

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-366
HOUSE BILL 1090**

AN ACT AMENDING THE DEFINITION OF TOTAL AND PARTIAL UNEMPLOYMENT
RELATING TO THE TREATMENT OF SEVERANCE PAY UNDER THE
EMPLOYMENT SECURITY LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 96-8(10) reads as rewritten:

"(10) Total and partial unemployment.

- a. For the purpose of establishing a benefit year, an individual shall be deemed to be unemployed:
 1. If ~~he~~the individual has payroll attachment but, because of lack of work during the payroll week for which ~~he~~the individual is requesting the establishment of a benefit year, ~~he~~the individual worked less than the equivalent of three customary scheduled full-time days in the establishment, plant, or industry in which ~~he~~the individual has payroll attachment as a regular employee. If a benefit year is established, it shall begin on the Sunday preceding the payroll week ending date.
 2. If ~~he~~the individual has no payroll attachment on the date ~~he~~the individual reports to apply for unemployment insurance. If a benefit year is established, it shall begin on the Sunday of the calendar week with respect to which the claimant met the reporting requirements provided by Commission regulation.
- b. For benefit weeks within an established benefit year, a claimant shall be deemed to be:
 1. Totally unemployed, irrespective of job attachment, if ~~his~~a claimant's earnings for such week, including payments defined in subparagraph c below, would not reduce ~~his~~the claimant's weekly benefit amount as prescribed by G.S. 96-12(c).
 2. Partially unemployed, if ~~he~~the claimant has payroll attachment but because of lack of work during the payroll week for which ~~he~~the claimant is requesting benefits ~~he~~the claimant worked less than three customary scheduled full-time days in the establishment, plant, or industry in which ~~he~~the claimant is employed and whose earnings from such employment (including payments defined in subparagraph c below) would qualify ~~him~~the claimant for a reduced payment as prescribed by G.S. 96-12(c).
 3. Part-totally unemployed, if the claimant had no job attachment during all or part of such week and whose



earnings for odd jobs or subsidiary work (including payments defined in subparagraph c below) would qualify ~~him~~ the claimant for a reduced payment as prescribed by G.S. 96-12(c).

- c. No individual shall be considered unemployed if, with respect to the entire calendar week, ~~he~~ the individual is receiving, has received, or will receive as a result of ~~his~~ the individual's separation from employment, remuneration in the form of (i) wages in lieu of notice, (ii) accrued vacation pay, (iii) terminal leave pay, ~~(iv) severance pay,~~ ~~(v)-(iv)~~ separation pay, or ~~(vi)~~ (v) dismissal payments or wages by whatever name. Provided, however, if such payment is applicable to less than the entire week, the claimant may be considered to be unemployed as defined in subsections a and b of this paragraph. Sums received by any individual for services performed as an elected official who holds an elective office, as defined in G.S. 128-1.1(d), or as a member of the N. C. National Guard, as defined in G.S. 127A-3, or as a member of any reserve component of the United States Armed Forces shall not be considered in determining that individual's employment status under this subsection. ~~Provided further, however, that an individual shall be considered to be unemployed as to receipt of severance pay for any week the individual is registered at or attending any institution of higher education as defined in G.S. 96-8(5)j., or secondary school as defined in G.S. 96-8(5)q., or Commission approved vocational, educational, or training programs as defined in G.S. 96-13. Benefits paid under this subdivision shall not be charged to the account or accounts of the base period employer or employers.~~
- d. 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.
- e. No substitute teacher or other substitute school personnel shall be considered unemployed for days or weeks when not called to work unless the individual is or was a permanent school employee regularly employed as a full-time substitute during the period of time for which the individual is requesting benefits."

SECTION 2. This act becomes effective October 1, 2009, and expires July 1,

2011.

In the General Assembly read three times and ratified this the 16th day of July, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 9:37 a.m. this 27th day of July, 2009