.23)

Section 208. Civil Service; Selection of Personnel; Additional Duties of Secretary and Board.--(208 repealed Aug. 5, 1941, P.L.752, No.286)

Section 208.1. Civil Service Appointment of Personnel.--(208.1 repealed June 22, 1964, Sp. Sess., P.L.112, No.7)

Section 209. Obsolete Files, Records, etc.--The department may cause to be made such summaries, compilations, photographs, duplications or reproductions of any records, reports, or transcripts thereof, as it may deem advisable for the effective and economical preservation of the information contained therein. Original documents so photographed, duplicated or reproduced may be destroyed. Such summaries, compilations, photographs, duplications or reproductions, duly authenticated, shall be admissible in any proceedings under this act if the original record or records would have been admissible therein.

The provisions of section five hundred twenty-four of the Administrative Code of one thousand nine hundred twenty-nine, as amended, to the contrary notwithstanding, the department may provide by regulation for the destruction, after reasonable periods, of any records, reports, transcripts, other papers in its custody, or reproductions thereof, the preservation of which is no longer necessary for the establishment of contribution liability or of benefit rights or for any other purpose necessary to the proper

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administration of this act, including any required audit thereof. Contribution reports of employers or the photographs thereof shall be retained for a period of at least two years from the date of filing.

(209 amended Aug. 24, 1953, P.L.1397, No.396)

Section 210. Reciprocal Arrangements with Foreign Governments.--To the extent permissible under the laws and Constitution of the United States, the department 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 this law or under a similar law of such government, and to enter into arrangements of the character provided in this section with the agency of a foreign government administering an unemployment compensation law. (210 added Sept. 29, 1951, P.L.1580, No.408)

Section 211. Fund Analysis.--(211 repealed July 1, 1985, P.L.96, No.30)

Section 212. Referral to Employment Offices.--The department shall refer all claimants eligible for compensation to employment offices for reemployment services. (212 added Dec. 9, 2002, P.L.1330, No.156)

Section 213. Relief from Charges for Certain Employers.--

- (a) An employer that makes payments in lieu of contributions pursuant to Article X, XI or XII shall be relieved of charges in accordance with section 302.1 and regulations of the department, for compensation paid on applications for benefits effective during a calendar year, if the employer satisfies the following requirements:
 - (1) The employer pays a nonrefundable solvency fee under subsection (b) for the calendar year within thirty (30) days after notice of the fee is sent to the employer's last known address. The department may for good cause extend the period within which the fee must be paid.
 - (2) All reports required by this act and regulations of the department for calendar quarters through the second calendar quarter of the preceding calendar year are filed.
- (b) An employer's solvency fee for a calendar year shall be the monetary amount determined by multiplying the solvency fee rate for the year by the amount of wages paid, without regard to the exclusion in section 4(x)(1), by

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the employer in the four consecutive calendar quarters ending on June 30 of the preceding calendar year, provided that an employer's solvency fee for a year shall not be less than twenty-five dollars (\$25).

- (1) For calendar years 2003, 2004 and 2005, the solvency fee rate shall be three ten thousandths (.0003).
 - (2) In 2005 the secretary shall redetermine the solvency fee rate. The secretary shall redetermine the rate so that the unrounded rate yields solvency fees approximately equal to the amount of compensation for which charges are relieved under this section. For purposes of redetermining the rate, the secretary shall use the amount of compensation for which charges are relieved under this section paid during 2003 and 2004 and the amount of wages paid, without regard to the exclusion in section 4(x)(1), during the same time period by employers who paid a solvency fee under this section. The rate as redetermined shall take effect for the next calendar year and shall remain in effect for three years.
 - (3) Beginning in 2008 and each fifth year thereafter, the secretary shall redetermine the solvency fee rate. The secretary shall redetermine the rate so that the unrounded rate yields solvency fees approximately equal to the amount of compensation for which charges are relieved under this section. For purposes of redetermining the rate, the secretary shall use the amount of compensation for which charges are relieved under this section paid during the five calendar years immediately preceding the year in which the redetermination occurs and the amount of wages paid, without regard to the exclusion in section 4(x)(1), during the same time period by employers who paid a solvency fee under this section. The rate as redetermined shall take effect for the next calendar year and shall remain in effect for five years.
 - (4) If the solvency fee rate redetermined under paragraphs (2) and (3) is not a multiple of one-hundredth of one per cent, it shall be rounded to the next higher multiple of one-hundredth of one per cent.
- (c) Solvency fees paid by employers under this section shall be deposited in the Unemployment Compensation Fund. Compensation for which charges are relieved under this section shall not be used in the calculation of the State adjustment factor under section 301.1(e).

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- (d) The provisions of this section shall constitute the exclusive means by which an employer who makes payments in lieu of contributions pursuant to Article X, XI or XII may be excused from reimbursing the Unemployment Compensation Fund for compensation paid to an individual that is based on wages paid by the employer or that portion of the individual's compensation determined in accordance with section 1108.
- (e) A group account under section 1109 shall constitute an employer for purposes of this section.

(213 amended June 20, 2011, P.L.16, No.6)

Compiler's Note: Section 9(1) of Act 6 of 2011, which amended section 213, provided that the amendment shall apply to charges for compensation corresponding to benefit years that begin on and after the effective date of the amendment.

Section 214. Representation in Proceedings.--Any party in any proceeding under this act before the department, a referee or the board may be represented by an attorney or other representative.

(214 added June 15, 2005, P.L.8, No.5)

ARTICLE III CONTRIBUTIONS BY EMPLOYERS AND EMPLOYEES

(Hdg. amended July 21, 1983, P.L.68, No.30)

Section 301. Contributions by Employers and Employees; Successors-In-Interest; Appeals.--

- (a) (1) Each employer shall pay contributions with respect to the calendar year 1984, and each calendar year thereafter, at a rate equal to five and four-tenths per centum (5.4%) for employers with a zero or credit reserve account balance and eight and five-tenths per centum (8.5%) for 1984, eight and eight-tenths per centum (8.8%) for 1985 and nine and two-tenths per centum (9.2%) for 1986 and thereafter for employers with a debit reserve account balance of wages paid by him for employment: Provided, however, That with respect to employers subject to the provisions of section 301.1(b) of this act, such rate shall be adjusted in accordance with the provisions of sections 301.1, 301.2 and 301.6 of this act.

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- (2) An employer's rate of contribution shall be the sum of three per centum (3%) plus his rate of contribution as determined under this section or section 301.1 of this act, without regard to this paragraph or paragraph (2.1) of this subsection, if all his reports required by this act and regulations of the department to establish the amount of contributions or showing the amount of wages paid to each employe for calendar quarters through the second calendar quarter of the preceding calendar year and all his contributions due on wages paid to the end of the second calendar quarter of the preceding calendar year, together with interest and penalties due thereon, have not been filed and paid by September 30 of such preceding calendar year, except that an employer who has timely filed an appeal as provided in subsection (e) of this section and who has been determined ineligible to receive a reduced rate solely on the basis that he has not filed all reports and paid all contributions, interest and penalties within the time limits as required in this paragraph, shall have his rate redetermined and shall not be considered ineligible under this paragraph if such delinquent reports are filed and payment of such delinquent contributions, interest and penalties is made within thirty (30) days after the department has notified the employer of the reason for his ineligibility for rate reduction in response to the appeal filed by the employer under subsection (e) or, if the employer executes and files with the department, no later than the end of the thirty (30) days, a deferred payment plan, which is accepted by the department as filed or modified, for such delinquent contributions, interest and penalties. If the employer fails to comply with the deferred payment plan, the reduced rate granted shall be revoked and, notwithstanding sections 301(j) and 309.2, additional contributions shall be due as a result of the rate increase and shall bear interest from the due date of the corresponding report or reports.
- (2.1) An employer's rate of contribution shall be the sum of three per centum (3%) plus his rate of contribution as determined under this section or section 301.1 of this act, without regard to this paragraph or paragraph (2) of this subsection, if the employer fails to file any report required by section 315(a)(1), (2) or (3) of this act in accordance with section 315(b). This paragraph shall apply to an employer's rate of contribution for the calendar year in which the report becomes due through the calendar year in which the report is filed: Provided, however, That an employer who has timely filed an appeal as provided in subsection (e) of this section and who has been determined ineligible to receive a reduced rate solely on the

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basis that he has not filed a report as required in this paragraph shall have his rate redetermined and shall not be considered ineligible under this paragraph if such report is filed within thirty (30) days after the department has notified the employer of the reason for his ineligibility for rate reduction in response to the appeal filed by the employer under subsection (e): and Provided further, That for purposes of this paragraph when one party to a transfer of organization, trade, business or work force files the report required by section 315(a)(2) of this act in accordance with section 315(b), the other party to the transfer will be deemed to have filed its report at that time.

- (3) Notwithstanding any other provisions of the act except paragraph (2) of this subsection, any employer who becomes newly liable for contributions under this act in a calendar year in which it employs individuals in the performance of a contract or subcontract for construction in this Commonwealth of roads, bridges, highways, buildings, factories, housing developments or other construction projects shall be liable for contributions at the rate of nine and two-tenths per centum (9.2%) for 1984, nine and four-tenths per centum (9.4%) for 1985 and nine and seven-tenths per centum (9.7%) for 1986 and thereafter paid by him for employment, until such time as he becomes subject to the provisions of sections 301.1, 301.2 and 301.6 of this act subject to the provisions of section 301.1(g).
- (4) Notwithstanding the provisions of paragraph (1) of this subsection, any employer who becomes newly liable for contributions under this act, other than an employer subject to the provisions of paragraph (3) of this subsection, shall be liable for contributions at the rate of three and five-tenths per centum (3.5%) of wages paid by him for employment until such time as he shall become classifiable under the provisions of section 301.1(b) of this act. Thereafter his rate of contributions shall be five and four-tenths per centum (5.4%) for employers with a zero or credit reserve account balance and eight and five-tenths per centum (8.5%) for 1984, eight and eight-tenths per centum (8.8%) for 1985 and nine and two-tenths per centum (9.2%) for 1986 and thereafter for employers with a debit reserve account balance subject to adjustment under the provisions of sections 301.1, 301.2 and 301.6 of this act.

((a) amended June 15, 2005, P.L.8, No.5)

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- (b) Except as specifically provided under section four hundred four, wages paid with respect to employment performed under shipping articles shall, for the purposes of this act, be considered as having been paid as of a date determined under rules and regulations of the department irrespective of when actual payment was made to the employe.

- ((b) amended Dec. 17, 1959, P.L.1893, No.693)

- (c) Each employer with respect to any period prior to January 1, 1984, shall be liable for contributions in accordance with the provisions of this act applicable to each period in effect prior to such date, and for these purposes such provisions shall remain in full force and effect.

- ((c) amended July 21, 1983, P.L.68, No.30)

- (d) (1) (A) Where an employer, subsequent to the thirtieth day of June, one thousand nine hundred and forty-nine, transfers his or its organization, trade, business or work force, in whole or in part, to a successor-in-interest who continues essentially the same business activity of the whole or part transferred, such successor-in-interest may, prior to the end of the calendar year subsequent to the calendar year in which the transfer occurred, make application for transfer of the whole, or appropriate part, of the experience record and reserve account balance of the preceding employer to the successor-in-interest, including credit for the years during which contributions were paid by the preceding employer. The department shall transfer the whole or appropriate part of such experience record and reserve account balance of the preceding employer only if such preceding employer has joined in such application and has filed with the department such supporting schedules or other information with respect to such experience record and reserve account balance as the department may require, including the report required by section 315(a)(3); the application for such transfer is filed in accordance with the rules and regulations of the department; and all contributions, interest and penalties owing by the predecessor have been or are paid at the time such application is filed with the department. The department may not transfer the whole or appropriate part of the preceding employer's experience record and reserve account balance if the department determines that the successor-in-interest acquired all or part of the preceding employer's organization, trade, business or work force solely or primarily to obtain a lower rate of contribution.

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- (B) Notwithstanding the provisions of paragraph (A) of this subsection, with respect to any transfer by an employer subject to the contribution provisions of this act of its organization, trade, business or work force, in whole or in part, whether such transfer was by merger, consolidation, sale or transfer, descent or otherwise, the department shall transfer the experience record and reserve account balance (whether positive or negative) of such employer to its successor-in-interest if it finds that (I) such employer was owned, controlled or managed by or owned, controlled or managed the successor-in-interest either directly or indirectly, by legally enforceable means or otherwise, or (II) both such employer and successor-in-interest were owned, controlled or managed either directly or indirectly, by legally enforceable means or otherwise, by the same interest or interests.

- (B.1) Paragraphs (A) and (B) of this subsection shall not apply to a transfer of a work force, in whole or in part, which is part of or results in an arrangement covered by section 4(j)(2.1) of this act.

- (C) In the event of a part transfer of an employer's organization, trade, business or work force under either paragraph (A) or paragraph (B) of this subsection, a portion of the experience record and reserve account balance of the preceding employer shall be transferred according to the following formula:

$$\frac{\begin{array}{l} \text{average of the number of employes in the part of} \\ \text{the organization, trade, business or work force} \\ \text{transferred for each calendar quarter in the} \\ \text{three calendar years preceding the transfer} \\ \text{percentage of preceding} \\ \text{employer's experience} \end{array}}{\begin{array}{l} \text{average of the number of employes in the} \\ \text{total of the preceding employer's organization,} \\ \text{trade, business or work force for each calendar quarter} \\ \text{in the three calendar years preceding the transfer} \end{array}} \times 100 = \begin{array}{l} \text{record and reserve account} \\ \text{balance transferred to} \\ \text{the successor-in-interest} \end{array}$$

Provided, That if the part transferred has been in existence for a period of less than three calendar years preceding the transfer but more than one calendar year, then the period for which

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the part transferred has been in existence shall be used in the foregoing formula and credit shall be given to the successor-in-interest only for the years during which contributions were paid by the preceding employer with respect to that part of the organization, trade, business or work force transferred.

- (2.1) If the experience record and reserve account balance of a preceding employer is transferred, in whole or in part, to a successor-in-interest under paragraph (1) of this subsection, the following provisions shall apply:
- (A) Notwithstanding any other provision of this act, the experience record and reserve account balance transferred to the successor-in-interest shall be deemed to remain with the preceding employer for purposes of determining the rate of contribution of the preceding employer for the remainder of the calendar year in which the transfer of organization, trade, business or work force occurred.
 - (B) In the event of a transfer of an experience record and reserve account balance under the provisions of paragraph (1)(A) of this subsection:
 - (i) For purposes of determining the rate of contribution of the successor-in-interest for calendar years specified in the rules and regulations of the department, the experience record and reserve account balance acquired from the preceding employer shall be combined into the experience record and reserve account balance of the successor-in-interest.
 - (ii) The rate of contribution of the preceding employer shall be determined without regard to the experience record and reserve account balance transferred to the successor-in-interest commencing with the earliest calendar year for which the rate of contribution of the successor-in-interest is determined under subparagraph (i).
 - (C) In the event of a transfer of an experience record and reserve account balance under the provisions of paragraph (1)(B) of this subsection:

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- (i) The rate of contribution of the preceding employer for calendar years following the year in which the transfer of organization, trade, business or work force occurred shall be determined without regard to the experience record and reserve account balance transferred to the successor-in-interest.
 - (ii) The experience record and reserve account balance acquired from the preceding employer shall be combined into the experience record and reserve account balance of the successor-in-interest for purposes of determining the rate of contribution of the successor-in-interest for the remainder of the calendar year in which the transfer of organization, trade, business or work force occurred and subsequent calendar years.
- (D) In the event of a part transfer of an experience record and reserve account balance under the provisions of paragraph (1) (A) of this subsection, compensation paid after the date of the transfer of organization, trade, business or work force, based on wages paid by the preceding employer before the date of such transfer, shall be charged to the respective experience records and reserve accounts of the preceding employer and successor-in-interest. Compensation paid to individuals identified by the preceding employer in the report required by section 315(a)(3) of this act shall be charged to the successor-in-interest. The remaining compensation shall be charged to the preceding employer.
- (E) In the event of a part transfer of an experience record and reserve account balance under the provisions of paragraph (1) (B) of this subsection, compensation paid after the date of the transfer of organization, trade, business or work force, based on wages paid by the preceding employer before the date of such transfer, shall be charged to the respective experience records and reserve accounts of the preceding employer and successor-in-interest in accordance with the following:
 - (i) Compensation paid to individuals identified by the preceding employer in the report required by section 315(a)(3) of this act shall be charged to the successor-in-

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interest. The remaining compensation shall be charged to the preceding employer.

- (ii) If the preceding employer fails to furnish the report required by section 315(a)(3) of this act in accordance with section 315(b) of this act, the department shall determine, based on available information and within the department's discretion, whether the compensation shall be charged to the preceding employer, the successor-in-interest or both and, if the department determines that the compensation shall be charged to both the preceding employer and the successor-in-interest, what portion of the compensation shall be charged to each.

- (3) A successor-in-interest who acquires from a preceding employer the whole or a part of a reserve balance which has been adjusted to a negative balance equal to ten per centum (10%), or twenty per centum (20%) in 1987 and thereafter, of his average annual payroll under the provisions of section 302(c) of this act shall be liable for contributions at the maximum rate under the provisions of section 301.1(f) of this act and contributions under the provisions of sections 301.2 and 301.6 of this act in the same manner as the preceding employer with respect to the part of the organization, trade or business transferred. This provision shall not apply if the successor-in-interest as of any computation date has been subject to this act for fourteen or more consecutive calendar quarters, or has been subject to this act for a period as long as or longer than the preceding employer.
- (4) Notwithstanding the provisions of paragraph (3) of this subsection and section 301.1(f), a successor-in-interest who acquires from a preceding employer the whole or a part of a reserve balance which has been adjusted to a negative balance under the provisions of section 302(c) (2), shall be liable for contributions at the rate determined under the provisions of sections 301.1, 301.2 and 301.6 in the same manner as the preceding employer with respect to the part of the organization, trade or business transferred. This provision shall not apply if the successor-in-interest, as of any computation date, has been subject to this act for fourteen or more consecutive calendar quarters or has been subject to this act for a period as long as or longer than the preceding employer.

((d) amended June 15, 2005, P.L.8, No.5)

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- (e) (1) With respect to benefits paid during benefit years which begin prior to July one, one thousand nine hundred sixty, the department at least once during each calendar quarter, shall furnish each employer with a notice showing the amount of compensation paid during the preceding calendar quarter and charged to such employer's account, including the names of the claimants, the weeks for which compensation was paid, and the amount of compensation charged. With respect to benefits paid during benefit years which commence on or after July one, one thousand nine hundred sixty, the department at least once during each calendar month, shall furnish each employer with a notice showing the amount of compensation paid during the preceding month and charged to such employer's account. Such notice shall include at least the name and social security account number of each claimant, the weeks for which compensation was paid to him, and the amount of compensation charged. All questions involving the eligibility of a claimant to receive compensation which have been resolved with notice to the employer as provided under the provisions of section five hundred one of this act shall remain final, and such eligibility may not be directly contested by an employer under the provisions of this section. However, any determination of eligibility or allowance of benefits as to which the employer was not furnished notice under the provisions of section five hundred one of this act shall become final, unless a protest contesting such determination is filed by the employer with the department within ninety (90) days from the date of the mailing of notice under the provisions of this subsection. Where such protest has been filed, the department shall proceed in accordance with the provisions of section five hundred one and furnish the employer with notice of its determination or allowance. The clerical accuracy of the notice provided under the provisions of this subsection may not be contested by an employer in connection with any future appeal by the employer from the rate of contribution assigned to him, unless within ninety days from the date of mailing of such notice, the employer files with the department a protest in writing contesting the clerical accuracy of such notice and setting forth in detail the item or items to which exception is taken and the reasons therefor. Such period of ninety days may be extended with the approval of the department upon written application by the employer filed prior to the expiration of such period.

((1) amended Dec. 17, 1959, P.L.1893, No.693)

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(2) The department shall promptly notify each employer of his rate of contribution for the calendar year, determined as provided in this section and sections 301.1, 301.2 and 301.6 of this act. The determination of the department of the employer's rate of contribution shall become conclusive and binding upon the employer, unless within ninety (90) days after the mailing of notice thereof to the employer's last known post office address the employer files an application for review, setting forth his reasons therefor: Provided, That if the department finds that because of an error of the department it has notified an employer that his rate of contribution is more than the rate to which he is entitled, the department shall, within one year from the date of such notice, adjust the rate of contribution. The department may, if it deems the reasons set forth by the employer insufficient to change the rate of contribution, deny the application, otherwise it shall grant the employer a fair hearing. The employer shall be promptly notified of the denial of his application or of the department's redetermination. In any application for review filed hereunder and in any further appeal taken thereafter, no questions shall be raised with respect to the employer's contribution rate, except such as pertains to the determination of the employer's Benefit Ratio Factor and Reserve Ratio Factor.

((2) amended July 21, 1983, P.L.68, No.30)

((f) repealed Apr. 28, 1978, P.L.202, No.53)

(g) Pending the determination of the correct rate of contribution payable by an employer when an application for redetermination has been filed with the department or when an appeal to court has been taken, the employer shall be liable to the payment of the contributions at the rate as determined by the department. But if the rate of contribution is changed by redetermination of the department or order of court then the department shall, without application by the employer, make an adjustment thereof in connection with subsequent contribution payments as provided in section three hundred eleven of this act, or the employer may apply for a refund in accordance with said action.

((g) amended June 22, 1964, Sp.Sess., P.L.112, No.7)

(h) Each employer shall be given notice of the filing of valid applications for benefits by his former employes as provided in section five hundred one. Notice having been properly given as provided in such section, no employer shall have standing, in any proceeding involving his rate of contributions, to contest the chargeability to his account of any compensation paid to such

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employe on the grounds that he was not given sufficient or adequate notice or opportunity to be heard.

- (h) amended May 26, 1949, P.L.1854, No.551
 - (i) For purposes of determining whether or not an employer has paid contributions in order to be eligible for consideration for an adjusted rate, an employer who shall have served in the active military or naval service of the United States, at any time after the sixteenth day of September, one thousand nine hundred and forty, and prior to the termination of World War II, and who shall have been discharged or released from active service under conditions other than dishonorable shall be deemed to have paid contributions under this act during any fiscal year ending on the thirtieth day of June, any part of which is included in such period of military or naval service: Provided, That he has actually paid contributions under this act for one or more quarters in either the fiscal year ending on the thirtieth day of June in which he entered such military service or in the immediately preceding fiscal year ending on the thirtieth day of June. The provisions of this section shall be operative insofar as applicable with respect to an employer who shall have served in the active military or naval service of the United States at any time after the twenty-fourth day of June, one thousand nine hundred and fifty, and prior to the termination of the present state of emergency.
- (i) amended Sept. 29, 1951, P.L.1580, No.408
 - (j) If the department finds that it has erroneously notified an employer that his rate of contribution is less than the rate to which he is entitled, he shall be notified of the revision of his rate and he shall be required to make payment of additional contributions on the basis of the revised rate: Provided, That no such additional contribution shall be required unless the employer is notified of his revised rate not later than December thirty-first of the calendar year to which the rate is applicable, unless the department finds that the employer has directly or indirectly contributed to the error: Provided further, That no interest shall be required to be paid in connection with such additional contributions if they are paid within thirty (30) days from the date that the employer is notified of his revised rate, unless the department finds that the employer has directly or indirectly contributed to the error.
- (j) amended June 15, 2005, P.L.8, No.5)
- (k) Notwithstanding any other provisions of this act, additional contributions due as a result of the 1980 amendments to this act shall be payable within sixty

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(60) days from the date that the employer is notified of his revised contribution rate notice. No interest shall be required to be paid in connection with such additional contributions if they are paid within sixty (60) days from the date that the employer is notified of his revised contribution rate notice.

((k) added July 10, 1980, P.L.521, No.108)

Compiler's Note: Section 13(2) of Act 5 of 2005, which amended subsection (a)(2), provided that the amendment shall apply to rates of contribution for calendar years beginning on or after January 1, 2006.

Section 13(3) of Act 5 of 2005, which amended subsection (d), provided that the amendment shall apply to transfers of organization, trade, business or work force occurring on or after July 1, 2005.

Section 13(4) of Act 5 of 2005, which amended subsection (j), provided that the amendment shall apply to the calculation of interest on additional contributions that are unpaid on or after July 1, 2005.

Section 301.1. Determination of Contribution Rate; Experience Rating.--

(a) The rate of contribution payable by an employer eligible for an adjusted rate with respect to the calendar year beginning 1984, and each calendar year thereafter, shall be adjusted between a minimum rate of three-tenths of one per centum (0.3%) and a maximum rate of eight and five-tenths per centum (8.5%) for 1984, eight and eight-tenths per centum (8.8%) for 1985 and nine and two-tenths per centum (9.2%) for 1986 and thereafter which shall be the aggregate of three factors:

- (A) A Reserve Ratio Factor.
- (B) A Benefit Ratio Factor.
- (C) A State Adjustment Factor.

(b) (1) For the purpose of determining an employer's eligibility for an adjusted rate employers shall be grouped as follows:

Group 1 shall consist of those employers who have paid contributions under this act for one or more quarters in the twelve-month period ending on the computation date for the year for which the rate is applicable and have also paid contributions under this act

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for one or more of the four completed calendar quarters immediately preceding such twelve-month period.

Group 2 shall consist of employers who have paid contributions under this act for one or more quarters in each of the two twelve-month periods ending on the computation date for the year for which the rate is applicable and have also paid contributions under this act for one or more of the four completed calendar quarters immediately preceding such two twelve-month periods.

Group 3 shall consist of employers who have paid contributions under this act for one or more quarters in each of the three twelve-month periods ending on the computation date for the year for which the rate is applicable and have also paid contributions under this act for one or more of the four completed calendar quarters immediately preceding such three twelve-month periods.

- (2) In no event shall those employers who have sufficient employer experience to be classified in Group 3 be classified in either Group 1 or Group 2, nor shall those employers who have sufficient employer experience to be classified in Group 2 be classified in Group 1.
- (c) (1) When, as of the computation date, there is a credit, zero or debit balance in such employer's reserve account, which balance shall include
 - (i) contributions with respect to the period ending on the computation date and paid on or before September fifteenth immediately following such computation date,
 - (ii) benefits paid on or before computation date, and shall also include any voluntary payments made in accordance with subsection (b) of section 302 of this act, his Reserve Ratio Factor for the respective calendar year thereafter shall be as set forth in the table below.

Table
Reserve Ratio Factor - 1984 Rates

Employers Reserve Account as a Percentage of Taxable Wages	Reserve Ratio Factor
Greater than 25%	0.0

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Greater than or equal to 22% but less than 25%	0.1
Greater than or equal to 19% but less than 22%	0.2
Greater than or equal to 16% but less than 19%	0.3
Greater than or equal to 13% but less than 16%	0.4
Greater than or equal to 10% but less than 13%	0.5
Greater than or equal to 7% but less than 10%	0.6
Greater than or equal to 4% but less than 7%	0.7
Greater than or equal to 3% but less than 4%	0.8
Greater than or equal to 2% but less than 3%	0.9
Greater than or equal to 0% but less than 2%	1.0
Less than 0% but greater than -2%	1.1
Less than or equal to -2% but greater than -4%	1.2
Less than or equal to -4% but greater than -6%	1.3
Less than or equal to -6% but greater than -8%	1.4
Less than or equal to -8% but greater than -10%	1.5
Less than or equal to -10% but greater than -12%	1.6
Less than or equal to -12% but greater than -14%	1.7
Less than or equal to -14% but greater than -16%	1.8
Less than or equal to -16% but greater than -18%	1.9
Less than or equal to -18% or lower	2.0

Table
Reserve Ratio Factor - 1985 Rates

Employers Reserve Account as a Percentage of Taxable Wages	Reserve Ratio Factor
Greater than 25%	0.0
Greater than or equal to 21% but less than 25%	0.1
Greater than or equal to 18% but less than 21%	0.2
Greater than or equal to 15% but less than 18%	0.3
Greater than or equal to 12% but less than 15%	0.4
Greater than or equal to 9% but less than 12%	0.5
Greater than or equal to 7% but less than 9%	0.6
Greater than or equal to 5% but less than 7%	0.7
Greater than or equal to 3% but less than 5%	0.8
Greater than or equal to 1% but less than 3%	0.9

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Greater than or equal to 0% but less than 1%	1.0
Less than 0% but greater than -1%	1.1
Less than or equal to -1% but greater than -2%	1.2
Less than or equal to -2% but greater than -3%	1.3
Less than or equal to -3% but greater than -4%	1.4
Less than or equal to -4% but greater than -5%	1.5
Less than or equal to -5% but greater than -6%	1.6
Less than or equal to -6% but greater than -7%	1.7
Less than or equal to -7% but greater than -8%	1.8
Less than or equal to -8% but greater than -9%	1.9
Less than or equal to -9% but greater than -10%	2.0
Less than or equal to -10% but greater than -15%	2.1
Less than or equal to -15% but greater than -20%	2.2
Less than or equal to -20% or lower	2.3

Table
Reserve Ratio Factor - 1986 and thereafter Rates

Employers Reserve Account as a Percentage of Taxable Wages	Reserve Ratio Factor
Greater than 25%	0.0
Greater than or equal to 21% but less than 25%	0.3
Greater than or equal to 18% but less than 21%	0.4
Greater than or equal to 15% but less than 18%	0.5
Greater than or equal to 12% but less than 15%	0.6
Greater than or equal to 9% but less than 12%	0.7
Greater than or equal to 7% but less than 9%	0.8
Greater than or equal to 5% but less than 7%	0.9
Greater than or equal to 3% but less than 5%	1.0
Greater than or equal to 1% but less than 3%	1.1
Greater than or equal to 0% but less than 1%	1.2
Less than 0% but greater than -1%	1.3
Less than or equal to -1% but greater than -2%	1.4
Less than or equal to -2% but greater than -3%	1.5
Less than or equal to -3% but greater than -4%	1.6
Less than or equal to -4% but greater than -5%	1.7

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| Less than or equal to -5% but greater than -6% | 1.8 |
| Less than or equal to -6% but greater than -7% | 1.9 |
| Less than or equal to -7% but greater than -8% | 2.0 |
| Less than or equal to -8% but greater than -9% | 2.1 |
| Less than or equal to -9% but greater than -10% | 2.2 |
| Less than or equal to -10% but greater than -11% | 2.3 |
| Less than or equal to -11% but greater than -12% | 2.4 |
| Less than or equal to -12% but greater than -16% | 2.5 |
| Less than or equal to -16% but greater than -20% | 2.6 |
| Less than or equal to -20% or lower | 2.7 |
- (2) Notwithstanding the provisions of this subsection, any employer subject to section 301.1 who is a Group 1 employer as determined by subsection (b) of this section shall have a Reserve Ratio Factor equal to one-third of the Reserve Ratio Factor as determined by paragraph (1) of this subsection.
- (3) Notwithstanding the provisions of this subsection, any employer subject to section 301.1 who is a Group 2 employer as determined by subsection (b) of this section shall have a Reserve Ratio Factor equal to two-thirds of the Reserve Ratio Factor as determined by paragraph (1) of this subsection.
- (4) If upon application of paragraph (2) or (3) of this subsection the reduced Reserve Ratio Factor is not a multiple of one-tenth of one per centum (0.1%) it shall be rounded to the next higher multiple of one-tenth of one per centum (0.1%).

As used in the foregoing table, the percentages indicate the ratio of the balance in an employer's reserve account to his average annual payroll. Each percentage group shown includes the fractional percentage between such percentage group and the immediately higher percentage group for employers with a zero or credit balance. For employers with a debit balance, each percentage group includes the fractional percentage between such percentage group and the immediately lower percentage group.

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- (d) An employer's Benefit Ratio Factor shall be computed on the basis of the following formula:

$$\frac{\text{Average Annual Benefits}}{\text{Average Annual Payroll}} \times 100 = \text{Benefit Ratio Factor}$$

to a tenth of a per centum, rounding all fractional parts of a tenth of a per centum to the nearest tenth of a per centum. No Benefit Ratio Factor shall be more than five per centum (5%) nor less than zero per centum (0%).

- (d.1) (1) Notwithstanding any other provision of this act, and for purposes of this section only, an employer whose employer account was charged with compensation in each of the five calendar years 1979 through 1983 and whose average annual benefits for the period beginning July 1, 1980 and ending June 30, 1983 would, as provided hereinbefore, equal or exceed five per centum (5%) of the employer's average annual payroll, shall be allowed to elect as an option the alternative benefit ratio provided for in this subsection to be used in determining the employer's Benefit Ratio Factor for the calendar years 1985 and 1986.
- (2) Annual benefits for each of the periods July 1, 1981 through June 30, 1982 and July 1, 1982 through June 30, 1983 shall be arbitrarily adjusted to equal five per centum (5%) of the employer's annual payroll for the same period.
- (3) Such adjusted annual benefits for each of the twelve-month periods shall be added to the actual annual benefits for the period from July 1, 1983 to June 30, 1984 and such sum shall be divided by three (3) to determine the average annual benefits used to calculate the employer's benefit ratio factor for calendar year 1985.
- (4) Such adjusted annual benefits for the twelve-month period ending June 30, 1983 shall be added to the actual annual benefits for the period from July 1, 1983 to June 30, 1985 and such sum shall be divided by three (3) to determine the average annual benefits used to calculate the employer's benefit ratio factor for calendar year 1986.
- (5) In addition to the other provisions of this subsection, an employer shall not be entitled to elect the alternative benefit ratio of this subsection unless such employer has no pending appeals of benefit charges and

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agrees to waive all right to appeal any benefit charges, applicable to the period July 1, 1980 through June 30, 1983.

- (e) (1) Except as provided in paragraph (2), the State Adjustment Factor for a calendar year shall be computed as of the computation date for such year to a tenth of a per centum, rounding all fractional parts of a tenth of a per centum to the nearest tenth of a per centum, but in no event less than zero, according to the following formula:

$$\frac{\text{Bdr} - \text{Dcr}}{\text{Wt}} \times 100 = \text{State Adjustment Factor}$$

in which factor “Bdr” equals the aggregate of (1) all benefits paid but not charged to employers’ accounts, plus, (2) all benefits paid and charged to inactive and terminated employers’ accounts, plus, (3) all benefits paid and charged to accounts of active employers for the preceding year to the extent such benefits exceed the combined amount of contributions payable by such employers on the basis of the Benefit Ratio Factor and the Reserve Ratio Factor. Factor “Dcr” equals the aggregate of (1) interest credited to the Unemployment Compensation Fund, plus, (2) amounts transferred from the Special Administration Fund and the Debt Service Fund to the Unemployment Compensation Fund, plus, (3) refunds of benefits unlawfully paid, plus, (4) amounts credited to the Unemployment Compensation Fund by the Federal Government other than by loan, except that any amount credited to this Commonwealth’s account under section 903 of the Federal Social Security Act which has been appropriated for expenses of administration shall be excluded from the amount in the Unemployment Compensation Fund in the computation of the “Dcr” factor. Factor “Wt” equals all wages subject to the law up to the limitation described in section 4(x)(1) paid by all employers. Each item in each factor shall be computed with respect to the twelve-month period ending on the computation date: Provided, That should the computed State Adjustment Factor for any year exceed the maximum rate allowed under this section, such excess over the maximum rate shall be added to the computed State Adjustment Factor for the following year or years.

- (2) The maximum State Adjustment Factor shall be one per centum (1.0%) for calendar years 2013 through 2016, eighty-five one-hundredths of one per centum (.85%) for calendar year 2017 and

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seventy-five one-hundredths of one per centum (.75%) for calendar year 2018 and thereafter.

- (e) amended June 12, 2012, P.L.577, No.60
- (f) An employer whose reserve account balance is adjusted after January 1, 1980 in accordance with the provisions of section 302(c) of this act shall not be eligible for a reduced rate of contributions under the provisions of this act for the three consecutive calendar years following the computation date with respect to which the application for adjustment was made and shall pay contributions at the maximum rate specified under subsection (a) of this section and sections 301.2 and 301.6 for three years. In the event an employer shall file one or more subsequent applications for adjustment, the provisions of this subsection shall apply to each such application.
- (f.1) Notwithstanding any other provisions of this act, employers who elected to have their negative reserve account balance adjusted for taxable years 1978, 1979 or 1980 will be liable for contributions at the maximum rate specified in section 301.1 and as determined under sections 301.2 and 301.3.
- (g) Wages paid to employes of construction contractors pursuant to a contract or subcontract entered into before July 1, 1983 for the construction, reconstruction or remodeling of structures where the contract or subcontract is either at a fixed price not subject to change or modification or entered into pursuant to the obligation of a formal written bid which cannot be altered or withdrawn shall continue to be subject to the employer's assigned tax rate and the taxable wage base for 1983. This subsection shall not apply to any year following calendar year 1984. No rate assigned any employer who receives a rate on the basis of employment and wages to which this subsection applies shall be less than two and seven-tenths per centum (2.7%) for calendar year 1983 or 1984 and no rate shall be less than five and four-tenths per centum (5.4%) for calendar year 1985 and thereafter.

(301.1 amended July 21, 1983, P.L.68, No.30)

Section 301.2. Additional Contributions.—Notwithstanding any other provision of this act, all employers required to pay contributions under section 301 or 301.1, except those subject to the provisions of section 301(a)(3) and (4) or 301.1(g), shall pay additional contributions at a rate of zero per centum (0.0%) for calendar year 1989 and at a rate as set forth in section 301.7 for each calendar year thereafter on wages paid with regard to the limitation specified under section 4(x)(1) of this act.

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(301.2 amended Oct. 19, 1988, P.L.818, No.109)

Section 301.3. Additional Contributions.—(301.3 repealed July 21, 1983, P.L.68, No.30)

Section 301.4. Contributions by Employes.—

- (a) Notwithstanding any other provision of this act, each employe shall pay contributions at a rate of zero per centum (0.0%) for calendar year 1989 and at a rate as set forth in section 301.7 for each calendar year thereafter of all wages paid for “employment” as defined by the act without regard to the limitation specified in section 4(x)(1) of this act.
- (b) Each employer subject to this act shall be responsible for withholding and shall withhold, in trust, such contributions from the wages of his employes at the time such wages are paid, and shall report and transmit such deductions to the department for deposit into the Unemployment Compensation Fund, the Reemployment Fund and the Service and Infrastructure Improvement Fund pursuant to the allocation prescribed in subsection (e), in accordance with rules and procedures established by the department.
- (c) Any employer who is an individual, or any officer or agent of any employer, who violates the trust provision of this section, fails to withhold, hold in trust or fails to transmit to the department all contributions withheld from the wages of his employes in accordance with the rules and procedure established by the department shall be subject to the provisions of clause (2) of subsection (a) of section 301 and sections 308, 308.1, 308.2, 308.3 and 309 of this act.
- (d) This section shall not be deemed to affect or impair the operation of any State statute or ordinance or resolution of a political subdivision which levies or collects any wage tax or similar tax. Contributions made pursuant to this section are not intended to reduce or otherwise affect any tax on wages or similar tax.
- (e) Contributions paid under this section shall be allocated by the department among the Unemployment Compensation Fund, the Reemployment Fund and the Service and Infrastructure Improvement Fund as follows:
 - (1) Five per centum (5%) of the contributions on wages paid from January 1, 2013, through September 30, 2017, shall be deposited into the Reemployment Fund to the extent the contributions are paid on or before December 31, 2017.

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- (2) During each calendar year from 2013 through 2016, an amount determined by the secretary with the approval of the Governor shall be deposited into the Service and Infrastructure Improvement Fund. For calendar year 2013, the amount determined under this clause may not exceed forty million dollars (\$40,000,000). For calendar year 2014, the amount determined under this clause may not exceed thirty million dollars (\$30,000,000). For calendar years 2015 and 2016, the amount determined under this clause for each calendar year may not exceed one hundred ninety million dollars (\$190,000,000) adjusted by the increase in the Bureau of Labor Statistics Consumer Price Index for the period from May 2013 through January of the calendar year less the amount of Federal administrative funding for the preceding Federal fiscal year.
- (3) The remaining contributions shall be deposited into the Unemployment Compensation Fund.
- (4) The department may deposit contributions in accordance with clause (2) before depositing contributions in accordance with clauses (1) and (3).

(301.4 amended July 2, 2013, P.L.195, No.34)

Compiler's Note: Section 18(1) of Act 60 of 2012, which amended section 301.4, provided that the amendment of section 301.4 shall apply to contributions on wages paid on or after January 1, 2013.

Section 301.5. Surcharge.--Notwithstanding any other provision of this act, all employers subject to this act (other than employers who are subject to section 1003 or who have elected, pursuant to section 1102 or 1202.2, to make payments in lieu of contributions) shall be assessed a surcharge on contributions due from employers at a rate of zero per centum (0.0%) for calendar year 1989 and at a rate as set forth in section 301.7 for each calendar year thereafter. Such additional contributions due under this section shall be collectible in the manner provided in sections 308.1, 308.2, 308.3 and 309 of this act.

(301.5 amended Oct. 19, 1988, P.L.818, No.109)

Section 301.6. Additional Contribution for Interest and Debt Service.--

- (a) Notwithstanding any other provision of this act, all employers required to pay contributions under section 301 or 301.1 other than those employers covered by paragraphs (3) and (4) of subsection (a) of section 301 shall have their rate of contribution increased by the rate of the Interest Factor in effect for the applicable calendar year.

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- (b) All taxes collected under this section shall be considered to be separate and apart from any contributions required to be deposited in the Unemployment Compensation Fund. All taxes collected under this section shall be deposited in the Debt Service Fund established by section 601.2 of this act. Such taxes will not be credited to the employer's reserve account.

- (c) (1) The Interest Factor shall be a variable rate not to exceed the maximum rate allowed under paragraph (2) to be determined annually by the department in consultation with the Office of the Budget. The rate of the Interest Factor for a calendar year shall be the rate necessary to do the following in that year:
 - (i) pay the bond obligations and bond administrative expenses under Article XIV of this act that are due in that year;
 - (ii) replenish amounts which have been drawn from bond reserves under Article XIV of this act;
 - (iii) maintain an adequate debt service coverage ratio;
 - (iv) fund early, optional, mandatory or other refundings, redemptions or purchases of outstanding bonds under Article XIV of this act that will occur in that year;
 - (v) pay the interest on interest-bearing advances under Title XII of the Social Security Act (58 Stat. 790, 42 U.S.C. § 1321 et seq.) that is due in that year; and
 - (vi) repay outstanding advances under Title XII of the Social Security Act.

- (2) For calendar year 2013 through the year determined under section 301.8(b)(4), the maximum Interest Factor rate shall be one and one-tenth per centum (1.1%). For calendar years following the year determined under section 301.8(b)(4), the maximum Interest Factor rate shall be one per centum (1.0%).

- (d) Contributions paid by or on behalf of an employer under this act, other than employe contributions under section 301.4, shall be allocated first to the employer's liability under this section. This subsection shall apply to contributions for any calendar quarter that ends at a time when bonds issued under Article XIV are outstanding.

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- (e) In the event the amount of additional contributions collected under this section for a calendar year exceeds the amount necessary for the purposes enumerated in subsection (c) for that year, the department may use such excess contributions for the purposes enumerated in subsection (c) for the following year and, to the extent available, to reduce the amount of additional contributions that would be required for the following year.
- (f) No Interest Factor shall be required for any year for which funding is not required for any of the purposes enumerated in subsection (c).

(301.6 amended June 12, 2012, P.L.577, No.60)

Compiler's Note: Section 18(2) of Act 60 of 2012, which amended section 301.6, provided that the amendment of section 301.6 shall apply to calculation of the interest factor for calendar year 2013 and thereafter.

Section 301.7. Trigger Determination.--

- (a) On July 1 of every year, the secretary shall calculate the trigger percentage to be used in setting surcharge and contribution rates for the contributions required under sections 301.2, 301.4 and 301.5 and in setting the benefit reduction required under section 404(e)(4) for the following calendar year. The secretary shall:
 - (1) add the principal amount of outstanding bonds under Article XIV and the amount of outstanding advances under Title XII of the Social Security Act (58 Stat. 790, 42 U.S.C. § 1321 et seq.) and subtract that sum from the balance in the Unemployment Compensation Fund;
 - (2) determine the average of the benefit costs for the three immediately preceding fiscal years; and
 - (3) calculate the percentage that the amount determined under paragraph (1) represents of the average of the benefit costs.

((a) amended June 12, 2012, P.L.577, No.60)

- (b) Surcharge and contribution rates shall be announced by the secretary on July 1 of every year in accordance with the following schedule:

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- (1) When the trigger percentage is one hundred fifty per centum (150%) or higher, the rate of the surcharge assessed under section 301.5 shall be a negative one and one-half per centum (-1.5%).
- (2) When the trigger percentage is at least one hundred twenty-five per centum (125%), but less than one hundred fifty per centum (150%), there shall be no surcharge or contribution under section 301.2, 301.4 or 301.5.
- (3) When the trigger percentage is at least one hundred ten per centum (110%), but less than one hundred twenty-five per centum (125%):
 - (i) the rate of the surcharge assessed under section 301.5 shall be four per centum (4%); and
 - (ii) the rate of contributions assessed under section 301.4 shall be five-hundredths of one per centum (0.05%).
- (4) When the trigger percentage is at least ninety-five per centum (95%), but less than one hundred ten per centum (110%):
 - (i) the rate of the surcharge assessed under section 301.5 shall be eight per centum (8%); and
 - (ii) the rate of contributions assessed under section 301.4 shall be one-tenth of one per centum (0.1%).
- (5) When the trigger percentage is at least seventy-five per centum (75%), but less than ninety-five per centum (95%):
 - (i) the rate of the surcharge assessed under section 301.5 shall be eight per centum (8%);
 - (ii) the rate of contributions assessed under section 301.4 shall be fifteen-hundredths of one per centum (0.15%); and
 - (iii) the rate of additional contributions assessed under section 301.2 shall be twenty-five hundredths of one per centum (0.25%).
- (6) When the trigger percentage is at least fifty per centum (50%), but less than seventy-five per centum (75%):

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- (i) the rate of the surcharge assessed under section 301.5 shall be eight per centum (8%);
 - (ii) the rate of contributions assessed under section 301.4 shall be two-tenths of one per centum (0.2%); and
 - (iii) the rate of additional contribution assessed under section 301.2 shall be five-tenths of one per centum (0.5%).
- (7) When the trigger percentage is less than fifty per centum (50%):
- (i) the rate of the surcharge assessed under section 301.5 shall be eight per centum (8%);
 - (ii) the rate of additional contribution assessed under section 301.2 shall be seventy-five hundredths of one per centum (0.75%); and
 - (iii) the rate of contributions assessed under section 301.4 shall be two-tenths of one per centum (0.2%).
- (c) Whenever the trigger percentage determined under subsection (a) is less than fifty per centum (50%), the secretary shall announce a reduction in the weekly benefit rate under section 404(e)(4).
- (d) Whenever the trigger percentage is less than twenty-five per centum (25%), any balance remaining in the Unemployment Compensation Trigger Reserve Account shall be transferred to the Unemployment Compensation Trust Fund.

(301.7 added Oct. 19, 1988, P.L.818, No.109)

Compiler's Note: Section 18(3) of Act 60 of 2012, which amended subsec. (a), provided that the amendment of subsec. (a) shall apply to the calculation of the trigger percentage in 2012 and subsequent calendar years for purposes of contribution rates and benefit reductions for calendar year 2013 and thereafter, respectively.

Section 301.8. Trigger Rate Redeterminations.--

- (a) Beginning in 1992 and each fifth year thereafter, the secretary shall redetermine the rates of the surcharge, employe tax, additional contributions and benefit reduction otherwise applicable under sections 301.7 and 404(e)(4). The

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secretary shall redetermine the rates so that the unrounded rates yield contribution increases and benefit reductions, on a calendar year basis, approximately equal to the dollar amounts specified in subsection (b). The rates as redetermined shall take effect on January 1 of the following calendar year and shall remain in effect for five years.

- (b) (1) For calendar years 2013 through the year determined under paragraph (4), if the trigger percentage as of July 1 of the preceding calendar year is less than two hundred fifty per centum (250%), the rates determined under paragraph (2) shall apply. For calendar years following the year determined under paragraph (4), if the trigger percentage as of July 1 of the preceding calendar year is less than two hundred fifty per centum (250%), the rates determined under paragraph (3) shall apply.
- (2) The secretary shall redetermine the rates such that the surcharge assessed under section 301.5 shall yield one hundred million dollars (\$100,000,000), the additional contribution under section 301.2 shall yield two hundred twenty-five million dollars (\$225,000,000), the employe tax under section 301.4 shall yield one hundred sixty-six million six hundred sixty-six thousand six hundred sixty-six dollars (\$166,666,666), and the benefit reduction under section 404(e)(4) shall yield fifty-two million dollars (\$52,000,000).
- (3) The secretary shall redetermine the rates such that the surcharge assessed under section 301.5 shall yield one hundred thirty-eight million dollars (\$138,000,000), the additional contribution under section 301.2 shall yield the sum of three hundred ten million dollars (\$310,000,000) plus the amount determined under paragraph (5), the employe tax under section 301.4 shall yield two hundred thirty million dollars (\$230,000,000), and the benefit reduction under section 404(e)(4) shall yield seventy-two million dollars (\$72,000,000).
- (4) The calendar year determined under this paragraph shall be the earliest calendar year subsequent to 2012 on December 31 of which all of the following apply:
 - (i) There is no unpaid balance of Federal advances under Title XII of the Social Security Act (58 Stat. 790, 42 U.S.C. § 1321 et seq.) or interest thereon.
 - (ii) There are no outstanding bond obligations under Article XIV of this act and no bond administrative expenses under Article XIV

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of this act and no such obligations and no such expenses will be due in the following year.

- (5) The amount determined under this paragraph shall be the sum of:
- (i) twenty per centum (20%) of the amount paid from the Unemployment Compensation Fund pursuant to section 1407(c) during the sixty (60) consecutive calendar months ending on June 30 of the year in which the redetermination occurs, plus
 - (ii) twenty per centum (20%) of that portion of the amount paid from the Unemployment Compensation Fund pursuant to section 1407(c) during the immediately preceding sixty (60) consecutive calendar months that is not recovered by additional contributions paid for calendar years through the calendar year in which the redetermination occurs.

((b) amended June 12, 2012, P.L.577, No.60)

- (c) For the purpose of redetermining the rates under this section, the secretary shall utilize the necessary contribution and benefit activity data from the calendar year immediately preceding the year in which the redetermination is to be done.
- (d) The first redetermination shall be done by June 30, 1992, and the rates shall be redetermined each fifth succeeding June 30, and the applicable redetermined rates shall take effect the next January 1.
- (e) The redetermined rates shall be rounded in accordance with the following schedule:
 - (1) If the rate for the surcharge assessed under section 301.5 is not a multiple of one-tenth of one per centum (0.1%), it shall be rounded to the next higher multiple of one-tenth of one per centum (0.1%).
 - (2) If the rate for the employe tax under section 301.4 is not a multiple of one-hundredth of one per centum (0.01%), it shall be rounded to the next higher multiple of one-hundredth of one per centum (0.01%).
 - (3) If the rate for the additional contribution under section 301.2 is not a multiple of five-hundredths of one per centum (0.05%), it shall be

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rounded to the next higher multiple of five-hundredths of one per centum (0.05%).

- (4) If the rate for the benefit reduction under section 404(e)(4) is not a multiple of one-tenth of one per centum (0.1%), it shall be rounded to the next higher multiple of one-tenth of one per centum (0.1%).

(301.8 added Oct. 19, 1988, P.L.818, No.109)

Compiler's Note: Section 18(4) of Act 60 of 2012, which amended subsec. (b), provided that the amendment of subsec. (b) shall apply to the redetermination of contribution rates and the benefit reduction to occur under section 301.8 in 2012 and each fifth year thereafter for purposes of contribution rates and the benefit reduction for calendar year 2013 and thereafter, respectively.

Section 301.9. Service and Infrastructure Improvement Fund.--

- (a) There is established a restricted account in the State Treasury to be known as the Service and Infrastructure Improvement Fund.
- (b) Moneys in the Service and Infrastructure Improvement Fund shall consist of contributions deposited into the fund pursuant to section 301.4(e)(2).
- (c) Moneys in the Service and Infrastructure Improvement Fund are appropriated on a continuing basis, upon approval of the Governor, to the department to be prioritized for the following purposes:
 - (1) To improve the quality, efficiency and timeliness of services provided by the service center system to individuals claiming compensation under this act, including claim filing, claim administration, adjudication services and staffing and training of system employees.
 - (2) Expenditures for information management technology, communications technology and other infrastructure components that the secretary determines are likely to result in significant and lasting improvements to the unemployment compensation system.
 - (3) To pay the costs of collecting the contributions deposited into the Service and Infrastructure Improvement Fund pursuant to section 301.4(e)(2).

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- (d) Consistent with the merit staffing requirement of section 303(a)(1) of the Social Security Act (49 Stat. 620, 42 U.S.C. § 503(a)(1)), no moneys in the Service and Infrastructure Improvement Fund may be expended or obligated to a third party to perform unemployment compensation services of the department, except services relating to technology and infrastructure components deemed necessary by the secretary under subsection (c)(2).
- (e) Any moneys in the Service and Infrastructure Improvement Fund that are not expended or obligated as of December 31, 2018, shall be transferred to the Unemployment Compensation Fund under section 601.
- (f) Moneys in the Service and Infrastructure Improvement Fund shall not lapse at any time nor be transferred to any other fund except as provided in subsection (e).
- (g) No later than June 30 of each calendar year from 2014 through 2019, the department shall provide a report to the Governor and the General Assembly, through the Secretary-Parliamentarian of the Senate and the Chief Clerk of the House of Representatives, regarding the Service and Infrastructure Improvement Fund, which report shall include an accounting for the contributions deposited into the fund, the expenditures and transfers from the fund during the prior year and a description of the purposes for which expenditures from the fund were made in the prior year.

(301.9 added July 2, 2013, P.L.195, No.34)

Section 302. Establishment and Maintenance of Employer's Reserve Accounts.--

The department shall establish and maintain for each employer a separate employer's reserve account in the following manner:

- (a) An employer's account shall be charged with all compensation, including dependents' allowances, paid to each individual who received from such employer wage credits constituting the base of such compensation, in accordance with this subsection.
 - (1) An employer's account shall be charged with compensation paid to an individual for which an overpayment under section 804 of this act is not established against the individual.
 - (2) In addition to charges assigned under paragraph (1), an employer's account shall be charged with compensation paid to an individual for which an overpayment under section 804 of this act is established

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against the individual if the compensation is paid because the employer or an agent of the employer responds untimely or inadequately or fails to respond to a request by the department for information regarding the individual's eligibility for compensation. For the purposes of this paragraph, the following shall apply:

- (i) A request by the department for information regarding an individual's eligibility shall:
 - (A) Indicate the name and social security number of the individual.
 - (B) Contain specific inquiries, indicate the type of information sought, or both.
 - (C) Be mailed to the employer's or agent's last known address or be transmitted electronically to the employer's or agent's electronic mail address if the employer or agent has designated an electronic mail address.
 - (D) Indicate the date the request is mailed or transmitted electronically.
 - (E) Indicate a mailing address, an electronic mail address, or both, where a response shall be filed.
- (ii) An employer's or agent's response to a request by the department for information shall be untimely if the response is filed more than fourteen days after the department's request for information is mailed or transmitted electronically to the employer or agent. The filing date of a response shall be determined in accordance with 34 Pa. Code § 63.25 (relating to filing methods).
- (iii) An employer's or agent's response shall be inadequate if the response misrepresents or omits facts that, if represented accurately or disclosed, would have been a basis for the department to disqualify the individual from receiving compensation.
- (iv) A determination by the department assigning charges under this paragraph may be appealed as provided in Article V of this

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act for appeals from determinations regarding an individual's eligibility for compensation.

- (2) An employer's account shall be charged with compensation paid to an individual in the proportion that the individual's wage credits with the employer bear to the total wage credits received by the individual from all employers.
- (a) amended Oct. 23, 2013, P.L.637, No.75)
 - (b) Any employer, at any time, may voluntarily pay into the Unemployment Compensation Fund an amount in excess of the contributions required to be paid under the provisions of this act, and such amount shall be forthwith credited to his reserve account. His rate of contribution shall be computed or recomputed, as the case may be, with such amount included in the calculation. To affect such employer's rate of contribution for any year, such amount shall be paid not later than thirty days following the mailing of notice of his rate of contribution for such year: Provided, That for good cause, such time may be extended by the department: And provided further, That such amount, when paid as aforesaid, shall not be refunded or used as a credit in the payment of contributions in whole or in part. In no event shall any such amount be included in the computation or recomputation for any year unless it is paid within one hundred twenty days after the beginning of such year.
 - (c)
 - (1) For the purpose of determining any employer's rate of contribution for any year, the phrase "balance in an employer's reserve account" as used in sections 301, 301.1 and 301.2 of this act shall mean the amount ascertained as of the computation date by subtracting the amounts charged to his reserve account from the amounts credited thereto including voluntary contributions. If, as of the computation date, the amounts charged to his reserve account exceed the amounts credited by an amount equivalent to more than twenty per centum (20%) of his average annual payroll, the employer may elect, subject to the provisions of section 301.1(f) of this act to have his reserve account balance adjusted to a negative balance equal to twenty per centum (20%) of his average annual payroll. This subsection as amended shall apply to elections made after December 31, 1986.
 - (2) Notwithstanding the provisions of section 301.1(f) and paragraph (1) of this subsection, for elections made on or after January 1, 1984 and before May 1, 1986, if the amounts charged to the employer's

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reserve account exceed the amounts credited by an amount equivalent to more than ten per centum (10%) of his average annual payroll, the department, after determining his Reserve Ratio Factor shall, upon the election of the employer, adjust his reserve account balance to a negative balance equal to ten per centum (10%) of his average annual payroll. With respect to future adjustments of negative balance accounts, the secretary shall, upon the election of the employer, make adjustments as follows:

- (i) In relation to adjustments made for the second time after January 1, 1984 and before May 1, 1986, if the amounts charged to his reserve account exceed the amounts credited by an amount equivalent to more than fifteen per centum (15%) of his average annual payroll, the department shall, upon the election of the employer, adjust the reserve account balance to a negative balance equal to fifteen per centum (15%) of his average annual payroll.
- (ii) In relation to adjustments made for the third time after January 1, 1984 and before May 1, 1986, if the amounts charged to his reserve account exceed the amounts credited by an amount equivalent to more than twenty per centum (20%) of his average annual payroll, the department shall, upon the election of the employer, adjust his reserve account balance to a negative balance equal to twenty per centum (20%) of his average annual payroll.
- (d) The department shall terminate the reserve account of any employer who has not paid contributions for a period of four consecutive twelve month periods, ending June thirtieth in any year.
- (e) Nothing contained in this act shall be construed to grant to any employer any claim or right of withdrawal with respect to any amount allocated to him from, or paid by him into, the Unemployment Compensation Fund, except as provided in section three hundred eleven hereof.

(302 amended June 20, 2011, P.L.16, No.6)

Compiler's Note: Section 6(2) of Act 75 of 2013, which amended subsec. (a), provided that the addition of subsec. (a)(2) shall apply to overpayments established on or after October 21, 2013.

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Compiler's Note: Section 9(1) of Act 6 of 2011, which amended section 302, provided that the amendment shall apply to charges for compensation corresponding to benefit years that begin on and after the effective date of the amendment.

Section 302.1. Relief from Charges.--Notwithstanding any other provisions of this act assigning charges for compensation paid to employes, except for section 302(a)(2), the department shall relieve an employer of charges for compensation in accordance with this section and section 213 of this act. (Intro. par. amended Oct. 23, 2013, P.L.637, No.75)

- (a) Circumstances allowing relief:
 - (1) If an individual was separated from his most recent work for an employer due to being discharged for willful misconduct connected with that work, or due to his leaving that work without good cause attributable to his employment, or due to his being separated from such work under conditions which would result in disqualification for benefits under the provisions of section 3 or 402(e.1) of this act, the employer shall be relieved of charges for compensation paid to the individual with respect to any week of unemployment occurring subsequent to such separation. Relief from charges under this paragraph terminates if the employe returns to work for the employer.
 - (2) If an individual's unemployment is directly caused by a major natural disaster declared by the President of the United States pursuant to section 102(1) of the Disaster Relief Act of 1970 (Public Law 91-606, 42 U.S.C. § 4401 et seq.) and the individual would have been eligible for disaster unemployment assistance as provided in section 240 of the Disaster Relief Act of 1970 with respect to that unemployment but for the receipt of unemployment compensation, an employer shall be relieved of charges for compensation paid to such individual with respect to any week of unemployment occurring due to the natural disaster, to a maximum of the eight weeks immediately following the declaration of emergency by the President of the United States.
 - (3) If an individual subsequent to separation from his work is engaged in part-time work for a base year employer, other than a base year employer from whom he has separated, the part-time employer shall be relieved of charges for compensation paid to the individual with respect to any week of unemployment occurring subsequent to the separation and while such part-time work continues without material change.

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- (4) If the department finds that an individual was separated from his most recent work for an employer due to a cessation of business of eighteen (18) months or less caused by a disaster, the employer may be relieved of charges for compensation paid to such individual with respect to any week of unemployment occurring subsequent to that separation. Relief from charges under this paragraph terminates if the employe returns to work for the employer.

(b) Requests for relief from charges:

- (1) Except as provided in subsection (c), in order to be granted relief from charges for compensation, an employer must file a request with the department in the manner provided, and containing all information required, by the department's regulations.
- (2) If an employer is requesting relief from charges on the basis of a separation that occurs on or before the date the claimant files an application for benefits or on the basis of continuing part-time work, the following shall apply:
 - (i) If the request is filed within fifteen (15) days after the date of the earliest notice issued by the department under section 501(a) of this act indicating that the claimant is eligible under section 401(a) of this act and relief is granted, relief shall begin with the earliest week for which the claimant is eligible for benefits pursuant to the claimant's application for benefits.
 - (ii) If the request is not filed within the time period provided in subparagraph (i), relief, if granted by the department, shall begin with the earliest week ending fifteen (15) or more days subsequent to the date the request is filed.
- (3) If an employer is requesting relief from charges on the basis of a separation that occurs after the claimant files an application for benefits, the following shall apply:
 - (i) If the request is filed within fifteen (15) days after the date of the earliest notice issued by the department indicating that the claimant is claiming benefits subsequent to the separation and relief is granted, relief shall begin with the earliest week for which the claimant is eligible for benefits following the last day worked.

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- (ii) If the request is not filed within the time period provided in subparagraph relief, if granted by the department, shall begin with the earliest week ending fifteen (15) or more days subsequent to the date the request is filed.
- (c) Relief from charges without a request:
 - (1) If a claimant is determined ineligible for benefits under section 3 or 402(b), (e) or (e.1) of this act pursuant to a notice of determination that has become final, the department shall grant relief from charges in accordance with subsection (a)(1) to the employer from whom the claimant was separated, beginning with the earliest week for which the claimant is eligible for benefits following the week or weeks governed by the notice of determination.
 - (2) If a claimant is determined eligible for benefits under section 402(b) of this act pursuant to a notice of determination that has become final, the department shall grant or deny relief from charges in accordance with subsection (a)(1) to the employer from whom the claimant was separated, beginning with the earliest week governed by the notice of determination, in accordance with the following:
 - (i) The department shall grant relief from charges if the claimant left work for the employer without good cause attributable to the claimant's employment.
 - (ii) The department shall deny relief from charges if the claimant left work for the employer with good cause attributable to the claimant's employment.
 - (3) Relief from charges granted to an employer remains in effect for the purpose of benefits paid to the claimant pursuant to a subsequent application for benefits if the relief has not terminated in accordance with the provisions of this section.
- (d) Employer information:
 - (1) An employer that is granted relief from charges on the basis of a claimant's separation from employment shall notify the department

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within fifteen (15) days if the claimant returns to work for the employer. The employer shall include with the notification the claimant's name and Social Security number, the employer's name and account number and the date when reemployment commenced.

- (2) An employer that is granted relief from charges on the basis of continuing part-time work shall notify the department within fifteen (15) days if the employment situation of the claimant changes. The employer shall include with the notification the claimant's name and Social Security number and the employer's name and account number.

(e) General provisions:

- (1) Where the individual's eligibility for compensation has been finally determined under the provisions of Article V of this act, such determination shall not be subject to attack in proceedings under this section.
- (2) The findings and determinations of the department under this section shall be subject to appeal in the manner provided in this act for appeals from determinations of compensation.

(302.1 added June 20, 2011, P.L.16, No.6)

Compiler's Note: See section 9(1) and (2) in the appendix to this act for special provisions relating to applicability.

Section 303. (303 repealed Sept. 29, 1951, P.L.1580, No.408)

Section 304. Reports by Employers; Assessments.--Each employer shall file with the department such reports, at such times, and containing such information, as the department shall require, for the purpose of ascertaining and paying the contributions required by this act.

- (a) (1) If any employer fails within the time prescribed by the department to file any report necessary to enable the department to determine the amount of any contribution owing by such employer, the department may make an assessment of contributions against such employer of such amount of contributions for which the department believes such employer to be liable, together with interest thereon as provided in this act.

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- (2) Within fifteen days after making such assessment the department shall give notice thereof to such employer as provided in paragraph (3). If such employer is dissatisfied with the assessment so made he may petition the department for a re-assessment in the manner hereinafter prescribed.
 - (3) The department will mail notice of an assessment to the employer's last known address or electronically transmit notice of an assessment to the employer's electronic mail address, if the employer has designated such an address. Notice of an assessment by mail is complete upon mailing. Notice of an assessment by electronic transmission is complete when notice is sent to the employer's electronic mail address.
 - (4) In any petition for re-assessment filed hereunder and in any further appeal taken thereafter as herein provided, no questions shall be raised with respect to the department's determination of the Adjustment Factor applicable to any year covered by the assessment.
- (b) Any employer against whom an assessment is made may, within fifteen days after notice thereof, petition the department for a re-assessment which petition shall be under oath and shall set forth therein specifically and in detail the grounds and reasons upon which it is claimed that the assessment is erroneous. Hearing or hearings on said petition shall be held by the department at such places and at such times as may be determined by rules and regulations of the department and due notice of the time and place of such hearing given to such petitioner.
 - (c) ((c) repealed Apr. 28, 1978, P.L.202, No.53)
 - (d) As to any employer who fails to petition for re-assessments, or, having petitioned after due notice of hearing, fails to appear and be heard, or, in the case of a re-assessment, to appeal, such assessment or re-assessment of the department shall then become final, and the contributions and interest assessed or re-assessed by the department become forthwith due and payable, and no defense which might have been determined by the department or in the event of an appeal from re-assessment by the court shall be available to any employer in any suit or proceeding brought by the Commonwealth in the name of the fund for the recovery of such contribution based on such assessment or re-assessment.
 - (e) In any hearings held by the department in pursuance of the provisions of this section the department is hereby authorized and empowered to examine any person or persons under oath concerning any matters pertaining to the

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determination of the liability of the employer for contributions under the provisions of this act and to this end may compel the production of books, papers and records and compel the attendance of all persons, whether as parties or witnesses, whom and which the department believes to have or contain knowledge or information material to such determination. The conduct of hearings and appeals before the department shall be in accordance with rules of procedure prescribed by the department, whether or not such rules conform to common law or rules of evidence or other technical rules of procedure, but shall be under supervision of the Office of General Counsel in accordance with the act of October 15, 1980 (P.L.950, No.164), known as the "Commonwealth Attorneys Act."

- (f) Witness fees and expenses of proceedings involving such assessments or re-assessments and the determination thereof shall be deemed part of the expenses of administering this act and shall be paid from the administration fund. Testimony at any hearing before the department held in pursuance of the provisions of this section shall be taken by a reporter but need not be transcribed unless an appeal be taken from a re-assessment made thereon.

(304 amended June 12, 2012, P.L.577, No.60)

Compiler's Note: Section 18(5) of Act 60 of 2012, which amended section 304, provided that the amendment of section 304 shall apply to notices of assessment issued on or after the effective date of section 304.

Section 305. Payment of Contributions; Jeopardy Assessments.--

- (a) Concurrently with each report, the employer shall pay to the department the amount of contributions imposed by this act for the period covered by the report; but the department may, in proper cases, upon request made, permit an extension of time for the payment of contributions due. The amount of the contribution in respect of which an extension is granted shall be paid (with interest at the rate of one-half of one per centum per month), or fraction of a month, on or before the expiration of the period of extension.
- (b) For the purposes of this act, contributions due by an employer with respect to wages for employment under this act (i) which have been paid as contributions required under another state or Federal unemployment compensation law and (ii) which have been subsequently credited to the account of such employer under this act, shall be deemed to have been paid into the Unemployment Compensation Fund as of the date payment thereof was made under such other state or Federal unemployment compensation law.

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- (c) Whenever the secretary shall determine that the collection of any contributions under the provisions of this act will be jeopardized by reason of the fact that the employer is insolvent or has discontinued business at any of its known places of business or the business is temporary or seasonal in nature, he may immediately assess such contributions, together with all interest and penalties which may have accrued whether or not the date otherwise prescribed for the filing of reports or for making payment of such contributions has arrived. Such contributions, interest and penalties shall thereupon become immediately due and payable and notice of demand shall be made upon the employer for the payment thereof.

(305 amended June 22, 1964, Sp. Sess., P.L.112, No.7)

Section 306. Fractions of a Cent.—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 one cent.

(306 amended Apr. 23, 1942, Sp. Sess., P.L.60, No.23)

Section 307. Interstate Commerce.—No employer required by this act to pay contributions shall be relieved from compliance therewith on the ground that he is engaged in interstate commerce, or that this act does not distinguish between employes engaged in interstate commerce and those engaged in intrastate commerce.

(307 amended Apr. 23, 1942, Sp. Sess., P.L.60, No.23)

Section 308. Interest on Past Due Contributions.—Contributions unpaid on the date on which they are due and payable, as prescribed by the department, shall bear interest at one-twelfth (1/12) of the annual rate determined by the Secretary of Revenue under section 806 of the act of April 9, 1929 (P.L.343, No.176), known as “The Fiscal Code,” per month or fraction of a month, or at the rate of three quarters of one per centum (0.75%) per month or fraction of a month, whichever is greater, from the date they become due until paid.

(308 amended June 15, 2005, P.L.8, No.5)

Compiler’s Note: Section 13(5) of Act 5 of 2005, which amended section 308, provided that the amendment shall apply to the calculation of interest for that portion of the period from the date contributions become due through the date they are paid that is on or after January 1, 2006.

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Section 308.1. Contributions to be Liens; Entry and Enforcement Thereof.--

- (a) All contributions and the interest and penalties thereon due and payable by an employer under the provisions of this act shall be a lien upon the franchises and property, both real and personal, including after-acquired property of the employer liable therefor and shall attach thereto from the date a lien for such contributions, interest and penalties is entered of record in the manner hereinafter provided. The lien imposed hereunder shall have priority from the date of such entry of record and shall be fully paid and satisfied out of the proceeds of any judicial sale of property subject thereto, before any other obligation, judgment, claim, lien or estate to which said property may subsequently become subject, except costs of the sale and of the writ upon which the sale was made and real estate taxes and municipal claims against such property, but shall be subordinate to mortgages and other liens existing and duly recorded or entered of record prior to the recording of the tax lien. In the case of a judicial sale of property subject to a lien imposed hereunder, upon a lien or claim over which the lien imposed hereunder has priority, as aforesaid, such sale shall discharge the lien imposed hereunder to the extent only, that the proceeds are applied to its payment and such lien shall continue in full force and effect as to the balance remaining unpaid.
- (b) The department may at any time transmit to the prothonotaries of the respective counties of the Commonwealth, to be by them entered of record and indexed as judgments are now indexed, certified copies of all liens imposed hereunder, upon which record it shall be lawful for writs of execution to be directly issued without the issuance and prosecution to judgment of writs of scire facias: Provided, That not less than ten (10) days before the issuance of any execution on the lien, notice of the filing and the effect of the lien shall be sent by registered or certified mail to the employer at his last known post office address. No prothonotary shall require as a condition precedent to the entry of such liens the payment of the costs incident thereto.
- (c) The liens shall continue and shall retain their priority without the necessity of refiling or revival.
- ((c) amended June 12, 2012, P.L.577, No.60)
- (d) Notwithstanding any other provisions of this section, the lien herein provided for shall have no effect upon any stock of goods, wares or merchandise regularly sold or leased in the ordinary course of business by the employer against whom said lien has been entered unless and until a writ of execution has been issued and levy made upon said stock of goods, wares and merchandise.

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- (e) (i) Any payments due and payable under the provisions of this act by an employer which is the Commonwealth, a borough, city, county, school district, township or other political subdivision of the Commonwealth or instrumentality thereof, or an authority at any level of government whether such employer's liability is determined on a reimbursement basis or under the employer experience provisions of this act, shall be deemed Commonwealth taxes for purposes of enforcement and priority in the same manner provided in this act with respect to private employers.

(i) amended July 10, 1980, P.L.521, No.108)

- (ii) With respect to such governmental employers, execution by judicial sale of a delinquent employer's property as provided in this act with regard to private employers shall not be applicable: Provided, however, That nothing herein contained shall be construed to limit any other remedies and procedures for the collection of delinquent employer accounts.

- (iii) With respect to such governmental employers, any court which would have jurisdiction to issue a writ for the judicial sale of such employer's property were such employer a private employer shall, upon application by the department, issue a writ directing that the amount due, including interest and costs, be paid to the Commonwealth out of any moneys of such governmental employer on hand, and if such moneys are unavailable or insufficient, then out of the first moneys coming into the hands of its treasurer or other fiscal officer: And provided further, That any sum due by such employer under the provisions of this act may be recouped out of any funds otherwise payable by the Commonwealth to such delinquent employer.

((e) added July 6, 1977, P.L.41, No.22)

(308.1 amended June 22, 1964, Sp.Sess., P.L.112, No.7)

Compiler's Note: Section 18(6) of Act 60 of 2012, which amended subsec. (c), provided that the amendment of subsec. (c) shall apply to all liens filed or revived within the five-year period immediately preceding the effective date of section 308.1 and all liens filed or revived on or after the effective date of section 308.1.

Section 308.2. Purchase of Property at Judicial Sale; Disposal.--

- (a) At any judicial sale of any property, real or personal, of any employer against

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whom a lien or judgment has been entered under the provisions of this act, the department is hereby authorized and empowered to bid in such property if necessary for the protection of its interest. Title shall be taken in the name of the Commonwealth to the use of the Unemployment Compensation Fund.

- (b) The costs of acquiring property at judicial sale as herein provided and for the subsequent maintenance, preservation and disposal thereof are hereby declared to be administrative expenses to be paid out of the Administration Fund.
- (c) Any property purchased under the provisions of this section shall be held until such time as the department shall believe it advisable to dispose of the same except as hereinafter provided. Thereupon, the department, at either public or private sale, may dispose of the property upon such terms and conditions as it may deem advisable, and the Department of Justice may approve. It shall be lawful to sell the property for cash or for part cash and a mortgage to run from the purchaser to the Commonwealth. When the terms and conditions of such sale shall have been agreed upon and approved, the Department of Justice is hereby authorized and directed to execute and deliver a deed or other appropriate document conveying or transferring the property. Any such conveyance or transfer shall be free and clear of all liens and encumbrances in favor of the department except the lien of a purchase-money mortgage, if any, contemporaneously executed and delivered to the Commonwealth.
- (d) The proceeds derived from the sale of any property under this provision of the act shall be distributed in the following order:
 - (1) Reimbursement to the Administration Fund, created under the provisions of section 602 of this act, of the amount of legal and administrative costs including the costs, if any, of acquiring such property advanced therefrom.
 - (2) Payment of the amount of delinquent contributions covered by the department's lien or liens into the Unemployment Compensation Fund created under the provisions of section 601 of this act, and
 - (3) The balance, if any, into the Special Administrative Fund.
- (e) It shall be unlawful for any State officer or employe or any member of the family of such officer or employe to purchase, directly or indirectly, any property acquired by the department at a judicial sale under the provisions of this section.

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(308.2 added Aug. 27, 1963, P.L.1281, No.522)

Section 308.3. Transfer of Assets; Liability of Purchaser.--

- (a) Every employer subject to the provisions of this act, who shall sell in bulk fifty-one per centum or more of his assets, including but not limited to, any stock of goods, wares or merchandise of any kind, fixtures, machinery, equipment, buildings or real estate, shall give the department ten (10) days' notice of the sale prior to the completion of the transfer of such property. It shall be the duty of such employer to file all contribution reports with the department to the date of such proposed transfer of property and pay all contributions, interest and penalties due and payable thereon. The employer shall present to the purchaser or such property, a certificate which shall be furnished forthwith by the department showing that all reports have been filed and contributions, interest and penalties paid to the date of the proposed transfer. The failure of the purchaser to require such certificate shall render such purchaser liable to the department for the unpaid contributions, interest and penalties owing by the employer.
- (b) The provisions of subsection (a) of this section shall not apply to sales made under any order of court or to any sales made by assignees for the benefit of creditors, executors, administrators, receivers or any public officer in his official capacity, or by any officer of a court, or to any other transfer excepted under the provisions of section 6-103 of the Uniform Commercial Code.

(308.3 added June 22, 1964, Sp. Sess., P.L.112, No.7)

Section 309. Collection of Contributions and Interest; Injunctions.--

- (a) If, after notice by the department, any employer fails, neglects, or refuses to pay any contributions due, or the interest or penalties due thereon, the amount due may be collected by civil action in the name of the Commonwealth. Judgments obtained in such civil actions to collect any of the contributions aforesaid shall include interest and penalties, as provided in this act.
- (a) repealed in part Apr. 28, 1978, P.L.202, No.53)
- (b) When a lien shall have been entered pursuant to the provisions of section 308.1 of this act, or judgment entered pursuant to the provisions of subsection (a) of this section and the same shall remain unpaid sixty days after notice in writing of the entry of such lien or judgment has been sent by the department by registered mail to the employer's last known address, the employer against whom such lien or judgment has been entered may be enjoined from continuing

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in business in the Commonwealth or employing persons therein upon complaint of the secretary. Such injunction shall remain in full force and effect until

- (1) the delinquent contributions, interest or penalties have been paid, or
- (2) the employer shall have furnished a good and sufficient bond conditioned upon the payment of such delinquencies in such an amount and containing such terms as may be determined by the court, or
- (3) the employer has entered into a plan for the liquidation of such delinquencies as the court may approve: Provided, That such injunction may be reinstated upon the employer's failure to comply with the terms of said plan.

((b) repealed in part Apr. 28, 1978, P.L.202, No.53)

(c) In addition to the methods of collection authorized in this act, the department may collect contributions, interest, penalties and other liabilities due under this act as provided under 26 U.S.C. § 6402 (relating to authority to make credits or refunds) and by any other means available under Federal or State law.

((c) added June 12, 2012, P.L.577, No.60)

(309 amended June 22, 1964, Sp. Sess., P.L.112, No.7)

Section 309.1. Compromises.—Where the department is satisfied (1) that the employer is unable to make payment in full of contributions, interest and penalties imposed upon him by the law, or that it would be inequitable to require the payment in full of delinquent interest, and (2) that the employer has acted in good faith, the secretary is hereby authorized, to compromise delinquent interest and penalties due on any contribution, and, in the case of any employer that has been adjudged a bankrupt or for whom a receiver has been appointed or a deceased employer for whom an executor or administrator has been designated, to compromise the principal of any delinquent contribution as well as interest and penalties thereon: Provided, That any compromise of a total delinquent amount in excess of one thousand dollars shall require the approval of the Attorney General.

(309.1 amended Sept. 29, 1951, P.L.1580, No.408)

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Section 309.2. Limitations Upon Enforcement of Payment of Contributions, Interest and Penalties.--

- (a) Notwithstanding any other provisions of this act to the contrary, no legal action for the collection of contributions, interest and penalties shall be instituted after the expiration of four years from the end of the calendar year determined in accordance with subsection (b) of this section, unless prior to the expiration of such four-year period and with respect thereto (1) an assessment proceeding shall have been instituted pursuant to the provisions of section three hundred four of this act, or (2) an action shall have been instituted pursuant to the provisions of section three hundred nine of this act, or (3) a lien shall have been entered pursuant to the provisions of section three hundred eight point one of this act: Provided, That the provisions of this section shall not apply where an employer by willful failure or refusal to file a report with the department or to include in any report all wages which he has paid, or otherwise, has attempted to avoid or reduce liability for the payment of contributions.
- (b) The calendar year referenced in subsection (a) of this section shall be the later of the following calendar years: (1) the calendar year in which the wages were paid with respect to which liability for the payment of contributions, interest or penalties, as the case may be, is based, or (2) with respect to contributions, interest or penalties due on wages paid by a successor-in-interest after a transfer of organization, trade, business or work force, in whole or in part, from a preceding employer, the calendar year in which the successor-in-interest files the report required by section 315(a)(2) of this act in accordance with section 315(b) of this act.

(309.2 amended June 15, 2005, P.L.8, No.5)

Compiler's Note: Section 13(6) of Act 5 of 2005, which amended subsection (b)(2), provided that the amendment shall apply to transfers of organization, trade, business or work force occurring on or after July 1, 2005.

Section 310. Priorities under Legal Dissolutions and Distributions.--In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this Commonwealth, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding, contributions or installments thereof, or interest thereon, then or thereafter due shall be paid in full prior to all other claims except taxes, claims arising under The Workmen's Compensation Act of one thousand nine hundred fifteen, and its amendments and supplements, and claims for wages of not more than two hundred and fifty dollars to each claimant earned within six months of the commencement of the proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension, proposal, or

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composition under the Federal Bankruptcy Act of one thousand eight hundred ninety-eight, as amended, contributions and interest then or thereafter due shall be entitled to such priority as are now or may hereafter be granted to taxes due a state under the said Federal Bankruptcy Act or its amendments.

(310 amended Aug. 24, 1953, P.L.1397, No.396)

Section 311. Refunds and Adjustments.--If any individual or organization shall make application for refund or credit of any amount paid as contribution, interest or penalties, under this act, and the department shall determine that such amount, or any portion thereof, was erroneously collected, the department may at its discretion either allow a credit therefor, without interest, in connection with subsequent contribution payments or shall refund from the Unemployment Compensation Fund, without interest, the amount erroneously paid: Provided, That an amount equal to any refund or credit of interest and penalties allowed, as provided herein, shall be transferred from the Special Administration Fund to the Unemployment Compensation Fund, irrespective of whether such interest or penalties were paid into the Unemployment Compensation Fund or into the Special Administration Fund: And provided further, That any refund or credit allowable under the provisions of this section, of contributions paid with respect to remuneration (1) exempt under the provisions of section 4, subsection (x) of this act, or (2) paid with respect to services exempt under the provisions of section 4, subsection (1) (4) of this act, shall be reduced by the amount of unrefunded compensation paid to any claimant by reason of the inclusion of such remuneration in the base-year wage credits of such claimant. No refund or credit shall be allowed with respect to a payment as contributions, interest or penalties, unless an application therefor shall be made on or before, whichever of the following dates shall be the later:

- (a) one year from the date on which such payment was made, or
- (b) four years from the reporting due date of the reporting period with respect to which such payment was made. For a like cause and within the same period, a refund may be so made or a credit allowed on the initiative of the department.

An amount paid as contribution, interest or penalties shall not be deemed to have been erroneously collected within the meaning of this section if such amount was collected under and pursuant to a notice of contribution rate or a notice of assessment which, because of the applicant's failure to file a timely appeal therefrom, shall have become binding and final against the applicant under the provisions of this act.

In any proceeding instituted to obtain a refund alleged to be due and owing under the provisions of this section, the Adjustment Factor as determined by the department under the provisions of section three hundred one point one (301.1) of this act for the calendar

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year one thousand nine hundred sixty, and any calendar year thereafter, shall not be subject to review or redetermination.

(311 amended June 22, 1964, Sp. Sess., P.L.112, No.7)

Section 312. Reciprocal Agreements.--The department is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the Federal Government, or both, whereby--

- (a) Services performed by an individual for a single employer 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 employer maintains a place of business, provided there is in effect as to such services an election 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 employer are deemed to be performed entirely within such state.
- (b) Potential rights to benefits accumulated under the unemployment compensation laws of one or more states or under one or more such laws of the Federal Government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the department finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.
- (c) Wages or services upon the basis of which an individual may become entitled to benefits under an unemployment compensation law of another state or of the Federal Government shall be deemed to be wages for employment for the purpose of determining his rights to benefits under this act, and wages for employment as defined in this act on the basis of which an individual may become entitled to benefits under this act shall be deemed to be wages or services on the basis of which unemployment compensation under such law of another state or of the Federal Government is payable, but no such arrangement shall be entered into unless it contains provisions for reimbursements from the fund for such of the compensation paid under such

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other law upon the basis of wages for employment as defined in this act as the department finds will be fair and reasonable as to all affected interests.

- (c) amended May 23, 1949, P.L.1738, No.530)
- (d) Contributions due under this act with respect to wages for employment shall, for the purpose of section three hundred one of this act, be deemed to have been paid to the fund as of the date payment was made as contributions therefor under another state or Federal unemployment compensation law, but no such arrangement shall be entered into unless it contains provisions for reimbursement to the fund of such contributions, or an amount equal to such contributions, less any benefits which may have been paid by such other state, based upon such contributions. Such arrangement may provide for the transfer of interest earned on such contributions while credited to the state to which they were erroneously paid.

Reimbursements paid from the fund pursuant to paragraph (c) of this section shall be deemed to be benefits for all the purposes of this act. The department is authorized to make to other state or Federal agencies and to receive from such other state or Federal agencies reimbursements from or to the fund in accordance with arrangements entered into pursuant to this section.

The administration of this act and of other state and Federal unemployment compensation and public employment service laws will be promoted by cooperation between this State and such other states and the appropriate Federal agencies in exchanging services and making available facilities and information. The department is, therefore, authorized to make such investigations, 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 this act as it deems necessary or appropriate to facilitate the administration of any such unemployment compensation or public employment service law and in like manner to accept and utilize information services and facilities made available to this State by the agency charged with the administration of any such other unemployment compensation or public employment service law.

To the extent permissible under the laws and Constitution of the United States, the department 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; and

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- ((d) amended May 23, 1949, P.L.1738, No.530)
- (e) Services performed on vessels engaged in interstate or foreign commerce for a single employer, wherever performed, shall be deemed to be performed within this State or within such other states.
- ((e) added May 29, 1945, P.L.1145, No.408)
- (f) The secretary shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under this act with his wages and employment covered under the unemployment compensation laws of other states which are approved by the United States Secretary of Labor in consultation with the State unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in such situations and which include provisions for:
 - (1) Applying the base period of a single State law to a claim involving the combining of an individual's wages and employment covered under two or more State unemployment compensation laws; and
 - (2) Avoiding the duplicate use of wages and employment by reason of such combining.
- ((f) added Sept. 27, 1971, P.L.460, No.108)
- (g) Overpayments of compensation under this act shall be deducted from compensation payable under an unemployment benefit program of the United States or another state, and overpayments of compensation under an unemployment benefit program of the United States or another state shall be deducted from compensation payable under this act or compensation paid by the Commonwealth pursuant to an unemployment benefit program of the United States. A reciprocal agreement under this subsection shall be consistent with the requirements of section 303(g) of the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.) and the regulations and instructions of the United States Department of Labor.
- ((g) added Oct. 23, 2013, P.L.637, No.75)
- (312 added Apr. 23, 1942, Sp. Sess., P.L.60, No.23)

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Section 313. Dishonored Payments.--The department is hereby authorized to charge a penalty of one hundred per centum (100%) of the face value of the check or payment by electronic transfer, up to a maximum of one thousand dollars (\$1,000) with a minimum of twenty-five dollars (\$25) per occurrence for all dishonored checks and payments by electronic transfer that are not credited upon transmission or at such other amounts as shall be determined by the secretary and published in the Pennsylvania Bulletin as a notice under 45 Pa.C.S. § 725(a)(3) (relating to additional contents of Pennsylvania Bulletin). Such sums shall be collectible in the manner provided in sections 308.1, 308.2, 308.3 and 309 of this act.

(313 amended June 12, 2012, P.L.577, No.60)

Section 314. Shortfall Reduction.--(314 repealed Oct. 19, 1988, P.L.818, No.109)

Section 315. Registration and Other Reports.--

- (a) In addition to reports otherwise required by this act and the rules and regulations of the department, the following reports shall be made to the department:
 - (1) Each person, corporation, unincorporated association or any other entity, for whom services are performed for remuneration by any individual, shall register with the department within thirty (30) days after services are first performed for the person or entity or within thirty (30) days after the effective date of this paragraph if services were first performed for the person or entity prior to the effective date of this paragraph and the person or entity did not register prior to the effective date of this paragraph.
 - (2) An employer that transfers its organization, trade, business or work force, in whole or in part, whether such transfer was by merger, consolidation, sale or transfer, descent or otherwise, and the person, corporation, unincorporated association or other entity to whom the transfer is made, shall report the transfer to the department. For transfers occurring on or after January 1, 2004, the report shall be made within thirty (30) days after the date of the transfer or within thirty (30) days after the effective date of this section if the transfer occurred prior to the effective date of this section and the employer, individual or entity did not report the transfer prior to the effective date of this section. If the transfer occurred on or before December 31, 2003, the report shall be made within thirty (30) days after it is requested by the department.

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- (3) In the event of a part transfer of an employer's organization, trade, business or work force under section 301(d)(1)(A) or (B) of this act, the preceding employer shall identify the individuals who were employed in the part transferred to the successor-in-interest during the calendar quarter in which the transfer occurred and the eight (8) immediately preceding calendar quarters. The report shall be made within thirty (30) days after it is requested by the department.
 - (4) An individual or entity to whom some or all of a work force is transferred, as part of or resulting in an arrangement described under section 4(j)(2.1) of this act, shall file a report with the department for each calendar quarter. The individual or entity may file one report for all such arrangements. The report shall be filed on or before the last day of the month which immediately follows the end of the calendar quarter for which the report is filed.
- (b) All reports required by this section or any other provision of this act or the rules and regulations of the department shall be made in the manner prescribed by the department and contain all information required by the department.

(315 added June 15, 2005, P.L.8, No.5)

Compiler's Note: Section 13(7) of Act 5 of 2005, which added section 315, provided that subsection (a)(2) and (3) shall apply to transfers occurring prior to, on or after July 1, 2005.

Section 13(8) of Act 5 of 2005 provided that subsection (a)(4) shall apply to calendar quarters beginning on or after July 1, 2005.

ARTICLE IV **COMPENSATION**

Section 401. Qualifications Required to Secure Compensation.--Compensation shall be payable to any employee who is or becomes unemployed, and who--

- (a) Satisfies both of the following requirements:
 - (1) Has, within his base year, been paid wages for employment as required by section 404(c) of this act.
 - (2) Except as provided in section 404(a)(3), not less than forty-nine and one-half per centum (49.5%) of the employee's total base year wages

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have been paid in one or more quarters, other than the highest quarter in such employe's base year.

- ((a) amended June 12, 2012, P.L.577, No.60)
- (b) (1) Is making an active search for suitable employment. The requirements for "active search" shall be established by the department and shall include, at a minimum, all of the following:
 - (i) Registration by a claimant for employment search services offered by the Pennsylvania CareerLink system or its successor agency within thirty (30) days after initial application for benefits.
 - (ii) Posting a resume on the system's database, unless the claimant is seeking work in an employment sector in which resumes are not commonly used.
 - (iii) Applying for positions that offer employment and wages similar to those the claimant had prior to his unemployment and which are within a forty-five (45) minute commuting distance.
- (2) The Pennsylvania CareerLink system or its successor agency shall provide documentation, on a quarterly basis or more frequently, as the secretary deems appropriate, to the Pennsylvania Unemployment Compensation Service Center system so the system can conduct the necessary cross reference checks.
- (3) For the purposes of paragraph (1), the department may determine that a claimant has made an active search for suitable work if the claimant's efforts include actions comparable to those traditional actions in their trade or occupation by which jobs have been found by others in the community and labor market in which the claimant is seeking employment.
- (4) The requirements of this subsection do not apply to any week in which the claimant is in training approved under section 236(a)(1) of the Trade Act of 1974 (Public Law 93-618, 19 U.S.C. § 2101 et seq.) or any week in which the claimant is required to participate in reemployment services under section 402(j) of this act.

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- (5) The requirements of this subsection shall not apply to a claimant who is laid off for lack of work and advised by the employer of the date on which the claimant will return to work.
 - (6) The department may waive or alter the requirements of this subsection in cases or situations with respect to which the secretary finds that compliance with such requirements would be oppressive or which would be inconsistent with the purposes of this act.
- ((b) amended June 17, 2011, P.L.16, No.6)
- (c) Has made a valid application for benefits with respect to the benefit year for which compensation is claimed and has made a claim for compensation in the proper manner and on the form prescribed by the department;
- ((c) amended Sept. 29, 1951, P.L.1580, No.408)
- (d)
 - (1) Is able to work and available for suitable work: Provided, that no otherwise eligible claimant shall be denied benefits for any week because he is in training with the approval of the secretary nor shall such individual be denied benefits with respect to any week in which he is in training with the approval of the secretary by reason of the application of the provisions of this subsection relating to availability for work or the provisions of section 402(a) of this act relating to failure to apply for or a refusal to accept suitable work.
 - (2) No otherwise eligible claimant shall be denied benefits for any week in which his unemployment is due to exercising the option of accepting a layoff, from an available position, pursuant to a labor-management contract, or pursuant to an established employer plan, program or policy.
- ((d) amended July 10, 1980, P.L.521, No.108)
- (e)
 - (1) Has been unemployed for a waiting period of one week.
 - (2) No week shall be counted as a week of unemployment for the purposes of this section,
 - (i) unless it occurs within the benefit year which includes the week with respect to which such employe claims compensation, or
 - (ii) if compensation has been paid or is payable with respect thereto, or

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(iii) unless the employe was eligible for compensation with respect thereto under all other provisions of this section and was not disqualified with respect thereto under section 402(a), (b), (d), (e), (g), (h) and (i).

((e) amended July 21, 1983, P.L.68, No.30)

(f) Has earned, subsequent to his separation from work under circumstances which are disqualifying under the provisions of subsections 402(b), 402(e), 402(e.1), 402(h) and 402(k) of this act, remuneration for services in an amount equal to or in excess of six (6) times his weekly benefit rate in "employment" as defined in this act. The provisions of this subsection shall not apply to a suspension of work by an individual pursuant to a leave of absence granted by his last employer, provided such individual has made a reasonable effort to return to work with such employer upon the expiration of his leave of absence.

((f) amended Oct. 23, 2013, P.L.637, No.75)

(g) With respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work shall include wages paid for previously uncovered services. For the purposes of this subsection, the term "Previously Uncovered Services" means services--

(A) which were not in employment as defined in section 4(l) and were not services covered pursuant to this act at anytime during the one-year period ending December 31, 1975; and

(B) which--

(I) are agricultural labor (as defined in section (4)(l) (3)(G) or domestic service (as defined in section 4(l)(3)(H)) or

(II) are services performed by an employe of the Commonwealth or of a political subdivision thereof, as provided in Article X and Article XII or by an employe of a nonprofit educational institution which is not an institution of higher education, as provided in Article XI, except to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services.

((g) added July 6, 1977, P.L.41, No.22)

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Compiler's Note: Section 6(3) of Act 75 of 2013, which amended subsec. (f) and added subsec. (k), provided that the amendment of subsec. (f) and the addition of subsec. (k) shall apply to benefit years beginning on or after the effective date of section 6.

Compiler's Note: Section 18(6.1) of Act 60 of 2012, which amended subsecs. (a) and (f), provided that the amendment of subsec. (f) shall apply to separations that occur on or after the effective date of subsec. (f).

Section 18(7)(ii), provided that subsec. (a) shall apply to benefit years which begin after December 31, 2012.

Compiler's Note: Section 9(3) of Act 6 of 2011, which amended subsec. (b), provided that the amendment shall apply to benefit years that begin on or after January 1, 2012.

Section 402. Ineligibility for Compensation.--An employe shall be ineligible for compensation for any week--

- (a) In which his unemployment is due to failure, without good cause, either to apply for suitable work at such time and in such manner as the department may prescribe, or to accept suitable work when offered to him by the employment office or by any employer, irrespective of whether or not such work is in "employment" as defined in this act: Provided, That such employer notifies the employment office of such offer within seven (7) days after the making thereof; however this subsection shall not cause a disqualification of a waiting week or benefits under the following circumstances: when work is offered by his employer and he is not required to accept the offer pursuant to the terms of the labor-management contract or agreement, or pursuant to an established employer plan, program or policy: Provided further, That a claimant shall not be disqualified for refusing suitable work when he is in training approved under section 236(a)(1) of the Trade Act of 1974.
 - ((a) amended Oct. 22, 1981, P.L.301, No.106)
 - (a.1) In which his unemployment is due to failure to accept an offer of suitable full-time work in order to pursue seasonal or part-time employment.
 - ((a.1) added July 10, 1980, P.L.521, No.108)
 - (b) In which his unemployment is due to voluntarily leaving work without cause of a necessitous and compelling nature, irrespective of whether or not such work is in "employment" as defined in this act: Provided, That a voluntary leaving work because of a disability if the employer is able to provide other

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suitable work, shall be deemed not a cause of a necessitous and compelling nature: And provided further, That no employe shall be deemed to be ineligible under this subsection where as a condition of continuing in employment such employe would be required to join or remain a member of a company union or to resign from or refrain from joining any bona fide labor organization, or to accept wages, hours or conditions of employment not desired by a majority of the employes in the establishment or the occupation, or would be denied the right of collective bargaining under generally prevailing conditions, and that in determining whether or not an employe has left his work voluntarily without cause of a necessitous and compelling nature, the department shall give consideration to the same factors, insofar as they are applicable, provided, with respect to the determination of suitable work under section four (t): And provided further, That the provisions of this subsection shall not apply in the event of a stoppage of work which exists because of a labor dispute within the meaning of subsection (d). Provided further, That no otherwise eligible claimant shall be denied benefits for any week in which his unemployment is due to exercising the option of accepting a layoff, from an available position pursuant to a labor-management contract agreement, or pursuant to an established employer plan, program or policy: Provided further, That a claimant shall not be disqualified for voluntarily leaving work, which is not suitable employment to enter training approved under section 236(a)(1) of the Trade Act of 1974. For purposes of this subsection the term "suitable employment" means with respect to a claimant, work of a substantially equal or higher skill level than the claimant's past "adversely affected employment" (as defined in section 247 of the Trade Act of 1974), and wages for such work at not less than eighty per centum of the worker's "average weekly wage" (as defined in section 247 of the Trade Act of 1974).

- (b) amended Oct. 22, 1981, P.L.301, No.106)
- (c) With respect to which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States: Provided, That if the appropriate agency of such other state or of the United States finally determines that he is not entitled to such unemployment benefits, the disqualification shall not apply.
- (d) In which his unemployment is due to a stoppage of work, which exists because of a labor dispute (other than a lock-out) 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 that (1) he is not participating in, or directly interested in, the labor dispute which caused the stoppage of work, and (2) he is not a member of an organization which is participating in, or directly

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interested in, the labor dispute which caused the stoppage of work, and (3) 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 directly interested in, the dispute.

- (e) In which his unemployment is due to his discharge or temporary suspension from work for willful misconduct connected with his work, irrespective of whether or not such work is “employment” as defined in this act; and
 - ((e) amended Aug. 24, 1953, P.L.1397, No.396)
 - (e.1) In which his unemployment is due to discharge or temporary suspension from work due to failure to submit and/or pass a drug test conducted pursuant to an employer’s established substance abuse policy, provided that the drug test is not requested or implemented in violation of the law or of a collective bargaining agreement.
 - ((e.1) added Dec. 9, 2002, P.L.1330, No.156)
 - (f) ((f) repealed Dec. 5, 1974, P.L.769, No.261)
 - (g) Any part of which is included in the one-year period immediately following the date on which he is finally convicted of the illegal receipt of benefits under this act in any penal proceedings instituted against him under the provisions of this act or any other statute of the Commonwealth.
 - (h) In which he is engaged in self-employment: Provided, however, That an employe who is able and available for full-time work shall be deemed not engaged in self-employment by reason of continued participation without substantial change during a period of unemployment in any activity including farming operations undertaken while customarily employed by an employer in full-time work whether or not such work is in “employment” as defined in this act and continued subsequent to separation from such work when such activity is not engaged in as a primary source of livelihood. Net earnings received by the employe with respect to such activity shall be deemed remuneration paid or payable with respect to such period as shall be determined by rules and regulations of the department.
 - ((h) added Dec. 17, 1959, P.L.1893, No.693)
 - (i) ((i) repealed July 21, 1983, P.L.68, No.30)

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- (j) In which the employe fails to participate in reemployment services, such as job search assistance services, if it has been determined that the employe is likely to exhaust regular benefits and to need reemployment service pursuant to a profiling system established by the department, unless the department determines that (1) the employe has completed such services or (2) there is justifiable cause for the employe's failure to participate in such services.
- ((j) added Nov. 17, 1995, P.L.615, No.64) (402 amended May 23, 1949, P.L.1738, No.530)
- (k) In which the employe's unemployment is due to a separation from work initiated by the employe or the employer in order to preserve the employe's existing entitlement to a pension, including a governmental or other pension, retirement or retired pay, annuity or any other similar periodic payments.
- ((k) added Oct. 23, 2013, P.L.637, No.75)

(402 amended May 23, 1949, P.L.1738, No.530)

Compiler's Note: See section 6 Act 106 of 1981 in the appendix to this act for special provisions relating to applicability.

Section 402.1. Benefits Based on Service for Educational Institutions.--Benefits based on service for educational institutions pursuant to Article X, XI or XII shall as hereinafter provided be payable in the same amount, on the same terms and subject to the same conditions as outlined in section 404(g); except that:

- (1) With respect to service performed after December 31, 1977, in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years, or during a similar period between two regular terms whether or not successive or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms.
- (2) With respect to services performed after October 31, 1983, in any other capacity for an educational institution, benefits shall not be paid on the

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basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms.

- (2) amended July 21, 1983, P.L.68, No.30)
- (3) With respect to any services described in clause (1) or (2), benefits payable on the basis of such services shall be denied to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performed such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.
- (4) With respect to weeks of unemployment beginning after January 1, 1979, benefits shall be denied to an individual who performed services in or near an educational institution while in the employ of an educational service agency for any week which commences during a period described in clauses (1), (2) and (3) if such individual performs any services described in clause (1) or (2) in the first of such periods, as specified in the applicable clause, and there is a contract or a reasonable assurance, as applicable in the appropriate clause, that such individual will perform such services in the second of such periods, as applicable in the appropriate clause. For purposes of this clause the term “educational service agency” means a governmental agency or governmental entity which is established and operated exclusively for the purposes of providing such services to one or more educational institutions. A political subdivision or an intermediate unit may establish and operate such an educational service agency. Nothing contained in this section shall be construed to modify existing collective bargaining units organized under the provisions of the act of July 23, 1970 (P.L.563, No.195), known as the “Public Employee Relations Act,” unless specifically agreed to by both the employer and employe representatives.
- (5) With respect to an individual who performs services described in clause (2) of this section and who pursuant to clause (2) or (4) of this section is denied benefits for the period between academic years or terms, such individual if he is not offered an opportunity to perform such service in

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the second of such academic years or terms shall be paid benefits for the period which commences with the first week he was denied benefits solely by the reason of clause (2) or (4) of this section, provided he had filed timely claims for benefits throughout the denial period and was otherwise eligible for benefits.

((5) added July 21, 1983, P.L.68, No.30)

(402.1 amended Dec. 12, 1979, P.L.503, No.108)

Section 402.2. Benefits Based on Service by Professional Athletes.—Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons or similar periods if such individual performed such services in the first of such seasons or similar periods and there is a reasonable assurance that such individual will perform such service in the latter of such seasons or similar periods.

(402.2 added July 6, 1977, P.L.41, No.22)

Section 402.3. Eligibility of Aliens.—

- (a) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act: “Provided, That any modification to the provisions of section 3304(a)(14) of the Federal Unemployment Tax Act as provided by Public Law 94-566 which specify other conditions or other effective date than stated herein for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under State law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be deemed applicable under the provisions of this section.”
- (b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.
- (c) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status be made to except upon a preponderance of the evidence.

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(402.3 added July 6, 1977, P.L.41, No.22)

Section 402.4. Eligibility of Officers of a Corporation Deemed to be Self-Employed Persons.--

- (a) Notwithstanding any other provision of this act, an officer of a corporation deemed to be a self-employed person because he exercised a substantial degree of control over the corporation and who becomes unemployed due to the fact that the corporation enters into involuntary bankruptcy proceedings under the provisions of Chapter 7, Title 11 of the United States Code shall be entitled to receive unemployment compensation under this act: Provided, that the wages paid to the officer of a corporation deemed to be a self-employed person were mandatorily subject to this act.
- (b) Unemployment compensation shall be paid to an officer of a corporation deemed to be a self-employed person, who is eligible under the provisions of this section, in the same manner and to the same extent as unemployment compensation paid to any other eligible claimant under the provisions of this act.

(402.4 added July 21, 1983, P.L.68, No.30)

Section 402.5. Eligibility of Seasonal Workers in fruit and vegetable food processing.--

- (a) Notwithstanding any other provision of this act with respect to service performed in a “seasonal operation” or “seasonal industry,” as defined in this section, benefits shall not be paid to a seasonal worker, based on such services, for any week of unemployment occurring outside of the normal seasonal period of operation, provided there is a contract or reasonable assurance that such seasonal worker will perform services in that seasonal industry in his next normal seasonal period. However, if, upon presenting himself for work in his next normal seasonal period, the individual is not offered an opportunity to perform such services, his claims for unemployment compensation shall be accepted retroactively to the time the individual’s benefits (based on seasonal and non-seasonal wages) would have commenced but for this subsection.
- (b) Upon written application filed with the department by an employer engaged in a “seasonal industry,” as defined in this section, the secretary shall determine, and may thereafter redetermine, in accordance with the rules and regulations of the department, the normal seasonal period during which

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workers are ordinarily employed for the purpose of carrying on seasonal operations in the seasonal industry in which such employer is engaged. An application for such determination shall be made on forms prescribed by the department. Such application must be made at least twenty (20) days prior to the estimated beginning date of the normal seasonal period for which the determination is requested. Simultaneously with the filing of the application, the employer shall conspicuously display on the employer's premises, in a sufficient number of places, a copy of the application.

- (c) An employer determined, in accordance with the provisions of this section, to be a "seasonal operation" or "seasonal industry," as defined in this section, shall be required to conspicuously display notices of the seasonal determination on its premises in a sufficient number of places as will fairly advise its employees of the estimated beginning and estimated ending dates of its normal seasonal period. Such notices shall be provided by the department.
- (d) Any successor of a seasonal employer shall be deemed to be a seasonal industry or a seasonal operation unless such successor shall, within one hundred twenty (120) days after the acquisition, request cancellation of such determination.
- (e) Any determination issued under the provisions of this section shall be subject to review in the same manner and to the same extent as all other determinations issued under this act.
- (f) Benefits payable to any otherwise eligible individual who is determined to be a seasonal worker, as defined in paragraph (5) of subsection (h) of this section, shall be calculated in accordance with the provisions of this section for any benefit year which is established on or after the beginning date of a determination of a seasonal industry or a seasonal operation by which such individual was employed during the base year applicable to such benefit year, as if such determination had been effective in such base period.
- (g) In no case shall a seasonal worker be eligible to receive a total amount of compensation in a benefit year in excess of the maximum compensation payable for such benefit year, as provided in section 404 of this act.
- (h) For the purposes of this section, the following definitions shall apply:
 - (1) "Fruit or vegetable food processing operation" means those services performed in connection with commercial canning or commercial freezing of fruits and vegetables.

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- (2) “Normal seasonal period” means the normal seasonal period, as determined in accordance with subsection (b) of this section, during which workers are ordinarily employed for the purpose of carrying on seasonal operations in each seasonal industry, as defined in this section.
- (3) “Seasonal industry” means an industry, establishment or process within an industry which, because of climatic conditions making it impractical or impossible to do otherwise, customarily carries on fruit or vegetable food processing operations, or both, only during a regularly recurring period of one hundred eighty (180) days of work or less in a calendar year.
- (4) “Seasonal operation” means an operation in which it is customary for an employer engaged in a seasonal industry as defined in paragraphs (1) and (3) of subsection (h) of this section, to operate all or a portion of its business during a regularly recurring period of one hundred eighty (180) days of work or less for a normal seasonal period during a calendar year. An employer may be determined to be engaged in a seasonal industry as defined in this section, with respect to a portion of its business, only if that portion, under the usual and customary practice in the industry, is identifiable as a functionally distinct operation.
- (5) “Seasonal worker” means a worker who performs commercial canning or commercial freezing services for a fruit or vegetable food processing operation for less than one hundred eighty (180) days of work.

(402.5 added July 1, 1985, P.L.96, No.30)

Section 402.6. Ineligibility of Incarcerated Employee.--An employe shall not be eligible for payment of unemployment compensation benefits for any weeks of unemployment during which the employe is incarcerated after a conviction.

(402.6 amended Dec. 9, 2002, P.L.1330, No.156)

Section 403. Payment of Compensation Due Deceased Claimants.--All accrued benefits due any deceased claimant may, in the discretion of the department, be paid to such persons having an interest in the estate of the deceased, without letters testamentary or of administration, as the department by rule and regulation shall determine.

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(403 amended June 22, 1964, Sp. Sess., P.L.112, No.7)

Section 404. Rate and Amount of Compensation.--Compensation shall be paid to each eligible employe in accordance with the following provisions of this section except that compensation payable with respect to weeks ending in benefit years which begin prior to the first day of January 1989 shall be paid on the basis of the provisions of this section in effect at the beginning of such benefit years.

- (a) (1) The employe's weekly benefit rate shall be computed as (1) the amount appearing in Part B of the Table Specified for the Determination of Rate and Amount of Benefits on the line on which in Part A there appears his "highest quarterly wage," or (2) fifty per centum (50%) of his full-time weekly wage, whichever is greater. Notwithstanding any other provision of this act, if an employe's weekly benefit rate, as calculated under this paragraph, is less than seventy dollars (\$70), he shall be ineligible to receive any amount of compensation. If the employe's weekly benefit rate is not a multiple of one dollar (\$1), it shall be rounded to the next lower multiple of one dollar (\$1).
- (2) If the base year wages of an employe whose weekly benefit rate has been determined under clause (2) of paragraph (1) of this subsection are insufficient to qualify him under subsection (c) of this section, his weekly benefit rate shall be redetermined under clause (1) of paragraph (1) of this subsection.
- (3) If an employe's weekly benefit rate as determined under clause (1) of paragraph (1) of this subsection, or redetermined under paragraph (2) of this subsection, as the case may be, is less than the maximum weekly benefit rate and the employe's base year wages are insufficient to qualify him under subsection (c) of this section but are sufficient to qualify him for any one of the next two lower weekly benefit rates, his weekly benefit rate shall be redetermined at the highest of such next lower rates.

((a) amended June 12, 2012, P.L.577, No.60)

- (b) The "highest quarterly wages" of an employe shall be the total wages (computed to the nearest dollar) which were paid to such employe in that calendar quarter in which such total wages were highest during the base year.

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(c) If an otherwise eligible employe has base year wages in an amount equal to or in excess of the amount of qualifying wages appearing in Part C of the Table Specified for the Determination of Rate and Amount of Benefits on the line on which in Part B there appears his weekly benefit rate, as determined under subsection (a) of this section, and had eighteen (18) or more credit weeks during his base year, he shall be entitled during his benefit year to the amount appearing in Part B on said line multiplied by the number of credit weeks during his base year, up to a maximum of twenty-six (26). Notwithstanding any other provision of this act, any employe with less than eighteen (18) credit weeks during the employe's base year shall be ineligible to receive any amount of compensation.

((c) amended June 12, 2012, P.L.577, No.60)

(d) (1) Notwithstanding any other provisions of this section each eligible employe who is unemployed with respect to any week ending subsequent to July 1, 1980 shall be paid, with respect to such week, compensation in an amount equal to his weekly benefit rate less the total of

(i) the remuneration, if any, paid or payable to him with respect to such week for services performed which is in excess of his partial benefit credit,

(ii) vacation pay, if any, which is in excess of his partial benefit edit, except when paid to an employe who is permanently or indefinitely separated from his employment and

(iii) the amount of severance pay that is attributed to the week.

(1.1) For purposes of clause (1)(iii), all of the following apply:

(i) "Severance pay" means one or more payments made by an employer to an employe on account of separation from the service of the employer, regardless of whether the employer is legally bound by contract, statute or otherwise to make such payments. The term does not include payments for pension, retirement or accrued leave or payments of supplemental unemployment benefits.

(ii) The amount of severance pay attributed pursuant to subclause (iii) shall be an amount not less than zero (0) determined by

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subtracting forty per centum (40%) of the average annual wage as calculated under subsection (e) as of June 30 immediately preceding the calendar year in which the claimant's benefit year begins from the total amount of severance pay paid or payable to the claimant by the employer.

- (iii) Severance pay is attributed as follows:
 - (A) Severance pay is attributed to the day, days, week or weeks immediately following the employee's separation.
 - (B) The number of days or weeks to which severance pay is attributed is determined by dividing the total amount of severance pay by the regular full-time daily or weekly wage of the claimant.
 - (C) The amount of severance pay attributed to each day or week equals the regular full-time daily or weekly wage of the claimant.
 - (D) When the attribution of severance pay is made on the basis of the number of days, the pay shall be attributed to the customary working days in the calendar week.
- (2)
 - (i) In addition to the deductions provided for in clause (1), for any week with respect to which an individual is receiving a pension, including a governmental or other pension, retirement or retired pay, annuity or any other similar periodic payment, under a plan maintained or contributed to by a base period or chargeable employer, the weekly benefit amount payable to such individual for such week shall be reduced, but not below zero, by the pro-rated weekly amount of the pension as determined under subclause (ii).
 - (ii) If the pension is entirely contributed to by the employer, then one hundred per centum (100%) of the pro-rated weekly amount of the pension shall be deducted. Except as set forth in clause (4), if the pension is contributed to by the individual, in any amount, then fifty per centum (50%) of the pro-rated weekly amount of the pension shall be deducted.

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(iii) No deduction shall be made under this clause by reason of the receipt of a pension if the services performed by the individual during the base period or remuneration received for such services for such employer did not affect the individual's eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity or similar payment.

(3) The provisions of this subsection shall be applicable whether or not such vacation pay, retirement pension or annuities or wages are legally required to be paid. If such retirement pension or annuity payments deductible under the provisions of this subsection are received on other than a weekly basis, the amount thereof shall be allocated and pro-rated in accordance with the rules and regulations of the department. Vacation pay or other remuneration deductible under the provisions of this subsection shall be pro-rated on the basis of the employe's normal full-time weekly wage and as so pro-rated shall be allocated to such period or periods of unemployment as shall be determined by rules and regulations of the department. Such compensation, if not a multiple of one dollar (\$1), shall be computed to the next lower multiple of one dollar (\$1).

(4) No deductions shall be made under this subsection for pensions paid under the Social Security Act (Public Law 74-271, 42 U.S.C. § 301 et seq.), or the Railroad Retirement Act of 1974 (Public Law 93-445, 88 Stat. 1305), if the pension is contributed to by the individual in any amount.

((d) amended June 20, 2011, P.L.16, No.6)

(e) (1) **Table Specified for the Determination of Rate and Amount of Benefits**

Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
\$1688-1712	\$70	\$3391
1713-1737	71	3440
1738-1762	72	3490
1763-1787	73	3539
1788-1812	74	3589
1813-1837	75	3638

PENNSYLVANIA UNEMPLOYMENT COMPENSATION LAW

Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
1838-1862	76	3688
1863-1887	77	3737
1888-1912	78	3787
1913-1937	79	3836
1938-1962	80	3886
1988-2012	82	3985
2013-2037	83	4034
2038-2062	84	4084
2063-2087	85	4133
2088-2112	86	4183
2113-2137	87	4232
2138-2162	88	4282
2163-2187	89	4331
2188-2212	90	4381
2213-2237	91	4430
2238-2262	92	4480
2263-2287	93	4529
2288-2312	94	4579
2313-2337	95	4628
2338-2362	96	4678
2363-2387	97	4727
2388-2412	98	4777
2413-2437	99	4826
2438-2462	100	4876
2463-2487	101	4925
2488-2512	102	4975
2513-2537	103	5024
2538-2562	104	5074
2563-2587	105	5123
2588-2612	106	5173
2613-2637	107	5222

PENNSYLVANIA UNEMPLOYMENT COMPENSATION LAW

Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
2638-2662	108	5272
2663-2687	109	5321
2688-2712	110	5371
2713-2737	111	5420
2738-2762	112	5470
2763-2787	113	5519
2788-2812	114	5569
2813-2837	115	5618
2838-2862	116	5668
2863-2887	117	5717
2888-2912	118	5767
2913-2937	119	5816
2938-2962	120	5866
2963-2987	121	5915
2988-3012	122	5965
3013-3037	123	6014
3038-3062	124	6064
3063-3087	125	6113
3088-3112	126	6163
3113-3137	127	6212
3138-3162	128	6262
3163-3187	129	6311
3188-3212	130	6361
3213-3237	131	6410
3238-3262	132	6460
3263-3287	133	6509
3288-3312	134	6559
3313-3337	135	6608
3338-3362	136	6658
3363-3387	137	6707
3388-3412	138	6757

PENNSYLVANIA UNEMPLOYMENT COMPENSATION LAW

Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
3413-3437	139	6806
3438-3462	140	6856
3463-3487	141	6905
3488-3512	142	6955
3513-3537	143	7004
3538-3562	144	7054
3563-3587	145	7103
3588-3612	146	7153
3613-3637	147	7202
3638-3662	148	7252
3663-3687	149	7301
3688-3712	150	7351
3713-3737	151	7400
3738-3762	152	7450
3763-3787	153	7500
3788-3812	154	7549
3813-3837	155	7599
3838-3862	156	7648
3863-3887	157	7698
3888-3912	158	7747
3913-3937	159	7797
3938-3962	160	7846
3963-3987	161	7896
3988-4012	162	7945
4013-4037	163	7995
4038-4062	164	8044
4063-4087	165	8094
4088-4112	166	8143
4113-4137	167	8193
4138-4162	168	8242
4163-4187	169	8292

PENNSYLVANIA UNEMPLOYMENT COMPENSATION LAW

Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
4188-4212	170	8341
4213-4237	171	8391
4238-4262	172	8440
4263-4287	173	8490
4288-4312	174	8539
4313-4337	175	8589
4338-4362	176	8638
4363-4387	177	8688
4388-4412	178	8737
4413-4437	179	8787
4438-4462	180	8836
4463-4487	181	8886
4488-4512	182	8935
4513-4537	183	8985
4538-4562	184	9034
4563-4587	185	9084
4588-4612	186	9133
4613-4637	187	9183
4638-4662	188	9232
4663-4687	189	9282
4688-4712	190	9331
4713-4737	191	9381
4738-4762	192	9430
4763-4787	193	9480

PENNSYLVANIA UNEMPLOYMENT COMPENSATION LAW

Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
4788-4812	194	9529
4813-4837	195	9579
4838-4862	196	9628
4863-4887	197	9678
4888-4912	198	9727
4913-4937	199	9777
4938-4962	200	9826
4963-4987	201	9876
4988-5012	202	9925
5013-5037	203	9975
5038-5062	204	10024
5063-5087	205	10074
5088-5112	206	10123
5113-5137	207	10173
5138-5162	208	10222
5163-5187	209	10272
5188-5212	210	10321
5213-5237	211	10371
5238-5262	212	10420
5263-5287	213	10470
5288-5312	214	10519
5313-5337	215	10569
5338-5362	216	10618
5363-5387	217	10668
5388-5412	218	10717
5413-5437	219	10767
5438-5462	220	10816
5463-5487	221	10866
5488-5512	222	10915
5513-5537	223	10965
5538-5562	224	11014

PENNSYLVANIA UNEMPLOYMENT COMPENSATION LAW

Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
5563-5587	225	11064
5588-5612	226	11113
5613-5637	227	11163
5638-5662	228	11212
5663-5687	229	11262
5688-5712	230	11311
5713-5737	231	11361
5738-5762	232	11410
5763-5787	233	11460
5788-5812	234	11509
5813-5837	235	11559
5838-5862	236	11608
5863-5887	237	11658
5888-5912	238	11707
5913-5937	239	11757
5938-5962	240	11806
5963-5987	241	11856
5988-6012	242	11905
6013-6037	243	11955
6038-6062	244	12004
6063-6087	245	12054
6088-6112	246	12103
6113-6137	247	12153
6138-6162	248	12202
6163-6187	249	12252
6188-6212	250	12301
6213-6237	251	12351
6238-6262	252	12400
6263-6287	253	12450
6288-6312	254	12500
6313-6337	255	12549

PENNSYLVANIA UNEMPLOYMENT COMPENSATION LAW

Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
6338-6362	256	12599
6363-6387	257	12648
6388-6412	258	12698
6413-6437	259	12747
6438-6462	260	12797
6463-6487	261	12846
6488-6512	262	12896
6513-6537	263	12945
6538-6562	264	12995
6563-6587	265	13044
6588-6612	266	13094
6613-6637	267	13143
6638-6662	268	13193
6663-6687	269	13242
6688-6712	270	13292
6713-6737	271	13341
6738-6762	272	13391
6763-6787	273	13440
6788-6812	274	13490
6813-6837	275	13539
6838-6862	276	13589
6863-6887	277	13638
6888-6912	278	13688
6913-6937	279	13737
6938-6962	280	13787
6963-6987	281	13836
6988-7012	282	13886
7013-7037	283	13935
7038-7062	284	13985
7063-7087	285	14034
7088-7112	286	14084

PENNSYLVANIA UNEMPLOYMENT COMPENSATION LAW

Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
7113-7137	287	14133
7138-7162	288	14183
7163-7187	289	14232
7188-7212	290	14282
7213-7237	291	14331
7238-7262	292	14381
7263-7287	293	14430
7288-7312	294	14480
7313-7337	295	14529
7338-7362	296	14579
7363-7387	297	14628
7388-7412	298	14678
7413-7437	299	14727
7438-7462	300	14777
7463-7487	301	14826
7488-7512	302	14876
7513-7537	303	14925
7538-7562	304	14975
7563-7587	305	15024
7588-7612	306	15074
7613-7637	307	15123
7638-7662	308	15173
7663-7687	309	15222
7688-7712	310	15272
7713-7737	311	15321
7738-7762	312	15371
7763-7787	313	15420
7788-7812	314	15470
7813-7837	315	15519
7838-7862	316	15569
7863-7887	317	15618

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Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
7888-7912	318	15668
7913-7937	319	15717
7938-7962	320	15767
7963-7987	321	15816
7988-8012	322	15866
8013-8037	323	15915
8038-8062	324	15965
8063-8087	325	16014
8088-8112	326	16064
8113-8137	327	16113
8138-8162	328	16163
8163-8187	329	16212
8188-8212	330	16262
8213-8237	331	16311
8238-8262	332	16361
8263-8287	333	16410
8288-8312	334	16460
8313-8337	335	16509
8338-8362	336	16559
8363-8387	337	16608
8388-8412	338	16658
8413-8437	339	16707
8438-8462	340	16757
8463-8487	341	16806
8488-8512	342	16856
8513-8537	343	16905
8538-8562	344	16955
8563-8587	345	17004
8588-8612	346	17054
8613-8637	347	17103
8638-8662	348	17153

PENNSYLVANIA UNEMPLOYMENT COMPENSATION LAW

Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
8663-8687	349	17202
8688-8712	350	17252
8713-8737	351	17301
8738-8762	352	17351
8763-8787	353	17400
8788-8812	354	17450
8813-8837	355	17500
8838-8862	356	17549
8863-8887	357	17599
8888-8912	358	17648
8913-8937	359	17698
8938-8962	360	17747
8963-8987	361	17797
8988-9012	362	17846
9013-9037	363	17896
9038-9062	364	17945
9063-9087	365	17995
9088-9112	366	18044
9113-9137	367	18094
9138-9162	368	18143
9163-9187	369	18193
9188-9212	370	18242
9213-9237	371	18292
9238-9262	372	18341
9263-9287	373	18391
9288-9312	374	18440
9313-9337	375	18490
9338-9362	376	18539
9363-9387	377	18589
9388-9412	378	18638
9413-9437	379	18688

PENNSYLVANIA UNEMPLOYMENT COMPENSATION LAW

Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
9438-9462	380	18737
9463-9487	381	18787
9488-9512	382	18836
9513-9537	383	18886
9538-9562	384	18935
9563-9587	385	18985
9588-9612	386	19034
9613-9637	387	19084
9638-9662	388	19133
9663-9687	389	19183
9688-9712	390	19232
9713-9737	391	19282
9738-9762	392	19331
9763-9787	393	19381
9788-9812	394	19430
9813-9837	395	19480
9838-9862	396	19529
9863-9887	397	19579
9888-9912	398	19628
9913-9937	399	19678
9938-9962	400	19727
9963-9987	401	19777
9988-10012	402	19826
10013-10037	403	19876
10038-10062	404	19925
10063-10087	405	19975
10088-10112	406	20024
10113-10137	407	20074
10138-10162	408	20123
10163-10187	409	20173
10188-10212	410	20222

PENNSYLVANIA UNEMPLOYMENT COMPENSATION LAW

Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
10213-10237	411	20272
10238-10262	412	20321
10263-10287	413	20371
10288-10312	414	20420
10313-10337	415	20470
10338-10362	416	20519
10363-10387	417	20569
10388-10412	418	20618
10413-10437	419	20668
10438-10462	420	20717
10463-10487	421	20767
10488-10512	422	20816
10513-10537	423	20866
10538-10562	424	20915
10563-10587	425	20965
10588-10612	426	21014
10613-10637	427	21064
10638-10662	428	21113
10663-10687	429	21163
10688-10712	430	21212
10713-10737	431	21262
10738-10762	432	21311
10763-10787	433	21361
10788-10812	434	21410
10813-10837	435	21460
10838-10862	436	21509
10863-10887	437	21559
10888-10912	438	21608
10913-10937	439	21658
10938-10962	440	21707
10963-10987	441	21757

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Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
10988-11012	442	21806
11013-11037	443	21856
11038-11062	444	21905
11063-11087	445	21955
11088-11112	446	22004
11113-11137	447	22054
11138-11162	448	22103
11163-11187	449	22153
11188-11212	450	22202
11213-11237	451	22252
11238-11262	452	22301
11263-11287	453	22351
11288-11312	454	22400
11313-11337	455	22450
11338-11362	456	22500
11363-11387	457	22549
11388-11412	458	22599
11413-11437	459	22648
11438-11462	460	22698
11463-11487	461	22747
11488-11512	462	22797
11513-11537	463	22846
11538-11562	464	22896
11563-11587	465	22945
11588-11612	466	22995
11613-11637	467	23044
11638-11662	468	23094
11663-11687	469	23143
11688-11712	470	23193
11713-11737	471	23242
11738-11762	472	23292

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Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
11763-11787	473	23341
11788-11812	474	23391
11813-11837	475	23440
11838-11862	476	23490
11863-11887	477	23539
11888-11912	478	23589
11913-11937	479	23638
11938-11962	480	23688
11963-11987	481	23737
11988-12012	482	23787
12013-12037	483	23836
12038-12062	484	23886
12063-12087	485	23935
12088-12112	486	23985
12113-12137	487	24034
12138-12162	488	24084
12163-12187	489	24133
12188-12212	490	24183
12213-12237	491	24232
12238-12262	492	24282
12263-12287	493	24331
12288-12312	494	24381
12313-12337	495	24430
12338-12362	496	24480
12363-12387	497	24529
12388-12412	498	24579
12413-12437	499	24628
12438-12462	500	24678
12463-12487	501	24727
12488-12512	502	24777
12513-12537	503	24826

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Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
12538-12562	504	24876
12563-12587	505	24925
12588-12612	506	24975
12613-12637	507	25024
12638-12662	508	25074
12663-12687	509	25123
12688-12712	510	25173
12713-12737	511	25222
12738-12762	512	25272
12763-12787	513	25321
12788-12812	514	25371
12813-12837	515	25420
12838-12862	516	25470
12863-12887	517	25519
12888-12912	518	25569
12913-12937	519	25618
12938-12962	520	25668
12963-12987	521	25717
12988-13012	522	25767
13013-13037	523	25816
13038-13062	524	25866
13063-13087	525	25915
13088-13112	526	25965
13113-13137	527	26014
13138-13162	528	26064
13163-13187	529	26113
13188-13212	530	26163
13213-13237	531	26212
13238-13262	532	26262
13263-13287	533	26311
13288-13312	534	26361

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Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
13313-13337	535	26410
13338-13362	536	26460
13363-13387	537	26509
13388-13412	538	26559
13413-13437	539	26608
13438-13462	540	26658
13463-13487	541	26707
13488-13512	542	26757
13513-13537	543	26806
13538-13562	544	26856
13563-13587	545	26905
13588-13612	546	26955
13613-13637	547	27004
13638-13662	548	27054
13663-13687	549	27103
13688-13712	550	27153
13713-13737	551	27202
13738-13762	552	27252
13763-13787	553	27301
13788-13812	554	27351
13813-13837	555	27400
13838-13862	556	27450
13863-13887	557	27500
13888-13912	558	27549
13913-13937	559	27599
13938-13962	560	27648
13963-13987	561	27698
13988-14012	562	27747
14013-14037	563	27797
14038-14062	564	27846
14063-14087	565	27896

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Part A Highest Quarterly Wage	Part B Rate of Compensation	Part C Qualifying Wages
14088-14112	566	27945
14113-14137	567	27995
14138-14162	568	28044
14163-14187	569	28094
14188-14212	570	28143
14213-14237	571	28193
14238-14262	572	28242
14263 or more	573	Amount required under section 401(a)(2)

(1) amended June 12, 2012, P.L.577, No.60)

- (2) (i) The Table Specified for the Determination of Rate and Amount of Benefits shall be extended or contracted annually, automatically by regulations promulgated by the secretary. The table shall be extended or contracted in accordance with the following:
- (A) The table shall be extended or contracted to a point where the maximum weekly benefit rate shall equal sixty-six and two-thirds per centum ($66 \frac{2}{3}\%$) of the average weekly wage for the thirty-six-month period ending June 30 preceding each calendar year. If the maximum weekly benefit rate is not a multiple of one dollar (\$1), it shall be rounded to the next lower multiple of one dollar (\$1).
 - (B) When it is necessary to extend the table, it shall be done in accordance with the following procedure:
 - (i) The words “or more” shall be deleted from the last line under Part A, and an amount twenty-four dollars (\$24) greater than the first entry in that line shall be substituted therefor. The words “amount required under section 401(a)(2)” shall be deleted from the last line under Part C.
 - (ii) Part A shall be extended as much as necessary by adding twenty-five dollars (\$25) to each amount of the preceding line.

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At the point where the entry in Part B equals sixty-six and two-thirds per centum ($66 \frac{2}{3}\%$) of the average weekly wage, the first entry in Part A shall consist of an amount twenty-five dollars (\$25) greater than the smaller amount in the preceding line, and the words “or more” shall be added.

- (iii) Part B shall be extended in increments of one dollar (\$1) until that point is reached where the amount is equal to sixty-six and two-thirds per centum ($66 \frac{2}{3}\%$) of the average weekly wage.
 - (iv) Part C shall be extended to the point where, under Part B, the amount is equal to sixty-six and two-thirds per centum ($66 \frac{2}{3}\%$) of the average weekly wage.
- (a) The amount on each line in Part C other than the last line shall be derived from the first entry on the same line in Part A, in accordance with the following formula: (First entry in Part A plus twenty-four dollars (\$24)) x 100 divided by fifty and one-half (50.5) If the amount determined by this formula is not an even multiple of one dollar (\$1), it shall be rounded to the next higher multiple of one dollar (\$1).
 - (b) The last line in Part C shall contain the words “amount required under section 401(a)(2).”
- (C) When it is necessary to contract the table, it shall be done by deleting all lines following that in which the amount in Part B is sixty-six and two-thirds per centum ($66 \frac{2}{3}\%$) of the average weekly wage, substituting the words “or more” for the higher amount under Part A on that line and substituting the words “amount required under section 401(a)(2)” for the amount under Part C on that line.
 - (D) The Table Specified for the Determination of Rate and Amount of Benefits as so extended or contracted shall be effective only for those claimants whose benefit years begin on or after the first day of January of such calendar year.
- (ii) For the purpose of determining the maximum weekly benefit rate, the Pennsylvania average weekly wage in covered employment shall be computed on the basis of the average annual total wages reported (irrespective of the limit on the amount of wages subject to contributions) for the thirty-six-month period ending June 30 (determined by dividing the total wages reported

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for the thirty-six-month period by three) and this amount shall be divided by the average monthly number of covered workers (determined by dividing the total covered employment reported for the same thirty-six-month period by thirty-six) to determine the average annual wage. The average annual wage thus obtained

shall be divided by fifty-two and the average weekly wage thus determined rounded to the nearest cent.

- (iii) Notwithstanding subclause (i), if the maximum weekly benefit rate determined under subclause (i) is greater than five hundred seventy-three dollars (\$573), the maximum weekly benefit rate shall be subject to the following limitations:
 - (A) For calendar years 2013 through 2019, the maximum weekly benefit rate shall be five hundred seventy-three dollars (\$573).
 - (B) For each calendar year 2020 through 2023, the maximum weekly benefit rate may increase from year to year by an amount that is no more than eight per centum (8%) of the maximum weekly benefit rate for the preceding year.
 - (C) If the maximum weekly benefit rate determined under this subclause is not an even multiple of one dollar (\$1), it shall be rounded to the next lower multiple of one dollar (\$1).

((2) amended June 12, 2012, P.L.577, No.60)

- (3) In addition to the weekly benefit rate as hereinbefore set out, each eligible employe shall be paid for each week that he is entitled to benefits, the sum of five dollars (\$5) for a dependent spouse or a dependent child if such eligible employe has no spouse, plus three dollars (\$3) for one other dependent child, but in no event shall such additional allowance exceed eight dollars (\$8) for any one week or the total number of such allowance payments exceed the claimant's maximum weeks of entitlement, determined by dividing his total amount of compensation by his weekly benefit rate.

As used in this paragraph the term "dependent child" means any child or stepchild of the eligible employe in question who, at the

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beginning of such individual's current benefit year, was wholly or chiefly supported by such employe, and under eighteen years of age, or if eighteen years of age and over, because of physical or mental infirmity, is unable to engage in any gainful occupation.

As used in this paragraph the term "dependent spouse" means any legally married wife or husband of the eligible employe in question who, at the beginning of such individual's current benefit year was living with and being wholly or chiefly supported by such individual. If both a husband and wife qualify for benefit rights with overlapping benefit years, only one of them shall be entitled to the additional allowances provided in this paragraph.

- (3) amended Oct. 12, 1973, P.L.292, No.87)
- (4) (i) Notwithstanding any other provision of this act, each claimant eligible for a weekly benefit rate of seventy-five dollars (\$75) or more shall have his weekly compensation as determined by application of subsections (a) through (e) reduced by five per centum (5%). If such reduced weekly compensation is not an even multiple of one dollar (\$1), it shall be rounded to the next lower multiple of one dollar (\$1): Provided, That no claimant whose weekly benefit rate, determined in accordance with subsection (a), is in excess of seventy-four dollars (\$74) shall have his weekly compensation reduced below seventy-five dollars (\$75) except through the combined application of this paragraph and subsection (d). The balance in the claimant's compensation account as indicated in Part D or E of the table contained in subsection (e)(1) of this section shall be reduced by his weekly benefit amount without regard to the reduction provided herein. This subclause shall be of no effect beginning with the compensable week which ends on or after the first day of January 1989.
- (ii) Notwithstanding any other provision of this act, each claimant shall have his weekly compensation, as determined by applications of subsections (a) through (e), reduced by five per centum (5%) if and when the provisions of section 301.7(c) apply, or by the per centum redetermined under section 301.8, if and when applicable. If such reduced weekly compensation is not an even multiple of one dollar (\$1), it shall be rounded to the next lower multiple of one dollar (\$1): Provided, That no

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claimant whose weekly benefit rate, determined in accordance with subsection (a), is in excess of the weekly benefit rate immediately below the weekly benefit rate that is one-half of the maximum weekly benefit rate determined in clause (2) of this subsection shall have his weekly compensation reduced below one-half of the maximum weekly benefit rate except through the combined application of this subclause and subsection (d). The balance in the claimant's compensation account as indicated in Part D or E of the table contained in clause (1) of this subsection shall be reduced by his weekly benefit amount without regard to the reduction provided herein. This subclause shall be in effect as of the first compensable week that ends on or after the first day of January 1990.

- (iii) For purposes of this subsection only, if one-half of the maximum weekly benefit rate is not a multiple of one dollar (\$1), such amount shall be rounded down to the next lower multiple of one dollar (\$1) and then applied as required by this subsection.

((4) amended Oct. 19, 1988, P.L.818, No.109)

- (f) For purposes of this section and of section four hundred one (a), wages paid with respect to employment performed under Shipping Articles shall be considered as having been paid in the respective calendar quarters in which the services of the employe were being performed.

((f) amended Sept. 29, 1951, P.L.1580, No.408)

- (g) Benefits based on employment covered by the provisions of Articles X, XI and XII of this act shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this act.

((g) added Sept. 27, 1971, P.L.460, No.108)

(404 amended May 14, 1949, P.L.1355, No.404)

Compiler's Note: Section 18(7) of Act 60 of 2012, which amended subsecs. (a), (c), and (e)(1) and (2), provided that the amendment of subsecs. (a), (c) and (e)(1) and (2) shall apply to benefit years which begin after December 31, 2012.

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Compiler's Note: See section 9(4), (5), (6) and (7) in the appendix to this act for special provisions relating to applicability.

Section 404.1. Extension of Benefits; Benefit Charges.--(404.1 repealed Feb. 9, 1971, P.L.1, No.1)

Section 405. Duties of Employers.--Each employer shall post in a conspicuous place, or places, in his establishment, or establishments, any printed statement or notice required by the rules and regulations of the department.

(405 amended Apr. 23, 1942, Sp. Sess., P.L.60, No.23)

Section 406. Nonliability of Commonwealth.--Compensation shall be deemed to be due and payable under this act only to the extent provided in this act, and to the extent that moneys are available therefor to the credit of the Unemployment Compensation Fund, and neither the Commonwealth, the department, nor the secretary shall be liable for any amount in excess of such moneys.

(406 amended Apr. 23, 1942, Sp. Sess., P.L.60, No.23)

Section 407. Compensation to Members of the Armed Forces.--(407 repealed June 22, 1964, Sp. Sess., P.L.112, No.7)

Section 408. Limitation on the Validity of Claims.--Final payment of compensation claimed under the provisions of this act shall not be made more than two years from the last day of the week for which compensation is claimed if such final payment has not been made within such two-year period because the claimant

- (1) is reported by the postal authorities as "unknown" at the last address which the employe has given to the department,
- (2) has failed to properly notify the department that he has not received the compensation claimed,
- (3) has failed to have presented to the State Treasurer for final payment a check received in payment of the compensation claimed, or
- (4) has failed to properly request the re-issuance of a check which has become lost or destroyed or the validity date of which has expired: Provided, That one year has elapsed from the date the check was issued or, if no check has been issued, from the last date that the

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claimant requested payment. The provisions of this section shall also apply to the endorser of any check issued in payment of compensation under the provisions of this act.

(408 added May 23, 1949, P.L.1738, No.530)

ARTICLE IV-A EXTENDED BENEFITS PROGRAM (IV-A added Feb. 9, 1971, P.L.1, No.1)

Section 401-A. Definitions.--As used in this article:

- (a) “Extended benefit period” means a period which
 - (1) Begins with the third week after the week for which there is a State “on” indicator.
 - (2) Ends with either of the following weeks, whichever occurs later:
 - (A) the third week after the first week for which there is a State “off” indicator; or
 - (B) the thirteenth consecutive week of such period: Provided, That no extended benefit period may begin by reason of:
 - (i) a State “on” indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this State, or
 - (ii) a State “on” indicator under subsection (c)(1) later than the twelfth week before the last week to which subsection (c.1)(3) applies.
- ((a) amended Feb. 9, 2012, P.L.69, No.10)
- (b) (1) There is a “State ‘on’ indicator” for this State for a week if the Secretary of Labor and Industry determines in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this act:

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- (i) (A) equaled or exceeded one hundred twenty per centum of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, or
 - (B) with respect to weeks specified in subsection (c.1)(1), equaled or exceeded one hundred twenty per centum (120%) of the average of such rates for the corresponding thirteen-week period ending in each of the preceding three calendar years, and
 - (ii) equaled or exceeded five per centum: Provided, That with respect to benefits for weeks of unemployment beginning with the passage of this amendment but no earlier than April 3, 1977, the determination of whether there has been a State “on” or “off” indicator beginning or ending any extended benefit period shall be made under this paragraph as if (A) this paragraph did not contain subparagraph (i) thereof, and (B) the per centum rate indicated in this paragraph were six, except that, notwithstanding any such provision of this paragraph, any week for which there would otherwise be a State “on” indicator shall continue to be such a week and shall not be determined to be a week for which there is a State “off” indicator.
- (2) There is a “State ‘off’ indicator” for this State for a week if the Secretary of Labor and Industry determines in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this act:
 - (i) was less than one hundred twenty per centum of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, if paragraph (1)(i)(A) applies or, the preceding three calendar years, if paragraph (1)(i)(B) applies, or
 - (ii) was less than five per centum.
- (3) Notwithstanding the provisions of this subsection, any week for which there would otherwise be a State “on” indicator shall continue

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to be such a week and shall not be determined to be a week for which there is a State “off” indicator.

((b) amended Feb. 9, 2012, P.L.69, No.10)

- (c) (1) There is a “State ‘on’ indicator” for this State for a week specified in subsection (c.1)(2) if:
- (i) the average rate of total unemployment in this State, seasonally adjusted, for the period consisting of the most recent three months for which data for all states are published before the close of such week equals or exceeds six and one-half per centum; and
 - (ii) (A) the average rate of total unemployment in this State, seasonally adjusted, for the three-month period referred to in subparagraph (i) equals or exceeds one hundred ten per centum of such average rate for either, or both, of the corresponding three-month periods ending in the two preceding calendar years, or
(B) with respect to weeks specified in subsection (c.1) (1), the average rate of total unemployment in this State, seasonally adjusted, for the three-month period referred to in subparagraph (i) equals or exceeds one hundred ten per centum (110%) of such average rate for any, or all, of the corresponding three-month periods ending in the three preceding calendar years.
- (2) There is a State “off” indicator for this State for a week if the requirements of paragraph (1)(i) or (ii) are not satisfied.
- (3) ((3) Deleted by amendment)
- (4) Notwithstanding the provisions of this subsection, any week for which there would otherwise be a State “on” indicator shall continue to be such a week and shall not be determined to be a week for which there is a State “off” indicator.
- (5) For purposes of this subsection, determinations of the rate of total unemployment for any period, and of any seasonal adjustment, shall be made by the United States Secretary of Labor.

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((c) amended Feb. 9, 2012, P.L.69, No.10)

- (c.1) (1) Subsections (b)(1)(i)(B) and (c)(1)(ii)(B) apply to weeks that meet both of the following criteria:
- (i) The week is a week for which the provisions of those subsections are authorized by Federal law.
 - (ii) The week ends not later than April 30, 2012, and not less than twenty-eight (28) days before the last day of the last week to which paragraph (3) applies. (2) Except as provided in paragraph (1), subsection (c)(1) applies to weeks that meet both of the following criteria: (i) The week ends not more than twenty-one (21) days before the last day of the first week to which paragraph (3) applies. (ii) The week ends not later than April 30, 2012, and not less than twenty-eight (28) days before the last day of the last week to which paragraph (3) applies
- (3) This paragraph applies to weeks of unemployment for which one hundred per centum (100%) Federal sharing of extended benefits is available under section 2005(a) of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5, 123 Stat. 115), without regard to the extension of Federal sharing for certain claims as provided under section 2005(c) of the American Recovery and Reinvestment Act of 2009 or under a subsequently enacted provision of Federal law.

((c.1) added Feb. 9, 2012, P.L.69, No.10)

- (d) "Rate of insured unemployment," for purposes of clauses (b) and (c) of this section, means the percentage derived by dividing
- (1) the average weekly number of individuals filing claims for regular benefits in this State for weeks of unemployment with respect to the most recent thirteen consecutive week period, as determined by the Secretary of Labor and Industry on the basis of his reports to the United States Secretary of Labor, by
 - (2) the average monthly employment covered under this act for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.

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- (e) “Regular benefits” means benefits payable to an individual under this act or under any other State law (including benefits payable to Federal civilian employes and to ex-servicemen pursuant to 5 U.S.C., chapter 85) other than extended benefits.
- (f) “Extended benefits” means benefits (including benefits payable to Federal civilian employes and to ex-servicemen pursuant to 5 U.S.C., chapter 85) payable to an individual under the provisions of this section for weeks of unemployment in his eligibility period.
- (g) “Eligibility period” of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.
- (h) “Exhaustee” means an individual who, with respect to any week of unemployment in his eligibility period:
 - (1) has received, prior to such week, all of the regular benefits that were available to him under this act or any other State law (including dependents’ allowances and benefits payable to Federal civilian employes and ex-servicemen under 5 U.S.C., chapter 85) in his current benefit year that includes such week: Provided, That, for the purposes of this subclause, an individual shall be deemed to have received all of the regular benefits that were available to him although, as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or
 - (2) his benefit year having expired prior to such week, has no, or insufficient, wages on the basis of which he could establish a new benefit year that would include such week; and
 - (3) (A) has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other Federal laws as are specified in regulations issued by the United States Secretary of Labor; and
(B) has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin

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Islands or of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee.

- (i) “Shareable regular benefits” means regular benefits payable for compensable weeks in an individual’s eligibility period which exceed twenty-six times the individual’s weekly benefit rate (including allowances for dependents) in regular benefits paid during the individual’s benefit year.
- (j) “State law” means the unemployment insurance law of any state, approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

(401-A amended Oct. 22, 1981, P.L.301, No.106)

Compiler’s Note: Section 2 of Act 10 of 2012, which amended subsecs. (a), (b) and (c) and added subsec. (c.1), provided that the amendment or addition of subsecs. (a), (b), (c) and (c.1) shall apply retroactively to December 31, 2011.

Compiler’s Note: Section 10 Act 6 of 2011, which amended subsecs. (b) and (c), provided that the amendment of subsecs. (b) and (c) shall apply retroactively to December 18, 2010.

Compiler’s Note: See section 6 Act 106 of 1981 in the appendix to this act for special provisions relating to applicability.

Section 402-A. Effect of State Law Provisions Relating to Regular Benefits on Claims for, and the Payment of, Extended Benefits.—Except when the result would be inconsistent with the other provisions of this section, as provided in the regulations of the Secretary of Labor and Industry, the provisions of this act which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits except that payment of extended benefits shall not be made to any individual for any week if:

- (1) Extended benefits would, but for this section, have been payable for such week pursuant to an interstate claim filed in any state under the interstate benefit payment plan.
- (2) An extended benefit period is not in effect for such week in such state.
- (3) The denial of extended benefits shall not apply with respect to the first two weeks (whether full or partial payment) for which

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extended benefits is payable (determined without regard to this section) pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended compensation account established for the benefit year.

(402-A amended Oct. 22, 1981, P.L.301, No.106)

Compiler's Note: See section 6 Act 106 of 1981 in the appendix to this act for special provisions relating to applicability.

Section 403-A. Eligibility Requirements for Extended Benefits and Shareable Regular Benefits.--

- (a) An individual shall be eligible to receive shareable regular benefits or extended benefits with respect to any week of unemployment in his eligibility period only if the Secretary of Labor and Industry finds that with respect to such week:
 - (1) he is an "exhaustee" as defined in section 401-A(j);
 - (2) he has satisfied the requirements of this act for the receipt of regular benefits that are applicable to individuals claiming shareable regular benefits and extended benefits, including not being subject to a disqualification for the receipt of benefits.
- (b) Notwithstanding any other provisions of section 402-A an individual shall be ineligible for the payment of shareable regular benefits or extended benefits for any week of unemployment in his eligibility period if during such period:
 - (1) he failed to accept any offer of suitable work (as defined under subsection (d)) or failed to apply for any suitable work to which he was referred by the employment office; or
 - (2) he failed to actively engage in seeking work as prescribed under subsection (f).
- (c) Any individual who has been found ineligible for the payment of shareable regular benefits or extended benefits by reason of the provisions in subsection (b) shall also be denied benefits beginning with the first day of the week following the week in which such failure occurred and until he has been employed (without regard to employment as defined by this act)

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in each of four (4) subsequent weeks (whether or not consecutive) and has earned remuneration equal to not less than four (4) times his extended weekly benefit amount.

- (d) (1) For the purposes of this section, the term “suitable work” means, with respect to any individual, the requirements contained in clauses (i) and (ii) below:
 - (i) Any work which is within such individual’s capabilities: Provided, however, That the gross average weekly remuneration payable for the work must exceed the sum of the following:
 - (A) the individual’s extended weekly benefit amount as determined under section 404-A (relating to the extended benefit program).
 - (B) the amount, if any, of supplemental unemployment benefits (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1954, payable to such individual for such week.
 - (ii) Pays wages not less than the higher of:
 - (A) the minimum wage provided by section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or
 - (B) the applicable State or local minimum wage.
- (2) No individual shall however be denied shareable regular benefits or extended benefits for failure to accept an offer of or apply for any job which meets the definition of suitability as described above if:
 - (i) the position was not offered to such individual in writing or was not listed with the employment service;
 - (ii) such failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in section 4(t) to the extent that the criteria of suitability in that section are not inconsistent with the provisions of this subsection; or

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- (iii) the individual furnishes satisfactory evidence to the department that his or her prospects for obtaining work in his or her customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work for regular benefit claimants in section 4(t) without regard to the definition specified by this subsection.
- (e) Notwithstanding, the provisions of section 403-A to the contrary, no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions required by section 3304(a)(5) of the Internal Revenue Code of 1954 and set forth herein under section 4(t).
- (f) For the purposes of subsection (b)(2), an individual shall be treated as actively engaged in seeking work during any week if he meets both of the following:
 - (1) The individual has engaged in a systematic and sustained effort to obtain work during such week.
 - (2) The individual furnishes tangible evidence that he has engaged in such an effort during such week.
- (g) The employment office shall refer any claimant entitled to shareable regular benefits or extended benefits under this act to any suitable work which meets the criteria prescribed in subsection (d).
- (h) An individual shall not be eligible to receive shareable regular benefits or extended benefits with respect to any week of unemployment in his eligibility period if such individual has been disqualified for regular benefits, shareable regular benefits, or extended benefits under this act because he or she voluntarily left work, was discharged for willful misconduct or failed to accept an offer of or apply for suitable work unless the disqualification imposed for such reasons has been terminated by the individual performing services in an employer-employee relationship (whether or not services were in employment as defined by this act) for remuneration subsequent to the date of such disqualification.
- (i) Notwithstanding subsection (a)(2) an individual shall not be eligible for extended benefits unless, in the base year with respect to which the

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individual exhausted all rights to regular benefits under the State law, the individual had wages equal to at least one and one-half (1 1/2) times the individual's highest quarterly wage.

(403-A amended Oct. 22, 1981, P.L.301, No.106)

Compiler's Note: See section 6 Act 106 of 1981 in the appendix to this act for special provisions relating to applicability.

Compiler's Note: The reference in subsection (a)(1) to section 401-A(j) should have been a reference to section 401-A(h).

Section 404-A. Weekly Extended Benefit Amount.--The weekly extended benefit amount payable to an individual for a week of total unemployment in his eligibility period shall be an amount equal to the weekly benefit amount (plus dependents' allowances) payable to him during his applicable benefit year.

(404-A amended Dec. 5, 1974, P.L.771, No.262)

Section 405-A. Total Extended Benefit Amount.--

- (a) Except as provided in subsection (a.1), the total extended benefit amount payable to any eligible individual with respect to his applicable benefit year shall be the least of the amounts determined under clauses (1), (2) or (3) and then such amount shall be reduced by subsection (b):
 - (1) fifty per centum of the total amount of regular benefits (plus dependents' allowances) which were payable to him under this act in his applicable benefit year;
 - (2) thirteen times his weekly benefit amount which was payable to him under this act for a week of total unemployment in the applicable benefit year; or
 - (3) thirty-nine times his weekly benefit amount (plus dependents' allowances) which was payable to him under this act for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits which were paid (or deemed paid) to him under this act with respect to the benefit year.
- (a.1) (1) Effective with respect to weeks in a high unemployment period, subsection (a) shall be applied by substituting:

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- (i) “eighty per centum” for “fifty per centum” in subsection (a)(1);
 - (ii) “twenty” for “thirteen” in subsection (a)(2); and
 - (iii) “forty-six” for “thirty-nine” in subsection (a)(3).
- (2) For purposes of paragraph (1), the term “high unemployment period” means any period during which an extended benefit period would be in effect if section 401-A(c)(1)(i) were applied by substituting “eight per centum” for “six and one-half per centum.”
- (b) Notwithstanding any other provisions of this article, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the individual received trade readjustment allowances within that benefit year, multiplied by the individual’s weekly benefit amount for extended benefits.

(405-A amended Aug. 4, 2009, P.L.114, No.30)

Section 406-A. Beginning and Termination of Extended Benefit Period.--

- (a) Whenever an extended benefit period is to become effective in this State (or in all states) as a result of a State or a national “on” indicator, or an extended benefit period is to be terminated in this State as a result of a State “off” indicator or State and national “off” indicators, the Secretary of Labor and Industry shall make an appropriate public announcement.
- (b) Computations required by the provisions of section 401-A (f) shall be made by the Secretary of Labor and Industry, in accordance with regulations prescribed by the United States Secretary of Labor.

(406-A added Feb. 9, 1971, P.L.1, No.1)

Section 407-A. Benefit Charges.--

- (a) Notwithstanding any other provisions of this act, extended benefits paid under the provisions of this article shall be charged to the extent that such

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benefits are attributable to service in the employ of the claimant's base year employer,

- (i) to the reserve account balance of a "contributory" employer, and
- (ii) to the account of a "reimbursable" employer who is liable for payments in lieu of contributions as defined in section 4(g), in the following per centums:
 - (1) fifty per centum which is attributable to service in the employ of employers subject to Articles III and XI; and
 - (2) one hundred per centum which is attributable to service in the employ of employers subject to Articles X and XII.
- (b) No employers' experience rating account, and no employer liable for payments in lieu of contributions, shall be charged with respect to extended benefit payments which are wholly reimbursed, or to the extent partially reimbursed, to the State by the Federal Government.
- (c) No benefits paid under this article shall be charged to the employers' reserve account, provided such employer has been relieved of liability from such benefits under the provisions of section 302(a).

(407-A amended July 10, 1980, P.L.521, No.108)

Section 408-A. Incorporation of Federal Law.--If the Federal-State Extended Unemployment Compensation Act of 1970 is amended so as to authorize the Commonwealth to pay benefits for a period of extended duration beyond that currently provided by this article, the amended provisions of such Federal law shall become a part of this article to the extent necessary to authorize the payment of benefits for such extended duration.

(408-A added Mar. 26, 1974, P.L.219, No.47)

ARTICLE V **DETERMINATION OF COMPENSATION;** **APPEALS; REVIEWS; PROCEDURE**

Section 501. Determination of Compensation Appeals.--

- (a) The department shall promptly examine each application for benefits and

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on the basis of the facts found by it shall determine whether or not the application is valid. Notice shall be given by the department in writing to the claimant and each base-year employer of the claimant, stating whether or not the claimant is eligible under section four hundred and one (a), and, if declared eligible thereunder, the weekly benefit rate and the maximum amount of compensation payable: Provided, That where the reserve account of a base-year employer has been transferred to a successor-in-interest, such notice shall be given to the successor-in-interest and not to the original base-year employer, and: Provided further, That no notice need be given to a base-year employer who has been released by the department from filing contribution reports.

- (a) amended May 26, 1949, P.L.1854, No.551
- (b) Notice shall be given in writing to the last employer of the claimant stating that an application has been filed by the designated employee.
- (c)
 - (1) The department shall promptly examine each claim for waiting week credit and each claim for compensation and on the basis of the facts found by it shall determine whether or not the claim is valid.
 - (2) Notice of such determination need not be given to the claimant if the claim is determined valid, but if the claim is determined invalid, notice shall be given by the department in writing to the claimant stating that the claim is invalid and the reason therefor.
 - (3) Notice of such determination need not be given to any base-year employer or last employer of the claimant unless such base-year employer or last employer has filed with the department information in writing which might raise a question as to the eligibility of the claimant for any reason other than his failure to comply with the provisions of section four hundred one (a), in which event notice shall be given as provided herein.
 - (4) If an employer files with the department such information within fifteen days after notice required under section five hundred one (a) or (b) was delivered to him personally, or was mailed to his last known post office address, the department shall issue to such employer
 - (i) a notice in writing of its determination with respect to each claim which is filed by the claimant for a week, the first day

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of which is on or before the date on which such information is filed, and

- (ii) a notice in writing of its determination with respect to the first valid claim which is filed by the claimant during the claimant's benefit year for a week, the last day of which is subsequent to the date on which such information is filed.

- (5) If an employer files with the department such information more than fifteen days after notice required under section five hundred one (a) or (b) was delivered to him personally, or was mailed to his last known post office address, the department shall only issue to such employer

- (i) a notice in writing of its determination with respect to each claim which is filed by the claimant for a week, the first day of which is within the thirty-day period which immediately precedes the date on which such information is filed, and

- (ii) a notice in writing of its determination with respect to the first valid claim which is filed by the claimant during the claimant's benefit year for a week, the last day of which is subsequent to the date on which such information is filed.

((c) amended July 10, 1980, P.L.521, No.108)

- (d) The department shall notify any employer or claimant who has been notified as required under subsections (a) and (c) of this section of any revision made in the determination as contained in the original notice given to such employer or claimant.

- (e) Unless the claimant or last employer or base-year employer of the claimant files an appeal with the board, from the determination contained in any notice required to be furnished by the department under section five hundred and one (a), (c) and (d), within fifteen calendar days after such notice was delivered to him personally, or was mailed to his last known post office address, and applies for a hearing, such determination of the department, with respect to the particular facts set forth in such notice, shall be final and compensation shall be paid or denied in accordance therewith.

((e) amended Apr. 14, 1976, P.L.113, No.50)

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(501 amended May 29, 1945, P.L.1145, No.408)

Section 502. Decision of Referee; Further Appeals and Reviews.--Where an appeal from the determination or revised determination, as the case may be, of the department is taken, a referee shall, after affording the parties and the department reasonable opportunity for a fair hearing, affirm, modify, or reverse such findings of fact and the determination or revised determination, as the case may be, of the department as to him shall appear just and proper. The parties and their attorneys or other representatives of record and the department shall be duly notified of the time and place of a referee's hearing and of the referee's decision, and the reasons therefor, which shall be deemed the final decision of the board, unless an appeal is filed therefrom, within fifteen days after the date of such decision the board acts on its own motion, to review the decision of the referee. A memorandum of testimony of any hearing before any referee shall be made and be preserved for a period of ninety days following expiration of the period for filing an appeal from the final decision rendered in the case.

(502 amended Dec. 9, 2002, P.L.1336, No.158)

Section 503. Disqualifications to Participate in Hearings.--

- (a) No referee, member of the board, or employe of the department shall participate in the hearing of any case in which he himself is an interested party. The board may designate an alternate to serve in the absence or disqualification of any referee.
- (b) Referees shall conduct their hearings de novo.

(503 amended Dec. 9, 2002, P.L.1336, No.158)

Section 504. Powers of Board Over Claims.--The board shall have power, on its own motion, or on appeal, to remove, transfer, or review any claim pending before, or decided by, a referee, and in any such case and in cases where a further appeal is allowed by the board from the decision of a referee, may affirm, modify, or reverse the determination or revised determination, as the case may be, of the department or referee on the basis of the evidence previously submitted in the case, or direct the taking of additional evidence. When any claim pending before a referee is removed or transferred to the board, the board shall afford the parties and the department reasonable opportunity for a fair hearing. The parties and the department shall be duly notified of the board's final decision and the reasons therefor. A complete record shall be kept of each case heard before the board. All testimony at any hearing before

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the board, whether on appeal or otherwise, shall be taken by a reporter, or recording device, but need not be transcribed unless the disputed claim is further appealed.

(504 amended Dec. 5, 1974, P.L.771, No.262)

Compiler's Note: Section 303 Act 326 of 1982, which amended section 504, provided that the notice of the board to the parties and the department under section 504 of the act of the final decision of the board and the reasons therefor shall constitute a final order of the board for purposes of judicial review, which order shall be subject to judicial review within the time and in the manner provided or prescribed by law. Judicial review may be sought under the act only after the party seeking review has exhausted its remedies before the board.

Section 505. Rules and Procedure.--The manner in which appeals shall be taken, the reports thereon required from the department, the claimant and employers, and the conduct of hearings and appeals, shall be in accordance with rules of procedure prescribed by the board whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure. Rules established by the board shall permit either party to a hearing to testify via telephone, without regard to distance of hearing location from either party.

When the same or substantially similar evidence is relevant and material to the matter in issue in applications and claims filed by more than one individual or in multiple applications and claims filed by a single individual the same time and place for considering each such application and claim may be fixed, hearings thereon jointly conducted, a single record of the proceedings made and evidence introduced with respect to any application or claim considered as introduced with respect to all of such applications or claims: Provided, That in the judgment of the board or referee having jurisdiction of the proceeding such consideration will not be prejudicial to any party.

(505 amended June 20, 2011, P.L.16, No.6)

Section 505.1. Place of Hearing.--Hearings on appeals shall be held within the county in which the employe regularly reports for work. Such hearings may be held at the county seat or at such other suitable place or places within the county as the board shall designate, and when all of the parties to any appeal and the board agree, such hearings may be held at any suitable place.

(505.1 added June 22, 1964, Sp. Sess., P.L.112, No.7)

Section 506. Power to Administer Oaths; Subpoenas.--In the discharge of the duties imposed by this act, the secretary, the members of the board, any agent duly

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authorized in writing by the board, and any referee shall have power to administer oaths and affirmations, take depositions and certify to official acts. The department and the board shall have power to issue summons or 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. Such summons or subpoenas shall be signed by the secretary or the chairman of the board, as the case may be, or some person duly authorized in writing by the secretary or the board. Witnesses subpoenaed pursuant to this act shall be allowed reasonable fees and expenses at a rate fixed by the department. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this act and shall be paid from the Administration Fund.

Section 507. Procedure where Summons or Subpoenas Disobeyed.--In case any person refuses, fails, or neglects to obey a summons or subpoena issued under the authority of this act, or fails, refuses, or neglects to produce any books, papers, correspondence, memoranda, or record, the department or board or its agent duly authorized in writing may petition the court of common pleas of the county in which the inquiry is being carried on, or within which the person summoned or subpoenaed is found or resides or transacts business, setting forth the facts, whereupon the court shall have jurisdiction to direct such person to appear before the department or its agent, or before a referee or the board at a time and place fixed by the court, and give such testimony and produce such books, papers, correspondence, memoranda, and other records as may be required, or to issue to such person its subpoena requiring such person to appear before the court at a time fixed and there to give testimony touching the matter under investigation, or to produce such other evidence as may be required.

Any person who shall, without just cause, fail, neglect, or refuse to obey a subpoena or order of the court or 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 or an order of the court may be punished by said court for contempt.

(507 amended May 18, 1937, P.L.658, No.175)

Section 508. Protection Against Self-Incrimination.--No person shall be excused from attending or testifying, or from producing books, papers, correspondence, memoranda, and other records before the department, the board, or any referee or court, in obedience to any summons or subpoena, 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 forfeiture for or on account of any transaction, matter or

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thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Section 509. Finality of Decisions.--Any decision made by the department or any referee or the board shall not be subject to collateral attack as to any application claim or claims covered thereby or otherwise be disturbed, unless appealed from. Subject to appeal proceedings and judicial review, any right, fact or matter in issue which was directly passed upon or necessarily involved in any decision of a referee or the board or the Court and which has become final shall be conclusive for all purposes of this act and shall not be subject to collateral attack as among all affected parties who had notice of such decision: Provided, however, That whenever an appeal involves a question as to whether services were performed by a claimant in employment or for an employer or whether remuneration paid constituted wages, a decision thereon shall not be conclusive as to an employing entity's liability for contributions unless the employing entity was given special notice of such issue and of the pendency of the appeal and was afforded a reasonable opportunity by the referee or the board to adduce evidence bearing on such question. No finding of fact or law, judgment, conclusion or final order made with respect to a claim for unemployment compensation under this act may be deemed to be conclusive or binding in any separate or subsequent action or proceeding in another forum.

(509 amended Dec. 9, 2002, P.L.1336, No.158)

Section 510. Appeals to Superior Court.--(510 repealed Apr. 28, 1978, P.L.202, No.53)

Section 510.1. Appeal to Commonwealth Court.--(510.1 repealed Dec. 20, 1982, P.L.1409, No.326)

Section 511. Exceptions and Bond Not Necessary; No Supersedeas to Be Granted.--(511 repealed Apr. 28, 1978, P.L.202, No.53)

Section 512. Final Order of Board.--Upon the final determination of any appeal, the board shall enter an order in accordance with the decree of the court.

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ARTICLE VI UNEMPLOYMENT COMPENSATION FUND AND ADMINISTRATION FUND

Section 601. Unemployment Compensation Fund.--

- (a) There is hereby created a special fund separate and apart from all public moneys or funds of this Commonwealth to be known as the Unemployment Compensation Fund. All contributions paid by employers and employees, together with penalties and interest thereon, received or collected by the department from employers under the provisions of this act, except contributions which are to be paid into the Reemployment Fund and the Service and Infrastructure Improvement Fund as provided in section 301.4(e), such penalties and interest which are to be paid into the Special Administration Fund as provided in section 601.1 and taxes collected under section 301.6 of this act which are to be paid into the Debt Service Fund as provided in section 601.2, shall be paid into the Unemployment Compensation Fund, and shall be credited by the department to a ledger account to be known as the Employers' Contribution Account. Contributions which are to be paid into the Reemployment Fund and the Service and Infrastructure Improvement Fund as provided in section 301.4(e), interest and penalties which are to be credited to the Special Administration Fund and taxes collected under section 301.6 may be temporarily held in the Employers' Contribution Account solely for clearance purposes prior to transfer to the Reemployment Fund, the Service and Infrastructure Improvement Fund, the Special Administration Fund or the Debt Service Fund and while so held in the Employers' Contribution Account shall not be deemed a part of the Unemployment Compensation Fund. All moneys from time to time received and credited to the Employers' Contribution Account (exclusive of refunds made under section 311, contributions transferred to the Reemployment Fund and the Service and Infrastructure Improvement Fund pursuant to section 301.4(e) and interest and penalties transferred as herein provided to the Special Administration Fund and taxes transferred to the Debt Service Fund) shall be paid promptly by the department into the Unemployment Compensation Fund, except as otherwise provided in section 605 of this act. All moneys credited to this Commonwealth's account in the Unemployment Compensation Fund pursuant to section 903 of the Federal Social Security Act (42 U.S.C. § 1103) shall be included in the Unemployment Compensation Fund.

- ((a) amended July 2, 2013, P.L.195, No.34)

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(b) As often as may be necessary, the department shall requisition from the Unemployment Trust Fund such amounts as shall be necessary to provide adequate funds for the payment of compensation as provided in this act, except that moneys credited to this Commonwealth's account pursuant to section 903 of the Federal Social Security Act as amended shall be used exclusively as provided in section six hundred two point three. Upon receipt of such requisitioned funds, the department shall deposit them into the Unemployment Compensation Fund to the credit of a ledger account, to be known as the Compensation Account, and shall expend such moneys solely for the payment of compensation, as provided by this act. All moneys to the credit of the Compensation Account shall be mingled and undivided. The department shall pay all compensation authorized by this act out of moneys standing to the credit of the Compensation Account.

((b) amended Dec. 6, 1972, P.L.1622, No.336)

(c) Notwithstanding any other provisions of this section, the department shall at such time or times, when the amount of moneys credited to the Commonwealth of Pennsylvania in the Unemployment Compensation Fund exceed the average annual total benefit payout for the immediate prior five (5) years, transfer such excess to the United States Treasury to repay; and reduce any outstanding Federal unemployment loan debt, and at such other time or times as the secretary with the approval of the Governor may determine, is hereby authorized to requisition from the Unemployment Compensation Fund and pay into the United States Treasury an amount which, in the aggregate, is equal to the balance of any loan made to this Commonwealth under the provisions of Title XII of the Social Security Act, as amended. Such requisition and transfer need not be in a lump sum but may be made according to a plan entered into between the department and the United States Treasury and for that purpose the authority hereinabove contained shall be deemed continuous during the term of such agreement.

((c) amended July 21, 1983, P.L.68, No.30)

Section 601.1. Special Administration Fund.--

(a) There is hereby created a special fund, separate and apart from all public moneys or funds of this Commonwealth, to be known as the Special Administration Fund. Under rules and regulations adopted by the department, interest and penalties collected from employers under the provisions of this act may be paid into the Special Administration Fund. Such rules and regulations may provide for determining in any manner

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which payments of interest and penalties are to be paid into the Special Administration Fund and which payments of interest and penalties are to be paid into the Unemployment Compensation Fund. The moneys in this fund shall be used for the payment of costs of administration which are found not to have been properly and validly chargeable against Federal grants or other funds received for or in the Administration Fund. Said moneys shall not be expended or available for expenditure in any manner which would permit their substitution for, or a corresponding reduction in, Federal funds which would in the absence of said moneys be available to finance expenditures for the administration of this act. Nothing in this section shall prevent said moneys from being used as a revolving fund to cover expenditures necessary and proper under the law for which Federal Funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The State Treasurer shall make payment of obligations from the Special Administration Fund as herein provided, upon requisition of the secretary and certification by him that no other funds are available or can properly be used to finance such expenditures. The moneys in this fund are hereby specifically made available to replace any moneys received pursuant to section three hundred and two of the Federal Social Security Act, as amended, which, because of any action or contingency, have been lost or have been expended for purposes other than, or in amounts in excess of, those necessary for the proper administration of this act and are available for such replacement, whether or not such moneys were expended or the obligations covering such expenditures were incurred prior or subsequent to the enactment of this amendment. The moneys in this fund shall be continuously available for expenditure in accordance with the provisions of this section, and shall not lapse at any time or be transferred to any other fund except as herein provided and as provided under section three hundred eleven, wherein an amount equal to any refund or credit of interest or penalties shall be transferred from the Special Administration Fund to the Unemployment Compensation Fund.

- (b) All moneys in the fund in excess of two hundred thousand dollars (\$200,000) on June 25th of each year shall be transferred to either the Unemployment Compensation Fund and credited to the Employers' Contribution Account as specified in section 601 or the Job Training Fund as specified in section 601.4, or transferred to both, as determined by the department, in consultation with the Secretary of the Budget. If the department determines that such excess shall be transferred to both the Unemployment Compensation Fund and the Job Training Fund, the department, in consultation with the Secretary of the Budget, shall determine what portion of such excess is transferred to each fund.

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(601.1 amended June 15, 2005, P.L.8, No.5)

Section 601.2. Debt Service Fund.--

- (a) There is hereby established a separate account in the State Treasury, to be known as the Debt Service Fund. All taxes collected under section 301.6 of this act shall be paid into the Debt Service Fund. The moneys in this fund shall be used in the following priority order and such funds received are hereby appropriated for all of the following purposes:
- (1) For payment of bond obligations and bond administrative expenses; for replenishment of bond reserves; for maintenance of debt service reserves in an amount the department, with approval by the Office of the Budget, determines necessary to maintain an adequate debt service coverage ratio; and for early, optional, mandatory or other refundings, redemptions or purchases of outstanding bonds under Article XIV of this act.
 - (2) For the payment of annual interest obligations assessed under Title XII of the Social Security Act.
 - (3) For repayment of outstanding interest-bearing advances received under Title XII of the Social Security Act.
 - (4) For transfer to the Unemployment Compensation Fund pursuant to subsection (b), for payment of compensation to individuals.
- (b) Any amount of moneys remaining in this fund at the end of a calendar year shall be transferred to the Unemployment Compensation Fund and credited to the Employers' Contribution Account as specified in section 601 if the following requirements are met:
- (1) the balance of interest-bearing advances under Title XII of the Social Security Act (58 Stat. 790, 42 U.S.C. § 1321 et seq.) is zero at the end of that year;
 - (2) no interest on advances shall be due in the following year; and
 - (3) there are no outstanding bond obligations and bond administration expenses under Article XIV of this act and no such obligations and expenses will be due in the following year.

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- (c) Pending application for the purposes authorized, moneys held or deposited by the State Treasurer in the Debt Service Fund may be invested or reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of moneys shall be paid into the State Treasury to the credit of the Debt Service Fund.

(601.2 amended June 12, 2012, P.L.577, No.60)

Section 601.3. Unemployment Compensation Trigger Reserve Account.--

There is hereby established within the General Fund of the State Treasury a special account, which shall be known as the Unemployment Compensation Trigger Reserve Account, for the purpose of supplementing the Unemployment Compensation Fund established under section 601. There shall be deposited in this special account such moneys as are transferred from the State Workmen's Insurance Fund. Any amounts in the Unemployment Compensation Trigger Reserve Account shall be maintained separate and apart from the Unemployment Compensation Fund unless and until transferred to the Unemployment Compensation Fund in accordance with section 301.7(d). Any interest earned on the principal of the Unemployment Compensation Trigger Reserve Account shall be deposited into the State Workmen's Insurance Fund. Any amounts transferred from the Unemployment Compensation Trigger Reserve Account to the Unemployment Compensation Fund shall become available for any purpose permitted under section 601.

(601.3 added Oct. 19, 1988, P.L.818, No.109)

Section 601.4. Job Training Fund.--

- (a) There is hereby created a special fund to be known as the Job Training Fund. Deposits in the fund shall include moneys transferred from the Special Administration Fund pursuant to section 601.1(b) and other moneys appropriated to the fund.
- (b) Subject to the provisions of subsections (c) and (d), the moneys in this fund are hereby appropriated, upon approval of the Governor, to the Department of Labor and Industry for the following purposes:
 - (1) Job training programs for incumbent workers, dislocated workers, adult and youth workers, and any other work force development training program, including equipment and supplies.

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- (2) Job training equipment, subject to a requirement for matching funds from a source other than State funding.
 - (3) The costs of administering such training program.
 - (4) The costs of collecting interest and penalties under this act that are transferred from the Special Administration Fund.
- (c) Moneys from the fund shall be made available in the following order of priority:
- (1) Counties of the sixth, seventh and eighth class.
 - (2) Counties of the first, second, second A, third, fourth and fifth class, provided that there are insufficient applications for funding under paragraph (1) and to the extent that funds remains available.
- (d) The department shall make funds available to eligible entities as determined under subsection (e) based on a competitive application process as determined by the department. In distributing funding under this section, preferential consideration shall be given to those counties with a higher unemployment rate. Distribution of funds shall be determined by review of all applications submitted by eligible entities within the time period authorized by the department.
- (e) Funding shall be made available only for those entities identified in this section which provide work force education programs and services. Eligible entities shall include:
- (1) Employment and training program providers receiving financial assistance from the Commonwealth or from other sources of public funding.
 - (2) Not-for-profit organizations offering publicly funded employment training programs.
 - (3) Career and technical institutes.
 - (4) High schools with eight or more vocational education programs.
 - (5) Higher education institutions offering publicly funded employment and training programs, including:

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- (i) State-related institutions and their branch campuses.
 - (ii) State-owned institutions within the State System of Higher Education under Article XX-A of the act of March 10, 1949 (P.L.30, No.14), known as the “Public School Code of 1949.”
 - (iii) Community colleges established and operated under Article XIX-A of the “Public School Code of 1949.”
- (f) The moneys in this fund shall be continuously available for expenditure in accordance with the provisions of this section and shall not lapse at any time nor be transferred to any other fund.
- (g) For purposes of this section, the term “State-related institutions” shall include The Pennsylvania State University, the University of Pittsburgh, Temple University, Lincoln University and any other institution that is hereafter designated as “State-related” by the Commonwealth.

(601.4 added June 15, 2005, P.L.8, No.5)

Section 601.5. Reemployment Fund.--

- (a) There is hereby established a restricted account in the State Treasury to be known as the Reemployment Fund.
- (b) Moneys in the Reemployment Fund shall consist of contributions deposited into the fund pursuant to section 301.4(e).
- (c) Moneys in the Reemployment Fund are hereby appropriated, upon approval of the Governor, to the department for the following purposes:
 - (1) Programs and services to assist individuals to become employed or improve their employment, including, without limitation, job search and placement services, educational enhancement, job training and job readiness and workplace skills training.
 - (2) Research and studies to improve the department’s ability to provide employment services, including, without limitation, research and studies to determine the composition of the work force, demand occupations and skills, future work force needs, labor market and business trends, the levels, duration and stability of employment and the effectiveness of employment services.

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- (3) Improvements to the department's information technology infrastructure that will enhance the department's ability to provide employment services, including, without limitation, improvements that will better the department's ability to determine worker characteristics and work force characteristics and needs, acquire and distribute information about job opportunities and match job seekers with job openings.
- (4) Costs of administering activities under this section and the cost of collecting the contributions deposited into the Reemployment Fund pursuant to section 301.4(e).
- (d) The department may make funds available to governmental and private sector organizations to perform activities authorized under this section. Such organizations shall be selected based on a competitive application process as determined by the department.
- (e) At the end of each calendar year the department shall determine the amount of contributions deposited into the Reemployment Fund during that year pursuant to section 301.4(e). If any amount of the contributions deposited in the Reemployment Fund during a calendar year are not expended or obligated for expenditure by June 30 of the following year, that amount shall be transferred to the Unemployment Compensation Fund under section 601 of this act.
- (f) Moneys in the fund shall be continuously available for expenditure in accordance with the provisions of this section and shall not lapse at any time nor be transferred to any other fund except as provided in subsection (e).
- (g) No later than June 30 of each calendar year the department shall provide a report to the Governor and the General Assembly regarding the activities under this section during the prior calendar year and an accounting for the contributions deposited into the Reemployment Fund, and the expenditures from the Reemployment Fund, during the prior calendar year.

(601.5 added June 12, 2012, P.L.577, No.60)

Section 602. Administration Fund.--There is hereby created a special fund to be known as the Administration Fund, which shall consist of all moneys or other property received by the department from the United States of America, or any agency thereof, including the Social Security Board, or from any other source

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whatsoever, to be used for the administration of this act. The department shall pay all costs required for the administration and operation of this act out of the Administration Fund.

In addition, any law to the contrary notwithstanding, this fund shall be subject from time to time to charges by the Treasury Department for the costs incurred by said department in making disbursements arising from payments out of the Unemployment Compensation Fund and the fund created in this section, and the moneys in the Administration Fund are hereby appropriated for the payment of such charges.

Notwithstanding any provision of this section, all moneys requisitioned and deposited in this fund pursuant to section six hundred two point three shall remain part of the Unemployment Compensation Fund and shall be used only in accordance with the conditions specified in section six hundred two point three.

(602 amended Dec. 6, 1972, P.L.1622, No.336)

Section 602.1. Reimbursement of Funds.--The Commonwealth of Pennsylvania hereby recognizes its obligation to replace and hereby pledges the faith of the Commonwealth that funds will be provided in the future and applied to the replacement of any moneys received after July one, one thousand nine hundred forty-one, from the Social Security Board under Title III of the Social Security Act, any unencumbered balance in the Administration Fund as of that date, any moneys thereafter granted to the Commonwealth pursuant to the provisions of the Wagner-Peyser Act, and any moneys made available by the Commonwealth or its political subdivisions and matched by such moneys granted to the Commonwealth pursuant to the provisions of the Wagner-Peyser Act, which the Social Security Board finds have, because of any action or contingency, been lost or have been expended for purposes other than or in amounts in excess of those found necessary by the Social Security Board for the proper administration of this act. Such moneys shall be promptly replaced by the moneys transferred from the Special Administration Fund, or by moneys appropriated for such purpose from the general funds of the Commonwealth to the Administration Fund, for expenditure as provided in section six hundred and two of this act. This section shall not be construed to relieve the Commonwealth of its obligation with respect to funds received prior to July one, one thousand nine hundred forty-one, pursuant to the provisions of Title III of the Social Security Act.

(602.1 amended May 17, 1959, P.L.153, No.72)

Section 602.2. Moneys Received from Social Security or Wagner-Peyser Act.--All moneys received from the Social Security Board under Title III of the Social

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Security Act or the provisions of the Wagner-Peyser Act, and all moneys made available by the Commonwealth or its political subdivisions and matched by moneys granted to the Commonwealth pursuant to the provisions of the Wagner-Peyser Act shall be expended solely for the purposes and in the amounts found necessary by the Social Security Board for the proper and efficient administration of this act.

(602.2 added Aug. 5, 1941, P.L.845, No.314)

Section 602.3. Money Credited under Section 903 of the Federal Social Security Act (42 U.S.C. § 1103).--

- (a) Money credited to the account of this Commonwealth in the Unemployment Trust Fund by the Secretary of the Treasury of the United States of America pursuant to section 903 of the Federal Social Security Act (42 U.S.C. § 1103) may not be requisitioned from this Commonwealth's account or used except for the payment of benefits and for the payment of expenses incurred for the administration of this act and this State's system of public employment offices. Such money may be requisitioned pursuant to subsection
- (b) of section 601 for the payment of benefits. Such money may also be requisitioned and used for the payment of expenses incurred for the administration of this act and this State's system of public employment offices but only pursuant to a specific appropriation by the Legislature and only if the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which:
 - (1) Specifies the purposes for which such money is appropriated and the amounts appropriated therefor;
 - (2) Limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law; and
 - (3) Limits the amount which may be obligated to an amount which does not exceed the amount by which
 - (i) the aggregate of the amounts transferred to the account of this Commonwealth pursuant to section 903 of the Federal Social Security Act (42 U.S.C. § 1103) exceeds

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(ii) the aggregate of the amounts used by this Commonwealth pursuant to this act and charged against the amounts transferred to the account of this Commonwealth.

((a) amended Oct. 30, 1996, P.L.738, No.133)

(b) For purposes of subsection (a)(3), amounts obligated for administrative purposes pursuant to an appropriation or paid out for benefits shall be chargeable against transferred amounts at the exact time the obligation is entered into. The appropriation, obligation and expenditure or other disposition of money appropriated under this subsection shall be accounted for in accordance with standards established by the United States Secretary of Labor.

((b) amended Oct. 30, 1996, P.L.738, No.133)

(c) Money appropriated as provided herein for the payment of expenses of administration shall be requisitioned as needed for the payment of obligations incurred under such appropriation and, upon requisition, shall be deposited in the Employment Security Administration Fund from which such payments shall be made. Money so deposited shall, until expended, remain a part of the unemployment fund and, if it will not be expended, shall be returned promptly to the account of this Commonwealth in the Unemployment Trust Fund.

(602.3 added Dec. 6, 1972, P.L.1622, No.336)

Section 602-A. Audit of Funds.--The accounts and books of the Unemployment Compensation Fund, the Special Administration Fund, and the Administration Fund, including their receipts, disbursements and other items referring to their financial standing, shall, from time to time, be examined by the Auditor General who shall report the results of his examination to the Governor.

(602-A added May 31, 1957, P.L.235, No.113)

Section 603. State Treasurer as Custodian.--The State Treasurer shall be the custodian of the Unemployment Compensation Fund, the Administration Fund, the Special Administration Fund, the Debt Service Fund, the Job Training Fund and the Reemployment Fund. He shall give a bond, or bonds, with corporate sureties, conditioned upon the faithful performance of his duties as custodian of such funds in such amount or amounts as shall be determined and fixed by the Executive Board of this Commonwealth. Premiums for such bond or bonds shall be paid by the

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department out of the moneys in the Administration Fund. All moneys belonging to such funds (exclusive of moneys on deposit in the Unemployment Trust Fund as provided in section 601) shall be deposited by the State Treasurer in any banks or public depositories in which general funds of the Commonwealth may be deposited, but no public deposit insurance charge or premium shall be paid out of moneys in the Unemployment Compensation Fund. Any law to the contrary notwithstanding, all payments from such funds shall be made under such systems of requisitioning and accounting as the Governor, the State Treasurer, and Secretary shall determine.

(603 amended June 12, 2012, P.L.577, No.60)

Section 604. Budgetary Provisions Not Applicable.--The provisions of section 214 of article II and the provisions of article VI of The Administrative Code of one thousand nine hundred twenty-nine, as amended, shall not apply to the funds created under the provisions of sections 601 and 602 of this act.

(604 amended June 22, 1964, Sp. Sess., P.L.112, No.7)

Section 605. Management of Funds upon Discontinuance of Unemployment Trust Fund.--If Title IX of the Social Security Act, or any amendment thereto, or any other Federal tax against which contributions under this act may be credited, shall be amended or repealed by Congress or held unconstitutional by the Supreme Court of the United States, with the result that no contributions under this act may be credited against such Federal tax, then the department shall requisition from the Unemployment Trust Fund all moneys, properties, or securities therein belonging to the Unemployment Compensation Fund of this Commonwealth, and shall credit the same to the Employers' Contribution Account in the Unemployment Compensation Fund. Thereafter all contributions received or collected under this act shall remain to the credit of the Employers' Contribution Account in the Unemployment Compensation Fund until required for the payment of compensation, in which event sufficient funds for this purpose, upon requisition of the department, shall be transferred to the credit of the Compensation Account in the aforesaid fund. All moneys standing to the credit of the Employers' Contribution Account in the Unemployment Compensation Fund shall be invested by the State Treasurer in such investments prescribed by the act of April twenty-fifth, one thousand nine hundred twenty-nine (Pamphlet Laws, seven hundred twenty-three), as are readily marketable, and the investment of such moneys shall at all times be so made that all the assets to the credit of the Employers' Contribution Account shall always be readily convertible into cash when needed for the payment of compensation.

Section 606. Transfer of Funds to Railroad Unemployment Insurance Account.--(606 repealed May 23, 1949, P.L.1738, No.530)

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Section 607. Moneys Advanced Under Title XII of the Social Security Act.--(607 repealed July 21, 1983, P.L.68, No.30)

Section 608. Extended or Supplemental Benefits under Federal Law.--Whenever the Congress of the United States shall enact laws providing for the payment of supplemental or extended unemployment compensation benefits, the secretary with the approval of the Governor, is hereby authorized and empowered to enter into such agreements with the United States Department of Labor or such Federal agency as may be charged with the administration of such laws as may be necessary to obtain for the citizens of this Commonwealth the benefits of such laws. No such agreements may be executed if, as a result thereof, employers in this Commonwealth would be subjected to a tax burden under any Federal law imposing a tax on payrolls not applied uniformly to all employers subject to such law.

(608 added Mar. 24, 1964, Sp. Sess., P.L.53, No.1)

Section 609. Conformity with Federal Standards.--Any provisions in this act to the contrary notwithstanding, whenever the Governor of this Commonwealth is formally notified by the Secretary of the United States Department of Labor or any authorized officer of the Federal government that any provision or provisions of this act are inconsistent with any Federal law with which State employment security laws are required to conform as a condition for the allowance of credit against Federal taxes on payrolls or the receipt of funds for the administration of employment security programs, such provision or provisions upon proclamation by the Governor, shall be deemed inoperative and of no effect. Such proclamation shall include when necessary such provision or provisions as may be necessary to remedy such inconsistency which shall have the full force and effect of law from the date thereof if approved by appropriate amendment to this act in the next session of the General Assembly having jurisdiction of the subject matter, otherwise such provision or provisions shall be null and void from the date of the General Assembly's disapproval or adjournment, whichever occurs the earlier.

(609 added Mar. 24, 1964, Sp. Sess., P.L.53, No.1)

ARTICLE VII

PROTECTION OF RIGHTS AND COMPENSATION

Section 701. Certain Agreements Void; Penalty.--No agreement by an employe to waive, release, or commute his rights to compensation, or any other rights under this act, shall be valid. No agreement by an employe or by employes to pay all or any portion of an employer's contributions, required under this act from such employer, shall be valid. No employer shall, directly or indirectly, make or require or accept any deduction

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from the remuneration of individuals in his employ to finance contributions required from him under this act, or require or accept any waiver by an employe of any right hereunder. Any employer or officer or agent of an employer who violates any provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced for each offense to pay a fine of not less than one hundred dollars nor more than one thousand dollars, or be imprisoned for not more than six months, or both.

Section 702. Limitation of Fees.--No employer or employe shall be charged fees of any kind in any proceeding under this act by the department, the board, or any of its officers or agents. Any individual claiming compensation in any proceeding before the department, the board, or referee may be represented by counsel or other duly authorized agent; but no such counsel or agent shall either charge or receive any greater fee for such services than is approved by the board. Any person who violates any provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than fifty dollars nor more than five hundred dollars, or be imprisoned for not more than six months, or both.

(702 amended Sept. 29, 1951, P.L.1580, No.408)

Section 703. No Assignment of Compensation; Exemptions.--No assignment, pledge, or encumbrance of any right to compensation which is or may become due or payable under this act shall be valid, and such rights to compensation shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt. Compensation payments received by an employe, so long as they are not mingled with other funds of the employe, shall be exempt from any remedy whatsoever for the collection of all debts, except debts incurred for necessities furnished to such individual or his spouse or dependents during the time when such individual was unemployed. No waiver of any exemption provided for in this section shall be valid: Provided, however, That upon receipt of notification, the department shall forward to the Department of Public Assistance benefit checks equal to amount of public assistance paid to an individual for necessities furnished such individual or his spouse or dependents during the time when such individual was unemployed.

(703 amended July 28, 1953, P.L.688, No.218)

Section 703.1. Child Support Intercept of Unemployment Compensation.--
Notwithstanding any other provisions of this or any other act:

- (a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, be required to disclose whether he owes child support obligations as defined in subsection (h).

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- (b) Information that the individual has been determined to be eligible for unemployment compensation shall be provided to State or local child support enforcement agencies enforcing such obligation.
- (c) The Department of Labor and Industry shall deduct and withhold from any unemployment compensation payable to an individual that owes child support obligations as defined under subsection (h):
 - (1) the amount specified by the individual to be deducted and withheld under this subsection if neither paragraph (2) nor (3) is applicable;
 - (2) the amount (if any) determined pursuant to an agreement submitted to the department under section 454(20)(B)(i) of the Social Security Act by the State or local child support enforcement agency, unless paragraph (3) is applicable; or
 - (3) any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process (as defined in section 462(e) of the Social Security Act).
- (d) Any amount deducted and withheld under subsection (c) shall be paid to the appropriate State or local child support enforcement agency.
- (e) Any amount deducted and withheld under subsection (c) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the State or local child support enforcement agency in satisfaction of the individual's child support obligations.
- (f) For purposes of subsections (a) through (e), the term "unemployment compensation" means any compensation payable under the State law (including amounts payable pursuant to an agreement under any Federal law providing for compensation, assistance, or allowances with respect to unemployment).
- (g) Deductions will be made pursuant to this section only if appropriate arrangements have been made for reimbursement by the State or local child support enforcement agency for the administrative costs incurred by the department under this section which are attributable to child support obligations being enforced by the State or local child support enforcement agency.
- (h) The term "child support obligations" is defined for purposes of these provisions as including only obligations which are being enforced pursuant

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to a plan described in section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under Part D of Title IV of the Social Security Act.

- (i) The term “State or local child support enforcement agency” as used in these provisions means any agency of a State or political subdivision thereof operating pursuant to a plan described in subsection (h).

(703.1 added Oct. 22, 1981, P.L.301, No.106)

Section 703.2. Voluntary Federal Income Tax Withholding.--

- (a) With respect to all payments of unemployment compensation made after December 31, 1996:
 - (1) An individual filing a new application for unemployment compensation shall, at the time of filing the application, be advised that:
 - (i) Unemployment compensation is subject to Federal income tax.
 - (ii) Requirements exist pertaining to estimated tax payments.
 - (iii) The individual may elect to have Federal income tax deducted and withheld from the individual’s payment of unemployment compensation at the amount specified in the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).
 - (iv) The individual shall be permitted to change previously elected withholding status.
 - (2) Amounts deducted and withheld from unemployment compensation shall remain in the Unemployment Compensation Fund until transferred to the Federal taxing authority as a payment of income tax.
 - (3) The secretary shall follow all procedures specified by the United States Department of Labor and the Internal Revenue Service pertaining to the deducting and withholding of income tax.
 - (4) Amounts shall be deducted and withheld under this section only after amounts are deducted and withheld for any overpayment of unemployment compensation, child support obligations and any

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other amounts authorized to be deducted and withheld under Federal or State law.

- (b) This section is effective notwithstanding any other provisions of this or any other act.

(703.2 added Nov. 17, 1995, P.L.615, No.64)

Section 704. Deductions from Back Wage Awards.--Any employer who makes a deduction from a back wage award to a claimant because of the claimant's receipt of unemployment compensation benefits, for which he has become ineligible by reason of such award, shall be liable to pay into the Unemployment Compensation Fund an amount equal to the amount of such deduction. When the employer has made such payment into the Unemployment Compensation Fund, his reserve account shall be appropriately credited.

(704 added July 6, 1977, P.L.41, No.22)

Section 705. Recoupment and/or Setoff of Unemployment Compensation Benefits.--Recoupment and/or setoff of benefits paid to a discharged employe, if any, shall be determined from employe's gross, not net, back wages if employe is reinstated by arbitrator with back pay during period back pay is awarded.

(705 added July 6, 1977, P.L.41, No.22)

ARTICLE VIII PENALTY PROVISIONS

Section 801. False Statements and Representations to Obtain or Increase Compensation.--

- (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 compensation or other payment under this act or under an employment security law of any other state or of the Federal Government or of a foreign government, either for himself or for any other person, shall upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than one hundred dollars nor more than one thousand dollars, or shall be sentenced to imprisonment for not longer than thirty days, or both, and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense. In addition to any other sanction,

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an individual convicted under this subsection shall be ordered to make restitution of the compensation to which the individual was not entitled and of interest on that compensation in accordance with section 804(a).

- (b) Whoever makes a false statement knowing it to be false, or knowingly fails to disclose a material fact to obtain or increase any compensation or other payment under this act or under an employment security law of any other state or of the Federal Government or of a foreign government, may be disqualified in addition to such week or weeks of improper payments for a penalty period of two weeks and for not more than one additional week for each such week of improper payment: Provided, That no additional weeks of disqualification shall be imposed under this section if prosecution proceedings have been instituted against the claimant because of such misrepresentation or non-disclosure. The departmental determination imposing penalty weeks under the provisions of this subsection shall be subject to appeal in the manner provided in this act for appeals from determinations of compensation. The penalty weeks herein provided for shall be imposed against any weeks with respect to which the claimant would otherwise be eligible for compensation, under the provisions of this act, which begin within the four year period following the end of the benefit year with respect to which the improper payment or payments occurred.
- (c) Whoever makes a false statement knowing it to be false, or knowingly fails to disclose a material fact to obtain or increase compensation or other payment under this act or under an employment security law of the Federal Government and as a result receives compensation to which he is not entitled shall be liable to pay to the Unemployment Compensation Fund a sum equal to fifteen per centum (15%) of the amount of the compensation. The sum shall be collectible in the manner provided in section 308.1 or 309 of this act for the collection of past due contributions and by any other means available under Federal or State law. No administrative or legal proceeding for the collection of the sum may be instituted after the expiration of ten years following the end of the benefit year with respect to which the sum was paid. ((c) added Oct. 23, 2013, P.L.637, No.75)

(801 amended Dec. 9, 2002, P.L.1336, No.158)

Compiler's Note: Section 6(4) of Act 75 of 2013, which added subsec. (c), provided that subsec. (c) shall apply to overpayments established on or after October 21, 2013.

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Section 802. False Statements and Representations to Prevent or Reduce Compensation; Other Offenses.--

- (a) Any employer (whether or not liable for the payment of contributions under this act) or any officer or agent of such employer or any other person who does any of the following commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than one hundred dollars nor more than fifteen hundred dollars or to imprisonment for not longer than thirty days, or both:
- (1) 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 compensation to any employe entitled thereto, or to avoid becoming or remaining subject hereto, or to avoid or reduce any contribution or other payment required from an employer under this act;
 - (2) wilfully fails or refuses to make any such contribution or other payment required hereunder;
 - (3) wilfully fails or refuses to produce or permit the inspection or copying of records as required hereunder;
 - (4) wilfully fails or refuses to furnish any report required by section 304 or 315 of this act or any other provision of this act or the rules or regulations of the department; or
 - (5) wilfully reports or attempts to report the wages of one or more employes to the department on an unemployment compensation account other than the account of the employer under this act; or
 - (6) wilfully advises, solicits, encourages or commands an employer or an officer or agent of an employer or any other person to engage in an act or omission that is an offense under this section.
- (b) The number of offenses under subsection (a) shall be determined as follows:
- (1) Each false statement or representation or failure to disclose a material fact shall constitute a separate offense under subsection (a) (1) of this section.

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- (2) Each day of failure or refusal shall constitute a separate offense under subsection (a)(2), (3) and (4) of this section.
 - (3) Each person or entity for whom a registration is not made as required by section 315(a)(1) of this act shall be the basis of a separate offense under subsection (a)(4) of this section.
 - (4) Each transfer of organization, trade, business or work force that is not reported as required by section 315(a)(2) or (3) of this act shall be the basis of a separate offense under subsection (a)(4) of this section.
 - (5) Each report required by section 304 or 315 of this act, or any other provision of this act or the rules or regulations of the department, shall be the basis of a separate offense under subsection (a)(4) of this act.
 - (6) Each calendar quarter and each account on which wages are incorrectly reported shall be the basis of a separate offense under subsection (a)(5) of this section.
 - (7) Each incident of advising, soliciting, encouraging or commanding, and each employer, officer, agent or other person advised, solicited, encouraged or commanded, shall be the basis of a separate offense under subsection (a)(6) of this section.
- (c) In addition to any other sanction, any employer, officer, agent or other person convicted under this section for willful failure or refusal to make a payment shall be ordered to make restitution of the unpaid amounts, including interest and penalty from the date the payment was due through the date of payment.
- (d) For purposes of this section, the terms “wilfully” and “willfully” shall have the meaning applicable to the term “willfully” under 18 Pa.C.S. § 302 (relating to general requirements of culpability).

(802 amended June 15, 2005, P.L.8, No.5)

Section 802.1. Monetary Penalties.--

- (a) Any employer (whether or not liable for the payment of contributions under this act) or any officer or agent of such employer or any other person who does any of the following commits an offense for which a civil penalty shall be assessed by the department:

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- (1) wilfully fails or refuses to produce or permit the inspection or copying of records as required hereunder;
 - (2) wilfully fails or refuses to make any report required by section 315(a)(1) or (2) of this act, wilfully makes or attempts to make such a report containing a misrepresentation of fact, or wilfully makes or attempts to make such a report that fails to disclose a material fact;
 - (3) wilfully fails or refuses to make any report required by section 315(a)(4) of this act, wilfully makes or attempts to make such a report containing a misrepresentation of fact, or wilfully makes or attempts to make such a report that fails to disclose a material fact;
 - (4) wilfully reports or attempts to report the wages of one or more employes to the department on an unemployment compensation account other than the account of the employer under this act; or
 - (5) wilfully advises, solicits, encourages or commands an employer or an officer or agent of an employer or any other person to engage in conduct that is an offense under this section.
- (b) The amount of a penalty under subsection (a)(1) shall not exceed fifteen hundred dollars for each day of failure or refusal.
- (c) The amount of a penalty under subsection (a)(2) of this section shall not exceed the greater of ten thousand dollars or the amount of the difference between the amount of contributions payable by the employer at the rate or rates of contribution assigned by the department in the absence of the report or based on a misrepresentation or nondisclosure in the report and the amount of contributions payable by the employer at the correct rate or rates of contribution. The penalty shall apply to contributions for calendar quarters from the quarter in which the report became due through the quarter in which a report is filed that does not contain a misrepresentation or nondisclosure. Each employer for whom a report is not made, or a report is made containing a misrepresentation or nondisclosure, or an attempt is made to make a report containing a misrepresentation or nondisclosure shall be the basis of a separate penalty.
- (d) The amount of the penalty under subsection (a)(3) of this section shall not exceed ten thousand dollars for each report that is not made, each report containing a misrepresentation or nondisclosure and each attempt to make a report containing a misrepresentation or nondisclosure.

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- (e) The amount of the penalty under subsection (a)(4) of this section shall not exceed the greater of ten thousand dollars or the amount of the difference between the amount of contributions payable on the wages as reported on an incorrect account, or the amount of contributions that would have been payable if the attempt to report the wages on an incorrect account had been consummated and the amount of contributions payable on the wages as reported on the employer's account. Each calendar quarter and each employer for which wages are reported on an incorrect account or an attempt is made to report wages on an incorrect account shall be the basis of a separate penalty.
- (f) The amount of the penalty under subsection (a)(5) of this section shall not exceed the greater of ten thousand dollars or the amount of the penalty assessed against the employer, officer, agent or other person who is the object of the conduct that is an offense under subsection (a)(5) of this section. Each employer, officer, agent or other person who is the object of conduct that is an offense under subsection (a)(5) shall be the basis of a separate penalty.
- (g) An officer or agent of an employer or any other person assessed a penalty under this section shall be deemed to be an employer for purposes of the enforcement and collection provisions of this act. A penalty assessed under this section may be collected in the manner provided in sections 308.1, 308.2, 308.3 and 309 of this act and any other manner provided by this act for the collection of contributions, interest and penalty.
- (h) Penalties under this section shall be assessed in accordance with the procedures prescribed in section 304 of this act.
- (i) For purposes of this section, the terms "wilfully" and "willfully" shall have the meaning applicable to the term "willfully" under 18 Pa.C.S. § 302 (relating to general requirements of culpability).

(802.1 added June 15, 2005, P.L.8, No.5)

Section 803. Violation of Act and Rules and Regulations.--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, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than one hundred dollars nor more than one

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thousand dollars or to imprisonment for not longer than thirty days, or both. Each day such violation continues shall be deemed to be a separate offense.

(803 amended Dec. 9, 2002, P.L.1336, No.158)

Section 804. Recovery and Recoupment of Compensation.--

- (a) Any person who by reason of his fault has received any sum as compensation under this act to which he was not entitled, shall be liable to repay to the Unemployment Compensation Fund to the credit of the Compensation Account a sum equal to the amount so received by him and interest at the rate determined by the Secretary of Revenue as provided by section 806 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," per month or fraction of a month from fifteen (15) days after the Notice of Overpayment was issued until paid. Such sum shall be collectible (1) in the manner provided in section 308.1 or section 309 of this act, for the collection of past due contributions, or (2) by deduction from any future compensation payable to the claimant under this act: Provided, That interest assessed under this section cannot be recouped by deduction from any future compensation payable to the claimant under this act: Provided further, That no administrative or legal proceedings for the collection of such sum shall be instituted after the expiration of ten years following the end of the benefit year with respect to which such sum was paid.

((a) amended June 12, 2012, P.L.577, No.60)

- (b) (1) Any person who other than by reason of his fault has received with respect to a benefit year any sum as compensation under this act to which he was not entitled shall not be liable to repay such sum but shall be liable to have such sum deducted from any future compensation payable to him with respect to such benefit year, or the three-year period immediately following such benefit year in accordance with the provisions of this paragraph.
 - (i) With respect to overpayments of one hundred dollars or more, recoupment from such future compensation shall not exceed one-third of the maximum benefit amount to which such person is entitled during any such subsequent benefit year nor one-third of the weekly benefit amount to which such person may be entitled for any particular week.

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- (ii) If an overpayment is established under this paragraph, an employer is assigned charges for the overpayment under section 302(a)(2) of this act and the determination assigning charges to the employer is final, an amount equal to the amount charged to the employer shall be applied as a credit toward the person's overpayment. The provisions of this subparagraph shall not apply to an overpayment to which subparagraph (iii) applies.
 - (iii) In the absence of misrepresentation or non-disclosure of a material fact, no recoupment shall be had if such overpayment is created by reason of:
 - (A) a subsequent reversal of two decisions of eligibility under the provisions of section five hundred one (e) of this act;
 - (B) the subsequent receipt of holiday pay, vacation pay or the like of which the person had no knowledge; or
 - (C) a subsequent determination that the person's base year wages were not earned in employment as defined in this act.
 - (iv) No provision of this subsection shall be construed to prevent or prohibit the voluntary repayment of compensation by such person or the maintenance of records of overpayments by the department.
- (2) The claimant and other affected parties shall be notified in writing of the department's determination to deduct any sum from future compensation under this section, and such determination shall be subject to appeal in the manner provided in this act for appeals from determinations of compensation.
- (3) Notwithstanding any other provisions of this subsection, any person who has received or employer who has made a back wage payment pursuant to an award of a labor relations board arbitrator or the like without deduction for unemployment compensation benefits received during the period to which such wages are allocated shall notify the department immediately of the receipt or payment of such back wage award. The recipient of such back wage award, made without deduction for unemployment compensation

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benefits received during the period, shall be liable to pay into the Unemployment Compensation Fund an amount equal to the amount of such unemployment compensation benefits received.

((b) amended Oct. 23, 2013, P.L.637, No.75)

(c) Any person who provides to the department a check which is dishonored shall be charged a penalty of one hundred per centum (100%) of the face value of the check, up to a maximum of one hundred dollars (\$100) with a minimum of ten dollars (\$10) per occurrence for all dishonored checks or such other amounts as shall be determined by the secretary and published in the Pennsylvania Bulletin as a notice under 45 Pa.C.S. § 725(a)(3) (relating to additional contents of Pennsylvania Bulletin).

((c) added July 21, 1983, P.L.68, No.30)

Compiler's Note: Section 18(8) of Act 60 of 2012, which amended subsec. (a), provided that the amendment of subsec. (a) shall apply to benefit years that begin on or after the effective date of section 804.

Section 805. Periodic Spot Checks.--For the enforcement of this act or any rule and regulation issued under the authority thereof the department is hereby empowered, and it shall be its duty, to conduct such periodic spot checks and investigations as will disclose with reasonable certainty whether or not compensation benefits have been paid to persons not legally entitled thereto or as will disclose violations of this act and to take such steps and adopt such means as may reasonably be necessary to enforce the provisions of this act. The conduct of such spot checks and investigations and all legal proceedings arising therefrom shall be under the supervision and direction of the Attorney General of the Commonwealth, and the expenses thereof and in connection therewith are hereby declared to be administrative expenses to be paid from the Administrative Fund.

(805 added Apr. 23, 1942, Sp. Sess., P.L.60, No.23)

ARTICLE IX SAVING CLAUSE; REPEALS; EFFECTIVE DATE

Section 901. Saving Clause.--The General Assembly reserves the right to amend or repeal all or any part of this act at any time, and there shall be no vested right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this act, or by acts done pursuant thereto, shall exist subject to the power of the General Assembly to amend or repeal this act at any time.

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Section 902. Repeals.--All acts or parts of acts inconsistent herewith are hereby repealed.

Section 903. Effective Date.--This act shall become effective immediately upon its final enactment.

ARTICLE X BENEFITS TO EMPLOYEES OF THE COMMONWEALTH

(Article Heading added Sep. 27, 1971, P.L.460, No.108)

Compiler's Note: Article X entitled "Termination of Compensation Rights" with one Section 1001 was added June 20, 1939 (P.L.458, No.261). Only Section 1001 was repealed May 23, 1949 (P.L.1738, No.530).

Section 1001. State Employees.--Notwithstanding any other provisions of this act, the Commonwealth of Pennsylvania and all its departments, bureaus, boards, agencies, commissions and authorities shall be deemed to be an employer and services performed in the employ of the Commonwealth and all its departments, bureaus, boards, agencies, commissions and authorities shall be deemed to constitute State employment subject to this act with the exceptions hereinafter set forth in section 1002. Except as herein provided, all other provisions of this act shall continue to be applicable in connection herewith.

The term "authorities" as used in this section means those authorities instituted as separate governmental entities at the State Government level, the governing boards of which are Commonwealth officials or their appointees.

(1001 amended Dec. 22, 1977, P.L.353, No.107)

Section 1002. Services Excluded from "Employment."--Except for services performed in the employ of a hospital or institution of higher education not otherwise excluded in this act, for the purposes of this article the term "employment" shall not include services performed by:

- (1) Elected officials.
- (2) ((2) deleted July 6, 1977, P.L.41, No.22)
- (3) ((3) deleted July 6, 1977, P.L.41, No.22)
- (4) Inmates of custodial or penal institutions who receive compensation for services rendered therein.

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- (5) All department heads and members of boards and commissions, appointed by the Governor with or without the consent of one or both branches of the General Assembly.
- (6) Members of a legislative body, or members of the judiciary, of the Commonwealth or a political subdivision.
- (7) Individuals employed as part of any unemployment work-relief or work-training program assisted or financed in whole or in part by any Federal agency or an agency of a State or political subdivision thereof, by an individual receiving such work relief or work training.
- (8) Members of the State National Guard or Air National Guard.
- (9) Students employed as defined in section 4(l)(4)(10)(B) and (C).
- (10) Employees serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency.
- (11) Individuals serving in positions which, under or pursuant to the laws of this Commonwealth, are designated as (i) a major nontenured policymaking or advisory position; or (ii) a policymaking position the performance of the duties of which ordinarily does not require more than eight hours per week.

(1002 amended July 6, 1977, P.L.41, No.22)

Section 1003. Contributions.--

- (a) In lieu of contributions required to be paid by employers under this act, the Commonwealth of Pennsylvania shall pay into the Unemployment Compensation Fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, (after December 31, 1978 the full amount of extended benefits paid) that is attributable to service in the employ of the Commonwealth and all its departments, bureaus, boards, agencies, commissions and authorities.
- (b) The amount which the Commonwealth shall pay into the Unemployment Compensation Fund, as hereinabove set forth, shall be computed by the department and reported quarterly to the State Treasurer who shall thereupon pay such amount from the General Fund of the Commonwealth, upon approval thereof in accordance with the law then in effect, except that to the

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extent that compensation is paid on the basis of wages paid by an authority of the Commonwealth from its funds such authority shall pay such amount into the Unemployment Compensation Fund from its own funds.

- (c) Past due payments of amounts in lieu of contributions, or reports with respect thereto, shall be subject to the same interest and penalties that, pursuant to section 308 apply to past due contributions and section 206 apply to past due reports.

(1003 amended July 21, 1983, P.L.68, No.30)

ARTICLE XI EMPLOYES OF NONPROFIT ORGANIZATIONS (Article Heading added Sept. 27, 1971, P.L.460, No.108)

Section 1101. Nonprofit Organization Defined.--A nonprofit organization is a religious, charitable, educational or other organization or group of such organizations described in section 501 (c) (3) of the Federal Internal Revenue Code of 1954, as amended, which is exempt from income tax under section 501 (a) of said code.

(1101 added Sept. 27, 1971, P.L.460, No.108)

Section 1102. Employment by Nonprofit Organizations.--Service performed by an individual in the employ of a nonprofit organization shall constitute "employment" for all purposes of this act unless excluded by the provisions of section 4 (l) (4) (8) of this act. Remuneration received therefor shall constitute "wages" subject to the contribution provisions of this act.

(1102 amended July 6, 1977, P.L.41, No.22)

Section 1103. Liability for Contributions.--

- (a) Any nonprofit organization which is or becomes subject to this act shall pay contributions on remuneration paid by it for employment under the provisions of sections 301, 301.1, 301.2 or 301.6 of this act, as the case may be, unless an election is made to pay on a reimbursement basis as provided in section 1104.

(a) amended July 21, 1983, P.L.68, No.30)

- (b) The department may choose the method of financing unemployment compensation, either contributory or reimbursement, for any non-profit

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organization under this article which is, or becomes subject to, this act and fails to comply with the reporting requirements of the act.

- (c) The determination of the department shall become conclusive and binding upon the employer for a period of not less than two taxable years unless:
 - (1) within thirty (30) days after the mailing of notice of the determination to the employer, the employer appeals such determination, and
 - (2) the employer has satisfactorily complied with the reporting requirements of the method of financing selected by the employer.

(1103 amended July 10, 1980, P.L.521, No.108)

Section 1104. Election of Reimbursement.--

- (a) Any nonprofit organization which, on or after January 1, 1972, is or becomes liable to the contribution provisions of this act may, in lieu of payment of such contributions, elect to pay to the department for the Unemployment Compensation Fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization. Such employer shall continue to be liable for reimbursement of benefit payments based on wages paid prior to the termination date of such election.
- (b) Such election shall be for a period of not less than two taxable years unless sooner terminated by the department as hereinafter provided.

(1104 amended July 6, 1977, P.L.41, No.22)

Section 1105. Method of Election.--

- (a) Any nonprofit organization which is or becomes subject to this act on January 1, 1972 may exercise its election under the provisions of section 1104 of this act by filing with the department a written notice of such election within the thirty-day period following such date.
- (b) Any nonprofit organization which becomes subject to this act subsequent to January 1, 1972, may exercise its election under section 1104 of this act by filing a written notice thereof with the department within the thirty-day

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period immediately following the date of the determination of such subjectivity by the department.

- (c) Any nonprofit organization paying contributions under this act for a period subsequent to January 1, 1972, may exercise its election under section 1104 of this act by filing a written notice thereof with the department not later than thirty days prior to the beginning of any taxable year.
- (d) The department may for good cause extend the period within which a notice of election or a notice of termination must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1971.
- (e) The department, in accordance with such regulations as it may prescribe, shall notify each nonprofit organization of any determination which it may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to reconsideration, appeal and review as provided in section 301 of this act.
- (f) Any nonprofit organization which elects to make payments in lieu of contributions into the Unemployment Compensation Fund as provided in this subsection shall not be liable to make such payments with respect to the benefits paid to any individual whose base period wages include wages for previously uncovered services as defined in section 401(g) to the extent that the Unemployment Compensation Fund is reimbursed for such benefits pursuant to section 121 of Public Law 94-566.

((f) added July 6, 1977, P.L.41, No.22)

(1105 added Sept. 27, 1971, P.L.460, No.108)

Section 1106. Reimbursement Payments.—Payments in lieu of contributions shall be made in accordance with the following provisions of this section.

- (a) At the end of each calendar quarter or at the end of any other period as determined by the department, the department shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for the amount of benefits charged to its account during such quarter or other prescribed period that is attributable to service in the employ of such organization.

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- (b) Payment of any bill rendered under subsection (a) shall be made not later than thirty days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review and redetermination under section 301 of this act.
- (c) Past due payments of amounts in lieu of contributions, or reports with respect thereto, shall be subject to the same interest and penalties that, pursuant to section 308 of this act apply to past due contributions and section 206 of this act apply to past due reports.
- (d) Any nonprofit organization that elects to become liable for payments in lieu of contributions shall be required within thirty (30) days after the effective date of its election, to execute and file with the department a surety bond approved by the department or it may elect instead to deposit with the department money or securities of equal present monetary value.

The amount of the bond or deposit required by the department shall be set at one per centum of the organization's taxable wages for the most recent four calendar quarters prior to such election. If an organization did not pay wages throughout the specific four calendar quarters, the amount of the bond or deposit shall be set by the department. Refunds of deposits shall be made by the department according to appropriate rules and regulations developed by the department relative to termination of election for payments in lieu of contributions or as to delinquencies in payments due.

((d) amended July 9, 1976, P.L.842, No.147)

(1106 added Sept. 27, 1971, P.L.460, No.108)

Section 1107. Termination of Elections.--

- (a) Any nonprofit organization which has made an election pursuant to the provisions of section 1104 and section 1105 may terminate such election by filing with the department a written notice thereof not later than thirty days prior to the beginning of the taxable year for which such termination notice is to be effective. Such action shall be approved by the department only if all payments and reports have been made by such terminating organization as required by the provisions of this act.
- (b) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under section 1106 of this act, the department may terminate such organization's election to make payments in lieu

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of contributions as of the beginning of the next taxable year and such termination shall be effective for that and the next taxable year.

(1107 added Sept. 27, 1971, P.L.460, No.108)

Section 1108. Allocation of Benefit Costs.--If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the Unemployment Compensation Fund by each employer that is liable for such payments shall be determined in accordance with the provisions of this section.

- (a) If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-year wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.
- (b) If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

(1108 added Sept. 27, 1971, P.L.460, No.108)

Section 1109. Group Accounts.--Two or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of section 1104 of this act, may file a joint application with the department for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each application shall identify and authorize a group representative to act as the group's agent for the purposes of this section. Upon its approval of the application, the department shall establish a group account for such employers effective as of the beginning of the calendar quarter in which it receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the department or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each

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calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bear to the total wages paid during such quarter for services performed in the employ of all members of the group. The department shall prescribe such regulations as it deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this section, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this section by members of the group and the time and manner of such payments.

(1109 added Sept. 27, 1971, P.L.460, No.108)

Section 1110. No Offset of Benefits.--Payments made by any nonprofit organization under the provisions of this article shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(1110 added Sept. 27, 1971, P.L.460, No. 108)

ARTICLE XII

EMPLOYES OF POLITICAL SUBDIVISIONS

(Article Heading added Sept. 27, 1971, P.L.460, No.108)

Section 1201. Political Subdivision Employees.--

- (a) Service performed after December 31, 1977, in the employ of any of the instrumentalities or any political subdivision of this Commonwealth or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality which is jointly owned by this Commonwealth or a political subdivision thereof and one or more other states or political subdivisions of this or other states provided that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act by section 3306(c)(7) of that act and is not excluded from "employment" under section 4(l)(4) of this act, shall be deemed to constitute employment subject to this act with the exceptions hereinafter set forth in section 1201(b).
- (b)
 - (1) Elected officials.
 - (2) Inmates of custodial or penal institutions who receive compensation for services rendered therein.

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- (3) All department heads and members of boards and commissions, appointed by the Governor with or without the consent of one or both branches of the General Assembly.
 - (4) Members of a legislative body, or members of the judiciary, of the Commonwealth or a political subdivision.
 - (5) Individuals employed as part of any unemployment work-relief or work-training program assisted or financed in whole or in part by any Federal agency or an agency of a State or political subdivision thereof, by an individual receiving such work relief or work training.
 - (6) Students employed as defined in section 4(1)(4)(10)(B) and (C).
 - (7) Members of the State National Guard or Air National Guard.
 - (8) Employes serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency.
 - (9) Individuals serving in positions which, under or pursuant to the laws of this Commonwealth, are designated as
 - (i) a major nontenured policymaking or advisory position, or
 - (ii) a policymaking position the performance of the duties of which ordinarily does not require more than eight hours per week.
 - (c) An authority instituted by a borough, city, county, school district, town or township, or by two or more of such subdivisions of the Commonwealth, as a separate governmental entity at the local government level shall be deemed, for purposes of this article, a separate political subdivision.
- ((c) added Dec. 22, 1977, P.L.353, No.107)

(1201 amended July 6, 1977, P.L.41, No.22)

Section 1202. Contributions.--(1202 deleted July 6, 1977, P.L.41, No.22)

Section 1202.1. Liability for Contributions.--Any political subdivision of the Commonwealth or any instrumentality of any one or more thereof, which is or becomes subject to this act shall pay contributions on remuneration paid by it for

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employment under the provisions of section 301, 301.1, 301.2 or 301.6, as the case may be, unless an election is made to pay on a reimbursement basis as hereinafter provided.

(1202.1 amended July 21, 1983, P.L.68, No.30)

Section 1202.2. Election of Reimbursement.--

- (a) Any political subdivision of the Commonwealth or any instrumentality of one or more thereof, which on or after January 1, 1978 and prior to January 1, 1979 is or becomes liable to the contribution provisions of the act may, in lieu of payment of such contributions, elect to pay to the department for the Unemployment Compensation Fund, an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, (after December 31, 1978 the full amount of extended benefits paid) that is attributable to service in the employ of such political subdivision of the Commonwealth or any instrumentality of one or more thereof. Such employer shall continue to be liable for reimbursement of benefit payments based on wages paid prior to the termination date of such election.
- (b) Such election shall be for a period of not less than two taxable years unless sooner terminated by the department as hereinafter provided.

(1202.2 added July 6, 1977, P.L.41, No.22)

Section 1202.3. Method of Election.--

- (a) Any political subdivision of the Commonwealth or any instrumentality of any one or more thereof, which is or becomes subject to this act prior to January 1, 1978, may exercise its election under the provisions of section 1202.2 by filing with the department a written notice of such election within the thirty-day period following such date.
- (b) Any political subdivision of the Commonwealth or any instrumentality of any one or more thereof, which becomes subject to this act on or subsequent to January 1, 1978, may exercise its election under section 1202.2 by filing a written notice thereof with the department within the thirty-day period immediately following the date of the determination of such subjectivity by the department.

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- (c) Any political subdivision of the Commonwealth or any instrumentality of any one or more thereof, paying contributions under this act for a period subsequent to January 1, 1978, may exercise its election under section 1202.2 by filing a written notice thereof, with the department not later than thirty days prior to the beginning of any taxable year.
- (d) The department may for good cause extend the period within which a notice of election or a notice of termination must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1977.
- (e) The department, in accordance with such regulations as it may prescribe, shall notify each political subdivision of the Commonwealth or any instrumentality of any one or more thereof, of any determination which it may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to reconsideration, appeal and review as provided in section 301.

(1202.3 added July 6, 1977, P.L.41, No.22)

Section 1202.4. Reimbursement Payments.--Payments in lieu of contributions shall be made in accordance with the following provisions of this section.

- (a) At the end of each calendar quarter or at the end of any other period as determined by the department, the department shall bill each political subdivision of the Commonwealth or any instrumentality of any one or more thereof (or group of political entities) which has elected to make payments in lieu of contributions for the amount of benefits charged to its account during such quarter or other prescribed period that is attributable to service in the employ of such organization.
- (b) Payment of any bill rendered under subsection (a) shall be made not later than thirty days after such bill was mailed to the last known address of the political subdivision or any instrumentality of any one or more thereof, or was otherwise delivered to it, unless there has been an application for review and redetermination under section 301.
- (c) Past due payments of amounts in lieu of contributions, or reports with respect thereto, shall be subject to the same interest and penalties that, pursuant to section 308 apply to past due contributions and section 206 apply to past due reports.

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(1202.4 added July 6, 1977, P.L.41, No.22)

Section 1202.5. Termination of Elections.--

- (a) Any political subdivision of the Commonwealth or any instrumentality of any one or more thereof, which has made an election pursuant to the provisions of sections 1202.1 and 1202.2 may terminate such election by filing with the department a written notice thereof not later than thirty days prior to the beginning of the taxable year for which such termination notice is to be effective. Such action shall be approved by the department only if all payments and reports have been made by such terminating organization as required by the provisions of this act.

- (b) If any political subdivision of the Commonwealth or any instrumentality of any one or more thereof, is delinquent in making payments in lieu of contributions as required under section 1202.4, the department may terminate such election to make payments in lieu of contributions as of the beginning of the next taxable year and such termination shall be effective for that and the next taxable year.

(1202.5 added July 6, 1977, P.L.41, No.22)

Section 1203. Allocation; Group Accounts.--The provisions of section 1108 and section 1109 of this act are applicable to payments made by political subdivisions or instrumentalities thereof.

(1203 added Sept. 27, 1971, P.L.460, No.108)

Section 1204. No Offset of Benefits.--Payments made by a political subdivision or instrumentality thereof under the provisions of this article shall not be deducted in whole or in part from the remuneration of individuals in the employ of the political subdivision or instrumentality.

(1204 added Sept. 27, 1971, P.L.460, No.108)

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ARTICLE XIII SHARED-WORK PROGRAM (Art. added June 20, 2011, P.L.16, No.6)

Section 1301. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Affected unit.” A department, shift or other organizational unit of two or more employees that is designated by an employer to participate in a shared-work plan.

“Approved shared-work plan.” An employer’s shared-work plan which meets the requirements of section 1303 and which the department approves in writing.

“Fringe benefit.” (Def. deleted by amendment)

“Participating employee.” An employee in the affected unit whose hours of work are reduced by the reduction percentage under the shared-work plan.

“Participating employer.” An employer who has a shared-work plan in effect.

“Reduction percentage.” The percentage by which each participating employee’s normal weekly hours of work are reduced under a shared-work plan in accordance with section 1303(b).

“Shared-work plan.” A plan for reducing unemployment under which participating employees of an affected unit share the work remaining after reduction in their normal weekly hours of work.

(1301 amended Oct. 23, 2013, P.L.637, No.75)

Section 1302. Application to approve shared-work plan.

- (a) Requirements.--An employer that meets all of the following requirements may apply to the department for approval of a shared-work plan:
 - (1) The employer has filed all quarterly reports and other reports required under this act and has paid all contribution, reimbursement, interest and penalty due through the date of the employer’s application.
 - (2) If the employer is contributory, the employer’s reserve account balance as of the most recent computation date preceding the date of

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the employer's application is a positive number.

- (3) The employer has paid wages for the 12 consecutive calendar quarters preceding the date of the employer's application.
- (b) Application.--An application under this section shall be made in the manner prescribed by the department and contain all information required by the department, including the following:
- (1) The employer's written plan, describing the manner in which the requirements of this article will be implemented, including a plan for giving advance notice, where feasible, to participating employees whose hours of work are reduced, an estimate of the number of layoffs that would have occurred in the absence of the employer's shared-work plan and other information required by the department and the United States Department of Labor.
 - (1.1) The employer's assurance that it will provide reports to the department relating to the operation of its shared-work plan at the times and in the manner prescribed by the department and containing all information required by the department, including the number of hours worked each week by participating employees.
 - (2) The employer's assurance that it will not hire new employees in or transfer employees to the affected unit during the effective period of the shared-work plan.
 - (3) The employer's assurance that it will not lay off participating employees during the effective period of the shared-work plan, or reduce participating employees' hours of work by more than the reduction percentage during the effective period of the shared-work plan, except in cases of holidays, designated vacation periods, equipment maintenance or similar circumstances.
 - (4) A list of the week or weeks within the requested effective period of the shared-work plan during which participating employees are anticipated to work fewer hours than the number of hours determined under section 1303(a)(5) due to circumstances included in paragraph (3).
 - (5) The employer's certification that the implementation of a shared-work plan is in lieu of layoffs that would affect at least 10% of the

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employees in the affected unit and would result in an equivalent reduction in work hours.

- (6) The employer's assurance that it will abide by all terms and conditions of this article.
- (7) The employer's attestation that its implementation of the shared-work plan is consistent with the employer's obligations under Federal and State law.
- (8) If the employer provides health benefits and retirement benefits under a defined benefit plan as defined in section 414(j) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 414(j)), or contributions under a defined contribution plan as defined in section 414(i) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 414(i)), to a participating employee whose hours of work are reduced under the shared-work plan, the employer's certification that the benefits will continue to be provided to participating employees under the same terms and conditions as though the hours of work of the employees had not been reduced or to the same extent as other employees not participating in the shared-work plan.

- (c) Multiple shared-work plans.--An employer may apply to the department for approval of more than one shared-work plan.

(1302 amended Oct. 23, 2013, P.L.637, No.75)

Section 1303. Shared-work plan requirements.

- (a) General rule.--The department may approve a shared-work plan only if the plan meets all of the following requirements:
 - (1) The shared-work plan applies to one affected unit.
 - (2) All employees in the affected unit are participating employees, except that the following employees may not be participating employees:
 - (i) An employee who has been employed in the affected unit for less than three months prior to the date the employer applies for approval of the shared-work plan.

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- (i) An employee in the affected unit who is employed on a seasonal, temporary or intermittent basis.
 - (ii) An employee whose hours of work per week determined under paragraph (5) is 40 or more hours.
- (3) There are no fewer than two participating employees, determined without regard to corporate officers.
 - (4) The participating employees are identified by name and Social Security number.
 - (5) The number of hours a participating employee will work each week during the effective period of the shared-work plan is determined by the following formula:

employee's normal weekly hours of
work x (100% - reduction percentage)
 - (6) As a result of a decrease in the number of hours worked by each participating employee, there is a corresponding reduction in wages.
 - (7) If any participating employee is covered by a collective bargaining agreement, the shared-work plan is approved in writing by the collective bargaining representative.
 - (8) ((8) deleted by amendment)
 - (9) The effective period of the shared-work plan is not more than 52 consecutive weeks.
 - (10) The effective period of the shared-work plan combined with effective periods of the participating employer's prior shared-work plans does not equal more than 104 weeks out of a 156-week period.
 - (11) The reduction percentage satisfies the requirements of subsection (b).
- (b) Reduction percentage.--The reduction percentage under an approved shared-work plan shall meet all of the following requirements:
 - (1) The reduction percentage shall be no less than 20% and no more than 40%.

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- (2) The reduction percentage shall be the same for all participating employees.
- (3) The reduction percentage shall not change during the period of the shared-work plan unless the plan is modified in accordance with section 1308.

(1303 amended Oct. 23, 2013, P.L.637, No.75)

Section 1304. Approval or disapproval of shared-work plan.

The department shall approve or disapprove a shared-work plan no later than 15 days after the date the employer's shared-work plan application that meets the requirements of section 1302(b) is received by the department. The department's decision shall be made in writing and, if the shared-work plan is disapproved, shall include the reasons for the disapproval.

(1304 added June 20, 2011, P.L.16, No.6)

Section 1305. Effective period of shared-work plan.

- (a) Number of weeks.--A shared-work plan is effective for the number of consecutive weeks indicated in the employer's application, or a lesser number of weeks as approved by the department, unless sooner terminated in accordance with section 1309.
- (b) Start date.--The effective period of the shared-work plan shall begin with the first calendar week following the date on which the department approves the plan.

(1305 added June 20, 2011, P.L.16, No.6)

Section 1306. Criteria for compensation.

- (a) General rule.--Compensation shall be payable to a participating employee for a week within the effective period of an approved shared-work plan during which the employee works the number of hours determined under section 1303(a)(5) for the participating employer on the same terms, in the same amount and subject to the same conditions that would apply to the participating employee without regard to this article, except as follows:

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- (1) A participating employee shall not be required to be unemployed within the meaning of section 4(u) or file claims for compensation under section 401(c).
 - (2) Notwithstanding section 404(d)(1), a participating employee shall be paid compensation in an amount equal to the product of his weekly benefit rate and the reduction percentage, rounded to the next lower whole dollar amount.
 - (3) The department shall not deny compensation to a participating employee for any week during the effective period of the shared-work plan by reason of the application of any provision of this act relating to active search for work or refusal to apply for or accept work other than work offered by the participating employer.
 - (4) A participating employee satisfies the requirements of section 401(d)(1) if the employee is able to work and is available for the employee's normal weekly hours of work with the participating employer.
- (b) Equivalent remuneration.--For purposes of subsection (a), if a participating employee works fewer hours than the number of hours determined under section 1303(a)(5) for the participating employer during a week within the effective period of the approved shared-work plan but receives remuneration equal to remuneration the employee would have received if the employee had worked the number of hours determined under section 1303(a)(5), the employee will be deemed to have worked the number of hours determined under section 1303(a)(5) during that week.
- (c) Inapplicability of article.--A participating employee's eligibility for compensation for a week within the effective period of an approved shared-work plan shall be determined without regard to this article under any of the following circumstances:
- (1) The employee works fewer hours than the number of hours determined under section 1303(a)(5) for the participating employer during the week and subsection (b) does not apply.
 - (2) The employee works more hours than the number of hours determined under section 1303(a)(5) for the participating employer during the week.

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- (3) The employee receives remuneration for the week from the participating employer for hours in excess of the number of hours determined under section 1303(a)(5).

(1306 added June 20, 2011, P.L.16, No.6)

Section 1307. Participating employer responsibilities.

- (a) **Filing claims.**--The department shall establish a schedule of consecutive two-week periods within the effective period of the shared-work plan. The department may, as necessary, include one-week periods in the schedule and revise the schedule. At the end of each scheduled period, the participating employer shall file claims for compensation for the week or weeks within the period on behalf of the participating employees. The claims shall be filed no later than the last day of the week immediately following the period, unless an extension of time is granted by the department for good cause. The claims shall be filed in the manner prescribed by the department and shall contain all information required by the department to determine the eligibility of the participating employees for compensation.
- (b) **Benefit charges.**--Notwithstanding any other provision of this act, compensation paid to participating employees for weeks within the effective period of an approved shared-work plan will be charged to the participating employer.

(1307 added June 20, 2011, P.L.16, No.6)

Section 1308. Modification of an approved shared-work plan.

An employer may apply to the department for approval to modify an approved shared-work plan to meet changed conditions. The department shall reevaluate the plan and may approve the modified plan if it meets the requirements for approval under section 1303. If the modifications cause the shared-work plan to fail to meet the requirements for approval, the department shall disapprove the proposed modifications.

(1308 added June 20, 2011, P.L.16, No.6)

Section 1309. Termination of approved shared-work plan.

- (a) **General rule.**--The secretary may terminate an approved shared-work plan for good cause.

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- (b) Good cause.--For purposes of subsection (a), good cause includes any of the following:
- (1) The approved shared-work plan is not being executed according to its approved terms and conditions.
 - (2) The participating employer fails to comply with the assurances given in the approved shared-work plan.
 - (3) The participating employer or a participating employee violates any criteria on which approval of the shared-work plan was based.
- (c) Termination by employer.--The employer may terminate an approved shared-work plan by written notice to the department.

(1309 added June 20, 2011, P.L.16, No.6)

Section 1310. Department discretion.

The decision to approve or disapprove a shared-work plan, to approve or disapprove a modification of an approved shared-work plan or to terminate an approved shared-work plan will be made within the department's discretion. Such decisions are not subject to the appeal provisions of Article V.

(1310 added June 20, 2011, P.L.16, No.6)

Section 1311. Publication of notice.

The department shall transmit to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin notice that the provisions of this article have been approved by the United States Department of Labor as required under section 3304(a)(4)(E) of the Federal Unemployment Tax Act (Public Law 86-778, 26 U.S.C. § 3304(a)(4)(E)) and section 303(a)(5) of the Social Security Act (49 Stat. 620, 42 U.S.C. § 503(a)(5)).

(1311 added June 20, 2011, P.L.16, No.6)

Section 1312. Severability.

Notwithstanding any other section of this act, if any provision or provisions of this article cause the United States Department of Labor to withhold approval of this article as required under section 3304(a)(4)(E) of the Federal Unemployment Tax Act (Public Law 86-778, 26 U.S.C. § 3304(a)(4)(E)) and section 303(a)(5) of the Social

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Security Act (49 Stat. 620, 42 U.S.C. § 503(a)(5)), the department is authorized to permanently suspend the provision or provisions.

(1312 added June 20, 2011, P.L.16, No.6)

Section 1313. Expiration. (1313 deleted by amendment Oct. 23, 2013, P.L.637, No.75)

ARTICLE XIV

UNEMPLOYMENT COMPENSATION BONDS

(Art. XIV added June 12, 2012, P.L.577, No.60)

Section 1401. Definitions.

The following words and phrases, when used in this article, shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Authority.” The Pennsylvania Economic Development Financing Authority.

“Bond.” Any type of revenue obligation, including a bond or series of bonds, note, certificate or other instrument, issued by the authority for the benefit of the department under this article.

“Bond administrative expenses.” Expenses incurred to administer bonds as provided under the act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law, or as otherwise necessary to ensure compliance with applicable Federal or State law.

“Bond obligations.” The principal of a bond and any premium and interest payable on a bond, together with any amount owed under a related credit agreement or a related resolution of the financing authority authorizing a bond.

“Credit agreement.” A loan agreement, a revolving credit agreement, an agreement establishing a line of credit, a letter of credit or another agreement that enhances the marketability, security or creditworthiness of a bond.

“Debt Service Fund.” The fund established under section 601.2.

“Federal advances.” Loans by the Federal Government to the Commonwealth for the payment of compensation under Title XII of the Social Security Act (58 Stat. 790, 42 U.S.C. § 1321 et seq.) or any similar Federal law.

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“Financing Law.” The act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law.

(1401 added June 12, 2012, P.L.577, No.60)

Section 1402. Bond issuance.

- (a) Declaration of policy.--The General Assembly finds and declares that funding the payment of compensation or the repayment of previous Federal advances, including interest, through the authority, is in the best interest of the Commonwealth.
- (b) Authority.--Notwithstanding any other law, the following shall apply:
 - (1) The department may be a project applicant under the Financing Law and may apply to the authority for the funding of compensation or repayment of Federal advances and interest due on them.
 - (2) The funding of compensation or repayment of Federal advances and interest due on them shall constitute a project for purposes of the Financing Law.
 - (3) The authority may issue bonds under the Financing Law, consistent with this article, to finance a project consisting of the funding of compensation or repayment of Federal advances and interest due on them or refunding or redeeming of prior bonds.
 - (4) Participation of an industrial and commercial development authority is not required to finance the payment of compensation or repayment of Federal advances and interest due on them.
- (c) Debt or liability.--
 - (1) Bonds issued under this article shall not be a debt or liability of the Commonwealth and shall not create or constitute any indebtedness, liability or obligation of the Commonwealth.
 - (2) Bond obligations and bond administrative expenses shall be payable solely from revenues or funds pledged or available for their repayment as authorized in this article. This paragraph includes the proceeds of any issuance of bonds.

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- (3) Each bond must contain on its face a statement that:
 - (i) the authority is obligated to pay the principal of the bond or the interest on the bond only from funds made available under this article;
 - (ii) neither the Commonwealth nor a political subdivision is obligated to pay the principal or interest; and
 - (iii) the full faith and credit of the Commonwealth is not pledged to the payment of the principal of or the interest on the bonds.

(1402 added June 12, 2012, P.L.577, No.60)

Section 1403. Criteria for bond issuance.

- (a) Determination.--If the department reasonably expects that the issuance of bonds to obtain funds to pay compensation or to repay Federal advances, including interest, would result in a savings to employers in this Commonwealth, as an alternative to borrowing by means of Federal advances or repayment of the Federal advances and interest by other means, the department, with approval by the Office of the Budget, may apply to the authority to issue bonds for its benefit under section 1402(b).
- (b) Terms.--
 - (1) The department, with the approval of the Office of the Budget, shall specify in its application to the authority:
 - (i) the maximum principal amount of the bonds for each separate bond issue; and
 - (ii) the maximum term of the bonds, not to exceed 20 years.
 - (2) The total principal amount of bonds outstanding under this article for all bond issues may not exceed \$4,500,000,000.

(1403 added June 12, 2012, P.L.577, No.60)

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Section 1404. Issuance of bonds and security.

- (a) Issuance.--The authority shall consider issuance of bonds upon application by the department. Bonds issued under this article shall be subject to the provisions of the Financing Law, unless otherwise specified by this article.
- (b) Agreements.--The authority and the department may enter into loan agreements, credit agreements, bond purchase agreements and other contracts, instruments and agreements in connection with the bonds in order to effectuate the purposes of the Financing Law and this article.
- (c) Security.--The bond obligations and bond administrative expenses are secured, for the benefit of the holders of the bonds and the obligees under any agreements in subsection (b), by pledge of, security interest in and first lien on all of the following:
 - (1) Additional contributions collected under section 301.6.
 - (2) Moneys on deposit in the Debt Service Fund. This paragraph includes all investment income on those moneys.
 - (3) All moneys relating to the bonds held on deposit in any other fund or account under an instrument or agreement pertaining to the bonds. This paragraph includes bond reserves and interest income on the moneys.

The security provided in this subsection does not apply to moneys in any fund or account related to arbitrage rebate obligations.

(1404 added June 12, 2012, P.L.577, No.60)

Section 1405. Sale of bonds.

The sale of bonds issued under this article shall be subject to the following:

- (1) The authority shall give first consideration to issuing the bonds by means of a public, competitive sale at not less than 98% of the principal amount and accrued interest to the highest bidders. The authority shall publicly advertise the sale. The manner and times of advertising shall be prescribed by the authority.

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- (2) If, in the judgment of the authority, a public, competitive sale will not produce the most benefit to employers and the Commonwealth, the authority shall adopt a resolution setting forth in detail the reasons for this determination. A copy of the resolution shall be transmitted to the Governor, the chairman and minority chairman of the Labor and Industry Committee of the Senate and the chairman and minority chairman of the Labor and Industry Committee of the House of Representatives. After adoption of the resolution, the authority shall have the option to pursue a negotiated sale.

(1405 added June 12, 2012, P.L.577, No.60)

Section 1406. Use of bond proceeds.

- (a) Order.--Upon issuance of bonds, the proceeds shall be applied in the following order:
 - (1) pay the costs of issuance of the bonds;
 - (2) fund bond reserves;
 - (3) deposit in an appropriate fund moneys to pay capitalized interest on the bonds for the period determined by the department, not to exceed two years;
 - (4) refund outstanding bonds, if applicable;
 - (5) make any other deposit required under any instrument or agreement pertaining to the bonds;
 - (6) repay the principal and interest of Federal advances; and
 - (7) deposit any balance into an unemployment compensation program fund under any instrument or agreement relating to the bonds.
- (b) Application of balance.--The bond proceeds deposited under subsection (a) (7) shall be applied as directed by the department to do one or more of the following:
 - (1) Repay the principal and interest of previous Federal advances.
 - (2) Pay unemployment compensation benefits.

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- (3) Pay bond administrative expenses.
- (4) Redeem or purchase outstanding bonds.
- (5) Pay bond obligations.

(1406 added June 12, 2012, P.L.577, No.60)

Section 1407. Payment of bond-related obligations.

- (a) Notification.--For each calendar year in which bond obligations and bond administrative expenses will be due, the authority shall notify the department of the amount of bond obligations and the estimated amount of bond administrative expenses in sufficient time, as determined by the department, to permit the department to determine the amount of additional contributions under section 301.6 required for that year, for deposit into the Debt Service Fund. The authority's calculation of the amount of bond obligations and bond administrative expenses that will be due is subject to verification by the department.
- (b) Transfer.--Moneys in the Debt Service Fund that are needed to pay bond obligations and bond administrative expenses or to replenish bond reserves shall be transferred to the authority to ensure timely payment of bond obligations and bond administrative expenses and timely replenishment of bond reserves under any instrument or agreement related to the bonds.
- (c) Deficiency in Debt Service Fund.--If there is a deficiency in the Debt Service Fund and to the extent permitted by law, that part of the principal owed on bonds which is attributable to repayment of the principal of advances under Title XII of the Social Security Act (58 Stat. 790, 42 U.S.C. § 1321 et seq.), exclusive of interest or administrative costs associated with the bonds, may be paid from the Unemployment Compensation Fund.

(1407 added June 12, 2012, P.L.577, No.60)

Section 1408. Commonwealth not to impair bond-related obligations.

The Commonwealth pledges that it shall not do any of the following:

- (1) Limit or alter the rights and responsibilities of the authority or the department under this article, including the responsibility to:

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- (i) pay bond obligations and bond administrative expenses; and
 - (ii) comply with any other instrument or agreement pertaining to bonds.
- (2) Alter or limit the security interest granted in section 1404(c).
 - (3) Impair the rights and remedies of the holders of bonds, until all bonds at any time issued, together with the interest thereon, are fully met and discharged.

(1408 added June 12, 2012, P.L.577, No.60)

Section 1409. No personal liability.

The members, directors, officers and employees of the department and the authority are not personally liable as a result of good faith exercise of the rights and responsibilities granted under this article.

(1409 added June 12, 2012, P.L.577, No.60)

Section 1410. Expiration.

The authority to issue bonds other than refinancing and refunding bonds under sections 1402 and 1404 shall expire December 31, 2016.

(1410 added June 12, 2012, P.L.577, No.60)

Section 1411. Annual report required.

No later than March 1 of the year following the first full year in which bonds have been issued under this article and for each year thereafter in which bond obligations existed in the prior year, the department shall submit an annual report to the chairman and minority chairman of the Labor and Industry Committee of the Senate and to the chairman and minority chairman of the Labor and Industry Committee of the House of Representatives providing all data available on bonds issued or existing in the prior year. The report shall include, but not be limited to, existing and anticipated bond principal, interest and administrative costs, revenue, repayments, refinancing, overall benefits, including any savings to employers and any other relevant data, facts and statistics that the department believes necessary in the content of the report.

(1411 added June 12, 2012, P.L.577, No.60)

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ARTICLE XV UNEMPLOYMENT COMPENSATION AMNESTY PROGRAM

(Art. XV added June 12, 2012, P.L.577, No.60)

Section 1501. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Amnesty period.” The period of three consecutive calendar months designated by the Department of Labor and Industry that commences no later than 360 days after the effective date of this section.

“Employee information.” The name and Social Security number of each employee, the amount of wages paid to each employee and the number of credit weeks for each employee in each calendar quarter.

“Interest.” Monetary obligations imposed under sections 308 and 804(a).

“Penalties.” Monetary obligations imposed under sections 206(d) and 313.

“Penalty weeks.” Weeks for which an individual is disqualified from receiving compensation under section 801(b).

“Program.” The Unemployment Compensation Amnesty Program established under this article.

(1501 added June 12, 2012, P.L.577, No.60)

Section 1502. Program established.

There is established an Unemployment Compensation Amnesty Program in accordance with the provisions of this article.

(1502 added June 12, 2012, P.L.577, No.60)

Section 1503. Applicability.

- (a) Employer liabilities.--Except as provided in subsections (c) and (d), the program shall apply to the following unemployment compensation employer liabilities:

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- (1) Unpaid contributions due for calendar quarters through the first quarter of 2012, for which the employer reported the employee information or the department acquired the employee information through an audit.
 - (2) Unpaid contributions due for calendar quarters through the first quarter of 2012, for which the employer did not report the employee information and the department did not acquire the employee information through an audit.
 - (3) Unpaid reimbursement due on or before April 30, 2012.
 - (4) Unpaid interest due on contributions paid late for calendar quarters through the first quarter of 2012 or on reimbursement that was due on or before April 30, 2012, and was paid late.
 - (5) Unpaid penalties due for reports filed late for calendar quarters through the first quarter of 2012.
- (b) Claimant liabilities.--Except as provided in subsections (c) and (d), the program shall apply to the following unemployment compensation claimant liabilities:
- (1) A fault overpayment of compensation under section 804(a) established pursuant to a notice of determination of overpayment issued by the department on or before June 30, 2012, to the extent repayment has not occurred.
 - (2) A nonfault overpayment of compensation under section 804(b)(1) established pursuant to a notice of determination of overpayment issued by the department on or before June 30, 2012, to the extent repayment has not occurred.
 - (3) Compensation paid to a claimant for calendar weeks through the week ending June 30, 2012, for which the department has not issued a notice of determination of overpayment, but the claimant acknowledges that the compensation was overpaid under circumstances to which section 804(a) applies.
 - (4) Unpaid interest due on an overpayment of compensation under section 804(a) that was repaid on or before June 30, 2012.

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- (c) Excluded liabilities.--The following unemployment compensation liabilities are excluded from the program:
- (1) An overpayment of compensation established pursuant to a notice of determination of overpayment that has not become final.
 - (2) An employer liability for which a petition for reassessment under section 304(b) or an application for review and redetermination of contribution rate under section 301(e)(2) is pending.
- (d) Further exclusions.--The department may exclude the following unemployment compensation liabilities from the program:
- (1) A liability for which a praecipe for a writ of execution was filed prior to receipt of the amnesty form.
 - (2) A liability that was referred for judicial proceedings or for which a judicial proceeding was commenced prior to receipt of the amnesty form.
 - (3) A liability that is required to be paid under an order of a Federal or State court.

(1503 added June 12, 2012, P.L.577, No.60)

Section 1504. Procedure for participation.

To participate in the program, an employer or a claimant shall do the following:

- (1) During the amnesty period, the employer or claimant shall file an amnesty form with the department containing all information required by the department, including a statement by the employer or claimant acknowledging the provisions of section 1506(f). The form shall be filed in a manner specified in and the filing date of the form shall be determined by guidelines established by the department.
- (2) If an employer is seeking amnesty with regard to a liability described in section 1503(a)(2), the employer shall report the employee information by filing quarterly reports as required by regulations promulgated by the department for all calendar quarters for which the employer did not previously file reports and by filing amended quarterly reports for all calendar quarters for which the employer did

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not file complete reports. The quarterly reports shall accompany the amnesty form.

- (3) The employer or claimant shall pay the amount or amounts required by section 1505. Payment shall accompany the amnesty form.

(1504 added June 12, 2012, P.L.577, No.60)

Section 1505. Required payment and terms of amnesty.

An employer or claimant shall pay the amount or amounts specified in this section that correspond to the liability or liabilities for which amnesty is sought. The department shall grant amnesty as provided in this section and section 1506.

- (1) If an employer is seeking amnesty with regard to unpaid contributions described in section 1503(a)(1) or (2):
 - (i) The employer shall pay all of the unpaid contributions and lien filing costs, if applicable, and one-half of the interest and penalties due.
 - (ii) The department shall waive the remaining interest and penalties due corresponding to the contributions.
- (2) If an employer is seeking amnesty with regard to unpaid reimbursement described in section 1503(a)(3):
 - (i) The employer shall pay all of the unpaid reimbursement and lien filing costs, if applicable, and one-half of the interest due.
 - (ii) The department shall waive the remaining interest due corresponding to the reimbursement.
- (3) If an employer is seeking amnesty with regard to unpaid interest described in section 1503(a)(4):
 - (i) The employer shall pay all of the lien filing costs, if applicable, and one-half of the unpaid interest due.
 - (ii) The department shall waive the remaining unpaid interest due.

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- (4) If an employer is seeking amnesty with regard to unpaid penalties described in section 1503(a)(5):
 - (i) The employer shall pay all of the lien filing costs, if applicable, and one-half of the unpaid penalties due.
 - (ii) The department shall waive the remaining unpaid penalties due.
- (5) If a claimant is seeking amnesty with regard to an overpayment described in section 1503(b)(1) or (3):
 - (i) The claimant shall pay the outstanding balance of the overpayment and lien filing costs, if applicable, and one-half of the interest due.
 - (ii) The department shall waive the remaining interest due and one-half of any previously imposed penalty weeks corresponding to the overpayment that have not been served by the claimant and shall not issue a notice of determination imposing penalty weeks corresponding to the overpayment. If one-half of the unserved penalty weeks is not an even multiple of one, the number of penalty weeks waived shall be rounded to the next lower multiple of one.
- (6) If a claimant is seeking amnesty with regard to an overpayment described in section 1503(b)(2):
 - (i) The claimant shall pay 50% of the outstanding balance of the overpayment.
 - (ii) The department shall waive the remaining balance of the overpayment.
- (7) If a claimant is seeking amnesty with regard to unpaid interest described in section 1503(b)(4):
 - (i) The claimant shall pay all of the lien filing costs, if applicable, and one-half of the interest due.
 - (ii) The department shall waive the remaining unpaid interest due.

(1505 added June 12, 2012, P.L.577, No.60)

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Section 1506. Additional terms and conditions of amnesty.

- (a) General rule.--If a payment plan agreement exists between an employer or claimant and the department for a liability for which the employer or claimant is seeking amnesty, the employer or claimant shall pay the amount or amounts required by section 1505 during the amnesty period in order to receive amnesty, notwithstanding any terms of the agreement to the contrary.
- (b) Proceedings.--The department shall not commence any administrative or judicial proceeding against an employer with regard to any contributions, reimbursement, interest or penalty paid under the program, or any interest or penalties waived under the program. The department shall not commence any administrative or judicial proceeding against a claimant with regard to any overpayment or interest paid under the program or any overpayment or interest waived under the program.
- (c) Liabilities.--If a liability for contributions described in section 1503(a)(2) or liability for an overpayment described in section 1503(b)(3) is disclosed and paid under the program, and the department determines that the liability as disclosed was understated, the department may commence administrative or judicial proceedings and impose interest, penalties and other monetary obligations only with regard to the difference between the liability as disclosed and the correct amount of the liability.
- (d) Construction.--Except as provided in subsection (c), nothing in this article shall be construed to prohibit the department from commencing administrative or judicial proceedings and imposing interest, penalties and other monetary obligations with respect to any liability that is not disclosed under the program or any amount that is not paid under the program.
- (e) Refunds and credits.--An employer or claimant shall not be owed a refund or credit under this article for any amount paid prior to the amnesty period.
- (f) Restrictions.--An employer or claimant may not commence an administrative or judicial proceeding with regard to the amnesty form, any report filed in connection with the program, any liability disclosed under the program or any amount paid under the program, and shall not be owed a refund or credit for any amount paid under the program.

(1506 added June 12, 2012, P.L.577, No.60)

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Section 1507. Duties of department.

- (a) General rule.--The department shall establish guidelines to implement the provisions of this article and publish the guidelines as a notice in the Pennsylvania Bulletin no less than 90 days before the amnesty period begins.
- (b) Publicity.--The department shall publicize the program to maximize awareness of and participation in the program.
- (c) Notification.--The department shall notify all employers and claimants who are known to have liabilities to which the program applies. The notice shall be sent by mail to the employer's or claimant's last known post office address or by electronic transmission, if the employer or claimant has elected to receive communications from the department by that method.

(1507 added June 12, 2012, P.L.577, No.60)

Section 1508. Construction.

Except as expressly provided in this article, this article shall not:

- (1) be construed to relieve any employer, claimant, individual or any entity from filing reports or other documents required by or paying any amounts due under this act;
- (2) affect or terminate any petitions, investigations, prosecutions or any other administrative or judicial proceedings pending under this act; or
- (3) prevent the commencement or further prosecution of any proceedings by the proper authorities of the Commonwealth for violation of any laws or for the assessment, collection or recovery of any amounts due to the Commonwealth under any laws.

(1508 added June 12, 2012, P.L.577, No.60)

Section 1509. Suspension of inconsistent acts.

All acts or parts of acts inconsistent with the provisions of this article are suspended to the extent necessary to carry out the provisions of this article.

(1509 added June 12, 2012, P.L.577, No.60)

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Section 1510. Report required.

Within 240 days of the close of the amnesty period, the department shall submit a report to the chairman and minority chairman of the Labor and Industry Committee of the Senate and the chairman and minority chairman of the Labor and Industry Committee of the House of Representatives detailing all data available on the administration of the program, the cost of the program, amounts recovered from employers and claimants and any relevant facts and statistics that the department believes necessary in the content of the report.

(1510 added June 12, 2012, P.L.577, No.60)

APPENDIX

Supplementary Provisions of Amendatory Statutes

1977, JULY 9, P.L.41, NO.22

Section 14. Should the Federal statute relating to the inclusion of employees of political subdivisions within the State's unemployment compensation laws as a requirement for receiving Federal unemployment funds or loans be declared unconstitutional the provisions added to the Unemployment Compensation Law by this amendatory act are repealed insofar as they relate to political subdivisions and their employees.

Compiler's Note: Act 22 added or amended sections 4, 302, 308.2, 401, 402, 402.1, 402.2, 402.3, 401-A, 601, 704, 705, 1002, 1102, 1104, 1105, 1201, 1202, 1202.1, 1202.2, 1202.3, 1202.4 and 1202.5 of Act 1.

Section 15. This act shall take effect January 1, 1978, except that the amendments to sections 308.1, 401-A and 1104 shall take effect immediately and the provisions of section 401-A shall be retroactive to June 1, 1977.

1979, DECEMBER 12, P.L.503, NO.108

Section 2. This act has been adopted by the General Assembly solely to preclude nonconformity with the Federal Unemployment Tax Act and the accompanying

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loss of some \$700,000,000 annually in Federal unemployment tax credits, for Pennsylvania's private employers due to problems in the public sector, and the loss of some \$125,000,000 annually in administrative funding to the Office of Employment Security. Nothing contained herein shall be construed as an acceptance of the position of the Federal Department of Labor with regard to the issues of denial of benefits to school crossing guards without the establishment of educational service agencies, or the right of the Commonwealth to establish an objective criteria for retroactive payment of benefits to nonprofessional primary or secondary school employes. The General Assembly endorses the appeal filed by the Pennsylvania Department of Justice to contest the Federal interpretation of these issues, as well as any subsequent judicial appeals.

Compiler's Note: Act 108 amended section 402.1 of Act 1.

Section 3. This amendatory act shall be suspended immediately upon the final disposition of such issue by a Federal court of competent jurisdiction which sustains the position of the Commonwealth on such issues.

Section 4. This act shall take effect immediately and shall be retroactive to January 1, 1979.

1981, OCTOBER 22, P.L.301, NO.106

Section 6. This act shall take effect immediately and the following amendments shall apply as follows:

- (1) The amendments made by section 1 of this act shall apply to determinations regarding training under the Trade Act of 1974 that are made after September 30, 1981.
- (2) The amendments made by section 2 of this act shall apply as follows:
 - (i) The amendment made to section 401-A(a) shall apply to weeks beginning after August 13, 1981.
 - (ii) The amendments made to section 401-A(b) and (c) (as redesignated by this act) shall apply to weeks beginning after September 25, 1982.
 - (iii) The amendment made to section 401-A(d)(1) (as redesignated by this act) shall apply for purposes of determining whether

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there are State «on» or «off» indicators for weeks beginning after August 13, 1981. For purposes of making determinations for such weeks, such amendment shall be deemed to be in effect for all weeks whether beginning before, on, or after August 13, 1981.

- (iv) The amendments made to section 401-A(i) shall apply to weeks of unemployment in an extended benefit period with respect to weeks beginning on or after March 31, 1981.
- (3) The amendments made by section 3 of this act shall apply as follows:
- (i) The amendments made to section 402-A shall apply to weeks beginning on or after June 1, 1981.
 - (ii) The amendments made to section 403-A except 403-A(i) shall apply to weeks of unemployment in an extended benefit period with respect to weeks beginning on or after March 31, 1981.
 - (iii) The amendments made to section 403-A(i) shall apply to weeks beginning after September 25, 1982.

* * *

(6) Any overpayments which occur as a result of the retroactive implementation of the amendments contained in this act to sections 401-A(i), 402-A and 403-A (except 403-A(i)) of the Pennsylvania Unemployment Compensation Law shall be established as nonfault nonrecoupable.

Compiler's Note: Act 106 added or amended sections 402, 401-A, 402-A, 403-A, 405-A and 703.1 of Act 1.

2011, JUNE 17, P.L.16, NO.6

Section 9. This act shall apply as follows:

- (1) The amendment or addition of sections 213, 302 and 302.1 of the act, other than section 302.1(c) of the act, shall apply to charges for compensation corresponding to benefit years that begin on and after the effective date of sections 213, 302 and 302.1 of the act.

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- (2) The addition of section 302.1(c)(1) and (2) of the act shall apply to notices of determination regarding eligibility for benefits that are issued on or after the date of implementation of the Department of Labor and Industry's system to provide relief from charges without an employer request, as announced by the Secretary of Labor and Industry in a notice published in the Pennsylvania Bulletin. The addition of section 302.1(c)
- (3) shall apply to relief from charges that is granted on or after such implementation date.

* * *

- (4) The amendment or addition of section 404(d)(1) and (1.1) of the act shall apply to benefit years that begin on or after the effective date of section 404(d)(1) and (1.1).
- (5) The amendment or addition of section 404(d)(1) and (1.1) of the act shall not apply to severance pay agreements that were agreed to by an employer and employee prior to the effective date of section 404(d)(1) and (1.1).
- (6) The amendment of sections 4(g.1) and 404(a) of the act shall apply to benefit years that begin on or after January 1, 2013.
- (7) The amendment of section 404(c) of the act shall apply to benefit years that begin on or after January 1, 2015.

Compiler's Note: Act 6 added or amended sections 4, 213, 302, 302.1, 401, 404, 401-A and 505 and Article XIII of Act 1.