S T A T E O F N E W Y O R K

4219--A

2009-2010 Regular Sessions

I N S E N A T E

April 17, 2009

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Cultural Affairs, Tourism, Parks and Recreation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the navigation law, in relation to the creation of a Hudson River pilots surcharge board

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph (b) of subdivision 4 of section 89-a of the navigation law is amended by adding two new subparagraphs 1-b and 1-c to read as follows:

(1-B) THERE IS HEREBY CREATED A HUDSON RIVER PILOTS SURCHARGE BOARD WHICH SHALL DETERMINE THE RATE OF THE SURCHARGE PROVIDED IN SUBPARAGRAPH ONE-C OF THIS PARAGRAPH. THE SURCHARGE BOARD SHALL DETERMINE ELIGIBILITY FOR BENEFITS PURSUANT TO SUBDIVISIONS FIVE AND SEVEN OF THIS SECTION.

THE HUDSON RIVER PILOTS SURCHARGE BOARD SHALL CONSIST OF TWO MEMBERS AS FOLLOWS: THE PRESIDENT OF THE BOARD OF COMMISSIONERS OF PILOTS OF THE STATE OF NEW YORK, OR HIS OR HER DESIGNEE FROM THE BOARD OF COMMISSIONERS, AND THE PRESIDENT OF THE HUDSON RIVER PILOTS ASSOCIATION, OR HIS OR HER DESIGNEE WHO MUST BE A MEMBER OF SUCH ASSOCIATION. IN THE EVENT THE TWO MEMBERS CANNOT REACH A DECISION ON THE SURCHARGE RATE, A THIRD MEMBER SHALL BE APPOINTED BY THE TWO MEMBERS FROM A LIST SUBMITTED BY THE AMERICAN ARBITRATION ASSOCIATION FROM ITS LISTS OF COMMERCIAL ARBITRATORS. IF, AFTER SUBMISSION OF SUCH A LIST, THE TWO MEMBERS OF THE BOARD FAIL TO AGREE UPON A SINGLE ARBITRATOR AS THE THIRD MEMBER, THEN THE AMERICAN ARBITRATION ASSOCIATION SHALL BE AUTHORIZED TO SELECT AND SUBMIT THE NAME OF THE THIRD MEMBER FOR APPOINTMENT. SUCH THIRD MEMBER SHALL BE APPOINTED WITHIN TEN DAYS OF A DEADLOCKED VOTE OF THE HUDSON RIVER PILOT SURCHARGE BOARD. SUCH MEMBERS SHALL VOTE AT MEETINGS CALLED UPON WRITTEN NOTICE MAILED SEVEN CALENDAR DAYS IN ADVANCE OF THE MEETING, TO DETERMINE THE RATE OF SURCHARGE, ASSISTED AS NECESSARY BY QUALI-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD09591-03-9

FIED ACTUARIES OR ACCOUNTANTS, AUTHORIZED IN CLAUSE (I) OF SUBPARAGRAPH ONE-C OF THIS PARAGRAPH DURING EACH CALENDAR QUARTER IN TIME SUFFICIENT FOR SUCH SURCHARGE TO BE IN EFFECT ON THE FOLLOWING JANUARY FIRST, APRIL FIRST, JULY FIRST, AND OCTOBER FIRST OF EACH YEAR. WRITTEN NOTICE OF MEETINGS MAY BE WAIVED IF DONE SO WITH UNANIMOUS CONSENT OF ALL BOARD MEMBERS. MEMBERS OF THE HUDSON RIVER PILOT SURCHARGE BOARD SHALL BE SUBJECT TO SECTION SEVENTEEN OF THE PUBLIC OFFICERS LAW.

(1-C) (I) IN ADDITION TO THE BASE PILOTAGE CHARGE SET FORTH IN SUBPARAGRAPH ONE OF THIS PARAGRAPH, THERE IS HEREBY ESTABLISHED A SURCHARGE ON EVERY FOREIGN VESSEL AND EVERY AMERICAN VESSEL UNDER REGISTER NAVIGATING THAT PORTION OF THE HUDSON RIVER SPECIFIED IN THIS SECTION. SUCH SURCHARGE, AS DETERMINED QUARTERLY BY THE HUDSON RIVER PILOTS SURCHARGE BOARD, SHALL BE IMPOSED FOR THE EXCLUSIVE PURPOSE OF THE FUNDING, ON A SOUND ACTUARIAL BASIS, THE RETIREMENT BENEFITS FOR HUDSON RIVER PILOTS, DESCRIBED IN CLAUSE (II) OF THIS SUBPARAGRAPH.

(II) THE AMOUNT OF THE SURCHARGE DESCRIBED IN CLAUSE (I) OF THIS SUBPARAGRAPH ON THE DATE PILOTAGE RATES ARE COMPUTED SHALL NOT EXCEED:

PILOTAGE UNITS	SURCHARGE
0 TO 50	$222.44
51 TO 100	$268.00
OVER 100	$2.68 PER PILOT UNIT

DURING THE FIRST TWELVE MONTHS AFTER THE EFFECTIVE DATE OF THIS SUBPARAGRAPH.

THE AMOUNT OF THE SURCHARGE DESCRIBED IN CLAUSE (I) OF THIS SUBPARAGRAPH ON THE DATE PILOTAGE RATES ARE COMPUTED SHALL NOT EXCEED:

PILOTAGE UNITS	SURCHARGE
0 TO 50	$371.01
51 TO 100	$447.00
OVER 100	$4.47 PER PILOT UNIT

DURING THE PERIOD BEGINNING WITH THE THIRTEENTH MONTH AND ENDING WITH THE TWENTY-FOURTH MONTH AFTER THE EFFECTIVE DATE OF THIS SUBPARAGRAPH.

THE AMOUNT OF THE SURCHARGE DESCRIBED IN CLAUSE (I) OF THIS SUBPARAGRAPH ON THE DATE PILOTAGE RATES ARE COMPUTED SHALL NOT EXCEED:

PILOTAGE UNITS	SURCHARGE
0 TO 50	$499.66
51 TO 100	$602.00
OVER 100	$6.02 PER PILOT UNIT

DURING THE PERIOD BEGINNING WITH THE TWENTY-FOURTH MONTH AND ENDING WITH THE THIRTY-SIXTH MONTH AFTER THE EFFECTIVE DATE OF THIS SUBPARAGRAPH.

(III) FOLLOWING THE THIRTY-SIXTH MONTH AFTER THE EFFECTIVE DATE OF THIS SUBPARAGRAPH, THE AMOUNT OF THE SURCHARGE AS DETERMINED BY THE SURCHARGE BOARD SHALL NOT EXCEED THE GREATER OF THIRTY-FIVE PERCENT OF THE SUM OF THE BASE PILOTAGE CHARGES SET FORTH IN SUBPARAGRAPH ONE OF THIS PARAGRAPH FOR SECTION 2, UPPER RIVER; YONKERS, TO ALL PORTS BEYOND HYDE PARK THROUGH ALBANY OR TROY, AS AMENDED; OR NINE HUNDRED THOUSAND DOLLARS IN ANY CALENDAR YEAR.

(IV) THE SCALE OF CHARGES SET FORTH IN THIS SUBPARAGRAPH IS DEEMED A PILOTAGE FEE AND SHALL BE SUBJECT TO THE PROVISIONS OF SECTION NINETY-FIVE OF THIS ARTICLE.

(V) (A) THE PROCEEDS OF THE SURCHARGE PROVIDED FOR IN THIS SECTION SHALL BE DEPOSITED IN AN ACCOUNT MAINTAINED BY THE HUDSON RIVER PILOTS ASSOCIATION FOR THE BENEFIT OF HUDSON RIVER PILOTS ELIGIBLE FOR BENEFITS AS PROVIDED IN THIS SECTION, FROM WHICH ACCOUNT ALL SUCH BENEFITS AND THE REASONABLE EXPENSES FOR ADMINISTRATION THEREOF SHALL BE PAID. THE MONIES ON DEPOSIT IN SUCH ACCOUNT SHALL BE REFERRED TO HEREAFTER AS THE "RETIREMENT ASSETS". THE RETIREMENT ASSETS SHALL BE USED TO PAY A YEARLY TARGET RETIREMENT BENEFIT TO (I) HUDSON RIVER PILOTS ACTIVE ON THE DATE PILOTAGE RATES ARE COMPUTED PURSUANT TO THIS SUBPARAGRAPH AND THEREAFTER, UPON RETIREMENT ON OR AFTER THE AGE OF SIXTY, OR DISABILITY RETIREMENT; (II) RETIRED HUDSON RIVER PILOTS OR HUDSON RIVER PILOTS RECEIVING DISABILITY RETIREMENT BENEFITS ON THE DATE OF ADOPTION; AND (III) TO SURVIVING SPOUSES OF PILOTS, RETIRED PILOTS OR PILOTS RECEIVING DISABILITY RETIREMENT AS PROVIDED FOR BELOW.

(B) HUDSON RIVER PILOTS WHO ARE ALSO SANDY HOOK PILOTS ELIGIBLE FOR BENEFITS UNDER ITEM (B) OF SUBCLAUSE ONE OF CLAUSE (II) OF SUBPARAGRAPH ONE OF PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION EIGHTY-EIGHT OF THIS ARTICLE SHALL BE EXCLUDED FROM RECEIVING ANY BENEFITS SPECIFIED IN SUBDIVISION FIVE OF THIS SECTION.

(C) NO INDIVIDUAL OTHER THAN THOSE SPECIFIED IN SUBCLAUSE (A) OF THIS CLAUSE SHALL BE ELIGIBLE FOR BENEFITS PURSUANT TO THE SURCHARGE DESCRIBED IN CLAUSE (I) OF THIS SUBPARAGRAPH WITHOUT THE APPROVAL OF THE HUDSON RIVER PILOTS SURCHARGE BOARD.

(D) THE FUNDS GENERATED BY THE SURCHARGE IMPOSED BY CLAUSE (I) OF THIS SUBPARAGRAPH SHALL BE ADMINISTERED BY THE EXECUTIVE COMMITTEE OF THE HUDSON RIVER PILOTS ASSOCIATION, OR ANY SUCCESSORS THERETO.

(E) THE SURCHARGES PURSUANT TO CLAUSE (I) OF THIS SUBPARAGRAPH SHALL BE COLLECTED BY THE AGENT OF THE HUDSON RIVER PILOTS. FUNDS GENERATED FOR THESE PURPOSES SHALL BE AUDITED ANNUALLY BY THE SURCHARGE BOARD TO ENSURE PROPER FUNDING FOR THE PURPOSES SET FORTH IN CLAUSE (I) OF THIS SUBPARAGRAPH.

S 2. Section 89-a of the navigation law is amended by adding seven new subdivisions 5, 6, 7, 8, 9, 10 and 11 to read as follows:

5. (A)(1) EACH HUDSON RIVER PILOT ACTIVE ON THE DATE PILOTAGE RATES ARE COMPUTED PURSUANT TO THIS SECTION WHO RETIRES AFTER TWENTY-FIVE YEARS OF SERVICE AND AFTER REACHING SIXTY YEARS OF AGE, OR BECOMES ELIGIBLE FOR DISABILITY RETIREMENT BENEFITS, SHALL RECEIVE A TARGET YEARLY BENEFIT COMPUTED AS A SINGLE LIFE ANNUITY, INITIALLY EQUAL TO FIFTY PERCENT OF THE AMOUNT WHICH IS EQUAL TO THE HIGHEST ANNUAL EARNINGS FROM SERVICE AS A FULL BRANCH HUDSON RIVER PILOT BASED UPON THE PILOTAGE CHARGES SET FORTH IN SUBPARAGRAPH ONE OF PARAGRAPH (B) OF SUBDIVISION FOUR OF THIS SECTION DURING THE LAST THREE FULL CALENDAR YEARS OF SERVICE AS AN ACTIVE PILOT PRIOR TO RETIREMENT REDUCED AS PROVIDED IN SUBDIVISION NINE OF THIS SECTION AND ADJUSTED AS PROVIDED IN SUBDIVISION EIGHT OF THIS SECTION.

(2) A HUDSON RIVER PILOT ACTIVE ON THE DATE PILOTAGE RATES ARE COMPUTED PURSUANT TO THIS SECTION WHO RETIRES OR BECOMES ELIGIBLE FOR DISABILITY RETIREMENT BENEFITS AFTER REACHING SIXTY-FIVE YEARS OF AGE AND AFTER THIRTY YEARS OF SERVICE AS A HUDSON RIVER PILOT SHALL RECEIVE A TARGET YEARLY BENEFIT COMPUTED AS A SINGLE LIFE ANNUITY, INITIALLY EQUAL TO SIXTY PERCENT OF THE AMOUNT WHICH IS EQUAL TO THE HIGHEST ANNUAL EARNINGS FROM SERVICE AS A FULL BRANCH HUDSON RIVER PILOT BASED UPON THE PILOTAGE CHARGES SET FORTH IN SUBPARAGRAPH ONE OF PARAGRAPH (B) OF SUBDIVISION FOUR OF THIS SECTION DURING THE LAST THREE FULL CALENDAR YEARS OF SERVICE AS AN ACTIVE PILOT PRIOR TO RETIREMENT REDUCED AS

PROVIDED IN SUBDIVISION NINE OF THIS SECTION AND ADJUSTED AS PROVIDED IN SUBDIVISION EIGHT OF THIS SECTION.

(B)(1) EACH RETIRED HUDSON RIVER PILOT AND EACH HUDSON RIVER PILOT RECEIVING DISABILITY RETIREMENT BENEFITS ON OR AFTER THE DATE PILOTAGE RATES ARE COMPUTED PURSUANT TO THIS SECTION SHALL RECEIVE A TARGET YEARLY BENEFIT COMPUTED AS A SINGLE LIFE ANNUITY, INITIALLY EQUAL TO FIFTY PERCENT OF THE HIGHEST ANNUAL EARNINGS FROM SERVICE AS A FULL BRANCH HUDSON RIVER PILOT BASED UPON THE BASE PILOTAGE CHARGES SET FORTH IN SUBPARAGRAPH ONE OF PARAGRAPH (B) OF SUBDIVISION FOUR OF THIS SECTION DURING THE LAST THREE FULL CALENDAR YEARS OF SERVICE AS AN ACTIVE PILOT PRIOR TO RETIREMENT REDUCED AS PROVIDED IN SUBDIVISION NINE OF THIS SECTION AND ADJUSTED AS PROVIDED IN SUBDIVISION EIGHT OF THIS SECTION.

(2) EACH RETIRED HUDSON RIVER PILOT AND EACH HUDSON RIVER PILOT RECEIVING DISABILITY RETIREMENT BENEFITS WHO RETIRED OR BECAME ELIGIBLE FOR DISABILITY RETIREMENT BENEFITS AFTER REACHING SIXTY-FIVE YEARS OF AGE AND AFTER THIRTY YEARS OF SERVICE AS A HUDSON RIVER PILOT ON OR AFTER THE DATE PILOTAGE RATES ARE COMPUTED PURSUANT TO THIS SECTION SHALL RECEIVE A TARGET YEARLY BENEFIT COMPUTED AS A SINGLE LIFE ANNUITY, INITIALLY EQUAL TO SIXTY PERCENT OF THE HIGHEST ANNUAL EARNINGS FROM SERVICE AS A FULL BRANCH HUDSON RIVER PILOT BASED UPON THE BASE PILOTAGE CHARGES SET FORTH IN SUBPARAGRAPH ONE OF PARAGRAPH (B) OF SUBDIVISION FOUR OF THIS SECTION DURING THE LAST THREE FULL CALENDAR YEARS OF SERVICE AS AN ACTIVE PILOT PRIOR TO RETIREMENT REDUCED AS PROVIDED IN SUBDIVISION NINE OF THIS SECTION AND ADJUSTED AS PROVIDED IN SUBDIVISION EIGHT OF THIS SECTION.

(C) THE BENEFITS DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION SHALL ONLY BE AVAILABLE TO RETIRED HUDSON RIVER PILOTS WHO RETIRED PRIOR TO THE YEAR NINETEEN HUNDRED NINETY DURING THE FIRST TWELVE MONTHS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH. THE BENEFITS DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION SHALL BE AVAILABLE TO ALL RETIRED HUDSON RIVER PILOTS WHO RETIRED PRIOR TO THE YEAR TWO THOUSAND AFTER THE FIRST TWELVE MONTHS FROM THE EFFECTIVE DATE OF THIS PARAGRAPH. THE BENEFITS DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION SHALL BE AVAILABLE TO ALL RETIRED HUDSON RIVER PILOTS AND PILOTS ON DISABILITY RETIREMENT AFTER THE FIRST TWENTY-FOUR MONTHS FROM THE EFFECTIVE DATE OF THIS PARAGRAPH.

6. (A) A HUDSON RIVER PILOT ELIGIBLE FOR BENEFITS SET FORTH IN SUBDIVISION FIVE OF THIS SECTION, WHO RETIRES, SHALL NOT BE ENTITLED TO COMMENCE RECEIVING BENEFITS UNTIL THE COMMENCEMENT OF THE BENEFIT PAYMENT PERIOD NEXT FOLLOWING THE DATE ON WHICH SUCH PILOT RETIRED OR BECAME ELIGIBLE FOR DISABILITY RETIREMENT BENEFITS. FOR ACCOUNTING PURPOSES, THE BENEFIT PAYMENT PERIODS SHALL CONSIST OF A FULL CALENDAR QUARTER COMMENCING ON JANUARY FIRST, APRIL FIRST, JULY FIRST, AND OCTOBER FIRST OF EACH YEAR, BUT THE FIRST PAYMENTS OF BENEFITS SHALL BE MADE DURING THE MONTHS OF MARCH, JUNE, SEPTEMBER, AND DECEMBER.

(B) NO ACTIVE HUDSON RIVER PILOT SHALL COMMENCE RECEIVING BENEFITS UNTIL A PROPERLY COMPLETED RESIGNATION AS AN ACTIVE PILOT SPECIFYING A PROPOSED DATE OF RETIREMENT HAS BEEN SUBMITTED IN WRITING TO THE HUDSON RIVER PILOTS EXECUTIVE COMMITTEE, OR SUCCESSOR THERETO, PRIOR TO NOVEMBER FIRST, IF RETIREMENT IS TO BECOME EFFECTIVE ON THE FIRST DAY OF THE FOLLOWING JANUARY; PRIOR TO FEBRUARY FIRST, IF RETIREMENT IS TO BECOME EFFECTIVE ON THE FIRST DAY OF THE FOLLOWING APRIL; PRIOR TO MAY FIRST, IF RETIREMENT IS TO BECOME EFFECTIVE ON THE FIRST DAY OF THE FOLLOWING JULY; AND, PRIOR TO AUGUST FIRST, IF RETIREMENT IS TO BECOME EFFECTIVE ON THE FIRST DAY OF THE FOLLOWING OCTOBER.

(C) FOR THE PURPOSE OF THE COMPUTATIONS DESCRIBED IN SUBDIVISION FIVE OF THIS SECTION, SERVICE BY A PILOT OF MORE THAN SIX MONTHS OF SUCH

PILOT'S LAST CALENDAR YEAR AS AN ACTIVE PILOT SHALL BE CONSIDERED A FULL CALENDAR YEAR.

(D) IF A RETIRED HUDSON RIVER PILOT OR A HUDSON RIVER PILOT RECEIVING DISABILITY RETIREMENT BENEFITS DIES WITHOUT A SURVIVING SPOUSE, THE BALANCE OF THE TARGET YEARLY PENSION BENEFIT FOR THE REMAINDER OF THE BENEFIT PAYMENT PERIOD SHALL BE PAID TO THE DECEASED PILOT'S ESTATE OR DESIGNATED BENEFICIARY AFTER WHICH ALL RIGHTS TO BENEFITS SHALL BE TERMINATED.

7. (A) THE SURVIVING SPOUSE OF A HUDSON RIVER PILOT DESCRIBED IN SUBDIVISION FIVE OF THIS SECTION WHO DIES WHILE IN ACTIVE SERVICE SHALL RECEIVE A TARGET YEARLY PENSION BENEFIT EQUAL TO FIFTY PERCENT OF THE AMOUNT WHICH SUCH DECEASED PILOT WOULD HAVE RECEIVED UNDER SUBDIVISION FIVE OF THIS SECTION HAD RETIREMENT IMMEDIATELY PRECEDED THE DATE OF DEATH, REDUCED AS PROVIDED IN SUBDIVISION NINE OF THIS SECTION AND ADJUSTED AS PROVIDED IN SUBDIVISION EIGHT OF THIS SECTION.

(B) WITH RESPECT TO HUDSON RIVER PILOTS DESCRIBED IN SUBDIVISION FIVE OF THIS SECTION, THE SURVIVING SPOUSE OF A DECEASED RETIRED HUDSON RIVER PILOT OR A DECEASED HUDSON RIVER PILOT RECEIVING DISABILITY RETIREMENT BENEFITS ON THE DATE OF DEATH, SHALL RECEIVE A TARGET YEARLY BENEFIT EQUAL TO THE DECEASED PILOT'S BENEFIT FOR THE REMAINDER OF THE BENEFIT PAYMENT PERIOD IN WHICH DEATH OCCURRED, AND THEREAFTER FIFTY PERCENT OF THE AMOUNT RECEIVED BY THE DECEASED PILOT ON THE DATE OF DEATH, REDUCED AS PROVIDED IN SUBDIVISION NINE OF THIS SECTION AND ADJUSTED AS PROVIDED IN SUBDIVISION EIGHT OF THIS SECTION.

(C) UPON THE DEATH OF THE SURVIVING SPOUSE OF A DECEASED HUDSON RIVER PILOT WHO WAS RECEIVING BENEFITS, THE BALANCE OF THE TARGET YEARLY PENSION BENEFIT FOR THE REMAINDER OF THE BENEFIT PAYMENT PERIOD SHALL BE PAID TO THE DECEASED SURVIVING SPOUSE'S ESTATE OR DESIGNATED BENEFICIARY AFTER WHICH ALL RIGHTS TO BENEFITS SHALL TERMINATE.

8. THE HUDSON RIVER PILOTS SURCHARGE BOARD OR ANY COMMITTEE APPOINTED THEREBY SHALL ADJUST THE BENEFITS DESCRIBED IN SUBDIVISION FIVE OF THIS SECTION BY NOT MORE THAN ONE-HALF OF THE CUMULATIVE ADJUSTMENT IN THE "CONSUMER PRICE INDEX-ALL URBAN CONSUMERS-(CPI-U) N.Y.-NORTHERN N.J.-LONG ISLAND, NY-NJ-CT-ALL ITEMS" ON THE EARLIER OF EACH THIRD ANNIVERSARY OF THE EFFECTIVE DATE OF THIS SUBDIVISION OR THE DATE ON WHICH SUCH CONSUMER PRICE INDEX INCREASES BY AN INCREMENT OF MORE THAN TWELVE PERCENT FROM THE LEVEL IN EFFECT ON THE DATE (A) THIS SUBDIVISION TOOK EFFECT, OR (B) OF ANY SUBSEQUENT ADJUSTMENT TO SUCH RATES. THESE ADJUSTMENTS SHALL TAKE PLACE FOR A PERIOD OF FIFTEEN YEARS FROM THE EFFECTIVE DATE OF THIS SUBDIVISION WITH RESPECT TO PILOTS DESCRIBED IN PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS SECTION AND FOR A PERIOD OF FIFTEEN YEARS FROM THE DATE OF RETIREMENT WITH RESPECT TO PILOTS DESCRIBED IN PARAGRAPH (A) OF SUBDIVISION FIVE OF THIS SECTION. ADJUSTMENTS GRANTED TO RETIRED PILOTS OR THEIR SURVIVING SPOUSES RETIRED LESS THAN THE FULL THREE YEAR INTERVAL BETWEEN ADJUSTMENTS SHALL HAVE SUCH ADJUSTMENTS PRO-RATED TO THE NUMBER OF MONTHS THEY HAVE BEEN RETIRED PRIOR TO SUCH ADJUSTMENT. THE DETERMINATION BY THE SURCHARGE BOARD, OR ANY COMMITTEE APPOINTED THEREBY, OF THE AMOUNT OF SUCH ADJUSTMENT SHALL BE FINAL.

9. IN THE EVENT THAT IN ANY CALENDAR YEAR THE SURCHARGE DESCRIBED IN SUBPARAGRAPH ONE-C OF PARAGRAPH (B) OF SUBDIVISION FOUR OF THIS SECTION IS SUBJECT TO THE LIMITATION SET FORTH IN SUCH SUBPARAGRAPH ONE-C THE BENEFITS PAYABLE UNDER PARAGRAPHS (A) AND (B) OF SUBDIVISION FIVE OF THIS SECTION AND SUBDIVISION SEVEN OF THIS SECTION AND THE PORTION OF THE SURCHARGE ALLOCABLE THERETO, SHALL BE REDUCED ON A PRO-RATA BASIS. THE HUDSON RIVER PILOTS' SURCHARGE BOARD SHALL DETERMINE THE AMOUNT OF SUCH REDUCTIONS WHICH DETERMINATIONS SHALL BE FINAL.

10. PILOTS ELIGIBLE FOR BENEFITS AS PROVIDED IN THIS SECTION SHALL HAVE NINETY DAYS TO CHOOSE TO ENROLL IN THE RETIREMENT BENEFIT DESCRIBED IN SUBDIVISION FIVE OF THIS SECTION COMMENCING FROM THE DATE THAT INDIVIDUAL BECOMES ELIGIBLE TO RECEIVE SUCH BENEFITS. PILOTS ELIGIBLE FOR BENEFITS AS PROVIDED IN THIS SECTION WHO RETIRE FROM ACTIVE SERVICE AND CHOOSE TO ENROLL IN THE RETIREMENT BENEFIT DESCRIBED IN SUBDIVISION FIVE OF THIS SECTION SHALL NOT BE ELIGIBLE TO RECEIVE ANY OTHER RETIREMENT BENEFIT FROM THE HUDSON RIVER PILOTS ASSOCIATION. THE DECISION TO ENROLL, OR DECLINE TO ENROLL, IN THE BENEFIT PROVIDED IN SUBDIVISION FIVE OF THIS SECTION SHALL BE IRREVOCABLE AFTER NINETY DAYS FROM THE DATE THAT INDIVIDUAL SHALL BECOME ELIGIBLE TO RECEIVE SUCH BENEFIT.

11. A "HUDSON RIVER PILOT" FOR THE PURPOSES OF THIS SECTION IS DEFINED AS AN INDIVIDUAL HOLDING A LICENSE TO ACT AS HUDSON RIVER PILOT FOR THE WATERS OF THE HUDSON RIVER NORTH OF A LINE RUNNING FROM THE FOOT OF MAIN STREET IN YONKERS TO ALPINE, NEW JERSEY AND SOUTH OF THE DAM AT TROY, ISSUED BY THE BOARD OF COMMISSIONERS OF PILOTS OF THE STATE OF NEW YORK. A "RETIRED HUDSON RIVER PILOT" FOR THE PURPOSES OF THIS SECTION IS A PILOT WHO RETIRED FROM ACTIVE SERVICE IN THE HUDSON RIVER PILOTS ASSOCIATION. A "HUDSON RIVER PILOT ON DISABILITY RETIREMENT" FOR THE PURPOSES OF THIS SECTION IS DEFINED AS A PILOT WHO BECAME DISABLED BY ACCIDENT OR SICKNESS, AND WAS CERTIFIED AS DISABLED BY A PHYSICIAN CHOSEN BY THE HUDSON RIVER PILOTS ASSOCIATION, AFTER A MINIMUM OF TWENTY-FIVE YEARS OF SERVICE IN THE HUDSON RIVER PILOTS ASSOCIATION.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.