§ 7603. Property/casualty insurance security fund. (a) (1) The property/casualty insurance security fund shall be used in the payment of allowed claims remaining unpaid, in whole or in part, by reason of the inability due to insolvency of an authorized insurer to meet its insurance obligations under policies:

(A) on account of claims from motor vehicle accidents as defined in subsection (f) of section seven thousand six hundred two of this article,

(B) for all of the kinds of insurance specified in paragraphs four through fourteen, sixteen, nineteen through twenty-one, twenty-four and subparagraphs (A) and (B) of paragraph twenty-six of subsection (a) of section one thousand one hundred thirteen of this chapter with respect to coverage of property or risks located or resident in this state, or outside this state but within the United States, its possessions and territories, and Canada,

(C) for the kind of insurance providing disability benefits pursuant to article nine of the workers' compensation law issued by an authorized insurer licensed under article forty-one, sixty-one or sixty-six of this chapter with respect to coverage of risks located or resident in this state,

(D) in the kind of insurance providing workers' compensation insurance pursuant to subsection (j) of section three thousand four hundred twenty of this chapter,

(E) for the insurance provided by the medical malpractice insurance association,

(F) for the insurance provided pursuant to subdivision two-a of section seventy-six of the workers' compensation law if and when operative,

(G) for the kinds of credit insurance as defined in subparagraphs (B) and (C) of paragraph seventeen of subsection (a) of section one thousand one hundred thirteen of this chapter, and

(H) any obligation for the return of unearned premiums on any policy specified in subparagraphs (A), (B), (C), (D), (E), (F) and (G) hereof, which shall, for the purposes of this article, be deemed to include the obligations of an insurer and the medical malpractice insurance association under medical malpractice claims-made policies to pay to successor entities the actuarially appropriate amounts for the provision

of coverage to comply with the requirements of subsections (b), (c) and (d) of section three thousand four hundred thirty-six and paragraphs two, three and four of subsection (f) of section five thousand five hundred four of this chapter.

(2) No payment from the property/casualty insurance security fund shall be made to any person who owns or controls ten percent or more of the voting securities of the insolvent insurer and no payment on any one claim shall exceed one million dollars, provided that the amount of payment on a claim and the aggregate for all claims shall be further limited by the provisions of paragraph two of subsection (g) of section seven thousand six hundred two of this article.

(b) (1) Contributions to the property/casualty insurance security fund shall be determined on the basis of net direct written premiums on policies insuring property or risks located or resident in this state.

(2) Every insurer shall pay into such fund, upon filing each quarterly return pursuant to section seven thousand six hundred five of this article, one-half of one percent of its net direct written premiums as shown for the period covered by such return.

(c) (1) Whenever the superintendent determines, pursuant to section seven thousand six hundred six of this article, that the net value of the property/casualty insurance security fund is at least one hundred fifty million dollars, no further contributions shall be made after the fund year in which the determination is first made, but if thereafter the superintendent determines that payments made from the fund by the commissioner to the superintendent acting as liquidator, rehabilitator or conservator have reduced the net value to an amount less than such amount, the superintendent shall cause contributions to be resumed until the end of the fund year in which he first determines that such net value exceeds such amount.

(2) If contributions are so resumed, they shall be apportioned:

(A) ratably among those kinds of insurance as to which the commissioner made payments during the fund year in which the net value of the property/casualty insurance security fund was reduced below such amount, and

(B) among insurers in accordance with their respective amounts of net direct premiums written in each such kind of insurance.

(d) (1) All income earned on moneys in the fund (after deducting any

amounts paid for allowed claims and administrative expenses during the preceding year) shall be credited, upon certification by the superintendent to the commissioner, to the general fund of the state treasury; except that with respect to all such income earned on or after July first, nineteen hundred seventy-nine such moneys shall be distributed annually in the following manner:

(A) Pursuant to regulations of the superintendent, the deficit from the operations of the New York property insurance underwriting association shall be credited with such income earned, upon certification by the superintendent to the commissioner, in a sum not exceeding such total income earned or the sum of fifteen million dollars whichever is the lesser in any one year. Such credit shall be in lieu of a transfer of such funds to the general fund of the state treasury.

(B) Any balance of earned income shall be credited, upon certification by the superintendent to the commissioner, to the general fund of the state treasury; but only when the value of the fund exceeds the sum of two hundred forty million dollars.

(2) The superintendent, after consultation with the commissioner, may by regulation provide for contributions to be made in the form of acceptable securities, and for the management and disposition of such securities. The income from such securities shall be included in the distribution outlined in paragraph one hereof.

(3) The superintendent is authorized to use the income earned on the moneys of the fund to offset the deficit of the New York property insurance underwriting association in accordance with subsection (d) of section five thousand four hundred five of this chapter, provided that any income earned on the moneys of the fund which in any one year exceeds fifteen million dollars or which the superintendent has not utilized for the purposes of such subsection shall be credited to the corpus of the fund until the superintendent determines that its net value is two hundred forty million dollars, and thereafter shall be credited, upon certification by the superintendent to the commissioner, to the general fund of the state treasury.

(e) (1) (A) Notwithstanding any other provision of law to the contrary, the superintendent shall annually no later than November first in each year submit to the director of the budget a request for an appropriation of ninety million dollars. The governor shall include such

amount in a budget bill for the next state fiscal year. The state comptroller shall encumber the amount so appropriated before the end of the fiscal year for which any such appropriation is made. If for any fiscal year commencing on or after April first, nineteen hundred eighty-three, the governor fails to submit a budget bill containing an appropriation in the amount requested by the superintendent or the legislature fails to appropriate the amount in a budget bill submitted by the governor for such fiscal year, the amount appropriated for and encumbered during the preceding fiscal year shall be payable forthwith to the fund on July first of such year in the manner prescribed by law, provided, however, that such amount shall not exceed the amount of moneys transferred to the general fund from the fund pursuant to the provisions of chapter fifty-five of the laws of nineteen hundred eighty-two.

(B) Any appropriation made to the fund pursuant to this section shall be included as an asset for the purposes of computing the value or net value of the fund pursuant to this section.

(C) Any transfer of moneys from the fund to the general fund in accordance with the provisions of chapter fifty-five of the laws of nineteen hundred eighty-two is deemed a proper and prudent legal undertaking for any state officer with the responsibility for the custody or the investment of the assets of the fund, notwithstanding any other provision of law to the contrary.

(2) Upon certification by the superintendent that further sums, not exceeding fifty million dollars in the aggregate, are required by the public motor vehicle liability security fund to meet its obligations and accomplish the purposes of this article the commissioner shall transfer from the assets of the property/casualty insurance security fund to the public motor vehicle liability security fund amounts to be specified by the superintendent. Such sums, not exceeding fifty million dollars in the aggregate, shall be a liability of the public motor vehicle liability security fund and shall be repaid to the property/casualty insurance security fund pursuant to a plan of repayment to be prescribed by the superintendent which may provide for an increase in the level of payments into the fund provided for in subsection (b) of section seven thousand six hundred four of this article.