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

1492

2011-2012 Regular Sessions

I N S E N A T E

January 7, 2011

Introduced by Sen. LITTLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the town law, in relation to authorizing a town to establish and operate a town fire department

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The town law is amended by adding a new article 10-A to read as follows:

ARTICLE 10-A
FIRE DEPARTMENT

SECTION 160. ESTABLISHMENT OF TOWN FIRE DEPARTMENT.
161. POWERS OF TOWN BOARD.
162. RULES AND REGULATIONS.
163. ORGANIZATION OF COMPANIES.
164. VOLUNTEER MEMBERS OF TOWN FIRE COMPANIES.
165. INCORPORATION OF FIRE DEPARTMENT.
166. ELECTION OF COMPANY OFFICERS AND DELEGATES.
167. CHIEF AND ASSISTANT CHIEFS.

S 160. ESTABLISHMENT OF TOWN FIRE DEPARTMENT. NOTWITHSTANDING THE PROVISIONS OF ARTICLE ELEVEN OF THIS CHAPTER OR ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE TOWN BOARD OF ANY TOWN, WHICH DOES NOT HAVE A FIRE DISTRICT, MAY ESTABLISH AND OPERATE A TOWN FIRE DEPARTMENT.

S 161. POWERS OF TOWN BOARD. THE TOWN BOARD OF A TOWN:

1. HAS THE CARE, CUSTODY AND CONTROL OF ALL TOWN PROPERTY OF THE FIRE DEPARTMENT.

2. MAY PURCHASE SUCH EQUIPMENT AS IS SUITABLE AND NECESSARY TO PREVENT AND EXTINGUISH FIRES WITHIN THE TOWN, OR FOR THE PURPOSES OF ANY EMERGENCY AND FIRST AID SQUAD ORGANIZED WITHIN THE FIRE DEPARTMENT, AND

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

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UNIFORMS FOR ALL ACTIVE MEMBERS OF THE FIRE DEPARTMENT AND KEEP THE SAME IN GOOD CONDITION AND REPAIR.

3. MAY ERECT AND MAINTAIN SUITABLE AND NECESSARY BUILDINGS FOR THE FIRE DEPARTMENT.

4. MAY CONSTRUCT AND MAINTAIN RESERVOIRS AND CISTERNS AND SUPPLY THEM WITH WATER FOR USE AT FIRES.

5. MAY ADOPT RULES FOR THE ADMISSION, SUSPENSION, REMOVAL AND DISCIPLINE OF THE MEMBERS, OFFICERS AND EMPLOYEES OF THE FIRE DEPARTMENT, MAY PRESCRIBE THEIR POWERS AND DUTIES, AND FIX THEIR COMPENSATION NOT INCONSISTENT WITH THIS ARTICLE.

6. MAY ADOPT RULES AND REGULATIONS GOVERNING FIRE COMPANIES AND FIRE DEPARTMENTS, PRESCRIBING THE DUTIES OF THE MEMBERS THEREOF, AND MAY ENFORCE DISCIPLINE AND PROVIDE FOR PUBLIC DRILLS, PARADES, FUNERALS, INSPECTIONS AND REVIEWS OF THE TOWN FIRE DEPARTMENT, OR ANY COMPANY OR UNIT THEREOF, WITHIN THE TOWN OR AT OTHER PLACES WITHIN THE STATE, ANY ADJOINING STATE OR IN CANADA. SUCH RULES AND REGULATIONS SHALL NOT AUTHORIZE ANY MEMBER OF THE TOWN BOARD TO INTERFERE WITH THE DUTIES OF THE FIRE CHIEF OR THE ASSISTANT FIRE CHIEF AT SUCH TIMES AS THE FIRE DEPARTMENT OR ANY COMPANY OR SQUAD THEREOF IS ON DUTY.

7. MAY APPOINT PERSONS OTHER THAN MEMBERS OR OFFICERS OF THE DEPARTMENT TO TAKE CHARGE OF TOWN PROPERTY, AND MAY FIX THEIR COMPENSATION.

8. MAY EMPLOY DUTY OR "CALL MEN", TO SERVE ON A PART-TIME BASIS WHEN NECESSARY, AND FIX THEIR DUTIES AND COMPENSATION. SUCH PART-TIME PAID FIREFIGHTER IN THE EVENT OF INJURY SHALL BE ENTITLED TO THE APPLICABLE BENEFITS PROVIDED FOR SUCH PART-TIME PAID FIREFIGHTER UNDER SECTION TWO HUNDRED SEVEN-A OF THE GENERAL MUNICIPAL LAW AND IN THE EVENT OF INJURY OR DEATH SHALL BE ENTITLED TO THE APPLICABLE BENEFITS, IF ANY, PROVIDED FOR SUCH PART-TIME PAID FIREFIGHTER UNDER THE RETIREMENT AND SOCIAL SECURITY LAW AND THE WORKERS' COMPENSATION LAW. PERSONS WHO ARE VOLUNTEER MEMBERS OF THE TOWN FIRE DEPARTMENT MAY BE EMPLOYED AS SUCH PART-TIME PAID FIREFIGHTER, BUT IN THE EVENT OF INJURY, DEATH, DISEASE OR INFECTION, RESULTING FROM SERVICES PERFORMED IN LINE OF DUTY AS SUCH PART-TIME PAID FIREFIGHTER THEY SHALL NOT BE ENTITLED TO ANY OF THE BENEFITS PROVIDED FOR VOLUNTEER FIREFIGHTERS UNDER THE VOLUNTEER FIREFIGHTERS' BENEFIT LAW, OR UNDER ANY POLICY OF BLANKET ACCIDENT INSURANCE PURCHASED BY THE TOWN OR PURCHASED BY THE FIRE DEPARTMENT TO COVER ONLY VOLUNTEER MEMBERS OF SUCH DEPARTMENT.

9. MAY INQUIRE INTO THE CAUSE AND ORIGIN OF FIRES OCCURRING IN THE TOWN AND MAY TAKE TESTIMONY IN RELATION THERETO.

10. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY, A TOWN MAY INCLUDE AS PART OF ITS BUDGET AN APPROPRIATION TO FUND AN ANNUAL FIREFIGHTERS' INSPECTION-DINNER FOR EACH FIRE COMPANY WITHIN THE TOWN.

S 162. RULES AND REGULATIONS. THE TOWN BOARD MAY ADOPT RULES AND REGULATIONS FOR THE FOLLOWING PURPOSES:

1. TO PROTECT AND PRESERVE THE TOWN PROPERTY AND APPARATUS OF THE FIRE DEPARTMENT.

2. TO PREVENT DANGER FROM FIRES AND TO PROTECT PROPERTY EXPOSED TO DESTRUCTION OR INJURY BY FIRE.

3. TO PROVIDE FOR PULLING DOWN, BLOWING UP AND THE REMOVAL OF BUILDINGS AND PROPERTY TO ARREST THE PROGRESS OF FIRES OR EXTINGUISH THE SAME.

4. TO PROVIDE FOR THE INSTALLATION OF YARD HYDRANT SYSTEMS CONNECTED WITH THE PUBLIC WATER SUPPLY SYSTEM IN ACCESSIBLE LOCATIONS ON PRIVATE PROPERTY FOR THE PROTECTION OF MULTIPLE RESIDENCES ENUMERATED IN THE

MULTIPLE RESIDENCE LAW WHERE THE POSSIBILITY OF A SERIOUS FIRE HAZARD IS DETERMINED BY THE BOARD TO EXIST.

S 163. ORGANIZATION OF COMPANIES. THE TOWN BOARD MAY ORGANIZE AND MAINTAIN FIRE, HOSE, PROTECTIVE AND HOOK AND LADDER COMPANIES, WHENEVER IN ITS JUDGMENT THE PUBLIC INTERESTS REQUIRE. THE TOWN BOARD MAY, BY RESOLUTION, CONSENT TO THE INCORPORATION OF ANY OF THE COMPANIES SO ORGANIZED BY THEM, OR MAY, BY LIKE APPROVAL, CONSENT TO THE INCORPORATION OR THE ORGANIZATION WITHOUT INCORPORATION OF AS MANY COMPANIES VOLUNTARILY ORGANIZED IN SUCH TOWN AS MAY BE DEEMED NECESSARY.

S 164. VOLUNTEER MEMBERS OF TOWN FIRE COMPANIES. 1. THE VOLUNTEER MEMBERS OF A FIRE COMPANY SHALL BE ELECTED AND APPOINTED AS PROVIDED IN THIS SECTION.

2. THE TOWN BOARD SHALL APPOINT RESIDENTS OF THE TOWN AS THE VOLUNTEER MEMBERS OF ANY NEWLY ORGANIZED FIRE COMPANY. THEREAFTER, THE FIRE COMPANY MAY ELECT OTHER ELIGIBLE PERSONS, INCLUDING TOWN OFFICERS, AS VOLUNTEER MEMBERS. THE ELECTION SHALL BE PURSUANT TO THE BY-LAWS, IF ANY, OF THE FIRE COMPANY; OTHERWISE, BY A THREE-FOURTHS VOTE OF THE MEMBERS OF THE FIRE COMPANY PRESENT AND VOTING AT A REGULAR OR SPECIAL MEETING THEREOF. THE MEMBERSHIP OF ANY PERSON SO ELECTED SHALL BECOME EFFECTIVE WHEN APPROVED BY RESOLUTION OF THE TOWN BOARD. MEMBERSHIP SHALL BE DEEMED TO HAVE BEEN APPROVED PURSUANT TO THIS SUBDIVISION IN THE EVENT THAT NO ACTION IS TAKEN BY THE TOWN BOARD, EITHER APPROVING OR DISAPPROVING, WITHIN FORTY DAYS AFTER SERVICE OF WRITTEN NOTICE OF ELECTION TO MEMBERSHIP SHALL HAVE BEEN MADE BY THE SECRETARY OF THE FIRE COMPANY UPON THE TOWN CLERK, EITHER PERSONALLY OR BY MAIL.

3. ANY PERSON ELECTED TO MEMBERSHIP AS A VOLUNTEER MEMBER AS A FIRE COMPANY SHALL BE A RESIDENT OF THE TOWN, EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION SIX OF THIS SECTION.

4. THE MEMBERSHIP OF A VOLUNTEER MEMBER OF A FIRE COMPANY SHALL TERMINATE WHEN HE OR SHE CEASES TO BE A RESIDENT OF THE TOWN, EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION FIVE OF THIS SECTION.

5. ANY FIRE COMPANY MAY AUTHORIZE THE CONTINUED MEMBERSHIP OF ANY VOLUNTEER MEMBER WHERE SUCH MEMBER NOTIFIES THE SECRETARY OF HIS OR HER FIRE COMPANY (A) THAT HE OR SHE PLANS TO CHANGE HIS OR HER RESIDENCE TO TERRITORY WHICH IS NOT IN THE TOWN, OR ANY FIRE COMPANY THEREOF, PURSUANT TO A CONTRACT FOR FIRE PROTECTION, AND (B) THAT BY REASON OF HIS OR HER RESIDENCE IN THE VICINITY OR HIS OR HER USUAL OCCUPATION HE OR SHE WILL BE AVAILABLE TO RENDER ACTIVE SERVICE AS A VOLUNTEER FIREFIGHTER IN THE TOWN. SUCH AUTHORIZATION SHALL BE PURSUANT TO THE BY-LAWS, IF ANY, OF THE FIRE COMPANY OF WHICH HE OR SHE IS A MEMBER, OTHERWISE BY A THREE-FOURTHS VOTE OF THE MEMBERS OF SUCH FIRE COMPANY PRESENT AND VOTING AT A REGULAR OR SPECIAL MEETING THEREOF. SUCH AUTHORIZATION SHALL NOT BECOME EFFECTIVE UNLESS APPROVED BY RESOLUTION OF THE TOWN BOARD. SUCH AUTHORIZATION SHALL BE DEEMED TO HAVE BEEN APPROVED PURSUANT TO THIS SUBDIVISION IN THE EVENT THAT NO ACTION IS TAKEN BY THE TOWN BOARD, EITHER APPROVING OR DISAPPROVING, WITHIN FORTY DAYS AFTER SERVICE OF WRITTEN NOTICE OF SUCH AUTHORIZATION SHALL HAVE BEEN MADE BY THE SECRETARY OF THE FIRE COMPANY UPON THE TOWN CLERK, EITHER PERSONALLY OR BY MAIL. ANY MEMBERSHIP CONTINUED PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION SHALL TERMINATE WHEN THE MEMBER CANNOT MEET EITHER THE REQUIREMENTS OF THIS SUBDIVISION OR THE RESIDENCE REQUIREMENTS OF SUBDIVISION THREE OF THIS SECTION. IN THE CASE OF A TOWN WHICH ADJOINS ANOTHER STATE, THE TERM "VICINITY", AS USED IN THIS SUBDIVISION, INCLUDES TERRITORY IN THIS STATE AND TERRITORY IN THE ADJOINING STATE.

6. A PERSON WHO CANNOT MEET THE RESIDENCE REQUIREMENTS OF SUBDIVISION THREE OF THIS SECTION MAY BE ELECTED TO MEMBERSHIP AS A VOLUNTEER MEMBER

OF ANY FIRE COMPANY OF THE FIRE DEPARTMENT IF BY REASON OF HIS OR HER RESIDENCE IN THE VICINITY OR HIS OR HER USUAL OCCUPATION HE OR SHE WILL BE AVAILABLE TO RENDER ACTIVE SERVICE AS A VOLUNTEER FIREFIGHTER IN THE TOWN. SUCH ELECTION SHALL BE PURSUANT TO THE BY-LAWS, IF ANY, OF THE FIRE COMPANY; OTHERWISE BY A THREE-FOURTHS VOTE OF THE MEMBERS OF THE FIRE COMPANY PRESENT AND VOTING AT A REGULAR OR SPECIAL MEETING THEREOF. THE MEMBERSHIP OF ANY PERSON SO ELECTED SHALL NOT BECOME EFFECTIVE UNLESS APPROVED BY RESOLUTION OF THE TOWN BOARD. MEMBERSHIP SHALL BE DEEMED TO HAVE BEEN APPROVED PURSUANT TO THIS SUBDIVISION IN THE EVENT THAT NO ACTION IS TAKEN BY THE TOWN BOARD, EITHER APPROVING OR DISAPPROVING, WITHIN SEVENTY DAYS AFTER SERVICE OF WRITTEN NOTICE OF ELECTION TO MEMBERSHIP SHALL HAVE BEEN MADE BY THE SECRETARY OF THE FIRE COMPANY UPON THE TOWN CLERK, EITHER PERSONALLY OR BY MAIL. THE MEMBERSHIP OF ANY VOLUNTEER MEMBER ELECTED PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION SHALL TERMINATE WHEN THE MEMBER CANNOT MEET EITHER THE REQUIREMENTS OF THIS SUBDIVISION OR THE RESIDENCE REQUIREMENTS OF SUBDIVISION THREE OF THIS SECTION. IN THE CASE OF A TOWN WHICH ADJOINS ANOTHER STATE, THE TERM "VICINITY", AS USED IN THIS SUBDIVISION, INCLUDES TERRITORY IN THIS STATE AND TERRITORY IN THE ADJOINING STATE.

7. THE MEMBERSHIP OF ANY VOLUNTEER FIREFIGHTER SHALL NOT BE CONTINUED PURSUANT TO SUBDIVISION FIVE OF THIS SECTION, AND PERSONS SHALL NOT BE ELECTED TO MEMBERSHIP PURSUANT TO SUBDIVISION SIX OF THIS SECTION, IF, BY SO DOING, THE PERCENTAGE OF SUCH NON-RESIDENT MEMBERS IN THE FIRE COMPANY WOULD EXCEED FORTY-FIVE PER CENTUM OF THE ACTUAL MEMBERSHIP OF THE FIRE COMPANY.

8. THE TOWN BOARD, BY RESOLUTION MAY RESTRICT THE MEMBERSHIP OF VOLUNTEER MEMBERS IN ANY OR ALL OF THE FIRE COMPANIES OF THE FIRE DEPARTMENT TO RESIDENTS OF THE TOWN.

9. NON-RESIDENTS WHOSE VOLUNTEER MEMBERSHIPS HAVE BEEN CONTINUED OR AUTHORIZED PURSUANT TO SUBDIVISION FIVE OR SIX OF THIS SECTION, SHALL HAVE ALL THE POWERS, DUTIES, IMMUNITIES, AND PRIVILEGES OF RESIDENT VOLUNTEER MEMBERS, EXCEPT (1) NON-RESIDENTS OF THE STATE MAY NOT BE APPOINTED OR ELECTED TO ANY OFFICE IN THE FIRE COMPANY OR FIRE DEPARTMENT, AND (2) A NON-RESIDENT OF THIS STATE WHOSE MEMBERSHIP HAS BEEN CONTINUED PURSUANT TO SUBDIVISION FIVE OF THIS SECTION, OR A NON-RESIDENT OF THIS STATE WHO WAS ELECTED TO MEMBERSHIP PURSUANT TO SUBDIVISION SIX OF THIS SECTION, SHALL NOT BE CONSIDERED TO BE PERFORMING ANY FIREFIGHTER DUTY, OR TO BE ENGAGED IN ANY FIREFIGHTER ACTIVITY, AS A MEMBER OF THE FIRE COMPANY WHILE HE OR SHE IS OUTSIDE OF THIS STATE UNLESS AND UNTIL HE OR SHE HAS FIRST REPORTED TO THE OFFICER OR FIREFIGHTER IN COMMAND OF HIS OR HER FIRE DEPARTMENT, OR ANY COMPANY, SQUAD OR OTHER UNIT THEREOF, ENGAGED OR TO BE ENGAGED IN RENDERING SERVICE OUTSIDE THIS STATE, OR HAS RECEIVED ORDERS OR AUTHORIZATION FROM AN OFFICER OF THE FIRE DEPARTMENT OR FIRE COMPANY TO PARTICIPATE IN OR ATTEND AUTHORIZED ACTIVITIES OUTSIDE OF THIS STATE IN THE SAME MANNER AS RESIDENT MEMBERS OF THE FIRE COMPANY.

10. A PERSON SHALL NOT BE ELIGIBLE TO VOLUNTEER MEMBERSHIP IN MORE THAN ONE FIRE COMPANY AT ONE TIME.

11. THE PROVISIONS OF THIS SECTION SHALL NOT BE DEEMED TO AUTHORIZE THE ELECTION OF ANY PERSON AS A MEMBER OF A FIRE COMPANY OR THE CONTINUANCE OF MEMBERSHIP IN A FIRE COMPANY AS PROVIDED IN THIS SECTION IF SUCH ELECTION OR CONTINUANCE OF MEMBERSHIP SHALL BE CONTRARY TO THE BY-LAWS, RULES OR REGULATIONS OF THE FIRE COMPANY OR OF THE FIRE DEPARTMENT OF THE TOWN.

12. A TOWN MAY NOT ADOPT A LOCAL LAW CHANGING, AMENDING OR SUPERSEDING THIS SECTION.

13. (A) IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR ANY VOLUNTEER FIRE DEPARTMENT OR FIRE COMPANY, THROUGH ANY MEMBER OR MEMBERS THEREOF, OFFICERS, TOWN BOARD OR OTHER BODY OR OFFICE HAVING POWER OF APPOINTMENT OF VOLUNTEER FIREFIGHTERS IN ANY FIRE DEPARTMENT OR FIRE COMPANY PURSUANT TO THIS SECTION, BECAUSE OF THE RACE, CREED, COLOR, NATIONAL ORIGIN, SEX OR MARITAL STATUS OF ANY INDIVIDUAL, TO EXCLUDE OR TO EXPEL FROM ITS VOLUNTEER MEMBERSHIP SUCH INDIVIDUAL, OR TO DISCRIMINATE AGAINST ANY OF ITS MEMBERS BECAUSE OF THE RACE, CREED, COLOR, NATIONAL ORIGIN, SEX OR MARITAL STATUS OF SUCH VOLUNTEER MEMBERS.

(B) ANY PERSON CLAIMING TO BE AGGRIEVED BY AN UNLAWFUL DISCRIMINATORY PRACTICE PURSUANT TO THIS SECTION MAY BY HIMSELF OR HERSELF OR HIS OR HER ATTORNEY AT LAW MAKE, SIGN AND FILE WITH THE STATE DIVISION OF HUMAN RIGHTS, A VERIFIED COMPLAINT WHICH SHALL SET FORTH THE PARTICULARS OF THE ALLEGED UNLAWFUL DISCRIMINATORY PRACTICE AND CONTAIN SUCH OTHER INFORMATION AS THE DIVISION OF HUMAN RIGHTS MAY REQUIRE. THE DIVISION SHALL THEREUPON CAUSE TO BE MADE AN INVESTIGATION AND DISPOSITION OF THE CHARGES PURSUANT TO THE PROVISIONS OF ARTICLE FIFTEEN OF THE EXECUTIVE LAW.

14. A PERSON WHO HAS BEEN CONVICTED OF ARSON IN ANY DEGREE SHALL NOT BE ELIGIBLE TO BE ELECTED OR APPOINTED AS A VOLUNTEER MEMBER OF A FIRE COMPANY. THE MEMBERSHIP OF ANY VOLUNTEER MEMBER OF A FIRE COMPANY SHALL IMMEDIATELY TERMINATE IF HE OR SHE IS CONVICTED OF ARSON IN ANY DEGREE WHILE A MEMBER OF A FIRE COMPANY.

15. UPON APPLICATION BY ANY PERSON FOR MEMBERSHIP IN A FIRE COMPANY OPERATING PURSUANT TO THIS SECTION, THE FIRE CHIEF SHALL CAUSE THE APPLICANT'S BACKGROUND TO BE CHECKED PURSUANT TO SECTION EIGHT HUNDRED THIRTY-SEVEN-O OF THE EXECUTIVE LAW FOR A CRIMINAL HISTORY INVOLVING A CONVICTION FOR ARSON.

S 165. INCORPORATION OF FIRE DEPARTMENT. THE MEMBERS OF ALL THE FIRE, HOSE, PROTECTIVE AND HOOK AND LADDER COMPANIES OF A TOWN, ORGANIZED AND MAINTAINED IN PURSUANCE OF LAW, CONSTITUTE A CORPORATION BY THE NAME OF THE "FIRE DEPARTMENT OF....." THE TERM, FIRE DEPARTMENT OF A TOWN, AS USED IN THIS CHAPTER, REFERS TO SUCH A CORPORATION.

S 166. ELECTION OF COMPANY OFFICERS AND DELEGATES. EACH OF THE SEVERAL COMPANIES WHOSE MEMBERS CONSTITUTE THE FIRE DEPARTMENT OF THE TOWN SHALL HOLD AN ANNUAL MEETING ON THE FIRST TUESDAY IN APRIL IN EACH YEAR. AT SUCH MEETING THE MEMBERS OF EACH COMPANY SHALL ELECT BY BALLOT FROM THEIR OWN NUMBER A CAPTAIN AND A LIEUTENANT, AND SUCH FURTHER OFFICERS IF ANY AS MAY BE PROVIDED FOR IN THE BY-LAWS OF THE COMPANY, WHO MUST BE APPROVED BY THE TOWN, ONE WARDEN AND ONE DELEGATE TO THE GENERAL CONVENTION OF THE FIRE DEPARTMENT. THE TERMS OF OFFICE OF THE CAPTAIN AND LIEUTENANT AND SUCH FURTHER OFFICERS IF ANY, AS ARE ELECTED AS PROVIDED IN THIS SECTION, SHALL BE ONE YEAR, THE WARDENS TWO YEARS, AND THE DELEGATES THREE YEARS, RESPECTIVELY, AND ANY VACANCIES OCCURRING IN ANY SUCH OFFICES SHALL BE FILLED BY ELECTION IN LIKE MANNER. AT THE FIRST ANNUAL MEETING AFTER THIS ARTICLE TAKES EFFECT TWO WARDENS AND THREE DELEGATES SHALL BE ELECTED, THE WARDENS TO SERVE FOR ONE AND TWO YEARS, RESPECTIVELY, AND THE DELEGATES FOR ONE, TWO AND THREE YEARS, RESPECTIVELY. ANY PERSON WHO HAS BEEN CONVICTED OF ARSON IN ANY DEGREE SHALL NOT BE ELIGIBLE FOR ELECTION TO THE OFFICE OF CAPTAIN, LIEUTENANT, WARDEN, DELEGATE AND ANY OTHER OFFICES PROVIDED FOR IN THE BY-LAWS OF THE COMPANY. ANY CAPTAIN, LIEUTENANT, WARDEN, DELEGATE OR OTHER OFFICER OF THE COMPANY WHO IS CONVICTED OF ARSON IN ANY DEGREE DURING HIS TERM OF OFFICE SHALL BE DISQUALIFIED FROM COMPLETING SUCH TERM OF OFFICE.

S 167. CHIEF AND ASSISTANT CHIEFS. THE CHIEF AND THE FIRST AND SECOND ASSISTANT CHIEFS AND SUCH ADDITIONAL ASSISTANT CHIEFS, IF ANY, AS MAY BE

PROVIDED FOR IN THE BY-LAWS OF THE FIRE DEPARTMENT SHALL EACH BE A MEMBER THEREOF AND A RESIDENT OF THE STATE OF NEW YORK. IN ADDITION, THE TOWN BOARD MAY, BY RESOLUTION, REQUIRE THAT ANY OR ALL OF SUCH FIRE DEPARTMENT OFFICERS SHALL BE RESIDENTS OF THE TOWN. THE DELEGATES ELECTED TO THE GENERAL CONVENTION OF THE FIRE DEPARTMENT SHALL MEET AT THE COUNCIL ROOM THEREOF ON THE THURSDAY FOLLOWING THE FIRST TUESDAY IN APRIL AND NOMINATE A PERSON FOR EACH OF SUCH OFFICES; BUT THE TOWN BOARD MAY ADOPT A RULE REQUIRING ALL SUCH NOMINATIONS TO BE MADE ON THAT DAY BY A VOTE OF THE DULY QUALIFIED MEMBERS OF THE DEPARTMENT, IN WHICH CASE THE MEETING OF THE DELEGATES IN GENERAL CONVENTION, AS PROVIDED FOR IN THIS SECTION, SHALL BE DISPENSED WITH. THE PERSON ACTING AS SECRETARY OF SUCH CONVENTION SHALL FORTHWITH FILE IN THE OFFICE OF THE TOWN CLERK A CERTIFICATE OF SUCH NOMINATIONS. THE TOWN BOARD AT ITS NEXT MEETING SHALL CONSIDER THE NOMINATIONS AND APPOINT SUCH PERSONS TO THE OFFICES TO WHICH THEY ARE RESPECTIVELY NOMINATED OR, IF A NOMINATION IS NOT APPROVED THE BOARD SHALL RECONVENE THE GENERAL CONVENTION, WHICH SHALL SUBMIT A NEW NOMINATION TO TAKE THE PLACE OF ANY NOMINATION NOT APPROVED, WHICH PROCEDURE SHALL CONTINUE UNTIL A FULL SET OF OFFICERS IS APPROVED. A PERSON WHO HAS BEEN CONVICTED OF ARSON IN ANY DEGREE SHALL NOT BE ELIGIBLE FOR NOMINATION, ELECTION OR APPOINTMENT TO THE OFFICE OF CHIEF OR ASSISTANT CHIEF. ANY FIRE CHIEF OR ASSISTANT CHIEF WHO IS CONVICTED OF ARSON IN ANY DEGREE DURING HIS OR HER TERM OF OFFICE SHALL BE DISQUALIFIED FROM COMPLETING SUCH TERM OF OFFICE.

NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL OR LOCAL LAW INCONSISTENT WITH THE PROVISIONS OF THIS SECTION, ANY SUCH CHIEF OR ASSISTANT CHIEF OF A TOWN FIRE DEPARTMENT NEED NOT BE A RESIDENT OF THE TOWN IN ORDER TO SERVE AS A MEMBER OF THE COUNCIL OF THE FIRE DEPARTMENT OF THE TOWN PURSUANT TO THIS ARTICLE UNLESS THE TOWN BOARD HAS, BY RESOLUTION, AS PROVIDED IN THIS SECTION, REQUIRED THAT ANY OR ALL OF SUCH FIRE DEPARTMENT OFFICERS SHALL BE RESIDENTS OF THE TOWN. EXCEPT AS OTHERWISE PROVIDED PURSUANT TO THIS PARAGRAPH, A PERSON SHALL NOT HOLD THE OFFICE OF TOWN SUPERVISOR OR MEMBER OF THE TOWN BOARD AND THE OFFICE OF CHIEF OR ASSISTANT CHIEF OF A TOWN FIRE DEPARTMENT AT THE SAME TIME. A MEMBER OF THE TOWN BOARD WHO DOES NOT, EITHER AS AN INDIVIDUAL OR AS A MEMBER OF SUCH BOARD, APPOINT OR APPROVE THE APPOINTMENT OF THE CHIEF OR ASSISTANT CHIEF OF A TOWN FIRE DEPARTMENT, MAY HOLD THE OFFICE OF CHIEF OR ASSISTANT CHIEF AT THE SAME TIME. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, A PERSON WHO IS THE CHIEF OR AN ASSISTANT CHIEF OF A TOWN FIRE DEPARTMENT, IF HE OR SHE IS OTHERWISE QUALIFIED, MAY BE ELECTED TO THE OFFICE OF TOWN SUPERVISOR OR MEMBER OF THE TOWN BOARD OR MAY BE APPOINTED TO THE OFFICE OF TOWN SUPERVISOR OR MEMBER OF THE TOWN BOARD TO FILL A VACANCY AND, IF HE OR SHE IS SO ELECTED OR APPOINTED, HIS OR HER OFFICE AS CHIEF OR ASSISTANT CHIEF, AS THE CASE MAY BE, SHALL BECOME VACANT UPON HIS OR HER TAKING HIS OR HER OATH OF OFFICE AS TOWN SUPERVISOR OR MEMBER OF THE TOWN BOARD.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.