

ASSEMBLY, No. 117

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 6, 1950

By Mr. JONES

Referred to Committee on Unemployment Compensation

AN ACT concerning unemployment compensation, and amending section 43:21-19 of the Revised Statutes, with retroactive effect in respect to certain provisions.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Section 43:21-19 of the Revised Statutes is amended to read as
2 follows:

3 43:21-19. As used in this chapter, unless the context clearly requires
4 otherwise:

5 (a) (1) "Annual payroll" means the total amount of wages payable by
6 an employer for employment during a calendar year ending with the calen-
7 dar year one thousand nine hundred and forty-six which are paid prior to
8 January first, one thousand nine hundred and forty-seven, and in respect to
9 the calendar year one thousand nine hundred and forty-seven and each
10 calendar year thereafter means the total amount of wages paid during a
11 calendar year (regardless of when earned) by an employer for employment.

12 (2) "Average annual payroll" means the average of the annual payrolls
13 of any employer for the last three or five preceding calendar years, which-
14 ever average is higher; *provided, however,* that only those wages be included
15 on which employer contributions have been paid on or before January thirty-
16 first of the calendar year for which the employer's contribution rate is
17 computed.

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

20 (c) The term "base year" means the first four of the last five completed
21 calendar quarters immediately preceding the first day of an individual's
22 benefit year; *provided*, that no calendar quarter shall comprise a part of
23 more than one base year.

24 (d) "Benefit year" with respect to any individual means the three hun-
25 dred sixty-four consecutive calendar days beginning with the day on, or as
26 of, which he first files a valid claim for benefits, and thereafter beginning with
27 the day on, or as of, which the individual next files a valid claim for benefits
28 after the termination of his last preceding benefit year. Any claim for bene-
29 fits made in accordance with subsection (a) of section 43:21-6 of this Title
30 shall be deemed to be a "valid claim" for the purpose of this subsection if
31 the individual has fulfilled the condition imposed by subsection (e) of section
32 43:21-4 of this Title.

33 (e) "Commission" means the unemployment compensation commission
34 established by section 43:21-10 of this Title, and for purposes of this chapter
35 any transaction or exercise of authority by the executive director shall be
36 deemed to be performed by the commission.

37 (f) "Contributions" means the money payments to the State unemploy-
38 ment compensation fund required by this chapter.

39 (g) "Employing unit" means any individual or type of organization.
40 including any partnership, association, trust, estate, joint-stock company,
41 insurance company or corporation, whether domestic or foreign, or the
42 receiver, trustee in bankruptcy, trustee or successor thereof, or the legal
43 representative of a deceased person, which has or subsequent to January
44 first, one thousand nine hundred and thirty-six, had in its employ one or
45 more individuals performing services for it within this State. All individuals
46 performing services within this State for any employing unit which main-
47 tains two or more separate establishments within this State shall be deemed
48 to be employed by a single employing unit for all the purposes of this chap-

49 *ter.* Whenever any employing unit contracts with or has under it any con-
50 tractor or subcontractor for any employment which is part of its usual trade,
51 occupation, profession, or business, unless the employing unit as well as each
52 such contractor or subcontractor is an employer by reason of subsection (c)
53 of section 43:21-8 of this Title or subsection (h) of this section, the employ-
54 ing unit shall for all the purposes of this chapter be deemed to employ each
55 individual in the employ of each such contractor or subcontractor for each
56 day during which such individual is engaged in performing such employment;
57 except that each such contractor or subcontractor who is an employer by
58 reason of subsection (c) of section 43:21-8 of this Title or subsection (h) of
59 this section, shall alone be liable for the contributions measured by wages
60 payable to individuals in his employ, and except that any employing unit
61 who shall become liable for and pay contributions with respect to indi-
62 viduals in the employ of any such contractor or subcontractor who is not an
63 employer by reason of subsection (c) of section 43:21-8 of this Title or sub-
64 section (h) of this section, may recover the same from such contractor or
65 subcontractor. Each individual employed to perform or to assist in perform-
66 ing the work of any agent or employee of an employing unit shall be deemed
67 to be employed by such employing unit for all the purposes of this chapter,
68 whether such individual was hired or paid directly by such employing unit or
69 by such agent or employee; *provided*, the employing unit had actual or con-
70 structive knowledge of the work.

71 (h) "Employer" means:

72 (1) Any employing unit which for some portion of a day, but not
73 necessarily simultaneously, in each of twenty different weeks, whether
74 or not such weeks are or were consecutive, within either the current or
75 the preceding calendar year, has or had in employment four or more
76 individuals (irrespective of whether the same individuals are or were
77 employed in each such day);

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

81 (3) Any employing unit which acquired the organization, trade or
 82 business, or substantially all the assets thereof, of another employing
 83 unit and which, if treated as a single unit with such other employing
 84 unit, would be an employer under paragraph (1) of this subsection;

85 (4) Any employing unit which together with one or more other em-
 86 ploying units, is owned or controlled (by legally enforceable means or
 87 otherwise), directly or indirectly by the same interests, or which owns
 88 or controls one or more other employing units (by legally enforceable
 89 means or otherwise), and which, if treated as a single unit with such
 90 other employing unit or interest, would be an employer under para-
 91 graph (1) of this subsection;

92 (5) Any employing unit which, having become an employer under
 93 paragraphs (1), (2), (3) or (4), has not, under section 43:21-8 of this
 94 Title, ceased to be an employer subject to this chapter; or

95 (6) For the effective period of its election pursuant to subsection
 96 (c) of section 43:21-8 of this Title any other employing unit which has
 97 elected to become fully subject to this chapter.

98 (i) (1) "Employment" means service, including service in interstate
 99 commerce performed for remuneration or under any contract of hire, written
 100 or oral, express or implied.

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

103 (A) The service is localized in this State; or

104 (B) The service is not localized in any State but some of the service
 105 is performed in this State, and (i) the base of operations, or, if there is
 106 no base of operations, then the place from which such service is directed
 107 or controlled, is in this State; or (ii) the base of operations or place
 108 from which such service is directed or controlled is not in any State in
 109 which some part of the service is performed, but the individual's resi-
 110 dence is in this State.

111
 112 gr
 113 th
 114 se
 115 th
 116
 117 p
 118 ex
 119 la
 120 en
 121 is
 122 e
 123 o
 124 p
 125 i
 126 l
 127
 128
 129
 130
 131
 132
 133
 134
 135
 136
 137
 138
 139
 140

111 (3) Services performed within this State but not covered under para-
112 graph (2) of this subsection shall be deemed to be employment subject to
113 this chapter if contributions are not required and paid with respect to such
114 services under an unemployment compensation law of any other State or of
115 the Federal Government.

116 (4) Services not covered under paragraph (2) of this subsection, and
117 performed entirely without this State, with respect to no part of which
118 contributions are required and paid under an unemployment compensation
119 law of any other State or of the Federal Government, shall be deemed to be
120 employment subject to this chapter if the individual performing such services
121 is a resident of this State and the commission approves the election of the
122 employing unit for whom such services are performed that the entire service
123 of such individual shall be deemed to be employment subject to this chapter;
124 *provided*, written objections on the part of a substantial proportion of such
125 individuals affected are not presented to the commission within ten days fol-
126 lowing the filing of such election.

127 (5) Service shall be deemed to be localized within a State if

128 (A) the service is performed entirely within such State; or

129 (B) the service is performed both within and without such State,
130 but the service performed without such State is incidental to the indi-
131 vidual's service within the State, for example, is temporary or transi-
132 tory in nature or consists of isolated transactions.

133 (6) Services performed by an individual for remuneration shall be
134 deemed to be employment subject to this chapter unless and until it is shown
135 to the satisfaction of the commission that

136 (A) such individual has been and will continue to be free from con-
137 trol or direction over the performance of such service, both under his
138 contract of service and in fact; and

139 (B) such service is either outside the usual course of the business
140 for which such service is performed, or that such service is performed

141 outside of all the places of business of the enterprise for which such serv-
142 ice is performed; and

143 (C) such individual is customarily engaged in an independently
144 established trade, occupation, profession or business.

145 (7) The term "employment" shall not include:

146 (A) Agricultural labor;

147 (B) Domestic service in a private home;

148 (C) Service performed by an individual in the employ of his son,
149 daughter or spouse, and service performed by a child under the age of
150 twenty-one in the employ of his father or mother;

151 (D) Service performed in the employ of this State or of any political
152 subdivision thereof or of any instrumentality of this State or its political
153 subdivisions;

154 (E) Service performed in the employ of any other State or its
155 political subdivisions, or of the United States Government, or of an
156 instrumentality of any other State or States or their political subdivisions
157 or of the United States;

158 (F) Services performed in the employ of a corporation, community
159 chest, fund or foundation, organized and operated exclusively for
160 religious, charitable, scientific, literary, hospital, benevolent, philan-
161 thropic, or educational purposes, or for the prevention of cruelty to
162 children or animals, no part of the net earnings of which inures to the
163 benefit of any private shareholder or individual;

164 (G) Services performed in the employ of fraternal beneficiary so-
165 cieties, orders, or associations operating under the lodge system or for
166 the exclusive benefit of the members of a fraternity itself operating
167 under the lodge system and providing for the payment of life, sick, acci-
168 dent, or other benefits to the members of such society, order, or associa-
169 tion, or their dependents;

170

171

172

173

174

175

176

177

178

179

180

181

182

183

184

185

186

187

188

189

190

191

192

193

194

195

196

197 brt

198 cor

199

200 by

201 pro

170 (H) Services performed as an officer or other employee of any build-
171 ing and loan association of this State, except where such services
172 constitute the principal employment of the individual; services performed
173 as an officer or other employee of any building and loan association
174 where such association is a member of the Federal Home Loan Bank
175 System; services performed as an officer or other employee of any bank
176 which is a member of the Federal Reserve System;

177 (I) Service, performed after June thirtieth, one thousand nine hun-
178 dred and thirty-nine, with respect to which unemployment compensation
179 is payable under the Railroad Unemployment Insurance Act (52 Stat.
180 1094).

181 (J) Service performed by agents of insurance companies, exclusive
182 of industrial [life] insurance agents, or by agents of investment com-
183 panies, who are compensated wholly on a commission basis.

184 (K) Services performed by real estate salesmen or brokers who are
185 compensated wholly on a commission basis.

186 (L) Services performed in the employ of any veterans' organization
187 chartered by Act of Congress or of any auxiliary thereof, no part of
188 the net earnings of which organization, or auxiliary thereof, inures to
189 the benefit of any private shareholder or individual.

190 (M) Service heretofore or hereafter performed for or in behalf of
191 the owner or operator of any theatre, ballroom, amusement hall or other
192 place of entertainment, not in excess of ten weeks in any calendar year
193 for the same owner or operator, by any leader or musician of a band
194 or orchestra, commonly called a "name band," entertainer, vaudeville
195 artist, actor, actress, singer or other entertainer.

196 (j) "Employment office" means a free public employment office, or
197 branch thereof operated by this State or maintained as a part of a State-
198 controlled system of public employment offices.

199 (k) "Fund" means the unemployment compensation fund established
200 by this chapter, to which all contributions required and from which all benefits
201 provided under this chapter shall be paid.

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

(m) Unemployment.

(1) An individual shall be deemed "unemployed" for any week during which he is not engaged in full-time work and with respect to which his remuneration is less than his weekly benefit rate.

(2) The term remuneration, as used in this subsection, shall include only that part of the same which exceeds three dollars (\$3.00) for any one week.

(3) An individual's week of unemployment shall be deemed to commence only after his registration at an employment office, except as the commission may by regulation otherwise prescribe.

(n) "Unemployment compensation administration fund" means the unemployment compensation administration fund established by this chapter, from which administrative expenses under this chapter shall be paid.

(o) "Wages" means remuneration payable by employers for employment prior to January first, one thousand nine hundred and forty-seven, and paid prior to such date; and means remuneration paid subsequent to December thirty-first, one thousand nine hundred and forty-six, by employers for employment; *provided, however,* that for eligibility and benefit purposes wages earned but not paid when the amount thereof has been calculated and is due as determined by the established and customary practices of the employer shall be construed as having been paid when earned.

(p) "Remuneration" means all compensation for personal services, including commissions and bonuses and the cash value of all compensation in any medium other than cash.

(q) "Week" means such period or periods of seven consecutive days ending at midnight, as the commission may by regulation prescribe.

(r) "Calendar quarter" means the period of three consecutive calendar months ending on March thirty-first, June thirtieth, September thirtieth, or December thirty-first, excluding, however, any calendar quarter or portion

233 ther

234 thir

235 pre

236

237 one

238 hun

239 and

240 cha

1

2 oth

3 exc

4 is

5 ber

1

T

that t

forme

except

exclus

385 of

"life"

Jersey

vs. T)

missic

crimir

than t

(7) (d

basis,

233 thereof which occurs prior to January first, one thousand nine hundred and
 234 thirty-seven, or the equivalent thereof as the commission may by regulation
 235 prescribe.

236 (s) "Investment company" means any company as defined in paragraph
 237 one-a of chapter three hundred twenty-two of the laws of one thousand nine
 238 hundred and thirty-eight, entitled "An act concerning investment companies,
 239 and supplementing Title 17 of the Revised Statutes by adding thereto a new
 240 chapter entitled 'investment companies.' "

1 2. Notwithstanding the provisions of this act as to its effective date in
 2 other respects, subsection (i) (7) (J) of section 43:21-19, dealing with
 3 exclusion of certain insurance agents and agents of investment companies,
 4 is to be retroactively applicable from and after, and effective as of, Decem-
 5 ber twenty-third, one thousand nine hundred and forty-one.

1 3. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to reenact the exclusion from "employment," as that term is defined in the unemployment compensation law, of services performed by insurance agents who are compensated wholly on a commission basis; excepting from such exclusion, however, all industrial insurance agents. The exclusion of agents on a commission basis was originally enacted by Chapter 385 of the Laws of 1941, but that act excepted from the exclusion only industrial "life" insurance agents and the exception was therefore determined by the New Jersey Supreme Court, in the case of *Washington National Insurance Company vs. The Board of Review of New Jersey Unemployment Compensation Commission et als.*, decided March 7, 1949, to be constitutionally invalid as a discriminatory classification against industrial insurance agents engaged in other than the life insurance business. As a consequence, the whole of subsection (i) (7) (J), including the exclusion of agents compensated wholly on a commission basis, was declared by the Supreme Court to be ineffective.

This bill restores the exclusion of insurance agents compensated wholly on a commission basis but extends the exception to all industrial agents rather than to only industrial life insurance agents. The bill will accomplish the result contemplated by the Legislature when Chapter 385 was enacted in 1941, with the modification made necessary by the Supreme Court decision. The exclusion is made retroactive to December 23, 1941, in order that it may be restored as of the date upon which Chapter 385 was given effect by the commission.

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 117

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 6, 1950

By Mr. JONES

Referred to Committee on Unemployment Compensation

AN ACT concerning unemployment compensation, and amending section 43:21-19 of the Revised Statutes, with retroactive effect in respect to certain provisions.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Section 43:21-19 of the Revised Statutes is amended to read as
2 follows:

3 43:21-19. As used in this chapter, unless the context clearly requires
4 otherwise:

5 (a) (1) "Annual payroll" means the total amount of wages payable by
6 an employer for employment during a calendar year ending with the calen-
7 dar year one thousand nine hundred and forty-six which are paid prior to
8 January first, one thousand nine hundred and forty-seven, and in respect to
9 the calendar year one thousand nine hundred and forty-seven and each
10 calendar year thereafter means the total amount of wages paid during a
11 calendar year (regardless of when earned) by an employer for employment.

12 (2) "Average annual payroll" means the average of the annual payrolls
13 of any employer for the last three or five preceding calendar years, which
14 ever average is higher; *provided, however,* that only those wages be included
15 on which employer contributions have been paid on or before January thirty-
16 first of the calendar year for which the employer's contribution rate is
17 computed.

18 (b) "Benefits" means the money payments payable to an individual, as 49
19 provided in this chapter, with respect to his unemployment. 50

20 (c) The term "base year" means the first four of the last five completed 51
21 calendar quarters immediately preceding the first day of an individual's 52
22 benefit year; *provided*, that no calendar quarter shall comprise a part of 53
23 more than one base year. 54

24 (d) "Benefit year" with respect to any individual means the three hun- 55
25 dred sixty-four consecutive calendar days beginning with the day on, or as 56
26 of, which he first files a valid claim for benefits, and thereafter beginning with 57
27 the day on, or as of, which the individual next files a valid claim for benefits 58
28 after the termination of his last preceding benefit year. Any claim for bene- 59
29 fits made in accordance with subsection (a) of section 43:21-6 of this Title 60
30 shall be deemed to be a "valid claim" for the purpose of this subsection if 61
31 the individual has fulfilled the condition imposed by subsection (e) of section 62
32 43:21-4 of this Title. 63

33 (e) "Commission" means the unemployment compensation commission 64
34 established by section 43:21-10 of this Title, and for purposes of this chapter 65
35 any transaction or exercise of authority by the executive director shall be 66
36 deemed to be performed by the commission. 67

37 (f) "Contributions" means the money payments to the State unemploy- 68
38 ment compensation fund required by this chapter. 69

39 (g) "Employing unit" means any individual or type of organization, 70
40 including any partnership, association, trust, estate, joint-stock company, 71
41 insurance company or corporation, whether domestic or foreign, or the 72
42 receiver, trustee in bankruptcy, trustee or successor thereof, or the legal 73
43 representative of a deceased person, which has or subsequent to January 74
44 first, one thousand nine hundred and thirty-six, had in its employ one or 75
45 more individuals performing services for it within this State. All individuals 76
46 performing services within this State for any employing unit which main- 77
47 tains two or more separate establishments within this State shall be deemed 78
48 to be employed by a single employing unit for all the purposes of this chap- 79
80

49 ter. Whenever any employing unit contracts with or has under it any con-
 50 tractor or subcontractor for any employment which is part of its usual trade,
 51 occupation, profession, or business, unless the employing unit as well as each
 52 such contractor or subcontractor is an employer by reason of subsection (c)
 53 of section 43:21-8 of this Title or subsection (h) of this section, the employ-
 54 ing unit shall for all the purposes of this chapter be deemed to employ each
 55 individual in the employ of each such contractor or subcontractor for each
 56 day during which such individual is engaged in performing such employment;
 57 except that each such contractor or subcontractor who is an employer by
 58 reason of subsection (c) of section 43:21-8 of this Title or subsection (h) of
 59 this section, shall alone be liable for the contributions measured by wages
 60 payable to individuals in his employ, and except that any employing unit
 61 who shall become liable for and pay contributions with respect to indi-
 62 viduals in the employ of any such contractor or subcontractor who is not an
 63 employer by reason of subsection (c) of section 43:21-8 of this Title or sub-
 64 section (h) of this section, may recover the same from such contractor or
 65 subcontractor. Each individual employed to perform or to assist in perform-
 66 ing the work of any agent or employee of an employing unit shall be deemed
 67 to be employed by such employing unit for all the purposes of this chapter,
 68 whether such individual was hired or paid directly by such employing unit or
 69 by such agent or employee; *provided*, the employing unit had actual or con-
 70 structive knowledge of the work.

71 (h) "Employer" means:

72 (1) Any employing unit which for some portion of a day, but not
 73 necessarily simultaneously, in each of twenty different weeks, whether
 74 or not such weeks are or were consecutive, within either the current or
 75 the preceding calendar year, has or had in employment four or more
 76 individuals (irrespective of whether the same individuals are or were
 77 employed in each such day);

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

81 (3) Any employing unit which acquired the organization, trade or
82 business, or substantially all the assets thereof, of another employing
83 unit and which, if treated as a single unit with such other employing
84 unit, would be an employer under paragraph (1) of this subsection;

85 (4) Any employing unit which together with one or more other em-
86 ploying units, is owned or controlled (by legally enforceable means or
87 otherwise), directly or indirectly by the same interests, or which owns
88 or controls one or more other employing units (by legally enforceable
89 means or otherwise), and which, if treated as a single unit with such
90 other employing unit or interest, would be an employer under para-
91 graph (1) of this subsection;

92 (5) Any employing unit which, having become an employer under
93 paragraphs (1), (2), (3) or (4), has not, under section 43:21-8 of this
94 Title, ceased to be an employer subject to this chapter; or

95 (6) For the effective period of its election pursuant to subsection
96 (c) of section 43:21-8 of this Title any other employing unit which has
97 elected to become fully subject to this chapter.

98 (i) (1) "Employment" means service, including service in interstate
99 commerce performed for remuneration or under any contract of hire, written
100 or oral, express or implied.

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

103 (A) The service is localized in this State; or

104 (B) The service is not localized in any State but some of the service
105 is performed in this State, and (i) the base of operations, or, if there is
106 no base of operations, then the place from which such service is directed
107 or controlled, is in this State; or (ii) the base of operations or place
108 from which such service is directed or controlled is not in any State in
109 which some part of the service is performed, but the individual's resi-
110 dence is in this State.

111
112 gra
113 thi
114 ser
115 th
116
117 pe
118 co:
119 la
120 en
121 is
122 en
123 of
124 p
125 in
126 lo
127
128
129
130
131
132
133
134 d
135 t
136
137
138
139
140

111 (3) Services performed within this State but not covered under para-
112 graph (2) of this subsection shall be deemed to be employment subject to
113 this chapter if contributions are not required and paid with respect to such
114 services under an unemployment compensation law of any other State or of
115 the Federal Government.

116 (4) Services not covered under paragraph (2) of this subsection, and
117 performed entirely without this State, with respect to no part of which
118 contributions are required and paid under an unemployment compensation
119 law of any other State or of the Federal Government, shall be deemed to be
120 employment subject to this chapter if the individual performing such services
121 is a resident of this State and the commission approves the election of the
122 employing unit for whom such services are performed that the entire service
123 of such individual shall be deemed to be employment subject to this chapter;
124 *provided*, written objections on the part of a substantial proportion of such
125 individuals affected are not presented to the commission within ten days fol-
126 lowing the filing of such election.

127 (5) Service shall be deemed to be localized within a State if

128 (A) the service is performed entirely within such State; or

129 (B) the service is performed both within and without such State,
130 but the service performed without such State is incidental to the indi-
131 vidual's service within the State, for example, is temporary or transi-
132 tory in nature or consists of isolated transactions.

133 (6) Services performed by an individual for remuneration shall be
134 deemed to be employment subject to this chapter unless and until it is shown
135 to the satisfaction of the commission that

136 (A) such individual has been and will continue to be free from con-
137 trol or direction over the performance of such service, both under his
138 contract of service and in fact; and

139 (B) such service is either outside the usual course of the business
140 for which such service is performed, or that such service is performed

141 outside of all the places of business of the enterprise for which such serv- 170
142 ice is performed; and 171
143 (C) such individual is customarily engaged in an independently 172
144 established trade, occupation, profession or business. 173
145 (7) The term "employment" shall not include: 174
146 (A) Agricultural labor; 175
147 (B) Domestic service in a private home; 176
148 (C) Service performed by an individual in the employ of his son, 177
149 daughter or spouse, and service performed by a child under the age of 178
150 twenty-one in the employ of his father or mother; 179
151 (D) Service performed in the employ of this State or of any political 180
152 subdivision thereof or of any instrumentality of this State or its political 181
153 subdivisions; 182
154 (E) Service performed in the employ of any other State or its 183
155 political subdivisions, or of the United States Government, or of an 184
156 instrumentality of any other State or States or their political subdivisions 185
157 or of the United States; 186
158 (F) Services performed in the employ of a corporation, community 187
159 chest, fund or foundation, organized and operated exclusively for 188
160 religious, charitable, scientific, literary, hospital, benevolent, philan- 189
161 thropic, or educational purposes, or for the prevention of cruelty to 190
162 children or animals, no part of the net earnings of which inures to the 191
163 benefit of any private shareholder or individual; 192
164 (G) Services performed in the employ of fraternal beneficiary so- 193
165 cieties, orders, or associations operating under the lodge system or for 194
166 the exclusive benefit of the members of a fraternity itself operating 195
167 under the lodge system and providing for the payment of life, sick, acci- 196
168 dent, or other benefits to the members of such society, order, or associa- 197
169 tion, or their dependents; 198
199
200
201

170 (H) Services performed as an officer or other employee of any build-
171 ing and loan association of this State, except where such services
172 constitute the principal employment of the individual; services performed
173 as an officer or other employee of any building and loan association
174 where such association is a member of the Federal Home Loan Bank
175 System; services performed as an officer or other employee of any bank
176 which is a member of the Federal Reserve System;

177 (I) Service, performed after June thirtieth, one thousand nine hun-
178 dred and thirty-nine, with respect to which unemployment compensation
179 is payable under the Railroad Unemployment Insurance Act (52 Stat.
180 1094).

181 (J) Service performed by agents of insurance companies, exclusive
182 of industrial insurance agents, or by agents of investment com-
183 panies, who are compensated wholly on a commission basis.

184 (K) Services performed by real estate salesmen or brokers who are
185 compensated wholly on a commission basis.

186 (L) Services performed in the employ of any veterans' organization
187 chartered by Act of Congress or of any auxiliary thereof, no part of
188 the net earnings of which organization, or auxiliary thereof, inures to
189 the benefit of any private shareholder or individual.

190 (M) Service heretofore or hereafter performed for or in behalf of
191 the owner or operator of any theatre, ballroom, amusement hall or other
192 place of entertainment, not in excess of ten weeks in any calendar year
193 for the same owner or operator, by any leader or musician of a band
194 or orchestra, commonly called a "name band," entertainer, vaudeville
195 artist, actor, actress, singer or other entertainer.

196 (j) "Employment office" means a free public employment office, or
197 branch thereof operated by this State or maintained as a part of a State-
198 controlled system of public employment offices.

199 (k) "Fund" means the unemployment compensation fund established
200 by this chapter, to which all contributions required and from which all benefits
201 provided under this chapter shall be paid.

202 (l) "State" includes, in addition to the States of the United States of
203 America, Alaska, Hawaii, and the District of Columbia.

204 (m) Unemployment.

205 (1) An individual shall be deemed "unemployed" for any week dur-
206 ing which he is not engaged in full-time work and with respect to which
207 his remuneration is less than his weekly benefit rate.

208 (2) The term remuneration, as used in this subsection, shall include
209 only that part of the same which exceeds three dollars (\$3.00) for any
210 one week.

211 (3) An individual's week of unemployment shall be deemed to com-
212 mence only after his registration at an employment office, except as the
213 commission may by regulation otherwise prescribe.

214 (n) "Unemployment compensation administration fund" means the un-
215 employment compensation administration fund established by this chapter,
216 from which administrative expenses under this chapter shall be paid.

217 (o) "Wages" means remuneration payable by employers for employ-
218 ment prior to January first, one thousand nine hundred and forty-seven, and
219 paid prior to such date; and means remuneration paid subsequent to Decem-
220 ber thirty-first, one thousand nine hundred and forty-six, by employers for
221 employment; *provided, however*, that for eligibility and benefit purposes
222 wages earned but not paid when the amount thereof has been calculated and
223 is due as determined by the established and customary practices of the em-
224 ployer shall be construed as having been paid when earned.

225 (p) "Remuneration" means all compensation for personal services, in-
226 cluding commissions and bonuses and the cash value of all compensation in
227 any medium other than cash.

228 (q) "Week" means such period or periods of seven consecutive days
229 ending at midnight, as the commission may by regulation prescribe.

230 (r) "Calendar quarter" means the period of three consecutive calendar
231 months ending on March thirty-first, June thirtieth, September thirtieth, or
232 December thirty-first, excluding, however, any calendar quarter or portion

233 there

234 thirty

235 presc

236 (

237 one-a

238 hund

239 and s

240 chap

1

2 other

3 exclu

4 is to

5 ber 1

1

233 thereof which occurs prior to January first, one thousand nine hundred and
234 thirty-seven, or the equivalent thereof as the commission may by regulation
235 prescribe.

236 (s) "Investment company" means any company as defined in paragraph
237 one-a of chapter three hundred twenty-two of the laws of one thousand nine
238 hundred and thirty-eight, entitled "An act concerning investment companies,
239 and supplementing Title 17 of the Revised Statutes by adding thereto a new
240 chapter entitled 'investment companies.'"

1 2. Notwithstanding the provisions of this act as to its effective date in
2 other respects, subsection (i) (7) (J) of section 43:21-19, dealing with
3 exclusion of certain insurance agents and agents of investment companies,
4 is to be retroactively applicable from and after, and effective as of, Decem-
5 ber twenty-third, one thousand nine hundred and forty-one.

1 3. This act shall take effect immediately.