

5759

2013-2014 Regular Sessions

I N S E N A T E

June 12, 2013

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, the education law, the retirement and social security law and the workers' compensation law, in relation to injuries or illnesses suffered as a result of participation in rescue, recovery and cleanup directly related to the attacks at the World Trade Center on September 11, 2001

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

1 Section 1. Subdivision c of section 13-551 of the administrative code
2 of the city of New York is amended and three new subdivisions f, g and h
3 are added to read as follows:
4 c. Any such application shall be filed within two years after the
5 happening of such accident EXCEPT IF FILED BY A VESTED MEMBER INCAPACI-
6 TATED AS A RESULT OF A QUALIFYING WORLD TRADE CENTER CONDITION AS
7 DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW.
8 F. (1)(A) NOTWITHSTANDING ANY PROVISIONS OF THIS CODE OR OF ANY GENER-
9 AL, SPECIAL OR LOCAL LAW, CHARTER OR RULE OR REGULATION TO THE CONTRARY,
10 IF ANY CONDITION OR IMPAIRMENT OF HEALTH IS CAUSED BY A QUALIFYING WORLD
11 TRADE CENTER CONDITION AS DEFINED IN SECTION TWO OF THE RETIREMENT AND
12 SOCIAL SECURITY LAW, IT SHALL BE PRESUMPTIVE EVIDENCE THAT IT WAS
13 INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY AND THE NATURAL AND
14 PROXIMATE RESULT OF AN ACCIDENT NOT CAUSED BY SUCH MEMBER'S OWN WILLFUL
15 NEGLIGENCE, UNLESS THE CONTRARY BE PROVED BY COMPETENT EVIDENCE.
16 (B) THE RETIREMENT BOARD IS HEREBY AUTHORIZED TO PROMULGATE RULES AND
17 REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS PARAGRAPH.
18 (2) (A) NOTWITHSTANDING THE PROVISIONS OF THIS CHAPTER OR OF ANY
19 GENERAL, SPECIAL OR LOCAL LAW, CHARTER, ADMINISTRATIVE CODE OR RULE OR
20 REGULATION TO THE CONTRARY, IF A MEMBER WHO PARTICIPATED IN WORLD TRADE
21 CENTER RESCUE, RECOVERY OR CLEANUP OPERATIONS AS DEFINED IN SECTION TWO
22 OF THE RETIREMENT AND SOCIAL SECURITY LAW, AND SUBSEQUENTLY RETIRED ON A
23 SERVICE RETIREMENT, AN ORDINARY DISABILITY RETIREMENT, AN ACCIDENTAL
24 DISABILITY RETIREMENT, A PERFORMANCE OF DUTY DISABILITY RETIREMENT, OR
25 WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF

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

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1 A RETIREMENT ALLOWANCE AND SUBSEQUENT TO SUCH RETIREMENT OR SEPARATION
2 IS DETERMINED BY THE HEAD OF THE RETIREMENT SYSTEM TO HAVE A QUALIFYING
3 WORLD TRADE CENTER CONDITION, AS DEFINED IN SECTION TWO OF THE RETIRE-
4 MENT AND SOCIAL SECURITY LAW, UPON SUCH DETERMINATION BY THE RETIREMENT
5 BOARD, IT SHALL BE PRESUMED THAT SUCH DISABILITY WAS INCURRED IN THE
6 PERFORMANCE AND DISCHARGE OF DUTY AS THE NATURAL AND PROXIMATE RESULT OF
7 AN ACCIDENT NOT CAUSED BY SUCH MEMBER'S OWN WILLFUL NEGLIGENCE, AND THAT
8 THE MEMBER WOULD HAVE BEEN PHYSICALLY OR MENTALLY INCAPACITATED FOR THE
9 PERFORMANCE AND DISCHARGE OF DUTY OF THE POSITION FROM WHICH HE OR SHE
10 RETIRED OR VESTED HAD THE CONDITION BEEN KNOWN AND FULLY DEVELOPED AT
11 THE TIME OF THE MEMBER'S RETIREMENT OR SEPARATION FROM SERVICE WITH
12 VESTED RIGHTS, UNLESS THE CONTRARY IS PROVEN BY COMPETENT EVIDENCE.

13 (B) THE RETIREMENT BOARD SHALL CONSIDER A RECLASSIFICATION OF THE
14 MEMBER'S RETIREMENT OR VESTING AS AN ACCIDENTAL DISABILITY RETIREMENT
15 EFFECTIVE AS OF THE DATE OF SUCH RECLASSIFICATION.

16 (C) SUCH MEMBER'S RETIREMENT OPTION SHALL NOT BE CHANGED AS A RESULT
17 OF SUCH RECLASSIFICATION.

18 (D) THE MEMBER'S FORMER EMPLOYER AT THE TIME OF THE MEMBER'S RETIRE-
19 MENT SHALL HAVE AN OPPORTUNITY TO BE HEARD ON THE MEMBER'S APPLICATION
20 FOR RECLASSIFICATION BY THE RETIREMENT BOARD ACCORDING TO PROCEDURES
21 DEVELOPED BY THE RETIREMENT BOARD.

22 (E) THE RETIREMENT BOARD IS HEREBY AUTHORIZED TO PROMULGATE RULES AND
23 REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS PARAGRAPH.

24 G. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER OR OF ANY
25 GENERAL, SPECIAL OR LOCAL LAW, CHARTER, ADMINISTRATIVE CODE OR RULE OR
26 REGULATION TO THE CONTRARY, IF A RETIREE OR VESTEE WHO: (1) HAS MET THE
27 CRITERIA OF SUBDIVISION F OF THIS SECTION AND RETIRED ON A SERVICE OR
28 DISABILITY RETIREMENT, WOULD HAVE MET THE CRITERIA IF NOT ALREADY
29 RETIRED ON AN ACCIDENTAL DISABILITY, OR WAS SEPARATED FROM SERVICE WITH
30 A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; AND (2)
31 HAS NOT BEEN RETIRED FOR MORE THAN TWENTY-FIVE YEARS; AND (3) DIES FROM
32 A QUALIFYING WORLD TRADE CENTER CONDITION, AS DEFINED IN SECTION TWO OF
33 THE RETIREMENT AND SOCIAL SECURITY LAW, AS DETERMINED BY THE APPLICABLE
34 HEAD OF THE RETIREMENT SYSTEM OR APPLICABLE MEDICAL BOARD, THEN UNLESS
35 THE CONTRARY BE PROVEN BY COMPETENT EVIDENCE, SUCH RETIREE OR VESTEE
36 SHALL BE DEEMED TO HAVE DIED AS A NATURAL AND PROXIMATE RESULT OF AN
37 ACCIDENT SUSTAINED IN THE PERFORMANCE OF DUTY AND NOT AS A RESULT OF
38 WILLFUL NEGLIGENCE ON HIS OR HER PART. SUCH RETIREE'S OR VESTEE'S ELIGI-
39 BLE BENEFICIARY, AS SET FORTH IN SECTION 13-544 OF THIS CHAPTER, SHALL
40 BE ENTITLED TO AN ACCIDENTAL DEATH BENEFIT AS PROVIDED BY SECTION 13-544
41 OF THIS CHAPTER, HOWEVER, FOR THE PURPOSES OF DETERMINING THE SALARY
42 BASE UPON WHICH THE ACCIDENTAL DEATH BENEFIT IS CALCULATED, THE RETIREE
43 OR VESTEE SHALL BE DEEMED TO HAVE DIED ON THE DATE OF HIS OR HER RETIRE-
44 MENT OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. UPON THE RETIREE'S
45 OR VESTEE'S DEATH, THE ELIGIBLE BENEFICIARY SHALL MAKE A WRITTEN APPLI-
46 CATION TO THE HEAD OF THE RETIREMENT SYSTEM WITHIN THE TIME FOR FILING
47 AN APPLICATION FOR AN ACCIDENTAL DEATH BENEFIT AS SET FORTH IN SECTION
48 13-544 OF THIS CHAPTER REQUESTING CONVERSION OF SUCH RETIREE'S SERVICE,
49 VESTED RIGHT OR DISABILITY RETIREMENT BENEFIT TO AN ACCIDENTAL DEATH
50 BENEFIT. AT THE TIME OF SUCH CONVERSION, THE ELIGIBLE BENEFICIARY SHALL
51 RELINQUISH ALL RIGHTS TO THE PROSPECTIVE BENEFITS PAYABLE UNDER THE
52 SERVICE OR DISABILITY RETIREMENT BENEFIT, OR VESTED RIGHT TO SUCH BENE-
53 FIT, INCLUDING ANY POST-RETIREMENT DEATH BENEFITS, SINCE THE RETIREE'S
54 OR VESTEE'S DEATH. IF THE ELIGIBLE BENEFICIARY IS NOT THE ONLY BENEFICI-
55 ARY RECEIVING OR ENTITLED TO RECEIVE A BENEFIT UNDER THE SERVICE OR
56 DISABILITY RETIREMENT BENEFIT (INCLUDING, BUT NOT LIMITED TO, POST-RE-

1 TIREMENT DEATH BENEFITS OR BENEFITS PAID OR PAYABLE PURSUANT TO THE
2 RETIREE'S OPTION SELECTION), OR THAT WILL BE ELIGIBLE UNDER THE VESTED
3 RIGHT, THE ACCIDENTAL DEATH BENEFIT PAYMENTS TO THE ELIGIBLE BENEFICIARY
4 WILL BE REDUCED BY ANY AMOUNTS PAID OR PAYABLE TO ANY OTHER BENEFICIARY.
5 H. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CODE OR OF ANY GENERAL,
6 SPECIAL OR LOCAL LAW, CHARTER, OR RULE OR REGULATION TO THE CONTRARY, IF
7 A MEMBER WHO: (1) HAS MET THE CRITERIA OF SUBDIVISION F OF THIS SECTION;
8 (2) DIES IN ACTIVE SERVICE OR AFTER SEPARATING FROM SERVICE WITH A VEST-
9 ED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, BUT PRIOR TO
10 THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND (3) DIES FROM A QUALI-
11 FYING WORLD TRADE CENTER CONDITION, AS DEFINED IN SECTION TWO OF THE
12 RETIREMENT AND SOCIAL SECURITY LAW, AS DETERMINED BY THE APPLICABLE HEAD
13 OF THE RETIREMENT SYSTEM OR APPLICABLE MEDICAL BOARD, THEN UNLESS THE
14 CONTRARY BE PROVEN BY COMPETENT EVIDENCE, SUCH MEMBER SHALL BE DEEMED TO
15 HAVE DIED AS A NATURAL AND PROXIMATE RESULT OF AN ACCIDENT SUSTAINED IN
16 THE PERFORMANCE OF DUTY AND NOT AS A RESULT OF WILLFUL NEGLIGENCE ON HIS
17 OR HER PART. SUCH MEMBER'S ELIGIBLE BENEFICIARY, AS SET FORTH IN SECTION
18 13-544 OF THIS CHAPTER, SHALL BE ENTITLED TO AN ACCIDENTAL DEATH BENEFIT
19 PROVIDED HE OR SHE MAKES WRITTEN APPLICATION TO THE HEAD OF THE RETIRE-
20 MENT SYSTEM WITHIN THE TIME FOR FILING AN APPLICATION FOR AN ACCIDENTAL
21 DEATH BENEFIT AS SET FORTH IN SECTION 13-544 OF THIS CHAPTER.

22 S 2. Subdivision 25 of section 2575 of the education law is amended by
23 adding four new paragraphs (c), (d), (e) and (f) to read as follows:

24 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
25 RULES AND REGULATIONS ADOPTED PURSUANT TO THIS SECTION SHALL BE DEEMED
26 TO BE AMENDED TO PROVIDE THAT ANY REQUIREMENT THAT APPLICATIONS FOR
27 ACCIDENTAL DISABILITY BE FILED WITHIN A LIMITED TIME PERIOD AFTER THE
28 HAPPENING OF SUCH ACCIDENT SHALL NOT APPLY TO A VESTED MEMBER INCAPACI-
29 TATED AS A RESULT OF A QUALIFYING WORLD TRADE CENTER CONDITION AS
30 DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW.

31 (D)(1)(I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
32 THE RULES AND REGULATIONS ADOPTED PURSUANT TO THIS SECTION SHALL BE
33 DEEMED TO BE AMENDED TO PROVIDE THAT IF ANY CONDITION OR IMPAIRMENT OF
34 HEALTH IS CAUSED BY A QUALIFYING WORLD TRADE CENTER CONDITION AS DEFINED
35 IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, IT SHALL BE
36 PRESUMPTIVE EVIDENCE THAT IT WAS INCURRED IN THE PERFORMANCE AND
37 DISCHARGE OF DUTY AND THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT
38 NOT CAUSED BY SUCH MEMBER'S OWN WILLFUL NEGLIGENCE, UNLESS THE CONTRARY
39 BE PROVED BY COMPETENT EVIDENCE.

40 (II) THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT BOARD IS HEREBY
41 AUTHORIZED TO PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THE
42 PROVISIONS OF THIS PARAGRAPH.

43 (2)(I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
44 RULES AND REGULATIONS ADOPTED PURSUANT TO THIS SECTION SHALL BE DEEMED
45 TO BE AMENDED TO PROVIDE THAT IF A MEMBER WHO PARTICIPATED IN WORLD
46 TRADE CENTER RESCUE, RECOVERY OR CLEANUP OPERATIONS AS DEFINED IN
47 SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, AND SUBSEQUENTLY
48 RETIRED ON A SERVICE RETIREMENT, AN ORDINARY DISABILITY RETIREMENT, AN
49 ACCIDENTAL DISABILITY RETIREMENT, A PERFORMANCE OF DUTY DISABILITY
50 RETIREMENT, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO
51 DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE AND SUBSEQUENT TO SUCH
52 RETIREMENT OR SEPARATION IS DETERMINED BY THE HEAD OF THE RETIREMENT
53 SYSTEM OR APPLICABLE MEDICAL BOARD TO HAVE A QUALIFYING WORLD TRADE
54 CENTER CONDITION, AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL
55 SECURITY LAW, UPON SUCH DETERMINATION BY THE NEW YORK CITY BOARD OF
56 EDUCATION RETIREMENT BOARD OR APPLICABLE MEDICAL BOARD, IT SHALL BE

1 PRESUMED THAT SUCH DISABILITY WAS INCURRED IN THE PERFORMANCE AND
2 DISCHARGE OF DUTY AS THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT NOT
3 CAUSED BY SUCH MEMBER'S OWN WILLFUL NEGLIGENCE, AND THAT THE MEMBER
4 WOULD HAVE BEEN PHYSICALLY OR MENTALLY INCAPACITATED FOR THE PERFORMANCE
5 AND DISCHARGE OF DUTY OF THE POSITION FROM WHICH HE OR SHE RETIRED OR
6 VESTED HAD THE CONDITION BEEN KNOWN AND FULLY DEVELOPED AT THE TIME OF
7 THE MEMBER'S RETIREMENT OR SEPARATION FROM SERVICE WITH VESTED RIGHTS,
8 UNLESS THE CONTRARY IS PROVEN BY COMPETENT EVIDENCE.

9 (II) THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT BOARD SHALL
10 CONSIDER A RECLASSIFICATION OF THE MEMBER'S RETIREMENT OR VESTING AS AN
11 ACCIDENTAL DISABILITY RETIREMENT EFFECTIVE AS OF THE DATE OF SUCH
12 RECLASSIFICATION.

13 (III) SUCH MEMBER'S RETIREMENT OPTION SHALL NOT BE CHANGED AS A RESULT
14 OF SUCH RECLASSIFICATION.

15 (IV) THE MEMBER'S FORMER EMPLOYER AT THE TIME OF THE MEMBER'S RETIRE-
16 MENT SHALL HAVE AN OPPORTUNITY TO BE HEARD ON THE MEMBER'S APPLICATION
17 FOR RECLASSIFICATION BY THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT
18 BOARD ACCORDING TO PROCEDURES DEVELOPED BY THE NEW YORK CITY BOARD OF
19 EDUCATION RETIREMENT BOARD.

20 (V) THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT BOARD IS HEREBY
21 AUTHORIZED TO PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THE
22 PROVISIONS OF THIS PARAGRAPH.

23 (E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
24 RULES AND REGULATIONS ADOPTED PURSUANT TO THIS SECTION SHALL BE DEEMED
25 TO BE AMENDED TO PROVIDE THAT IF A RETIREE OR VESTEE WHO: (1) HAS MET
26 THE CRITERIA OF PARAGRAPH (D) OF THIS SUBDIVISION AND RETIRED ON A
27 SERVICE OR DISABILITY RETIREMENT, WOULD HAVE MET THE CRITERIA IF NOT
28 ALREADY RETIRED ON AN ACCIDENTAL DISABILITY, OR WAS SEPARATED FROM
29 SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT
30 ALLOWANCE; AND (2) HAS NOT BEEN RETIRED FOR MORE THAN TWENTY-FIVE YEARS;
31 AND (3) DIES FROM A QUALIFYING WORLD TRADE CENTER CONDITION, AS DEFINED
32 IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, AS DETERMINED
33 BY THE APPLICABLE HEAD OF THE RETIREMENT SYSTEM OR APPLICABLE MEDICAL
34 BOARD, THEN UNLESS THE CONTRARY BE PROVEN BY COMPETENT EVIDENCE, SUCH
35 RETIREE OR VESTEE SHALL BE DEEMED TO HAVE DIED AS A NATURAL AND PROXI-
36 MATE RESULT OF AN ACCIDENT SUSTAINED IN THE PERFORMANCE OF DUTY AND NOT
37 AS A RESULT OF WILLFUL NEGLIGENCE ON HIS OR HER PART. SUCH RETIREE'S OR
38 VESTEE'S ELIGIBLE BENEFICIARY, AS SET FORTH IN TITLE TWENTY-ONE OF THE
39 RULES AND REGULATION, SHALL BE ENTITLED TO AN ACCIDENTAL DEATH BENEFIT
40 AS PROVIDED BY TITLE TWENTY-ONE OF THE RULES AND REGULATIONS, HOWEVER,
41 FOR THE PURPOSES OF DETERMINING THE SALARY BASE UPON WHICH THE ACCI-
42 DENTAL DEATH BENEFIT IS CALCULATED, THE RETIREE OR VESTEE SHALL BE
43 DEEMED TO HAVE DIED ON THE DATE OF HIS OR HER RETIREMENT OR SEPARATION
44 FROM SERVICE WITH VESTED RIGHTS. UPON THE RETIREE'S OR VESTEE'S DEATH,
45 THE ELIGIBLE BENEFICIARY SHALL MAKE A WRITTEN APPLICATION TO THE HEAD OF
46 THE RETIREMENT SYSTEM WITHIN THE TIME FOR FILING AN APPLICATION FOR AN
47 ACCIDENTAL DEATH BENEFIT AS SET FORTH IN TITLE TWENTY-ONE OF THE RULES
48 AND REGULATIONS REQUESTING CONVERSION OF SUCH RETIREE'S SERVICE, VESTED
49 RIGHT OR DISABILITY RETIREMENT BENEFIT TO AN ACCIDENTAL DEATH BENEFIT.
50 AT THE TIME OF SUCH CONVERSION, THE ELIGIBLE BENEFICIARY SHALL RELIN-
51 QUISH ALL RIGHTS TO THE PROSPECTIVE BENEFITS PAYABLE UNDER THE SERVICE
52 OR DISABILITY RETIREMENT BENEFIT, OR VESTED RIGHT TO SUCH BENEFIT,
53 INCLUDING ANY POST-RETIREMENT DEATH BENEFITS, SINCE THE RETIREE'S OR
54 VESTEE'S DEATH. IF THE ELIGIBLE BENEFICIARY IS NOT THE ONLY BENEFICIARY
55 RECEIVING OR ENTITLED TO RECEIVE A BENEFIT UNDER THE SERVICE OR DISABIL-
56 ITY RETIREMENT BENEFIT (INCLUDING, BUT NOT LIMITED TO, POST-RETIREMENT

DEATH BENEFITS OR BENEFITS PAID OR PAYABLE PURSUANT TO THE RETIREE'S OPTION SELECTION), OR THAT WILL BE ELIGIBLE UNDER THE VESTED RIGHT THE ACCIDENTAL DEATH BENEFIT PAYMENTS TO THE ELIGIBLE BENEFICIARY WILL BE REDUCED BY ANY AMOUNTS PAID OR PAYABLE TO ANY OTHER BENEFICIARY.

(F) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE RULES AND REGULATIONS ADOPTED PURSUANT TO THIS SECTION SHALL BE DEEMED TO BE AMENDED TO PROVIDE THAT IF A MEMBER WHO: (1) HAS MET THE CRITERIA OF PARAGRAPH (D) OF THIS SUBDIVISION; (2) DIES IN ACTIVE SERVICE OR AFTER SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND (3) DIES FROM A QUALIFYING WORLD TRADE CENTER CONDITION, AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, AS DETERMINED BY THE APPLICABLE HEAD OF THE RETIREMENT SYSTEM OR APPLICABLE MEDICAL BOARD, THEN UNLESS THE CONTRARY BE PROVEN BY COMPETENT EVIDENCE, SUCH MEMBER SHALL BE DEEMED TO HAVE DIED AS A NATURAL AND PROXIMATE RESULT OF AN ACCIDENT SUSTAINED IN THE PERFORMANCE OF DUTY AND NOT AS A RESULT OF WILLFUL NEGLIGENCE ON HIS OR HER PART. SUCH MEMBER'S ELIGIBLE BENEFICIARY, AS SET FORTH IN TITLE TWENTY-ONE OF THE RULES AND REGULATIONS SHALL BE ENTITLED TO AN ACCIDENTAL DEATH BENEFIT PROVIDED HE OR SHE MAKES WRITTEN APPLICATION TO THE HEAD OF THE RETIREMENT SYSTEM AS SET FORTH IN TITLE TWENTY-ONE OF THE RULES AND REGULATIONS.

S 3. Subparagraph (b) of paragraph 5 of subdivision b and subdivisions c and d of section 13-168 of the administrative code of the city of New York, as amended by chapter 489 of the laws of 2008, are amended to read as follows:

(b) (1) Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations as defined in section two of the retirement and social security law, and subsequently retired on a service retirement, an ordinary disability retirement, an accidental disability retirement, [or] a performance of duty disability retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE and subsequent to such retirement OR SEPARATION is determined by the board of trustees to have a qualifying World Trade Center condition as defined by section two of the retirement and social security law, upon such determination by the NYCERS board of trustees, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired OR VESTED had the condition been known and fully developed at the time of the member's retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS, unless the contrary is proven by competent evidence.

(2) The NYCERS board of trustees shall consider a reclassification of the member's retirement OR VESTING as an accidental disability retirement effective as of the date of such reclassification.

(3) Such member's retirement option shall not be changed as a result of such reclassification.

(4) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the NYCERS board of trustees according to procedures developed by the retirement system.

c. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or

1 regulation to the contrary, if a retiree OR VESTEE who: (1) has met the
2 criteria of subdivision b of this section and retired on a service or
3 disability retirement, [or] would have met the criteria if not already
4 retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH
5 A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2)
6 has not been retired for more than twenty-five years; and (3) dies from
7 a qualifying World Trade Center condition as defined in section two of
8 the retirement and social security law, as determined by the applicable
9 head of the retirement system or applicable medical board, then unless
10 the contrary be proven by competent evidence, such retiree OR VESTEE
11 shall be deemed to have died as a natural and proximate result of an
12 accident sustained in the performance of duty and not as a result of
13 willful negligence on his or her part. Such retiree's OR VESTEE'S
14 eligible beneficiary, as set forth in section 13-149 of this chapter,
15 shall be entitled to an accidental death benefit as provided by section
16 13-149 of this chapter, however, for the purposes of determining the
17 salary base upon which the accidental death benefit is calculated, the
18 retiree OR VESTEE shall be deemed to have died on the date of his or her
19 retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the
20 retiree's OR VESTEE'S death, the eligible beneficiary shall make a writ-
21 ten application to the head of the retirement system within the time for
22 filing an application for an accidental death benefit as set forth in
23 section 13-149 of this chapter requesting conversion of such retiree's
24 service, VESTED RIGHT or disability retirement benefit to an accidental
25 death benefit. At the time of such conversion, the eligible beneficiary
26 shall relinquish all rights to the prospective benefits payable under
27 the service or disability retirement benefit, OR VESTED RIGHT TO SUCH
28 BENEFIT, including any post-retirement death benefits, since the
29 retiree's OR VESTEE'S death. If the eligible beneficiary is not the
30 only beneficiary receiving or entitled to receive a benefit under the
31 service or disability retirement benefit (including, but not limited to,
32 post-retirement death benefits or benefits paid or payable pursuant to
33 the retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE
34 VESTED RIGHT, the accidental death benefit payments to the eligible
35 beneficiary will be reduced by any amounts paid or payable to any other
36 beneficiary.

37 d. Notwithstanding any other provision of this code or of any general,
38 special or local law, charter, or rule or regulation to the contrary, if
39 a member who: (1) has met the criteria of subdivision b of this section;
40 [and] (2) dies in active service OR AFTER SEPARATING FROM SERVICE WITH A
41 VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, BUT PRIOR
42 TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND (3) DIES from a
43 qualifying World Trade Center condition as defined in section two of the
44 retirement and social security law, as determined by the applicable head
45 of the retirement system or applicable medical board, then unless the
46 contrary be proven by competent evidence, such member shall be deemed to
47 have died as a natural and proximate result of an accident sustained in
48 the performance of duty and not as a result of willful negligence on his
49 or her part. Such member's eligible beneficiary, as set forth in
50 section 13-149 of this chapter, shall be entitled to an accidental death
51 benefit provided he or she makes written application to the head of the
52 retirement system within the time for filing an application for an acci-
53 dental death benefit as set forth in section 13-149 of this chapter.

54 S 4. Subdivisions 2, 3 and 4 of section 13-252.1 of the administrative
55 code of the city of New York, as amended by chapter 489 of the laws of
56 2008, are amended to read as follows:

1 2. (a) Notwithstanding the provisions of this chapter or of any gener-
2 al, special or local law, charter, administrative code or rule or regu-
3 lation to the contrary, if a member who participated in World Trade
4 Center rescue, recovery or cleanup operations as defined in section two
5 of the retirement and social security law, and subsequently retired on a
6 service retirement, an ordinary disability retirement, an accidental
7 disability retirement, [or] a performance of duty disability retirement,
8 OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY
9 OF A RETIREMENT ALLOWANCE and subsequent to such retirement OR SEPA-
10 RATION is determined by the [NYCFDPF] NYCPPF board of trustees to have a
11 qualifying World Trade Center condition, as defined in section two of
12 the retirement and social security law, upon such determination by the
13 [NYCFDPF] NYCPPF board of trustees, it shall be presumed that such disa-
14 bility was incurred in the performance and discharge of duty as the
15 natural and proximate result of an accident not caused by such member's
16 own willful negligence, and that the member would have been physically
17 or mentally incapacitated for the performance and discharge of duty of
18 the position from which he or she retired OR VESTED had the condition
19 been known and fully developed at the time of the member's retirement OR
20 SEPARATION FROM SERVICE WITH VESTED RIGHTS, unless the contrary is prov-
21 en by competent evidence.

22 (b) The NYCPPF board of trustees shall consider a reclassification of
23 the member's retirement OR VESTING as an accidental disability retire-
24 ment effective as of the date of such reclassification.

25 (c) Such member's retirement option shall not be changed as a result
26 of such reclassification.

27 (d) The member's former employer at the time of the member's retire-
28 ment shall have an opportunity to be heard on the member's application
29 for reclassification by the NYCPPF board of trustees according to proce-
30 dures developed by the NYCPPF board of trustees.

31 (e) The NYCPPF board of trustees is hereby authorized to promulgate
32 rules and regulations to implement the provisions of this paragraph.

33 3. Notwithstanding any other provision of this chapter or of any
34 general, special or local law, charter, administrative code or rule or
35 regulation to the contrary, if a retiree OR VESTEE who: (1) has met the
36 criteria of subdivision one of this section and retired on a service or
37 disability retirement, [or] would have met the criteria if not already
38 retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH
39 A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2)
40 has not been retired for more than twenty-five years; and (3) dies from
41 a qualifying World Trade Center condition, as defined in section two of
42 the retirement and social security law, as determined by the applicable
43 head of the retirement system or applicable medical board, then unless
44 the contrary be proven by competent evidence, such retiree OR VESTEE
45 shall be deemed to have died as a natural and proximate result of an
46 accident sustained in the performance of duty and not as a result of
47 willful negligence on his or her part. Such retiree's OR VESTEE'S
48 eligible beneficiary, as set forth in section 13-244 of this subchapter,
49 shall be entitled to an accidental death benefit as provided by section
50 13-244 of this subchapter, however, for the purposes of determining the
51 salary base upon which the accidental death benefit is calculated, the
52 retiree OR VESTEE shall be deemed to have died on the date of his or her
53 retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the
54 retiree's OR VESTEE'S death, the eligible beneficiary shall make a writ-
55 ten application to the head of the retirement system within the time for
56 filing an application for an accidental death benefit as set forth in

1 section 13-244 of this subchapter requesting conversion of such
2 retiree's service, VESTED RIGHT or disability retirement benefit to an
3 accidental death benefit. At the time of such conversion, the eligible
4 beneficiary shall relinquish all rights to the prospective benefits
5 payable under the service or disability retirement benefit, OR VESTED
6 RIGHT TO SUCH BENEFIT, including any post-retirement death benefits,
7 since the retiree's OR VESTEE'S death. If the eligible beneficiary is
8 not the only beneficiary receiving or entitled to receive a benefit
9 under the service or disability retirement benefit (including, but not
10 limited to, post-retirement death benefits or benefits paid or payable
11 pursuant to the retiree's option selection), OR THAT WILL BE ELIGIBLE
12 UNDER THE VESTED RIGHT, the accidental death benefit payments to the
13 eligible beneficiary will be reduced by any amounts paid or payable to
14 any other beneficiary.

15 4. Notwithstanding any other provision of this code or of any general,
16 special or local law, charter, or rule or regulation to the contrary, if
17 a member who: (1) has met the criteria of subdivision one of this
18 section; [and] (2) dies in active service OR AFTER SEPARATING FROM
19 SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT
20 ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND
21 (3) DIES from a qualifying World Trade Center condition, as defined in
22 section two of the retirement and social security law, as determined by
23 the applicable head of the retirement system or applicable medical board
24 to have been caused by such member's participation in the World Trade
25 Center rescue, recovery or cleanup operations, as defined in section two
26 of the retirement and social security law, then unless the contrary be
27 proven by competent evidence, such member shall be deemed to have died
28 as a natural and proximate result of an accident sustained in the
29 performance of duty and not as a result of willful negligence on his or
30 her part. Such member's eligible beneficiary, as set forth in section
31 13-244 of this subchapter, shall be entitled to an accidental death
32 benefit provided he or she makes written application to the head of the
33 retirement system within the time for filing an application for an acci-
34 dental death benefit as set forth in section 13-244 of this subchapter.

35 S 5. Subdivisions 2, 3 and 4 of section 13-353.1 of the administrative
36 code of the city of New York, as amended by chapter 489 of the laws of
37 2008, are amended to read as follows:

38 2. (a) Notwithstanding the provisions of this chapter or of any gener-
39 al, special or local law, charter, administrative code or rule or regu-
40 lation to the contrary, if a member who participated in World Trade
41 Center rescue, recovery or cleanup operations as defined in section two
42 of the retirement and social security law, and subsequently retired on a
43 service retirement, an ordinary disability retirement, an accidental
44 disability retirement, [or] a performance of duty disability retirement,
45 OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY
46 OF A RETIREMENT ALLOWANCE and subsequent to such retirement OR SEPA-
47 RATION is determined by the head of the retirement system to have a
48 qualifying World Trade Center condition, as defined in section two of
49 the retirement and social security law, upon such determination by the
50 NYCFDPF board of trustees, it shall be presumed that such disability was
51 incurred in the performance and discharge of duty as the natural and
52 proximate result of an accident not caused by such member's own willful
53 negligence, and that the member would have been physically or mentally
54 incapacitated for the performance and discharge of duty of the position
55 from which he or she retired OR VESTED had the condition been known and
56 fully developed at the time of the member's retirement OR SEPARATION

1 FROM SERVICE WITH VESTED RIGHTS, unless the contrary is proven by compe-
2 tent evidence.

3 (b) The NYCDFPF shall consider a reclassification of the member's
4 retirement OR VESTING as an accidental disability retirement effective
5 as of the date of such reclassification.

6 (c) Such member's retirement option shall not be changed as a result
7 of such reclassification.

8 (d) The member's former employer at the time of the member's retire-
9 ment shall have an opportunity to be heard on the member's application
10 for reclassification by the NYCDFPF board of trustees according to
11 procedures developed by the NYCDFPF.

12 (e) The NYCDFPF board of trustees is hereby authorized to promulgate
13 rules and regulations to implement the provisions of this paragraph.

14 3. Notwithstanding any other provision of this chapter or of any
15 general, special or local law, charter, administrative code or rule or
16 regulation to the contrary, if a retiree OR VESTEE who: (1) has met the
17 criteria of subdivision one of this section and retired on a service or
18 disability retirement, [or] would have met the criteria if not already
19 retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH
20 A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2)
21 has not been retired for more than twenty-five years; and (3) dies from
22 a qualifying World Trade Center condition, as defined in section two of
23 the retirement and social security law, as determined by the applicable
24 head of the retirement system or applicable medical board, then unless
25 the contrary be proven by competent evidence, such retiree OR VESTEE
26 shall be deemed to have died as a natural and proximate result of an
27 accident sustained in the performance of duty and not as a result of
28 willful negligence on his or her part. Such retiree's OR VESTEE'S
29 eligible beneficiary, as set forth in section 13-347 of this subchapter,
30 shall be entitled to an accidental death benefit as provided by sections
31 13-347 and 13-348 of this subchapter, however, for the purposes of
32 determining the salary base upon which the accidental death benefit is
33 calculated, the retiree OR VESTEE shall be deemed to have died on the
34 date of his or her retirement OR SEPARATION FROM SERVICE WITH VESTED
35 RIGHTS. Upon the retiree's OR VESTEE'S death, the eligible beneficiary
36 shall make a written application to the head of the retirement system
37 within the time for filing an application for an accidental death bene-
38 fit as set forth in sections 13-347 and 13-348 of this subchapter
39 requesting conversion of such retiree's service, VESTED RIGHT or disa-
40 bility retirement benefit to an accidental death benefit. At the time of
41 such conversion, the eligible beneficiary shall relinquish all rights to
42 the prospective benefits payable under the service or disability retire-
43 ment benefit OR VESTED RIGHT TO SUCH BENEFIT, including any post-retire-
44 ment death benefits, since the retiree's OR VESTEE'S death. If the
45 eligible beneficiary is not the only beneficiary receiving or entitled
46 to receive a benefit under the service or disability retirement benefit
47 (including, but not limited to, post-retirement death benefits or bene-
48 fits paid or payable pursuant to the retiree's option selection), OR
49 THAT WILL BE ELIGIBLE UNDER THE VESTED RIGHT the accidental death bene-
50 fit payments to the eligible beneficiary will be reduced by any amounts
51 paid or payable to any other beneficiary.

52 4. Notwithstanding any other provision of this code or of any general,
53 special or local law, charter, or rule or regulation to the contrary, if
54 a member who: (1) has met the criteria of subdivision one of this
55 section; [and] (2) dies in active service OR AFTER SEPARATING FROM
56 SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT

1 ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT ALLOWANCE; AND
2 (3) DIES from a qualifying World Trade Center condition, as defined in
3 section two of the retirement and social security law, as determined by
4 the applicable head of the retirement system or applicable medical
5 board, then unless the contrary be proven by competent evidence, such
6 member shall be deemed to have died as a natural and proximate result of
7 an accident sustained in the performance of duty and not as a result of
8 willful negligence on his or her part. Such member's eligible benefici-
9 ary, as set forth in section 13-347 of this subchapter, shall be enti-
10 tled to an accidental death benefit provided he or she makes written
11 application to the head of the retirement system within the time for
12 filing an application for an accidental death benefit as set forth in
13 section 13-347 of this subchapter.

14 S 6. Paragraph 2 of subdivision c and subdivisions d and e of section
15 507-c of the retirement and social security law, as amended by chapter
16 489 of the laws of 2008, are amended to read as follows:

17 2. (a) Notwithstanding the provisions of this chapter or of any gener-
18 al, special or local law, charter, administrative code or rule or regu-
19 lation to the contrary, if a member who participated in World Trade
20 Center rescue, recovery or cleanup operations, as defined in section two
21 of this chapter, and subsequently retired on a service retirement, an
22 ordinary disability retirement [or], a performance of duty disability
23 retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO
24 DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE and subsequent to such
25 retirement OR SEPARATION which is determined by the head of the retire-
26 ment system to have been a qualifying World Trade Center condition, as
27 defined in section two of this chapter, upon such determination by the
28 head of the retirement system, it shall be presumed that such disability
29 was incurred in the performance and discharge of duty as the natural and
30 proximate result of an accident not caused by such member's own willful
31 negligence, and that the member would have been physically or mentally
32 incapacitated for the performance and discharge of duty of the position
33 from which he or she retired OR VESTED had the condition been known and
34 fully developed at the time of the member's retirement OR SEPARATION
35 FROM SERVICE WITH VESTED RIGHTS, unless the contrary is proved by compe-
36 tent evidence.

37 (b) The head of the retirement system shall consider a reclassifica-
38 tion of the member's retirement OR VESTING as an accidental disability
39 retirement effective as of the date of such reclassification.

40 (c) Such member's retirement option shall not be changed as a result
41 of such reclassification.

42 (d) The member's former employer at the time of the member's retire-
43 ment shall have an opportunity to be heard on the member's application
44 for reclassification by the head of the retirement system according to
45 procedures developed by the head of the retirement system.

46 (e) The head of the retirement system is hereby authorized to promul-
47 gate rules and regulations to implement the provisions of this para-
48 graph.

49 d. Notwithstanding any other provision of this chapter or of any
50 general, special or local law, charter, administrative code or rule or
51 regulation to the contrary, if a retiree OR VESTEE who: (1) has met the
52 criteria of subdivision c of this section and retired on a service or
53 disability retirement, [or] would have met the criteria if not already
54 retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH
55 A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2)
56 has not been retired for more than twenty-five years; and (3) dies from

1 a qualifying World Trade center condition, as defined in section two of
2 this chapter, that is determined by the applicable head of the retire-
3 ment system or applicable medical board, then unless the contrary be
4 proven by competent evidence, such retiree OR VESTEE shall be deemed to
5 have died as a natural and proximate result of an accident sustained in
6 the performance of duty and not as a result of willful negligence on his
7 or her part. Such retiree's OR VESTEE'S eligible beneficiary, as set
8 forth in section five hundred one of this article, shall be entitled to
9 an accidental death benefit as provided by section five hundred nine of
10 this article, however, for the purposes of determining the salary base
11 upon which the accidental death benefit is calculated, the retiree OR
12 VESTEE shall be deemed to have died on the date of his or her retirement
13 OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR
14 VESTEE'S death, the eligible beneficiary shall make a written applica-
15 tion to the head of the retirement system within the time for filing an
16 application for an accidental death benefit as set forth in section five
17 hundred nine of this article requesting conversion of such retiree's
18 service, VESTED RIGHT or disability retirement benefit to an accidental
19 death benefit. At the time of such conversion, the eligible beneficiary
20 shall relinquish all rights to the prospective benefits payable under
21 the service or disability retirement benefit, OR VESTED RIGHT TO SUCH
22 BENEFIT, including any post-retirement death benefits, since the
23 retiree's OR VESTEE'S death. If the eligible beneficiary is not the
24 only beneficiary receiving or entitled to receive a benefit under the
25 service or disability retirement benefit (including, but not limited to,
26 post-retirement death benefits or benefits paid or payable pursuant to
27 the retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE
28 VESTED RIGHT the accidental death benefit payments to the eligible bene-
29 ficiary will be reduced by any amounts paid or payable to any other
30 beneficiary.

31 e. Notwithstanding any other provision of this chapter or of any
32 general, special or local law, charter, administrative code or rule or
33 regulation to the contrary, if a member who: (1) has met the criteria of
34 subdivision c of this section; [and] (2) dies in active service OR AFTER
35 SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A
36 RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT
37 ALLOWANCE; AND (3) DIES from a qualifying World Trade Center condition,
38 as defined in section two of this chapter, that is determined by the
39 applicable head of the retirement system or applicable medical board,
40 then unless the contrary be proven by competent evidence, such member
41 shall be deemed to have died as a natural and proximate result of an
42 accident sustained in the performance of duty and not as a result of
43 willful negligence on his or her part. Such member's eligible benefici-
44 ary, as set forth in section five hundred one of this article, shall be
45 entitled to an accidental death benefit provided he or she makes written
46 application to the head of the retirement system within the time for
47 filing an application for an accidental death benefit as set forth in
48 section five hundred nine of this article.

49 S 7. Paragraph 2 of subdivision d and subdivisions e and f of section
50 605-b of the retirement and social security law, as amended by chapter
51 489 of the laws of 2008, are amended to read as follows:

52 2. (a) Notwithstanding the provisions of this chapter or of any gener-
53 al, special or local law, charter, administrative code or rule or regu-
54 lation to the contrary, if a member who participated in World Trade
55 Center rescue, recovery or cleanup operations, as defined in section two
56 of this chapter, and subsequently retired on a service retirement, an

1 ordinary disability retirement [or], a performance of duty disability
2 retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO
3 DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE and subsequent to such
4 retirement OR SEPARATION which is determined by the head of the retire-
5 ment system to have a qualifying World Trade Center condition, as
6 defined in section two of this chapter, upon such determination by the
7 head of the retirement system it shall be presumed that such disability
8 was incurred in the performance and discharge of duty as the natural and
9 proximate result of an accident not caused by such member's own willful
10 negligence, and that the member would have been physically or mentally
11 incapacitated for the performance and discharge of duty of the position
12 from which he or she retired had the condition been known and fully
13 developed at the time of the member's retirement, unless the contrary is
14 proven by competent evidence.

15 (b) The head of the retirement system shall consider a reclassifica-
16 tion of the member's retirement OR VESTING as an accidental disability
17 retirement effective as of the date of such reclassification.

18 (c) Such member's retirement option shall not be changed as a result
19 of such reclassification.

20 (d) The member's former employer at the time of the member's retire-
21 ment shall have an opportunity to be heard on the member's application
22 for reclassification by the head of the retirement system according to
23 procedures developed by the head of the retirement system.

24 (e) The head of the retirement system is hereby authorized to promul-
25 gate rules and regulations to implement the provisions of this para-
26 graph.

27 e. Notwithstanding any other provision of this chapter or of any
28 general, special or local law, charter, administrative code or rule or
29 regulation to the contrary, if a retiree OR VESTEE who: (1) has met the
30 criteria of subdivision d of this section and retired on a service or
31 disability retirement, [or] would have met the criteria if not already
32 retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH
33 A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2)
34 has not been retired for more than twenty-five years; and (3) dies from
35 a qualifying World Trade Center condition, as defined in section two of
36 this chapter, as determined by the applicable head of the retirement
37 system or applicable medical board, then unless the contrary be proven
38 by competent evidence, such retiree OR VESTEE shall be deemed to have
39 died as a natural and proximate result of an accident sustained in the
40 performance of duty and not as a result of willful negligence on his or
41 her part. Such retiree's OR VESTEE'S eligible beneficiary, as set forth
42 in section six hundred one of this article, shall be entitled to an
43 accidental death benefit as provided by section six hundred seven of
44 this article, however, for the purposes of determining the salary base
45 upon which the accidental death benefit is calculated, the retiree OR
46 VESTEE shall be deemed to have died on the date of his or her retirement
47 OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR
48 VESTEE'S death, the eligible beneficiary shall make a written applica-
49 tion to the head of the retirement system within the time for filing an
50 application for an accidental death benefit as set forth in section six
51 hundred seven of this article requesting conversion of such retiree's OR
52 VESTEE'S service or disability retirement benefit to an accidental death
53 benefit. At the time of such conversion, the eligible beneficiary shall
54 relinquish all rights to the prospective benefits payable under the
55 service or disability retirement benefit, OR VESTED RIGHT TO SUCH BENE-
56 FIT, including any post-retirement death benefits, since the retiree's

1 OR VESTEE'S death. If the eligible beneficiary is not the only benefi-
2 ciary receiving or entitled to receive a benefit under the service or
3 disability retirement benefit (including, but not limited to, post-re-
4 tirement death benefits or benefits paid or payable pursuant to the
5 retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE VESTED
6 RIGHT, the accidental death benefit payments to the eligible beneficiary
7 will be reduced by any amounts paid or payable to any other beneficiary.
8 f. Notwithstanding any other provision of this chapter or of any
9 general, special or local law, charter, administrative code or rule or
10 regulation to the contrary, if a member who: (1) has met the criteria of
11 subdivision d of this section; [and] (2) dies in active service OR AFTER
12 SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A
13 RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT
14 ALLOWANCE; AND (3) DIES from a qualifying World Trade Center condition,
15 as defined in section two of this chapter, as determined by the applica-
16 ble head of the retirement system or applicable medical board to have
17 been caused by such member's participation in the World Trade Center
18 rescue, recovery or cleanup operations, as defined in section two of
19 this chapter, then unless the contrary be proven by competent evidence,
20 such member shall be deemed to have died as a natural and proximate
21 result of an accident sustained in the performance of duty and not as a
22 result of willful negligence on his or her part. Such member's eligible
23 beneficiary, as set forth in section six hundred one of this article,
24 shall be entitled to an accidental death benefit provided he or she
25 makes written application to the head of the retirement system within
26 the time for filing an application for an accidental death benefit as
27 set forth in section six hundred seven of this article.

28 S 8. Paragraph 2 of subdivision b and subdivisions c and d of section
29 605-c of the retirement and social security law, as amended by chapter
30 489 of the laws of 2008, are amended to read as follows:

31 2. (a) Notwithstanding the provisions of this chapter or of any gener-
32 al, special or local law, charter, administrative code or rule or regu-
33 lation to the contrary, if a member who participated in World Trade
34 Center rescue, recovery or cleanup operations as defined in section two
35 of this chapter, and subsequently retired on a service retirement, an
36 ordinary disability retirement [or], a performance of duty disability
37 retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO
38 DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE and subsequent to such
39 retirement OR SEPARATION is determined by the head of the retirement
40 system to have a qualifying World Trade Center condition as defined in
41 section two of this chapter, upon such determination by the head of the
42 retirement system, it shall be presumed that such disability was
43 incurred in the performance and discharge of duty as the natural and
44 proximate result of an accident not caused by such member's own willful
45 negligence, and that the member would have been physically or mentally
46 incapacitated for the performance and discharge of duty of the position
47 from which he or she retired had the condition been known and fully
48 developed at the time of the member's retirement, unless the contrary is
49 proven by competent evidence.

50 (b) The head of the retirement system shall consider a reclassifica-
51 tion of the member's retirement OR VESTING as an accidental disability
52 retirement effective as of the date of such reclassification.

53 (c) Such member's retirement option shall not be changed as a result
54 of such reclassification.

55 (d) The member's former employer at the time of the member's retire-
56 ment shall have an opportunity to be heard on the member's application

1 for reclassification by the head of the retirement system according to
2 procedures developed by the comptroller.

3 (e) The head of the retirement system is hereby authorized to promul-
4 gate rules and regulations to implement the provisions of this para-
5 graph.

6 c. Notwithstanding any other provision of this chapter or of any
7 general, special or local law, charter, administrative code or rule or
8 regulation to the contrary, if a retiree OR VESTEE who: (1) has met the
9 criteria of subdivision b of this section and retired on a service or
10 disability retirement, [or] would have met the criteria if not already
11 retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH
12 A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2)
13 has not been retired for more than twenty-five years; and (3) dies from
14 a qualifying World Trade Center condition as defined in section two of
15 this chapter, as determined by the applicable head of the retirement
16 system or applicable medical board, then unless the contrary be proven
17 by competent evidence, such retiree OR VESTEE shall be deemed to have
18 died as a natural and proximate result of an accident sustained in the
19 performance of duty and not as a result of willful negligence on his or
20 her part. Such retiree's OR VESTEE'S eligible beneficiary, as set forth
21 in section six hundred one of this article, shall be entitled to an
22 accidental death benefit as provided by section six hundred seven of
23 this article, however, for the purposes of determining the salary base
24 upon which the accidental death benefit is calculated, the retiree OR
25 VESTEE shall be deemed to have died on the date of his or her retirement
26 OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR
27 VESTEE'S death, the eligible beneficiary shall make a written applica-
28 tion to the head of the retirement system within the time for filing an
29 application for an accidental death benefit as set forth in section six
30 hundred seven of this article requesting conversion of such retiree's
31 service, VESTED RIGHT or disability retirement benefit to an accidental
32 death benefit. At the time of such conversion, the eligible beneficiary
33 shall relinquish all rights to the prospective benefits payable under
34 the service or disability retirement benefit, OR VESTED RIGHT TO SUCH
35 BENEFIT, including any post-retirement death benefits, since the
36 retiree's OR VESTEE'S death. If the eligible beneficiary is not the
37 only beneficiary receiving or entitled to receive a benefit under the
38 service or disability retirement benefit (including, but not limited to,
39 post-retirement death benefits or benefits paid or payable pursuant to
40 the retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE
41 VESTED RIGHT, the accidental death benefit payments to the eligible
42 beneficiary will be reduced by any amounts paid or payable to any other
43 beneficiary.

44 d. Notwithstanding any other provision of this chapter or of any
45 general, special or local law, charter, administrative code or rule or
46 regulation to the contrary, if a member who: (1) has met the criteria of
47 subdivision b of this section; [and] (2) dies in active service OR AFTER
48 SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A
49 RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT
50 ALLOWANCE; AND (3) DIES from a qualifying World Trade Center condition,
51 as defined in section two of this chapter, as determined by the applica-
52 ble head of the retirement system or applicable medical board to have
53 been caused by such member's participation in the World Trade Center
54 rescue, recovery or cleanup operations, as defined in section two of
55 this chapter, then unless the contrary be proven by competent evidence,
56 such member shall be deemed to have died as a natural and proximate

1 result of an accident sustained in the performance of duty and not as a
2 result of willful negligence on his or her part. Such member's eligible
3 beneficiary, as set forth in section six hundred one of this article,
4 shall be entitled to an accidental death benefit provided he or she
5 makes written application to the head of the retirement system within
6 the time for filing an application for an accidental death benefit as
7 set forth in section six hundred seven of this article.

8 S 9. Paragraph 2 of subdivision c and subdivisions d and e of section
9 607-b of the retirement and social security law, as amended by chapter
10 489 of the laws of 2008, are amended to read as follows:

11 2. (a) Notwithstanding the provisions of this chapter or of any gener-
12 al, special or local law, charter, administrative code or rule or regu-
13 lation to the contrary, if a member who participated in World Trade
14 Center rescue, recovery or cleanup operations as defined in section two
15 of this chapter, and subsequently retired on a service retirement, an
16 ordinary disability retirement [or], a performance of duty disability
17 retirement, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO
18 DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE, and subsequent to such
19 retirement OR SEPARATION is determined by the comptroller to have a
20 qualifying World Trade Center condition, as defined in section two of
21 this chapter, upon such determination by the head of the retirement
22 system, it shall be presumed that such disability was incurred in the
23 performance and discharge of duty as the natural and proximate result of
24 an accident not caused by such member's own willful negligence, and that
25 the member would have been physically or mentally incapacitated for the
26 performance and discharge of duty of the position from which he or she
27 retired had the condition been known and fully developed at the time of
28 the member's retirement, unless the contrary is proven by competent
29 evidence.

30 (b) The head of the retirement system shall consider a reclassifica-
31 tion of the member's retirement OR VESTING as an accidental disability
32 retirement effective as of the date of such reclassification.

33 (c) Such member's retirement option shall not be changed as a result
34 of such reclassification.

35 (d) The member's former employer at the time of the member's retire-
36 ment shall have an opportunity to be heard on the member's application
37 for reclassification by the NYCERS board of trustees according to proce-
38 dures developed by the NYCERS board of trustees.

39 (e) The head of each retirement system is hereby authorized to promul-
40 gate rules and regulations to implement the provisions of this para-
41 graph.

42 d. Notwithstanding any other provision of this chapter or of any
43 general, special or local law, charter, administrative code or rule or
44 regulation to the contrary, if a retiree OR VESTEE who: (1) has met the
45 criteria of subdivision c of this section and retired on a service or
46 disability retirement, [or] would have met the criteria if not already
47 retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH
48 A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2)
49 has not been retired for more than twenty-five years; and (3) dies from
50 a qualifying World Trade Center condition, as defined in section two of
51 this chapter, as determined by the applicable head of the retirement
52 system or applicable medical board, then unless the contrary be proven
53 by competent evidence, such retiree OR VESTEE shall be deemed to have
54 died as a natural and proximate result of an accident sustained in the
55 performance of duty and not as a result of willful negligence on his or
56 her part. Such retiree's OR VESTEE'S eligible beneficiary, as set forth

1 in section six hundred one of this article, shall be entitled to an
2 accidental death benefit as provided by section six hundred seven of
3 this article, however, for the purposes of determining the salary base
4 upon which the accidental death benefit is calculated, the retiree OR
5 VESTEE shall be deemed to have died on the date of his or her retirement
6 OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR
7 VESTEE'S death, the eligible beneficiary shall make a written applica-
8 tion to the head of the retirement system within the time for filing an
9 application for an accidental death benefit as set forth in section six
10 hundred seven of this article requesting conversion of such retiree's
11 service, VESTED RIGHT or disability retirement benefit to an accidental
12 death benefit. At the time of such conversion, the eligible beneficiary
13 shall relinquish all rights to the prospective benefits payable under
14 the service or disability retirement benefit, OR VESTED RIGHT TO SUCH
15 BENEFIT, including any post-retirement death benefits, since the
16 retiree's OR VESTEE'S death. If the eligible beneficiary is not the
17 only beneficiary receiving or entitled to receive a benefit under the
18 service or disability retirement benefit (including, but not limited to,
19 post-retirement death benefits or benefits paid or payable pursuant to
20 the retiree's option selection), OR THAT WILL BE ELIGIBLE UNDER THE
21 VESTED RIGHT, the accidental death benefit payments to the eligible
22 beneficiary will be reduced by any amounts paid or payable to any other
23 beneficiary.

24 e. Notwithstanding any other provision of this chapter or of any
25 general, special or local law, charter, administrative code or rule or
26 regulation to the contrary, if a member who: (1) has met the criteria of
27 subdivision c of this section; [and] (2) dies in active service OR AFTER
28 SEPARATING FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A
29 RETIREMENT ALLOWANCE, BUT PRIOR TO THE PAYABILITY OF THAT RETIREMENT
30 ALLOWANCE; AND (3) DIES from a qualifying World Trade Center condition,
31 as defined in section two of this chapter, as determined by the applica-
32 ble head of the retirement system or applicable medical board to have
33 been caused by such member's participation in the World Trade Center
34 rescue, recovery or cleanup operations, as defined in [subparagraph (d)
35 of paragraph one of subdivision c of this section] SECTION TWO OF THIS
36 CHAPTER, then unless the contrary be proven by competent evidence, such
37 member shall be deemed to have died as a natural and proximate result of
38 an accident sustained in the performance of duty and not as a result of
39 willful negligence on his or her part. Such member's eligible benefici-
40 ary, as set forth in section six hundred one of this article, shall be
41 entitled to an accidental death benefit provided he or she makes written
42 application to the head of the retirement system within the time for
43 filing an application for an accidental death benefit as set forth in
44 section six hundred seven of this article.

45 S 10. Subdivision 3 of section 161 of the workers' compensation law,
46 as added by chapter 446 of the laws of 2006, is amended to read as
47 follows:

48 3. "Qualifying condition" means any [latent disease or condition] OF
49 THE FOLLOWING DISEASES OR CONDITIONS resulting from a hazardous exposure
50 during participation in World Trade Center rescue, recovery or clean-up
51 operations:

52 (A) DISEASES OF THE UPPER RESPIRATORY TRACT AND MUCOSAE, INCLUDING
53 CONDITIONS SUCH AS CONJUNCTIVITIS, RHINITIS, SINUSITIS, PHARYNGITIS,
54 LARYNGITIS, VOCAL CORD DISEASE, UPPER AIRWAY HYPER-REACTIVITY AND
55 TRACHEO-BRONCHITIS, OR A COMBINATION OF SUCH CONDITIONS;

(B) DISEASES OF THE LOWER RESPIRATORY TRACT, INCLUDING BUT NOT LIMITED TO BRONCHITIS, ASTHMA, REACTIVE AIRWAY DYSFUNCTION SYNDROME, AND DIFFERENT TYPES OF PNEUMONITIS, SUCH AS HYPERSENSITIVITY, GRANULOMATOUS, OR EOSINOPHILIC;

(C) DISEASES OF THE GASTROESOPHAGEAL TRACT, INCLUDING ESOPHAGITIS AND REFLUX DISEASE, EITHER ACUTE OR CHRONIC, CAUSED BY EXPOSURE OR AGGRAVATED BY EXPOSURE;

(D) DISEASES OF THE PSYCHOLOGICAL AXIS, INCLUDING POST-TRAUMATIC STRESS DISORDER, ANXIETY, DEPRESSION, OR ANY COMBINATION OF SUCH CONDITIONS; OR

(E) NEW ONSET DISEASES RESULTING FROM EXPOSURE AS SUCH DISEASES OCCUR IN THE FUTURE INCLUDING CANCER, CHRONIC OBSTRUCTIVE PULMONARY DISEASE, ASBESTOS-RELATED DISEASE, HEAVY METAL POISONING, MUSCULOSKELETAL DISEASE AND CHRONIC PSYCHOLOGICAL DISEASE.

S 11. Section 162 of the workers' compensation law, as amended by chapter 489 of the laws of 2008, is amended to read as follows:

S 162. Registration of participation in World Trade Center rescue, recovery and clean-up operations. In order for the claim of a participant in World Trade Center rescue, recovery and clean-up operations to come within the application of this article, such participant must file a written and sworn statement with the board on a form promulgated by the chair indicating the dates and locations of such participation and the name of such participant's employer during the period of participation. Such statement must be filed not later than September eleventh, two thousand [ten] FOURTEEN. The board shall transmit a copy of such statement to the employer or carrier named therein. The filing of such a statement shall not be considered the filing of a claim for benefits under this chapter.

S 12. Section 165 of the workers' compensation law, as added by chapter 446 of the laws of 2006, is amended to read as follows:

S 165. Reopening of disallowed claims. The board, upon receiving a statement duly filed as required under section one hundred sixty-two of this article, from a participant in World Trade Center rescue, recovery and clean-up operations for a qualifying condition that was disallowed as barred by section eighteen or section twenty-eight of this chapter OR BY SECTION ONE HUNDRED SIXTY-TWO OF THIS ARTICLE FOR FAILURE TO REGISTER TIMELY shall reopen and redetermine such claim in accordance with the provisions of this article, provided that no such previously disallowed claim for a qualifying condition shall be determined to have a date of disablement that would bar the claim under section eighteen or section twenty-eight of this chapter.

S 13. Section 168 of the workers' compensation law, as added by chapter 489 of the laws of 2008, is amended to read as follows:

S 168. Additional period for filing certain claims. 1. A claim by a participant in the World Trade Center rescue, recovery or cleanup operations whose disablement occurred between September eleventh, two thousand three, and September eleventh, two thousand eight, shall not be disallowed as barred by section eighteen or section twenty-eight of this chapter if such claim is filed on or before September eleven, two thousand ten. Any such claim by a participant in the World Trade Center rescue, recovery or cleanup operations whose disablement occurred between September eleventh, two thousand three, and September eleventh, two thousand eight, and was disallowed by section eighteen or twenty-eight of this chapter shall be reconsidered by the board.

2. A CLAIM BY A PARTICIPANT IN THE WORLD TRADE CENTER RESCUE, RECOVERY OR CLEANUP OPERATIONS WHOSE DISABLEMENT OCCURRED BETWEEN SEPTEMBER

1 TWELFTH, TWO THOUSAND EIGHT, AND SEPTEMBER ELEVENTH, TWO THOUSAND
2 TWELVE, SHALL NOT BE DISALLOWED AS BARRED BY SECTION EIGHTEEN OR SECTION
3 TWENTY-EIGHT OF THIS CHAPTER IF SUCH CLAIM IS FILED ON OR BEFORE SEPTEMBER
4 ELEVENTH, TWO THOUSAND FOURTEEN. ANY SUCH CLAIM BY A PARTICIPANT IN
5 THE WORLD TRADE CENTER RESCUE, RECOVERY OR CLEANUP OPERATIONS WHOSE
6 DISABLEMENT OCCURRED BETWEEN SEPTEMBER ELEVENTH, TWO THOUSAND EIGHT, AND
7 SEPTEMBER ELEVENTH, TWO THOUSAND TWELVE, AND WAS DISALLOWED BY SECTION
8 EIGHTEEN OR TWENTY-EIGHT OF THIS CHAPTER SHALL BE RECONSIDERED BY THE
9 BOARD.

10 S 14. Paragraph (a) of subdivision 36 of section 2 of the retirement
11 and social security law, as added by chapter 489 of the laws of 2008, is
12 amended to read as follows:

13 (a) "Qualifying World Trade Center condition" shall mean a qualifying
14 condition or impairment of health resulting in disability to a member
15 who participated in World Trade Center rescue, recovery or cleanup oper-
16 ations for a qualifying period, as those terms are defined below,
17 provided the following conditions have been met: (i) such member, or
18 eligible beneficiary in the case of the member's death, must have filed
19 a written and sworn statement with the member's retirement system on a
20 form provided by such system indicating the underlying dates and
21 locations of employment not later than September eleventh, two thousand
22 ten, OR ANY LATER DATE AS HEREINAFTER PROVIDED IN THIS PARAGRAPH; and
23 (ii) such member has either successfully passed a physical examination
24 for entry into public service, or authorized release of all relevant
25 medical records, if the member did not undergo a physical examination
26 for entry into public service; and (iii) there is no evidence of the
27 qualifying condition or impairment of health that formed the basis for
28 the disability in such physical examination for entry into public
29 service or in the relevant medical records, prior to September eleventh,
30 two thousand one. THE DEADLINE FOR FILING A WRITTEN AND SWORN STATEMENT
31 REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH IS HEREBY EXTENDED TO
32 SEPTEMBER ELEVENTH, TWO THOUSAND FOURTEEN FOR SUCH MEMBER, OR ELIGIBLE
33 BENEFICIARY IN THE CASE OF THE MEMBER'S DEATH, OF A LOCAL RETIREMENT
34 SYSTEM OF A CITY WITH A POPULATION OF ONE MILLION OR MORE THAT IS
35 COVERED BY SECTION 13-551 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW
36 YORK, OR BY SECTION TWENTY-FIVE HUNDRED SEVENTY-FIVE OF THE EDUCATION
37 LAW AND FOR SUCH MEMBER WHO SEPARATED FROM SERVICE WITH VESTED RIGHTS,
38 OR ELIGIBLE BENEFICIARY OF SUCH MEMBER WHO SEPARATED FROM SERVICE WITH
39 VESTED RIGHTS IN THE CASE OF THE MEMBER'S DEATH, OF LOCAL RETIREMENT
40 SYSTEMS OF A CITY WITH A POPULATION OF ONE MILLION OR MORE WHO ARE
41 COVERED BY SECTIONS 13-168, 13-252.1 AND 13-353.1 OF THE ADMINISTRATIVE
42 CODE OF THE CITY OF NEW YORK AND SECTIONS FIVE HUNDRED SEVEN-C, SIX
43 HUNDRED FIVE-B, SIX HUNDRED FIVE-C, AND SIX HUNDRED SEVEN-B OF THIS
44 CHAPTER. EVERY RETIREMENT SYSTEM SHALL KEEP A COPY OF EVERY WRITTEN AND
45 SWORN STATEMENT THAT IS PRESENTED FOR FILING NOT LATER THAN SEPTEMBER
46 ELEVENTH, TWO THOUSAND FOURTEEN, INCLUDING THOSE THAT ARE REJECTED FOR
47 FILING AS UNTIMELY.

48 S 15. This act shall take effect immediately and shall be deemed to
49 have been in full force and effect on and after September 11, 2001;
50 provided, however, that the amendments to sections 161, 162, 165 and 168
51 of the workers' compensation law made by sections ten, eleven, twelve
52 and thirteen of this act, respectively, shall apply to all open and
53 closed claims coming within its purview.