

the best results, and such plat or plats, in a declaration thereon, shall recite such resolution and shall identify each separate tract of land described therein with such tract of land in the purported plat or plats intended to be corrected thereby, and shall be certified by the proper officers of the municipality as to authorization and by an engineer or surveyor as to correctness, and the signatures of such persons shall be acknowledged in like manner as a deed.

Such plat or plats when so certified and acknowledged may be filed in the office of the register of deeds and the declaration therein may be recorded at length in a "Book of Plat Certificates"; and when so filed and recorded such plat or plats and declaration together with the record thereof shall be prima facie evidence in all matters shown or stated therein as to the lands covered thereby.

This act shall not apply to a city whose charter provides for official supervision of plats by municipal officers, commission or board.

Approved February 24, 1937.

CHAPTER 43—H. F. No. 965

An act to amend Sections 2 and 6, Chapter 2, of the Extra Session Laws of 1936, relative to unemployment compensation, with special reference to definitions of base period and calendar quarters, and the benefit eligibility conditions.

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

Section 1. **Law amended.**—That Section 2, Chapter 2, Extra Session Laws of 1936 is hereby amended to read as follows:

"Sec. 2. **Definitions.**—As used in this Act, unless the context clearly requires otherwise—

(a) (1) "Annual pay roll" means the total amount of wages payable by an employer (regardless of the time of payment) for employment during a calendar year.

(2) "Average annual pay roll" means the average of the annual pay rolls of any employer for the last three or five preceding calendar years, whichever average is higher.

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

(c) "Commission" means the Industrial Commission of the State of Minnesota.

(d) "Contributions" means the payments to the State unemployment compensation fund required by this Act.

(e) "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ eight or more individuals performing services for it within this State, and which has subsequent to January 1, 1937, in its employ one or more individuals performing services for it. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this Act. Whenever any employing unit contracts with or has under it any contractor or subcontractor for any employment which is part of its usual trade, occupation, profession, or business, unless the employing unit as well as each such contractor or subcontractor is an employer by reason of section 2 (f) or section 9 (c) of this Act, the employing unit shall for all the purposes of this Act be deemed to employ each individual in the employ of each such contractor or subcontractor for each day during which such individual is engaged in performing such employment; except that each such contractor or subcontractor who is an employer by reason of section 2 (f) or section 9 (c) of this Act shall alone be liable for the contributions measured by wages payable to individuals in his employ, and except that any employing unit who shall become liable for and pay contributions with respect to individuals in the employ of any such contractor or subcontractor who is not an employer by reason of section 2 (f) or section 9 (c) of this Act, may recover the same from such contractor or subcontractor. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this Act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of such work.

(f) "Employer" means:

(1) Any employing unit which for some portion of a day, but not necessarily simultaneously, in each of 20 different weeks, whether or not such weeks are or were consecutive, within the year 1936 has or had in employment eight or more individuals (irrespective of whether the same individuals are or were employed in each such day) and which has subsequent to January 1, 1937, in its employ one or more individuals performing services for it.

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

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

(4) Any employing unit which together with one or more other employing units, is owned or controlled (by legally enforceable means or otherwise) directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this subsection;

(5) Any employing unit which, having become an employer under paragraph (1), (2), (3), or (4), has not, under section 9, ceased to be an employer subject to this Act; or

(6) For the effective period of its election pursuant to section 9 (c) any other employing unit which has elected to become fully subject to this Act.

(g) "Employee" means every individual, whether male, female, citizen, alien or minor, who is performing, or subsequent to January first, 1936, has performed services for an employer in an employment subject to this Act.

(h) (1) Subject to the other provisions of this subsection, "employment" means service, including service in inter-state commerce, or otherwise performed for wages or under any contract of hire, written or oral, express or implied, where the relationship of master and servant exists.

(2) The term "employment" shall include an individual's entire service, performed within or both within and without this state if: (a) the service is localized in this state; or (b) the service is not localized in any state but some of the service is performed in this state and (1) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; (2) the base of 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 state.

(3) Service shall be deemed to be localized within a state if (a) the service is performed entirely within such state; or (b) the service

is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

(4) 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 commission 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) such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and (c) such individual is customarily engaged in an independently established trade, occupation, profession or business.

(5) The term "employment" shall not include:

Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions;

Service performed in the employ of any other State or its political subdivisions, or of the United States government, or of an instrumentality of any other State or States or their political subdivisions or of the United States;

Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress, provided that the commission is hereby authorized and directed to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten days after publication thereof in the manner provided in Section 10 (d) of this Act for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this Act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this Act;

Agricultural labor;

Domestic service in a private home;

Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of 21 in the employ of his father or mother;

Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

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

(j) "Fund" means the unemployment compensation fund established by this Act, to which all contributions required and from which all benefits provided under this Act shall be paid.

(k) "Partial unemployment."—An individual shall be deemed "partially unemployed" in any week of less than full-time work if his wages payable for such week are less than six-fifths of the weekly benefit amount he would be entitled to receive if totally unemployed and eligible.

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

(m) "Total unemployment."—An individual shall be deemed "totally unemployed" in any week during which he performs no services with respect to which wages are payable to him. An individual's week of total unemployment shall be deemed to commence only after his registration pursuant to section 6 (a) of this Act.

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

(o) "Wages" means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other than cash. Gratuities customarily received by an individual in the course of his employment from persons other than his employing unit shall be treated as wages payable by his employing unit. The reasonable cash value of remuneration payable in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the commission.

(p) "Week" means calendar week, ending at midnight Saturday, or the equivalent thereof, as determined in accordance with regulations prescribed by the commission.

(q) "Weekly benefit amount."—An individual's "weekly benefit amount" with respect to any particular week of total unemployment

means the amount of benefits computed in accordance with the provisions of section 5 of this Act, which he would be entitled to receive for such week, if totally unemployed and eligible.

(r) "Benefit year" with respect to any individual means the 52 consecutive week period beginning with the first day of the week with respect to which benefits are first payable to him and thereafter the 52 consecutive week period beginning with the first day of the first week with respect to which benefits are next payable to him after the termination of his last preceding benefit year.

(s) "Base period" means the first eight of the last nine completed calendar quarters immediately preceding the first day of an individual's benefit year: *provided, however, that with respect to any benefit year which begins prior to April 1, 1939, it shall mean those calendar quarters beginning January 1, 1937, and ending with the last day of the next to the last completed calendar quarter immediately preceding such benefit year.*

(t) "Person" means an individual, trust or estate, a partnership or a corporation.

(u) "*Calendar quarter*" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, excluding, however, any calendar quarter or portion thereof which occurs prior to January 1, 1937, or the equivalent thereof as the commission may by regulation prescribe."

Sec. 2. That Section 6, Chapter 2, Extra Session Laws of 1936, is hereby amended to read as follows:

"Sec. 6. Benefit Eligibility Conditions.—An unemployed individual shall be eligible to receive benefits with respect to any week only if the commission finds that—

(a) He has registered for work at and thereafter has continued to report to an employment office in accordance with such regulations as the commission may prescribe;

(b) He has made a claim for benefits in accordance with the provisions of section 8 (a) of this Act;

(c) He is able to work and is available for work; and

(d) Prior to any week for which he claims benefits he has been totally unemployed for a waiting period of two weeks (and for the purposes of this subsection, three weeks of partial unemployment shall be deemed to be equivalent to one week of total unemployment). Such weeks of total or partial unemployment or both need not be consecutive. No week shall be counted as a week of total unemployment for the purposes of this subsection:

(1) if benefits have been paid with respect thereto;

(2) unless the individual was eligible for benefits with respect thereto in all respects except for the requirements of subsections (b) and (c) of this section;

(3) unless it occurs within the 13 consecutive weeks preceding the week for which he claims benefits, provided that this condition shall not interrupt the payment of benefits for consecutive weeks of unemployment nor require any individual who, prior to the first day of his benefit year, shall have accumulated such two waiting period weeks, to accumulate more than three additional waiting period weeks during his ensuing benefit year;

(4) unless it occurs after benefits first could become payable to any individual under this act.

(e) He has within the first four out of the last five completed calendar quarters immediately preceding the first day of his benefit year, earned wages for employment by employers of not less than sixteen times his weekly benefit amount, provided, *that when the first day of a benefit year shall occur during the first calendar quarter in the year 1938, this requirement shall be deemed to be satisfied if the individual, within the first three out of the last four completed calendar quarters immediately preceding the first day of such benefit year, has earned wages for employment by employers of not less than twelve times his weekly benefit amount;* and provided further, that if the *aforesaid* wages of an individual during such period of three or four calendar quarters have been reduced below the *required* amount because of some mental or physical disability due to services in the armed forces of the United States in time of war, wages earned by *such an* individual in employment by an employer during his base period, shall be substituted for those earned in such *periods of three or four* calendar quarters."

Sec. 3. That this act shall be in force and effect from and after its passage.

Approved March 2, 1937.

CHAPTER 44—S. F. No. 823

An act to authorize the Secretary of State to refund penalties paid for delayed 1937 motor vehicle registrations made before March 15, 1937.

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