

9046

2009-2010 Regular Sessions

I N A S S E M B L Y

June 22, 2009

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Governmental Operations

AN ACT to amend chapter 241 of the laws of 1930, defining the powers and jurisdiction of the New York board of fire underwriters, in relation to providing for minimum funding for the fire patrol and to confirming that assets, revenues and receipts of the fire patrol be used only for the fire patrol activities

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

1 Section 1. Sections 14 and 15 of chapter 241 of the laws of 1930
2 defining the powers and jurisdiction of the New York board of fire
3 underwriters, as amended by chapter 181 of the laws of 1939, are amended
4 and a new section 15-a is added to read as follows:
5 S 14. Expenses of fire patrol. [In the month of June, nineteen hundred
6 thirty-nine, in the month of January, nineteen hundred forty, and in the
7 month of January of every second year thereafter, there shall be held a
8 meeting of the board of which ten days' previous notice shall be
9 inserted in at least two newspapers published in the city of New York.
10 At such meeting each member of the board and each incorporated insurance
11 company or association, although not a member, insuring property within
12 the jurisdiction of the fire patrol against loss or damage by fire or
13 sprinkler leakage, shall be entitled to one vote. A corporation or asso-
14 ciation not a member, may be represented by one of its officers or
15 agents. A majority of the whole number so represented shall have power
16 to decide upon the question of sustaining the fire patrol and, at the
17 meeting held in June, nineteen hundred thirty-nine, of fixing a maximum
18 amount of expenses which will be incurred therefor during the period
19 from July first, nineteen hundred thirty-nine to and including December
20 thirty-first, nineteen hundred thirty-nine, and, at each subsequent
21 meeting, of fixing a maximum amount which will be incurred therefor
22 during the two fiscal years next to ensue, which amount shall in no case

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

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1 exceed two per centum on the aggregate of premiums returned as received,
2 as provided in the next section of this act; and the whole of such
3 amount or so much thereof as may be necessary, may be assessed upon the
4 companies or associations entitled to vote at such meeting in proportion
5 to the several amounts of premiums returned as received by each, as
6 provided in the next section, and such assessment shall be collectible
7 by the board in any court of law in the city or state of New York having
8 jurisdiction. The assessment made in June, nineteen hundred thirty-nine,
9 shall be payable September first, nineteen hundred thirty-nine, and the
10 annual assessments thereafter made shall be payable one-half thereof on
11 March fifteenth and one-half thereof on August fifteenth of each calen-
12 dar year.

13 S 15. Statement of premiums. In order to provide for the payment of
14 persons employed under the provisions of this act and the acquisition
15 and maintenance of necessary property, apparatus and equipment, the
16 board is empowered to require a statement to be furnished annually by
17 all corporations, associations, underwriters, agents or persons, of the
18 aggregate amount of premiums received by or on behalf of an insurance
19 company or association, which is a member of the board or which is enti-
20 tled to vote at the meeting provided for by the last preceding section,
21 for insuring property located in the jurisdiction of the fire patrol
22 against loss or damage by fire or sprinkler leakage, for and during the
23 twelve months ending with the thirty-first day of December of each year.
24 Such statement shall be sworn to by an executive officer of the corpo-
25 ration or association or by the agent or person so acting and effecting
26 such insurance and shall be filed with the treasurer of the board not
27 later than February seventh of each year. The treasurer of the board,
28 or other officer designated by it, within ten days after the first day
29 of January in each year, by written or printed demand signed by him,
30 shall require the filing of such statement by every such corporation,
31 association, underwriter, agent or person. Such demand may be delivered
32 personally at the office of such corporation, association, agent or
33 person, or at the residence of the proper officer thereof; every officer
34 of such corporation or association and every individual, agent or under-
35 writer, who shall, after February seventh of each year, neglect to
36 render the account, shall forfeit fifty dollars for the use of the board
37 and an additional twenty-five dollars for every day of neglect after
38 February seventh of each year. Such additional penalty shall be cumula-
39 tive and be computed and recovered up to the time of the trial of the
40 action for the recovery thereof. Such penalties may be sued for and
41 recovered, with costs, in any court of record having jurisdiction, by
42 and in the name of the board. The board at its meeting in June, nineteen
43 hundred thirty-nine is empowered to require a like statement of premiums
44 received to be filed for the period from and including January first,
45 nineteen hundred thirty-nine to July first, nineteen hundred thirty-
46 nine. Notice requiring the filing of such statement shall be given with-
47 in ten days after July first, nineteen hundred thirty-nine and such
48 statement shall be filed within thirty days after July first. Failure
49 to file such statement shall be subject to the same demand, forfeiture
50 and penalties as in case of failure to file the annual statement as
51 provided by this section] A. EACH YEAR, IN FEBRUARY, THE BOARD OF DIREC-
52 TORS OF THE NEW YORK BOARD OF FIRE UNDERWRITERS WILL ASSESS EACH MEMBER
53 OF THE BOARD OF FIRE UNDERWRITERS AND EACH INCORPORATED INSURANCE COMPA-
54 NY OR ASSOCIATION, INSURING PROPERTY WITHIN THE FIVE BOROUGHS OF THE
55 CITY OF NEW YORK AGAINST LOSS OR DAMAGE BY FIRE OR SPRINKLER LEAKAGE,
56 FOR THE EXPENSES OF THE NEW YORK FIRE PATROL.

1 B. THE ASSESSMENT SHALL BE A MINIMUM AMOUNT OF ONE DOLLAR TWENTY-FIVE
2 CENTS PER ONE HUNDRED DOLLARS OF THE AGGREGATE OF PREMIUMS RETURNED AS
3 RECEIVED; THE MAXIMUM ASSESSMENT SHALL BE TWO DOLLARS PER ONE HUNDRED
4 DOLLARS OF THE AGGREGATE OF PREMIUMS RETURNED AS RECEIVED. THE ASSESS-
5 MENT WILL BE APPLIED UNIFORMLY ON PREMIUMS COLLECTED THROUGHOUT ALL FIVE
6 BOROUGHES OF THE CITY OF NEW YORK. THIS ASSESSMENT WILL BE KNOWN AS THE
7 "FIRE PATROL ASSESSMENT".

8 C. THE WHOLE OF SUCH AMOUNT WILL BE ASSESSED UPON THE COMPANIES OR
9 ASSOCIATES IN PROPORTION TO THE SEVERAL AMOUNTS OF PREMIUMS RETURNED AS
10 RECEIVED BY EACH, AS PROVIDED IN THE NEXT SECTION, AND SUCH ASSESSMENT
11 SHALL BE COLLECTIBLE AS PROVIDED BY LAW. ACTIONS TO COLLECT OUTSTANDING
12 ASSESSMENTS SHALL BE PROMPTLY INITIATED, AFTER A GRACE PERIOD OF FIFTEEN
13 DAYS.

14 S 15. STATEMENT OF PREMIUMS. A. IN ORDER TO PROVIDE FOR THE PAYMENT OF
15 EMPLOYEES AND OTHER EXPENSES UNDER THE PROVISIONS OF THIS ACT AND THE
16 ACQUISITION AND MAINTENANCE OF NECESSARY PROPERTY, APPARATUS AND EQUIP-
17 MENT, ALL ENTITIES LIABLE FOR ASSESSMENTS FOR THE FIRE PATROL AND THE
18 ELECTRICITY COMMITTEE, AS DESCRIBED HEREIN, SHALL RETURN TO THE BOARD OF
19 DIRECTORS OF THE NEW YORK BOARD OF FIRE UNDERWRITERS A STATEMENT OF THE
20 AGGREGATE AMOUNT OF PREMIUMS RECEIVED BY OR ON BEHALF OF AN INSURANCE
21 COMPANY OR ASSOCIATION FOR INSURING PROPERTY LOCATED IN THE CITY OF NEW
22 YORK AGAINST LOSS OF DAMAGE BY FIRE OR SPRINKLER LEAKAGE, FOR AND DURING
23 THE TWELVE MONTHS ENDING WITH THE THIRTY-FIRST DAY OF DECEMBER OF EACH
24 YEAR.

25 B. SUCH STATEMENT SHALL BE IN FORM AND CONTENT SIMILAR TO RETURNS
26 FILED WITH THE COMMISSIONER OF INSURANCE AND OTHER ENTITIES FOR THE
27 RETURN OF PREMIUMS ASSESSED FOR THE SUPPORT OF FIRE SERVICES IN NEW YORK
28 STATE AND FOR THE SUPPORT OF THE COMMISSIONER OF INSURANCE AND THE NEW
29 YORK DEPARTMENT OF INSURANCE. THE BOARD OF DIRECTORS OF THE NEW YORK
30 BOARD OF FIRE UNDERWRITERS WILL ADOPT A RECOMMENDED FORMAT AND CONTENT
31 FOR THE RETURNS DESCRIBED HEREIN.

32 C. THE BOARD OF DIRECTORS OF THE NEW YORK BOARD OF FIRE UNDERWRITERS
33 SHALL HAVE THE POWER TO REQUEST AND TO TIMELY RECEIVE SUPPORTING
34 DOCUMENTATION FOR THE RETURN DESCRIBED HEREIN. DOCUMENTS SHALL BE
35 PROVIDED WITHIN THIRTY DAYS OF REQUEST. THE BOARD OF DIRECTORS SHALL
36 HAVE THE POWER TO SEEK JUDICIAL OR ADMINISTRATIVE ENFORCEMENT OF DOCU-
37 MENT REQUESTS.

38 D. THE ANNUAL RETURN SHALL BE FILED WITH THE NEW YORK BOARD OF FIRE
39 UNDERWRITERS NO LATER THAN JANUARY THIRTY-FIRST.

40 S 15-A. ELECTRICITY COMMITTEE ASSESSMENT. A. IN ADDITION TO THE
41 ASSESSMENTS DESCRIBED IN SECTIONS 14 AND 15 OF THIS CHAPTER, THE NEW
42 YORK BOARD OF FIRE UNDERWRITERS WILL IMPOSE AN ANNUAL "ELECTRICITY
43 COMMITTEE" ASSESSMENT OF NO LESS THAN TEN CENTS PER ONE HUNDRED DOLLARS
44 AND NO MORE THAN FIFTY CENTS PER ONE HUNDRED DOLLARS, ON PREMIUMS FOR
45 FIRE, SPRINKLER LEAKAGE AND FIRE LOSS CASUALTY INSURANCE WRITTEN IN THE
46 FIVE BOROUGHES OF THE CITY OF NEW YORK. THIS "ELECTRICITY COMMITTEE"
47 ASSESSMENT WILL BE USED TO DEFRAY ACCUMULATED DEFICITS OF THE ELECTRICAL
48 INSPECTION SERVICE KNOWN AS THE ELECTRICITY COMMITTEE OF THE NEW YORK
49 BOARD OF FIRE UNDERWRITERS. THE "ELECTRICITY COMMITTEE" ASSESSMENT SHALL
50 BE APPLIED AS NEEDED TO FULLY FUND PENSION OBLIGATIONS IN FAVOR OF NEW
51 YORK BOARD OF FIRE UNDERWRITERS EMPLOYEES ASSOCIATED WITH THE ELECTRICAL
52 INSPECTION SERVICE.

53 B. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE NEW YORK BOARD OF
54 FIRE UNDERWRITERS MAY ELECT TO DISCONTINUE THE OPERATIONS OF THE ELEC-
55 TRICAL INSPECTION SERVICE, PROVIDED THAT ALL DEBTS AND OBLIGATIONS HAVE
56 BEEN FULLY PAID OR PROVIDED FOR.

1 C. ALL PENSION OBLIGATIONS OF THE NEW YORK BOARD OF FIRE UNDERWRITERS,
2 FOR THE NEW YORK FIRE PATROL, AND ANY OTHER EMPLOYEES, WILL BE FULLY
3 FUNDED IN ACCORDANCE WITH FEDERAL LAW. PENSION OBLIGATIONS ASSOCIATED
4 WITH FIRE PATROL EMPLOYEES WILL BE FUNDED BY THE FIRE PATROL ASSESSMENT
5 OF SECTIONS 14, 15 AND 15-A OF THIS CHAPTER. OTHER PENSIONS WILL BE
6 FUNDED BY THE ELECTRICITY COMMITTEE ASSESSMENT OF SECTIONS 14, 15 AND
7 15-A OF THIS CHAPTER.

8 S 2. Section 12 of chapter 241 of the laws of 1930, relating to defin-
9 ing the powers and jurisdiction of the New York board of fire underwrit-
10 ers, is amended to read as follows:

11 S 12. Fire patrol. The fire patrol of the New York Board of Fire
12 Underwriters, as established pursuant to chapter eight hundred and
13 forty-six of the laws of eighteen hundred sixty-seven, is continued and
14 shall continue to exercise its powers and perform its duties within the
15 territorial jurisdiction authorized by such act and in such additional
16 territory as may be included within its jurisdiction pursuant to this
17 act. The board shall have power, upon the adoption of a resolution
18 therefor by a two-thirds affirmative vote, of the persons present and
19 voting at the meeting herein provided for, to extend the jurisdiction of
20 its fire patrol to such additional parts of the city of New York, except
21 the borough of Brooklyn, as shall be described in such resolution.
22 Notice of the time and place of the meeting at which such resolution is
23 to be submitted shall be published for at least ten days previous to
24 such meeting, in two newspapers published in the city of New York. Every
25 member of the board insuring property within the existing jurisdiction
26 of the fire patrol or within the territory to which it is proposed to
27 extend such jurisdiction shall be entitled to one vote at such meeting.
28 Every incorporated insurance company or association insuring property
29 located in such territory against loss or damage by fire or sprinkler
30 leakage shall also be entitled to one vote at such meeting, by an offi-
31 cer or agent, although not then a member of the board. If such resol-
32 ution be adopted by the required vote, the board may extend the juris-
33 diction of its fire patrol accordingly. If and when the Fire Insurance
34 Salvage Corps of Brooklyn, Long Island, a corporation incorporated by
35 chapter ten hundred and sixteen of the laws of eighteen hundred ninety-
36 five, shall be lawfully consolidated or merged with the New York Board
37 of Fire Underwriters, the jurisdiction of the fire patrol of the board
38 shall be extended to the borough of Brooklyn, subject to all the
39 provisions of this act. NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY,
40 ALL ASSETS, REVENUES AND RECEIPTS DEDICATED TO THE NEW YORK FIRE PATROL
41 BY STATUTE, CUSTOM AND PRACTICE, CORPORATE ACTION OR DECISION, CONTRACT
42 OR AGREEMENT, DECISION OF LAW OR REGULATORY AGENCY, WILL BE USED SOLELY
43 FOR THE PURPOSES, BENEFIT, RIGHTS AND OBLIGATIONS INCURRED IN AND FOR
44 THE ACTIVITIES OF THE NEW YORK FIRE PATROL, AND THE NEW YORK BOARD OF
45 FIRE UNDERWRITERS ACTING IN REGARD TO THE NEW YORK FIRE PATROL.

46 S 3. (a) The commissioner of insurance is directed to study the
47 economic benefits of the New York fire patrol and to make a recommenda-
48 tion to the legislature as to the merits of extending the assessments
49 provided in section one of this act to business interruption insurance
50 carriers, underwriters, and reinsurers insuring against losses in the
51 five boroughs of the city of New York.

52 (b) The commissioner of insurance is directed to consult with offi-
53 cials of the city of New York, pursuant to Section 1402(e) of the Non
54 Profit code, and with all interested parties, in order to make recommen-
55 dations to resolve issues of corporate governance and operational effec-
56 tiveness of the New York board of fire underwriters, including but not

1 limited to issues raised in the November, two thousand five, management
2 report of the New York board of fire underwriters.

3 (c) Within ninety days of the effective date of this legislation, the
4 commissioner of insurance is directed to report to the legislature the
5 findings and recommendations of the studies described in this section.

6 S 4. This act shall take effect immediately; provided, however, that
7 the assessments described in sections 14, 15 and 15-a of chapter 241 of
8 the laws of 1930, relating to defining the powers and jurisdiction of
9 the New York board of fire underwriters, as amended by section one of
10 this act, shall be pro-rated on a calendar year basis, from such effec-
11 tive date, and shall be returned and collected forthwith, no later than
12 sixty days from such effective date.