§ 7433-a. Loan to workers' compensation security fund. (a) Upon certification by the superintendent that further sums, not exceeding seventy million dollars in the aggregate, are required by the workers' compensation security fund to meet its obligations and accomplish the purposes of article six-A of the workers' compensation law, the superintendent is hereby authorized to make one or more loans to such fund from the assets of one or more liquidation estates in such amounts as shall be specified by the superintendent. For purposes of this section, "liquidation estate" shall mean the assets of an insurer against which an order of liquidation has been commenced pursuant to this article. Such sums, not exceeding seventy million dollars in the aggregate, shall be a liability of the workers' compensation security fund.

(b) Notwithstanding any law, rule or regulation to the contrary, in the event that a complaint is filed in a court of competent jurisdiction concerning the superintendent's authority to loan monies to the workers' compensation security fund pursuant to this section, the superintendent shall oppose such complaint, and appeal any adverse rulings of the court. In the event a court of competent jurisdiction issues an injunction that expressly prohibits the superintendent from making loans under this section, and such injunction has been unsuccessfully opposed in court by the superintendent, the superintendent may accomplish the purposes of this section through one or more loans from the assets of the property/casualty insurance security fund to the workers' compensation security fund. Such loans shall be made subject to the conditions set forth in this section, including the certification requirement set forth in subsection (c) of this section and shall not occur more frequently than once every two months, and not be greater in amount than that needed to sustain the workers' compensation security fund for the two month period.

(c) Upon written certification by the superintendent that the assets from the liquidation estates are otherwise unavailable, loans may also be made under the terms specified in this section from the assets of the property/casualty insurance security fund. Loans made pursuant to this subsection shall not exceed the sum of thirty million dollars in the aggregate. Such loans shall not occur more frequently than once every two months, and not be greater in amount than that needed to sustain the

workers' compensation security fund for the two month period. Monies from such loans shall not be used to pay administrative expenses. Each loan must be accompanied by such certification, which shall set forth the specific reason or reasons why the assets of the liquidation estates are unavailable. The certification shall be provided to the temporary president of the senate, the speaker of the assembly, the chair of the senate finance committee and the chair of the assembly ways and means committee.

(d) Any loan pursuant to this section shall be a liability of the workers' compensation security fund, and shall be repaid pursuant to a plan of repayment to be prescribed by the superintendent which, notwithstanding any other law, may provide, at the discretion of the superintendent, for an increase in the level of payments into the fund provided for in subdivision two of section one hundred eight of the workers' compensation law upon written notice by the superintendent to the governor and both houses of the legislature of the necessity of any such increase, including the reasons therefor. Such plan shall among other things require: (i) that any loan be made upon commercially reasonable terms and in accordance with the superintendent's fiduciary responsibilities, and (ii) immediate repayment, from the assets of the liquidation estates as referred to in subsection (a) of this section, of any loans from the property/casualty insurance security fund made pursuant to subsection (b) or (c) of this section upon sufficient monies becoming available from loans from liquidation estates pursuant to subsection (a) of this section, and (iii) that one-fourth of the payments collected pursuant to section one hundred eight of the workers' compensation law be dedicated to the repayment of any loans made pursuant to this section.