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

7803

2013-2014 Regular Sessions

I N A S S E M B L Y

June 4, 2013

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees

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:

Section 1. Subdivision c of section 13-551 of the administrative code of the city of New York is amended and three new subdivisions f, g and h are added to read as follows:

c. Any such application shall be filed within two years after the happening of such accident EXCEPT IF FILED BY A VESTED MEMBER INCAPACITATED AS A RESULT OF A QUALIFYING WORLD TRADE CENTER CONDITION AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW.

F. (1)(A) NOTWITHSTANDING ANY PROVISIONS OF THIS CODE OR OF ANY GENERAL, SPECIAL OR LOCAL LAW, CHARTER OR RULE OR REGULATION TO THE CONTRARY, IF ANY CONDITION OR IMPAIRMENT OF HEALTH IS CAUSED BY A QUALIFYING WORLD TRADE CENTER CONDITION AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, IT SHALL BE PRESUMPTIVE EVIDENCE THAT IT WAS INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY AND THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT NOT CAUSED BY SUCH MEMBER'S OWN WILLFUL NEGLIGENCE, UNLESS THE CONTRARY BE PROVED BY COMPETENT EVIDENCE.

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

(2) (A) 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, A PERFORMANCE OF DUTY DISABILITY RETIREMENT, OR 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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A RETIREMENT ALLOWANCE AND SUBSEQUENT TO SUCH RETIREMENT OR SEPARATION IS DETERMINED BY THE HEAD OF THE RETIREMENT SYSTEM TO HAVE A QUALIFYING WORLD TRADE CENTER CONDITION, AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, UPON SUCH DETERMINATION BY THE RETIREMENT BOARD, 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.

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

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

(D) 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 RETIREMENT BOARD ACCORDING TO PROCEDURES DEVELOPED BY THE RETIREMENT BOARD.

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

G. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER OR OF ANY GENERAL, SPECIAL OR LOCAL LAW, CHARTER, ADMINISTRATIVE CODE OR RULE OR REGULATION TO THE CONTRARY, IF A RETIREE OR VESTEE WHO: (1) HAS MET THE CRITERIA OF SUBDIVISION F OF THIS SECTION AND RETIRED ON A SERVICE OR DISABILITY RETIREMENT, WOULD HAVE MET THE CRITERIA IF NOT ALREADY RETIRED ON AN ACCIDENTAL DISABILITY, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; AND (2) HAS NOT BEEN RETIRED FOR MORE THAN TWENTY-FIVE YEARS; 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 RETIREE OR VESTEE 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 RETIREE'S OR VESTEE'S ELIGIBLE BENEFICIARY, AS SET FORTH IN SECTION 13-544 OF THIS CHAPTER, SHALL BE ENTITLED TO AN ACCIDENTAL DEATH BENEFIT AS PROVIDED BY SECTION 13-544 OF THIS CHAPTER, HOWEVER, FOR THE PURPOSES OF DETERMINING THE SALARY BASE UPON WHICH THE ACCIDENTAL DEATH BENEFIT IS CALCULATED, THE RETIREE OR VESTEE SHALL BE DEEMED TO HAVE DIED ON THE DATE OF HIS OR HER RETIREMENT OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. UPON THE RETIREE'S OR VESTEE'S DEATH, THE ELIGIBLE BENEFICIARY SHALL MAKE A WRITTEN APPLICATION TO THE HEAD OF THE RETIREMENT SYSTEM WITHIN THE TIME FOR FILING AN APPLICATION FOR AN ACCIDENTAL DEATH BENEFIT AS SET FORTH IN SECTION 13-544 OF THIS CHAPTER REQUESTING CONVERSION OF SUCH RETIREE'S SERVICE, VESTED RIGHT OR DISABILITY RETIREMENT BENEFIT TO AN ACCIDENTAL DEATH BENEFIT. AT THE TIME OF SUCH CONVERSION, THE ELIGIBLE BENEFICIARY SHALL RELINQUISH ALL RIGHTS TO THE PROSPECTIVE BENEFITS PAYABLE UNDER THE SERVICE OR DISABILITY RETIREMENT BENEFIT, OR VESTED RIGHT TO SUCH BENEFIT, INCLUDING ANY POST-RETIREMENT DEATH BENEFITS, SINCE THE RETIREE'S OR VESTEE'S DEATH. IF THE ELIGIBLE BENEFICIARY IS NOT THE ONLY BENEFICIARY RECEIVING OR ENTITLED TO RECEIVE A BENEFIT UNDER THE SERVICE OR DISABILITY RETIREMENT BENEFIT (INCLUDING, BUT NOT LIMITED TO, POST-RE-

TIREMENT 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.

H. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CODE OR OF ANY GENERAL, SPECIAL OR LOCAL LAW, CHARTER, OR RULE OR REGULATION TO THE CONTRARY, IF A MEMBER WHO: (1) HAS MET THE CRITERIA OF SUBDIVISION F OF THIS SECTION; (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 SECTION 13-544 OF THIS CHAPTER, SHALL BE ENTITLED TO AN ACCIDENTAL DEATH BENEFIT PROVIDED HE OR SHE MAKES WRITTEN APPLICATION TO THE HEAD OF THE RETIREMENT SYSTEM WITHIN THE TIME FOR FILING AN APPLICATION FOR AN ACCIDENTAL DEATH BENEFIT AS SET FORTH IN SECTION 13-544 OF THIS CHAPTER.

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

(C) 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 ANY REQUIREMENT THAT APPLICATIONS FOR ACCIDENTAL DISABILITY BE FILED WITHIN A LIMITED TIME PERIOD AFTER THE HAPPENING OF SUCH ACCIDENT SHALL NOT APPLY TO A VESTED MEMBER INCAPACITATED AS A RESULT OF A QUALIFYING WORLD TRADE CENTER CONDITION AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW.

(D)(1)(I) 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 ANY CONDITION OR IMPAIRMENT OF HEALTH IS CAUSED BY A QUALIFYING WORLD TRADE CENTER CONDITION AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, IT SHALL BE PRESUMPTIVE EVIDENCE THAT IT WAS INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY AND THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT NOT CAUSED BY SUCH MEMBER'S OWN WILLFUL NEGLIGENCE, UNLESS THE CONTRARY BE PROVED BY COMPETENT EVIDENCE.

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

(2)(I) 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 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, 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 HEAD OF THE RETIREMENT SYSTEM OR APPLICABLE MEDICAL BOARD TO HAVE A QUALIFYING WORLD TRADE CENTER CONDITION, AS DEFINED IN SECTION TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW, UPON SUCH DETERMINATION BY THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT BOARD OR APPLICABLE MEDICAL BOARD, 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.

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

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

(IV) 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 NEW YORK CITY BOARD OF EDUCATION RETIREMENT BOARD ACCORDING TO PROCEDURES DEVELOPED BY THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT BOARD.

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

(E) 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 RETIREE OR VESTEE WHO: (1) HAS MET THE CRITERIA OF PARAGRAPH (D) OF THIS SUBDIVISION AND RETIRED ON A SERVICE OR DISABILITY RETIREMENT, WOULD HAVE MET THE CRITERIA IF NOT ALREADY RETIRED ON AN ACCIDENTAL DISABILITY, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; AND (2) HAS NOT BEEN RETIRED FOR MORE THAN TWENTY-FIVE YEARS; 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 RETIREE OR VESTEE 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 RETIREE'S OR VESTEE'S ELIGIBLE BENEFICIARY, AS SET FORTH IN TITLE TWENTY-ONE OF THE RULES AND REGULATION, SHALL BE ENTITLED TO AN ACCIDENTAL DEATH BENEFIT AS PROVIDED BY TITLE TWENTY-ONE OF THE RULES AND REGULATIONS, HOWEVER, FOR THE PURPOSES OF DETERMINING THE SALARY BASE UPON WHICH THE ACCIDENTAL DEATH BENEFIT IS CALCULATED, THE RETIREE OR VESTEE SHALL BE DEEMED TO HAVE DIED ON THE DATE OF HIS OR HER RETIREMENT OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. UPON THE RETIREE'S OR VESTEE'S DEATH, THE ELIGIBLE BENEFICIARY SHALL MAKE A WRITTEN APPLICATION TO THE HEAD OF THE RETIREMENT SYSTEM WITHIN THE TIME FOR FILING AN APPLICATION FOR AN ACCIDENTAL DEATH BENEFIT AS SET FORTH IN TITLE TWENTY-ONE OF THE RULES AND REGULATIONS REQUESTING CONVERSION OF SUCH RETIREE'S SERVICE, VESTED RIGHT OR DISABILITY RETIREMENT BENEFIT TO AN ACCIDENTAL DEATH BENEFIT. AT THE TIME OF SUCH CONVERSION, THE ELIGIBLE BENEFICIARY SHALL RELINQUISH ALL RIGHTS TO THE PROSPECTIVE BENEFITS PAYABLE UNDER THE SERVICE OR DISABILITY RETIREMENT BENEFIT, OR VESTED RIGHT TO SUCH BENEFIT, INCLUDING ANY POST-RETIREMENT DEATH BENEFITS, SINCE THE RETIREE'S OR VESTEE'S DEATH. IF THE ELIGIBLE BENEFICIARY IS NOT THE ONLY BENEFICIARY RECEIVING OR ENTITLED TO RECEIVE A BENEFIT UNDER THE SERVICE OR DISABILITY 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

regulation to the contrary, if a retiree OR VESTEE who: (1) has met the criteria of subdivision b of this section and retired on a service or disability retirement, [or] would have met the criteria if not already retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2) has not been retired for more than twenty-five years; 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 retiree OR VESTEE 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 retiree's OR VESTEE'S eligible beneficiary, as set forth in section 13-149 of this chapter, shall be entitled to an accidental death benefit as provided by section 13-149 of this chapter, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree OR VESTEE shall be deemed to have died on the date of his or her retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR VESTEE'S death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section 13-149 of this chapter requesting conversion of such retiree's service, VESTED RIGHT or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, OR VESTED RIGHT TO SUCH BENEFIT, including any post-retirement death benefits, since the retiree's OR VESTEE'S death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability 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.

d. Notwithstanding any other provision of this code or of any general, special or local law, charter, or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision b of this section; [and] (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 section 13-149 of this chapter, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section 13-149 of this chapter.

S 4. Subdivisions 2, 3 and 4 of section 13-252.1 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:

2. (a) 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 [NYCFDPF] NYCPPF board of trustees to have a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, upon such determination by the [NYCFDPF] NYCPPF 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.

(b) The NYCPPF 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.

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

(d) 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 NYCPPF board of trustees according to procedures developed by the NYCPPF board of trustees.

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

3. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree OR VESTEE who: (1) has met the criteria of subdivision one of this section and retired on a service or disability retirement, [or] would have met the criteria if not already retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2) has not been retired for more than twenty-five years; 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 retiree OR VESTEE 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 retiree's OR VESTEE'S eligible beneficiary, as set forth in section 13-244 of this subchapter, shall be entitled to an accidental death benefit as provided by section 13-244 of this subchapter, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree OR VESTEE shall be deemed to have died on the date of his or her retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR VESTEE'S death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in

section 13-244 of this subchapter requesting conversion of such retiree's service, VESTED RIGHT or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, OR VESTED RIGHT TO SUCH BENEFIT, including any post-retirement death benefits, since the retiree's OR VESTEE'S death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability 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.

4. Notwithstanding any other provision of this code or of any general, special or local law, charter, or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision one of this section; [and] (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 to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of the retirement and social security law, 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 section 13-244 of this subchapter, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section 13-244 of this subchapter.

S 5. Subdivisions 2, 3 and 4 of section 13-353.1 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:

2. (a) 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 head of the retirement system to have a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, upon such determination by the NYCFDPF 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.

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

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

(d) 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 NYCFDPF board of trustees according to procedures developed by the NYCFDPF.

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

3. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree OR VESTEE who: (1) has met the criteria of subdivision one of this section and retired on a service or disability retirement, [or] would have met the criteria if not already retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2) has not been retired for more than twenty-five years; 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 retiree OR VESTEE 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 retiree's OR VESTEE'S eligible beneficiary, as set forth in section 13-347 of this subchapter, shall be entitled to an accidental death benefit as provided by sections 13-347 and 13-348 of this subchapter, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree OR VESTEE shall be deemed to have died on the date of his or her retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR VESTEE'S death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in sections 13-347 and 13-348 of this subchapter requesting conversion of such retiree's service, VESTED RIGHT or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit OR VESTED RIGHT TO SUCH BENEFIT, including any post-retirement death benefits, since the retiree's OR VESTEE'S death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability 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.

4. Notwithstanding any other provision of this code or of any general, special or local law, charter, or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision one of this section; [and] (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 section 13-347 of this subchapter, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section 13-347 of this subchapter.

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

2. (a) 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 this chapter, and subsequently retired on a service retirement, an ordinary 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 which is determined by the head of the retirement system to have been a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the head of the retirement system, 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 proved by competent evidence.

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

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

(d) 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 head of the retirement system according to procedures developed by the head of the retirement system.

(e) The head of the retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

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

a qualifying World Trade center condition, as defined in section two of this chapter, that is determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree OR VESTEE 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 retiree's OR VESTEE'S eligible beneficiary, as set forth in section five hundred one of this article, shall be entitled to an accidental death benefit as provided by section five hundred nine of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree OR VESTEE shall be deemed to have died on the date of his or her retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR VESTEE'S death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article requesting conversion of such retiree's service, VESTED RIGHT or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, OR VESTED RIGHT TO SUCH BENEFIT, including any post-retirement death benefits, since the retiree's OR VESTEE'S death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability 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.

e. Notwithstanding any other provision 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: (1) has met the criteria of subdivision c of this section; [and] (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 this chapter, that is 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 section five hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section five hundred nine of this article.

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

2. (a) 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 this chapter, and subsequently retired on a service retirement, an

ordinary 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 which is determined by the head of the retirement system to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the head of the retirement system 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 had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

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

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

(d) 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 head of the retirement system according to procedures developed by the head of the retirement system.

(e) The head of the retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

e. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree OR VESTEE who: (1) has met the criteria of subdivision d of this section and retired on a service or disability retirement, [or] would have met the criteria if not already retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree OR VESTEE 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 retiree's OR VESTEE'S eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree OR VESTEE shall be deemed to have died on the date of his or her retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR VESTEE'S death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's OR VESTEE'S service or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, OR VESTED RIGHT TO SUCH BENEFIT, including any post-retirement death benefits, since the retiree's

OR VESTEE'S death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability 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 this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a member who: (1) has met the criteria of subdivision d of this section; [and] (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 this chapter, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, 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 section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

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

2. (a) 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 this chapter, and subsequently retired on a service retirement, an ordinary 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 head of the retirement system to have a qualifying World Trade Center condition as defined in section two of this chapter, upon such determination by the head of the retirement system, 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 had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

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

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

(d) 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 head of the retirement system according to procedures developed by the comptroller.

(e) The head of the retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

c. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree OR VESTEE who: (1) has met the criteria of subdivision b of this section and retired on a service or disability retirement, [or] would have met the criteria if not already retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying World Trade Center condition as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree OR VESTEE 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 retiree's OR VESTEE'S eligible beneficiary, as set forth in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree OR VESTEE shall be deemed to have died on the date of his or her retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR VESTEE'S death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's service, VESTED RIGHT or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, OR VESTED RIGHT TO SUCH BENEFIT, including any post-retirement death benefits, since the retiree's OR VESTEE'S death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability 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.

d. Notwithstanding any other provision 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: (1) has met the criteria of subdivision b of this section; [and] (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 this chapter, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, 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 section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

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

2. (a) 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 this chapter, and subsequently retired on a service retirement, an ordinary 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 comptroller to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the head of the retirement system, 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 had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

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

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

(d) 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 NYCERS board of trustees.

(e) The head of each retirement system is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

d. Notwithstanding any other provision of this chapter or of any general, special or local law, charter, administrative code or rule or regulation to the contrary, if a retiree OR VESTEE who: (1) has met the criteria of subdivision c of this section and retired on a service or disability retirement, [or] would have met the criteria if not already retired on an accidental disability, OR WAS SEPARATED FROM SERVICE WITH A VESTED RIGHT TO DEFERRED PAYABILITY OF A RETIREMENT ALLOWANCE; and (2) has not been retired for more than twenty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of this chapter, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree OR VESTEE 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 retiree's OR VESTEE'S eligible beneficiary, as set forth

in section six hundred one of this article, shall be entitled to an accidental death benefit as provided by section six hundred seven of this article, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree OR VESTEE shall be deemed to have died on the date of his or her retirement OR SEPARATION FROM SERVICE WITH VESTED RIGHTS. Upon the retiree's OR VESTEE'S death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article requesting conversion of such retiree's service, VESTED RIGHT or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, OR VESTED RIGHT TO SUCH BENEFIT, including any post-retirement death benefits, since the retiree's OR VESTEE'S death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability 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.

e. Notwithstanding any other provision 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: (1) has met the criteria of subdivision c of this section; [and] (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 this chapter, as determined by the applicable head of the retirement system or applicable medical board to have been caused by such member's participation in the World Trade Center rescue, recovery or cleanup operations, as defined in [subparagraph (d) of paragraph one of subdivision c of this section] SECTION TWO OF THIS CHAPTER, 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 section six hundred one of this article, shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in section six hundred seven of this article.

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

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

(A) DISEASES OF THE UPPER RESPIRATORY TRACT AND MUCOSAE, INCLUDING CONDITIONS SUCH AS CONJUNCTIVITIS, RHINITIS, SINUSITIS, PHARYNGITIS, LARYNGITIS, VOCAL CORD DISEASE, UPPER AIRWAY HYPER-REACTIVITY AND 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

TWELFTH, TWO THOUSAND EIGHT, AND SEPTEMBER ELEVENTH, TWO THOUSAND TWELVE, 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 ELEVENTH, TWO THOUSAND FOURTEEN. ANY SUCH CLAIM BY A PARTICIPANT IN THE WORLD TRADE CENTER RESCUE, RECOVERY OR CLEANUP OPERATIONS WHOSE DISABLEMENT OCCURRED BETWEEN SEPTEMBER ELEVENTH, TWO THOUSAND EIGHT, AND SEPTEMBER ELEVENTH, TWO THOUSAND TWELVE, AND WAS DISALLOWED BY SECTION EIGHTEEN OR TWENTY-EIGHT OF THIS CHAPTER SHALL BE RECONSIDERED BY THE BOARD.

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

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

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