

2799

2009-2010 Regular Sessions

I N S E N A T E

March 3, 2009

Introduced by Sen. NOZZOLIO -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the not-for-profit corporation law, in relation to an exemption to the residency requirement of the town of Fleming

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

1 Section 1. Subparagraph 3 of paragraph (c) of section 1402 of the
2 not-for-profit corporation law, as amended by chapter 351 of the laws of
3 2000, is amended to read as follows:
4 (3) In towns outside of villages and fire districts, the consent of a
5 majority of the members of the town board to the formation of a fire
6 corporation shall constitute an appointment of the persons named in the
7 certificate of incorporation as town [firemen] FIREFIGHTERS. Thereafter,
8 other eligible persons may be elected as members pursuant to the by-laws
9 of the fire corporation, but the election of a member must be approved
10 by the town board of each town which consented to the formation of the
11 fire corporation. Such a person shall be a resident of the territory
12 specified in the certificate of incorporation or of territory outside
13 such boundaries which is afforded fire protection by the fire corpo-
14 ration pursuant to a contract for fire protection under which a cash
15 consideration is received by the corporation or for which negotiations
16 for renewal of such a contract are pending. The membership of any volun-
17 teer member shall terminate when he OR SHE ceases to be a resident of
18 such inside or outside territory, except that the corporation may
19 authorize his OR HER continued membership where he OR SHE notifies the
20 secretary of the fire corporation (a) that he OR SHE plans to change his
21 OR HER residence to a territory which is not in such inside or outside
22 territory, and (b) that by reason of his OR HER residence in the vicini-
23 ty or his OR HER usual occupation he OR SHE will be available to render
24 active service as a volunteer [fireman] FIREFIGHTER in either such

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

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1 inside or such outside territory. Voting for such authorization shall be
2 pursuant to the by-laws. Such authorization shall not become effective
3 unless approved by resolution of the town board of each town which
4 consented to the formation of the corporation. Any membership so contin-
5 ued shall terminate when the member can no longer meet the requirements
6 of this subparagraph. A person who cannot meet the residence require-
7 ments of this subparagraph may be elected to membership as a volunteer
8 member if by reason of his OR HER residence in the vicinity or his OR
9 HER usual occupation he OR SHE will be available to render active
10 service as a volunteer [fireman] FIREFIGHTER in such inside or outside
11 territory. Voting for such election shall be pursuant to the by-laws.
12 Such election shall not become effective unless approved by resolution
13 of the town board of each town which consented to the formation of the
14 corporation. Such membership shall terminate when the member can no
15 longer meet the requirements of this subparagraph. The election or
16 continuance of any person as a member shall be deemed to have been
17 approved by the town board pursuant to this subparagraph in the event
18 that no action is taken by the town board, either approving or disap-
19 proving, within forty days in the case of residents of the territory
20 specified in the certificate of incorporation or of outside contract
21 territory, and within seventy days in the case of all others, after
22 service of written notice of such election or continuance of membership
23 shall have been made by the secretary of the corporation upon the town
24 clerk, either personally or by mail. The membership of any volunteer
25 [fireman] FIREFIGHTER shall not be continued pursuant to this subpara-
26 graph, and persons who do not reside in the territory specified in the
27 certificate of incorporation or in territory protected pursuant to a
28 contract for fire protection shall not be elected to membership, if, by
29 so doing, the percentage of such nonresident members in the fire corpo-
30 ration would exceed forty-five per centum of the actual membership ther-
31 eof, PROVIDED HOWEVER, THAT THE PROVISIONS OF THIS SUBPARAGRAPH SHALL
32 NOT APPLY TO THE MEMBERSHIP OF THE FIRE COMPANIES WITHIN THE TOWN OF
33 FLEMING. Nonresidents of the territory specified in the certificate of
34 incorporation whose volunteer membership has been authorized or contin-
35 ued pursuant to this subparagraph may be elected or appointed to any
36 office in the fire corporation and shall have all the powers, duties,
37 immunities, and privileges of resident volunteer members except a non-
38 resident of this state whose membership has been continued pursuant to
39 this subparagraph, or who was elected to membership pursuant to this
40 subparagraph, shall not be considered to be performing any [firemanic]
41 FIREFIGHTING duty, or to be engaged in any [firemanic] FIREFIGHTING
42 activity, as a member of the fire company while he OR SHE is outside of
43 this state unless and until he OR SHE has first reported to the officer
44 or [fireman] FIREFIGHTER in command of his OR HER fire department, or
45 any company, squad or other unit thereof, engaged or to be engaged in
46 rendering service outside this state, or has received orders or authori-
47 zation from an officer of the fire department or fire company to partic-
48 ipate in or attend authorized activities outside of this state in the
49 same manner as resident members of the fire company. A person shall not
50 be eligible to volunteer membership in any other fire corporation or
51 fire company at one time. The provisions of this subparagraph shall not
52 be deemed to authorize the election or the continuance of any person as
53 a member of the corporation if such election or continuance of member-
54 ship shall be contrary to the by-laws, rules or regulations of the fire
55 corporation.

56 S 2. This act shall take effect immediately.