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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - TEMPORARY DISABILITY
INSURANCE

Introduced By: Representatives Cimini, Hull, and Bennett

Date Introduced: February 15, 2012

Referred To: House Labor

It is enacted by the General Assembly as follows:

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

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

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

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

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

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

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

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

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

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

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

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

34 (9) "Credit week" means any week within an individual's base period in which that

1 individual earns wages amounting to at least twenty (20) times the minimum hourly wage as
2 defined in chapter 12 of this title, for performing services in employment for one or more
3 employers subject to chapters 39 – 41 of this title;

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

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

7 (12) "Employer" means any employing unit that is an employer under chapters 42 – 44 of
8 this title;

9 (13) "Employing unit" has the same definition as contained in chapter 42 of this title and
10 includes any governmental entity that elects to become subject to the provisions of chapters 39 –
11 41 of this title, in accordance with the provisions of sections 28-39-3.1 and 28-39-3.2;

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

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

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

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

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

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

34 (19) "Services" means all endeavors undertaken by an individual that are paid for by

1 another or with respect to which the individual performing the services expects to receive wages
2 or profits;

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

6 (21) "Taxes" means the money payments required by chapters 39 – 41 of this title, to be
7 made to the temporary disability insurance fund or to the temporary disability insurance reserve
8 fund.

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

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

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

24 SECTION 2. Sections 28-41-9 and 28-41-11 of the General Laws in Chapter 28-41
25 entitled "Temporary Disability Insurance –Benefits" are hereby amended to read as follows:

26 **28-41-9. Lag day benefits.** – (a) An individual who, having been unemployed due to
27 sickness, ~~has served a waiting period, and who~~ is in receipt of benefits under this chapter, returns
28 to work prior to the end of the immediately succeeding week, shall be entitled to one-fifth (1/5)
29 of his or her benefit rate for each day of unemployment due to sickness in which work is
30 ordinarily performed in the occupation in which he or she is employed during the week in which
31 he or she returns to work, figured to the highest dollar, including any holiday when the
32 performance of services is waived by his or her employer; provided, that in no case shall any
33 individual be entitled to more than four-fifths (4/5) of his benefit rate, figured to the highest
34 dollar, for that week.

1 (b) An individual who, having been unemployed due to sickness, ~~served a waiting period~~
2 ~~and~~, at a later date during his or her benefit year, again becomes unemployed due to sickness, and
3 refiles his or her claim for benefits, shall, if his or her first day of unemployment begins on a day
4 subsequent to the first day of any week, be entitled to one-fifth (1/5) of his or her benefit rate for
5 each day in that week in which work is ordinarily performed in the occupation in which he or she
6 was last employed, including any holiday when the performance of services is waived by his or
7 her employer, figured to the highest dollar, if his or her unemployment continues for seven (7)
8 consecutive calendar days, including the first day of unemployment due to sickness for which he
9 or she has refiled his or her claim. In no case shall any individual be entitled to more than four-
10 fifths (4/5) of his or her benefit rate, figured to the highest dollar, for the week in which his or
11 her unemployment begins on a day subsequent to the first day of that week.

12 **28-41-11. Eligibility.** – (a) For benefit years beginning on or after July 1, 1981 and prior
13 to October 7, 1990, an individual shall be deemed eligible for benefits for any given week of his
14 or her unemployment due to sickness only if he or she has, within the base period immediately
15 preceding the benefit year in which that week of unemployment occurs, earned wages amounting
16 to at least twenty (20) times the minimum hourly wage as defined in chapter 12 of this title, in
17 each of at least twenty (20) weeks or, in the alternative, in an amount equal to three (3) times the
18 total minimum amount required in this chapter.

19 (b) In order to be deemed eligible for benefits, an individual whose benefit year begins on
20 or after October 7, 1990: must have been paid wages in:

21 (1) Any one calendar quarter of the base period which are at least two hundred (200)
22 times the minimum hourly wage, as defined in chapter 12 of this title, and must have been paid
23 wages in the base period amounting to at least one and one-half (1 1/2) times the wages paid to
24 the individual in that calendar quarter of the base period in which the individual's wages were
25 highest; provided, that the minimum amount of total base period wages paid to the individual
26 must be at least four hundred (400) times the minimum hourly wage, as defined in chapter 12 of
27 this title. The base period wages must have been paid to the individual for performing services in
28 employment for one or more employers subject to chapters 39 – 41 of this title; or, in the
29 alternative,

30 (2) The base period for performing services in employment for one or more employers
31 subject to chapters 39 – 41 of this title amounting to at least three (3) times the total minimum
32 amount required in subdivision (1) of this subsection.

33 (c) In addition to the provisions of subsection (b) of this section, for benefit years that
34 begin on or after July 1, 2012, an individual must have been unemployed due to sickness for at

1 [least seven \(7\) consecutive days in order to be eligible for benefits.](#)

2 SECTION 3. Section 28-41-12 of the General Laws in Chapter 28-41 entitled
3 “Temporary Disability Insurance –Benefits” is hereby repealed.

4 ~~28-41-12 Waiting period.~~ (a) For benefit years beginning on or after July 6, 2008 the
5 waiting period of any individual shall be either:

6 (1) ~~Seven (7) consecutive days commencing with the Sunday of the week in which the~~
7 ~~claimant filed a claim for benefits, during which that individual is unemployed due to sickness~~
8 ~~and during which the individual earned remuneration in an amount less than his or her weekly~~
9 ~~benefit rate for work performed during that week prior to his or her unemployment due to~~
10 ~~sickness; or~~

11 (2) ~~Seven (7) consecutive days, commencing with the Sunday of the week following the~~
12 ~~week in which the individual filed a claim for benefits, during which the individual is~~
13 ~~unemployed due to sickness and the individual earned remuneration in an amount greater than or~~
14 ~~equal to his or her weekly benefit rate for work performed during that week prior to filing a claim~~
15 ~~for benefits.~~

16 (b) ~~No waiting period shall be credited to any individual unless he or she has filed a valid~~
17 ~~claim in accordance with regulations adopted as prescribed in this title.~~

18 (c) ~~Benefits shall be payable to an eligible individual only for those weeks of his or her~~
19 ~~unemployment due to sickness within a benefit year which occur subsequent to one waiting~~
20 ~~period, which shall be served at any time during the benefit year. If the first week of an~~
21 ~~individual's unemployment due to sickness which occurs within his or her new benefit year is~~
22 ~~immediately preceded by a week for which he or she is in receipt of benefits (including lag day~~
23 ~~payments as provided in section 28-41-9) for total or partial unemployment due to sickness under~~
24 ~~chapters 39—41 of this title, or under similar federal provisions, he or she shall not be required to~~
25 ~~serve a waiting period for that new benefit year.~~

26 (d) ~~Except as provided in subsection (c), no period of unemployment due to sickness~~
27 ~~shall be counted towards an individual's required waiting period if with respect to any portion of~~
28 ~~that period of unemployment due to sickness, benefits have been paid under the employment~~
29 ~~security or temporary disability insurance acts of any other state or of any similar acts of the~~
30 ~~United States or of any foreign government.~~

31 (e) ~~If an individual is unemployed due to sickness for the seven (7) consecutive days, as~~
32 ~~provided for in subsection (a), and his or her sickness continues for at least an additional twenty-~~
33 ~~one (21) consecutive days, he or she shall be eligible to receive benefits for the waiting period of~~
34 ~~seven (7) consecutive days.~~

1 SECTION 4. This act shall take effect on July 1, 2012.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO LABOR AND LABOR RELATIONS - TEMPORARY DISABILITY
INSURANCE

1 This act would eliminate the seven day waiting period that an individual must currently
2 serve prior to receiving temporary disability insurance benefits. Individuals would be eligible for
3 temporary disability insurance benefits beginning with the first day of their unemployment due to
4 sickness if they are unemployed due to sickness for at least seven consecutive days.

5 This act shall take effect on July 1, 2012.

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