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:

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

5. All computations made **or directed** by the board shall be upon the basis of **(i)** the survivorship annuitants table of mortality, the remarriage tables of the Dutch Royal Insurance Institution **applicable to claims for accidents occurring on or before December thirty-first, two thousand twenty-one, and (ii) beginning January first, two thousand twenty-two, and on January first of each tenth year thereafter, the United States life table for the total population published by the department of health and human services and the remarriage table published by the United States railroad retirement board applicable to claims for accidents occurring on or after January first of the year following the adoption of any revision of such tables as provided in this subdivision** and interest at three and one-half per centum per annum on claims based on accidents occurring up to and including June thirtieth, nineteen hundred thirty-nine, at three per centum per annum on claims based on accidents occurring from July first, nineteen hundred thirty-nine up to and including August thirty-first, nineteen hundred eighty-three, at six per centum per annum on claims based on accidents occurring from September first, nineteen hundred eighty-three up to and including December thirty-first, two thousand and at the industry standard rate on claims based on accidents occurring thereafter, except (a) 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.

LBD10882-01-1

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

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

Such additional payments shall be required until the surplus of the fund equals or exceeds one per centum of the total outstanding loss reserves as shown by three successive annual reports of the fund to the superintendent of financial services and such additional payment shall be required as a payment upon each award based on an accident occurring prior to July first next succeeding the third such annual report, but not as a payment upon any award based on an accident occurring on or after said July first; provided, however, that if and when the surplus of the fund as shown by any annual report thereafter shall be less than one per centum of the total outstanding loss reserves, then the additional payments as provided in paragraphs (a), (b), (c) and (d) of this subdivision shall be resumed and shall be payable upon any award based on an accident occurring on or after July first next succeeding the close of the year for which such annual report is made. Thereafter, the suspension or resumption of additional payments as required by this subdivision shall be governed by the foregoing provisions. Such loss reserves shall be computed based upon the tables specified in subdivision five of this section **applicable to the calculation of the deposit for the claim on which such deposit is based** and interest at a standard to be determined by the superintendent of financial services by regulation.

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

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

surplus until such surplus shall amount to the sum of one hundred thousand dollars, and thereafter five per centum of such premiums, until such time as in the judgment of the commissioners such surplus shall be sufficiently large to cover the catastrophe hazard. Thereafter the contribution to such surplus may be reduced or discontinued conditional upon constant maintenance of a sufficient surplus to cover the catastrophe hazard. Reserves shall be set up and maintained adequate to meet anticipated losses and carry all claims and policies to maturity, which reserves shall be computed [~~to reflect the present values, at five percent interest per annum, of the determined and estimated unpaid losses, and other requirements computed in accordance with such rules as shall be approved by the superintendent of financial services~~] **pursuant to subsections (d) and (e) of section four thousand one hundred seventeen of the insurance law**.

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

(c) The state insurance fund of this state, except as to the provisions of subsection (d) of section two thousand three hundred thirty-nine, section three thousand one hundred ten, subsection (a), paragraph one of subsection (b), paragraph three of subsection (c) and subsection (d) of section three thousand two hundred one, sections three thousand two hundred two, three thousand two hundred four, subsections (a) through (d) of section three thousand two hundred twenty-one, **subsections (d) and (e) of section four thousand one hundred seventeen,** subsections (b) and (c) of section four thousand two hundred twenty-four, section four thousand two hundred twenty-six and subsections (a) and (b), (g) through (j), and (n) of section four thousand two hundred thirty-five of this chapter and except as otherwise specifically provided by the laws of this state.

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

(e) Whenever in the judgment of the superintendent, the loss and loss expense reserves of any property/casualty insurance company doing business in this state **or of the state insurance fund of this state** calculated in accordance with the foregoing provisions are inadequate or excessive, [~~he~~] **the superintendent** may prescribe any other basis [~~which~~] **that** will produce adequate and reasonable reserves.

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