

Received 4.17.09



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

April 9, 2009

Ms. Cheryl Atkinson, Administrator
Office of Workforce Security
200 Constitution Avenue NW, Room S-4231
Washington, DC 20210

Dear Ms. Atkinson:

This is Hawaii's request for the modernization incentive payment for the Alternate Base Period (ABP) provision. Hawaii's ABP includes the most recently completed calendar quarter when the individual cannot meet monetary qualifying requirements using a "regular" base period that excludes this quarter. In accordance with UIPL 14-09, the following information is offered:

State: HAWAII

State Law: Sections 383-29(a)(5)(C) and 383-1, Hawaii Revised Statutes.

Effective Date: The state law was enacted on 7/2/03 and we certify that the law is currently in effect and applies to benefit years beginning 1/1/04 and thereafter.

Duration: We certify that the alternate base period provision is permanent and is not subject to discontinuation under any circumstances other than repeal by the legislature.

State Use of Funds: Hawaii intends to use the incentive payment to pay unemployment benefits and to pay UI and employment service administration costs upon state legislation appropriation.

Attached is a copy of state law, Act 219.

If you have any questions, please contact Darwin L.D. Ching, Director of the Department of Labor and Industrial Relations, at (808) 586-8844.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

Approved by the Governor
on JUL 2 2003

ACT 219

THE SENATE
TWENTY-SECOND LEGISLATURE, 2003
STATE OF HAWAII

S.B. NO. 773
H.D. 2

A BILL FOR AN ACT

RELATING TO UNEMPLOYMENT INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 383-1, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Alternative base period" means the four completed
5 calendar quarters immediately preceding the first day of an
6 individual's benefit year."

7 SECTION 2. Section 383-29, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) An unemployed individual shall be eligible to receive
10 benefits with respect to any week only if the department finds
11 that:

12 (1) [~~Claim-~~] The individual has made a claim for benefits
13 with respect to that week in accordance with rules the
14 department may prescribe[-];

15 (2) [~~Registration-~~] The individual has registered for
16 work at, and thereafter continued to report at, an
17 employment office in accordance with rules the
18 department may prescribe, except that the department,



1 by rule, may waive or alter either or both of the
2 requirements of this paragraph as to individuals
3 attached to regular jobs and as to other types of
4 cases or situations with respect to which it finds
5 that compliance with those requirements would be
6 oppressive, or would be inconsistent with the purpose
7 of this chapter; provided that no such rule shall
8 conflict with section 383-21[-];

9 (3) [~~Availability.~~] The individual is able to work and is
10 available for work; provided that no claimant shall be
11 considered ineligible with respect to any week of
12 unemployment for failure to comply with this paragraph
13 if the failure is due to an illness or disability, as
14 evidenced by a physician's certificate, which occurs
15 during an uninterrupted period of unemployment with
16 respect to which benefits are claimed and no work
17 which would have been suitable prior to the beginning
18 of the illness and disability has been offered the
19 claimant [-];

20 (4) [~~Waiting period.~~] The individual has been unemployed
21 for a waiting period of one week within the



1 individual's benefit year. No week shall be counted
2 as a waiting period:

3 (A) If benefits have been paid with respect thereto;

4 (B) Unless the individual was eligible for benefits
5 with respect thereto as provided in this section
6 and section 383-30, except for the requirements
7 of this paragraph[-];

8 (5) ~~[Wages for insured work; weeks of employment.~~

9 ~~-(A)]~~ In the case of an individual whose benefit year
10 begins ~~[on]~~:

11 (A) On or after January 2, 1966, but prior to
12 October 1, 1989, the individual has had during
13 the individual's base period a total of fourteen
14 or more weeks of employment as defined in section
15 383-1 and has been paid wages for insured work
16 during the individual's base period in an amount
17 equal to at least thirty times the individual's
18 weekly benefit amount as determined under section
19 383-22(b). For the purposes of this
20 subparagraph, wages for insured work shall
21 include wages paid for services:



- 1 (i) Which were not employment, as defined in
- 2 section 383-2 or pursuant to an election
- 3 under section 383-77 prior to January 1,
- 4 1978, at any time during the one-year period
- 5 ending December 31, 1975; and
- 6 (ii) Which are agricultural labor as defined in
- 7 section 383-9 except service excluded under
- 8 section 383-7(1), or are domestic service
- 9 except service excluded under section 383-
- 10 7(2); except to the extent that assistance
- 11 under Title II of the Emergency Jobs and
- 12 Unemployment Assistance Act of 1974 was paid
- 13 on the basis of those services[-];
- 14 (B) [~~In the case of an individual whose benefit year~~
- 15 ~~begins on~~] On and after October 1, 1989, to
- 16 January 4, 1992, the individual has been employed
- 17 as defined in section 383-2 and has been paid
- 18 wages for insured work during the individual's
- 19 base period in an amount equal to not less than
- 20 thirty times the individual's weekly benefit
- 21 amount, as determined under section 383-22(b),
- 22 and the individual has been paid wages for



1 insured work during at least two quarters of the
2 individual's base period; provided that no
3 otherwise eligible individual who established a
4 prior benefit year under this chapter or the
5 unemployment compensation law of any other state,
6 shall be eligible to receive benefits in a
7 succeeding benefit year until, during the period
8 following the beginning of the prior benefit
9 year, that individual worked in covered
10 employment for which wages were paid in an amount
11 equal to at least five times the weekly benefit
12 amount established for that individual in the
13 succeeding benefit year[-]; and

14 (C) [~~In the case of an individual whose benefit year~~
15 ~~begins after~~] After January 4, 1992, the
16 individual has been employed as defined in
17 section 383-2 and has been paid wages for such
18 insured work during the individual's base period
19 in an amount equal to not less than twenty-six
20 times the individual's weekly benefit amount, as
21 determined under section 383-22(b), and the
22 individual has been paid wages for insured work

1 during at least two quarters of the individual's
2 base period; provided that no otherwise eligible
3 individual who established a prior benefit year
4 under this chapter or the unemployment
5 compensation law of any other state, shall be
6 eligible to receive benefits in a succeeding
7 benefit year until, during the period following
8 the beginning of the prior benefit year, that
9 individual worked in covered employment for which
10 wages were paid in an amount equal to at least
11 five times the weekly benefit amount established
12 for that individual in the succeeding benefit
13 year.

14 [~~(D)~~] For [~~the~~] purposes of this paragraph, wages and
15 weeks of employment shall be counted for benefit
16 purposes with respect to any benefit year only if the
17 benefit year begins subsequent to the dates on which
18 the employing unit by which the wages or other
19 remuneration as provided in the definition of weeks of
20 employment in section 383-1 were paid has satisfied
21 the conditions of section 383-1 with respect to
22 becoming an employer.

1 Effective for benefit years beginning January 1,
2 2004, and thereafter, if an individual fails to
3 establish a valid claim for unemployment insurance
4 benefits under this paragraph, the department shall
5 make a redetermination of entitlement based upon the
6 alternative base period as defined in section 383-1;
7 provided further that the individual shall satisfy the
8 conditions of section 383-29(a)(5) that apply to
9 claims filed using the base period as defined in
10 section 383-1 and the establishment of claims using
11 the alternative base period shall be subject to the
12 terms and conditions of sections 383-33 and 383-94;
13 and

14 (6) [~~Worker profiling.~~] Effective November 24, 1994, an
15 individual who has been referred to reemployment
16 services pursuant to the profiling system under
17 section 383-92.5 participates in those services or in
18 similar services. The individual may not be required
19 to participate in reemployment services if the
20 department determines the individual has completed
21 those services, or there is justifiable cause for the
22 claimant's failure to participate in those services.



1 For the purposes of this subsection, employment and wages
2 used to establish a benefit year shall not thereafter be reused
3 to establish another benefit year."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

1 For the purposes of this subsection, employment and wages
2 used to establish a benefit year shall not thereafter be reused
3 to establish another benefit year."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

APPROVED THIS 02 DAY OF JUL , 2003



GOVERNOR OF THE STATE OF HAWAII

S.B. No. 773, HD2

THE SENATE OF THE STATE OF HAWAII

Date: April 23, 2003
Honolulu, Hawaii 96813


We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Twenty- second Legislature of the State of Hawaii, Regular Session of 2003.




**THE HOUSE OF REPRESENTATIVES
OF THE STATE OF HAWAII**

Date: April 4, 2003
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the House of Representatives of the Twenty- second Legislature of the State of Hawaii, Regular Session of 2003.



Speaker, House of Representatives



Clerk, House of Representatives