

# STATE OF NEW YORK

7505

2021-2022 Regular Sessions

## IN ASSEMBLY

May 12, 2021

Introduced by M. of A. JOYNER -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law and the insurance law, in relation to specifying methods of calculating deposits and reserves for the aggregate trust fund and reserves of the state insurance fund

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 5 of section 27 of the workers' compensation  
2 law, as amended by chapter 6 of the laws of 2007, is amended to read as  
3 follows:

4 5. All computations made or directed by the board shall be upon the  
5 basis of (i) the survivorship annuitants table of mortality, the remar-  
6 riage tables of the Dutch Royal Insurance Institution applicable to  
7 claims for accidents occurring on or before December thirty-first, two  
8 thousand twenty-one, and (ii) beginning January first, two thousand  
9 twenty-two, and on January first of each tenth year thereafter, the  
10 United States life table for the total population published by the  
11 department of health and human services and the remarriage table  
12 published by the United States railroad retirement board applicable to  
13 claims for accidents occurring on or after January first of the year  
14 following the adoption of any revision of such tables as provided in  
15 this subdivision and interest at three and one-half per centum per annum  
16 on claims based on accidents occurring up to and including June thirti-  
17 eth, nineteen hundred thirty-nine, at three per centum per annum on  
18 claims based on accidents occurring from July first, nineteen hundred  
19 thirty-nine up to and including August thirty-first, nineteen hundred  
20 eighty-three, at six per centum per annum on claims based on accidents  
21 occurring from September first, nineteen hundred eighty-three up to and  
22 including December thirty-first, two thousand and at the industry stand-  
23 ard rate on claims based on accidents occurring thereafter, except (a)  
24 that computations of present values of death benefits required to be

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

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1 paid into the aggregate trust fund by an insurance carrier which is a  
2 stock corporation or a mutual association shall be based, in the case of  
3 a dependent parent, grandparent, blind or physically disabled child or  
4 spouse, upon said table of mortality disregarding possible change in or  
5 termination of dependency, with interest at three and one-half per  
6 centum per annum on claims based on accidents occurring up to and  
7 including June thirtieth, nineteen hundred thirty-nine, at three per  
8 centum per annum on claims based on accidents occurring from July first,  
9 nineteen hundred thirty-nine up to and including August thirty-first,  
10 nineteen hundred eighty-three, at six per centum per annum on claims  
11 based on accidents occurring from September first, nineteen hundred  
12 eighty-three up to and including December thirty-first, two thousand and  
13 at the industry standard rate on claims based on accidents occurring  
14 thereafter and (b) that computations of present values of permanent  
15 partial disability benefits awarded for a definite number of weeks shall  
16 be on the basis of annuities certain with interest at three and one-half  
17 per centum per annum on claims based on accidents occurring up to and  
18 including June thirtieth, nineteen hundred thirty-nine, at three per  
19 centum per annum on claims based on accidents occurring from July first,  
20 nineteen hundred thirty-nine up to and including August thirty-first,  
21 nineteen hundred eighty-three, at six per centum per annum on claims  
22 based on accidents occurring from September first, nineteen hundred  
23 eighty-three up to and including December thirty-first, two thousand and  
24 at the industry standard rate on claims based on accidents occurring  
25 thereafter.

26 § 2. The closing paragraph of subdivision 7 of section 27 of the work-  
27 ers' compensation law, as amended by chapter 6 of the laws of 2007 and  
28 as further amended by section 104 of part A of chapter 62 of the laws of  
29 2011, is amended to read as follows:

30 Such additional payments shall be required until the surplus of the  
31 fund equals or exceeds one per centum of the total outstanding loss  
32 reserves as shown by three successive annual reports of the fund to the  
33 superintendent of financial services and such additional payment shall  
34 be required as a payment upon each award based on an accident occurring  
35 prior to July first next succeeding the third such annual report, but  
36 not as a payment upon any award based on an accident occurring on or  
37 after said July first; provided, however, that if and when the surplus  
38 of the fund as shown by any annual report thereafter shall be less than  
39 one per centum of the total outstanding loss reserves, then the addi-  
40 tional payments as provided in paragraphs (a), (b), (c) and (d) of this  
41 subdivision shall be resumed and shall be payable upon any award based  
42 on an accident occurring on or after July first next succeeding the  
43 close of the year for which such annual report is made. Thereafter, the  
44 suspension or resumption of additional payments as required by this  
45 subdivision shall be governed by the foregoing provisions. Such loss  
46 reserves shall be computed based upon the tables specified in subdivi-  
47 sion five of this section applicable to the calculation of the deposit  
48 for the claim on which such deposit is based and interest at a standard  
49 to be determined by the superintendent of financial services by regu-  
50 lation.

51 § 3. Section 86 of the workers' compensation law, as amended by chap-  
52 ter 7 of the laws of 1989 and as further amended by section 104 of part  
53 A of chapter 62 of the laws of 2011, is amended to read as follows:

54 § 86. Catastrophe surplus and reserves for workers' compensation. Ten  
55 per centum of the premiums collected from employers insured in the fund  
56 for workers' compensation shall be set aside for the creation of a

1 surplus until such surplus shall amount to the sum of one hundred thou-  
2 sand dollars, and thereafter five per centum of such premiums, until  
3 such time as in the judgment of the commissioners such surplus shall be  
4 sufficiently large to cover the catastrophe hazard. Thereafter the  
5 contribution to such surplus may be reduced or discontinued conditional  
6 upon constant maintenance of a sufficient surplus to cover the catastro-  
7 phe hazard. Reserves shall be set up and maintained adequate to meet  
8 anticipated losses and carry all claims and policies to maturity, which  
9 reserves shall be computed [~~to reflect the present values, at five~~  
10 ~~percent interest per annum, of the determined and estimated unpaid loss-~~  
11 ~~es, and other requirements computed in accordance with such rules as~~  
12 ~~shall be approved by the superintendent of financial services]~~ pursuant  
13 to subsections (d) and (e) of section four thousand one hundred seven-  
14 teen of the insurance law.

15 § 4. Subsection (c) of section 1108 of the insurance law, as amended  
16 by section 38 of part SS of chapter 54 of the laws of 2016, is amended  
17 to read as follows:

18 (c) The state insurance fund of this state, except as to the  
19 provisions of subsection (d) of section two thousand three hundred thir-  
20 ty-nine, section three thousand one hundred ten, subsection (a), para-  
21 graph one of subsection (b), paragraph three of subsection (c) and  
22 subsection (d) of section three thousand two hundred one, sections three  
23 thousand two hundred two, three thousand two hundred four, subsections  
24 (a) through (d) of section three thousand two hundred twenty-one,  
25 subsections (d) and (e) of section four thousand one hundred seventeen,  
26 subsections (b) and (c) of section four thousand two hundred twenty-  
27 four, section four thousand two hundred twenty-six and subsections (a)  
28 and (b), (g) through (j), and (n) of section four thousand two hundred  
29 thirty-five of this chapter and except as otherwise specifically  
30 provided by the laws of this state.

31 § 5. Subsection (e) of section 4117 of the insurance law, as amended  
32 by chapter 11 of the laws of 1986, is amended to read as follows:

33 (e) Whenever in the judgment of the superintendent, the loss and loss  
34 expense reserves of any property/casualty insurance company doing busi-  
35 ness in this state or of the state insurance fund of this state calcu-  
36 lated in accordance with the foregoing provisions are inadequate or  
37 excessive, [~~he~~] the superintendent may prescribe any other basis [~~which~~]  
38 that will produce adequate and reasonable reserves.

39 § 6. This act shall take effect January 1, 2022.