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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. CAHILL, GABRYSZAK, SCHROEDER, WALKER -- Multi-Sponsored by -- M. of A. PHEFFER -- read once and referred to the Committee on Local Governments

AN ACT to amend the volunteer firefighters' benefit law, in relation to providing for temporary payments of benefit pending final determination of claim

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

1 Section 1. Section 40 of the volunteer firefighters' benefit law, as
2 amended by chapter 544 of the laws of 1957, is amended to read as
3 follows:
4 S 40. [Notice] CLAIM ASSISTANCE UNIT; NOTICE of injury or death. THE
5 WORKERS' COMPENSATION BOARD SHALL ESTABLISH A VOLUNTEER FIREFIGHTERS'
6 BENEFIT CLAIM ASSISTANCE UNIT. SUCH UNIT SHALL BE RESPONSIBLE TO INITI-
7 ATE CONTACT WITH ANY VOLUNTEER FIREFIGHTER WHO SUSTAINS A LIFE THREATEN-
8 ING INJURY, OR IN THE CASE OF DEATH, THE SURVIVING DEPENDENTS OF SUCH
9 VOLUNTEER FIREFIGHTER AND SHALL PROVIDE ANY AND ALL ASSISTANCE REQUIRED
10 TO FILE CLAIMS AND EXPEDITE PAYMENT OF ANY AND ALL BENEFITS ALLOWABLE
11 UNDER THIS CHAPTER.
12 Notice of an injury or death for which benefits are to be paid or
13 provided under this chapter shall be given to the political subdivision
14 liable for the payment thereof within ninety days after such injury or
15 death except that such notice need not be given if a claim is filed
16 pursuant to section forty-one of this [chapter] ARTICLE within ninety
17 days after such injury or death. Either such notice may be given by any
18 person claiming to be entitled to such benefits [or], by someone in his
19 OR HER behalf, OR BY A CLAIM ASSISTANT. The notice shall be in writing,
20 shall contain the name and address of the volunteer fireman, and state
21 in ordinary language the time, place, nature and cause of the injury and
22 shall be signed by him OR HER or by a person on his OR HER behalf or, in

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

LBD00601-01-9

1 case of death, by any one or more of his OR HER dependents, [or] by a
2 person on their behalf, OR BY A CLAIM ASSISTANT. The notice shall be
3 given to the clerk of the board of supervisors of the county, the comp-
4 troller or chief financial officer of the city, the town clerk of the
5 town, the clerk of the village or the secretary of the fire district, as
6 the case may be, by delivering it to such officer or by registered
7 letter properly addressed to such officer.

8 The failure to give notice of injury or notice of death shall be a bar
9 to any claim under this chapter unless such failure is excused by the
10 [workmen's] WORKERS' compensation board on any of the following grounds,
11 (1) that for some sufficient reason the notice could not have been
12 given, (2) that a member of a body in charge of, or any officer of, the
13 fire department or fire company had knowledge within such ninety-day
14 period of the injuries or death, (3) that the political subdivision, or
15 its insurance carrier had not been prejudiced by a delay in giving such
16 notice, or (4) that the cause of disablement or death was not known to
17 be the result of service performed in line of duty as a volunteer fire-
18 man in sufficient time to comply with the provisions of this section.

19 S 2. This act shall take effect on the one hundred twentieth day after
20 it shall have become a law; provided, however, that effective immediate-
21 ly, the addition, amendment and/or repeal of any rule or regulation
22 necessary for the implementation of this act on its effective date is
23 authorized and directed to be made and completed on or before such
24 effective date.