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

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:

Section 1. Subparagraph 3 of paragraph (c) of section 1402 of the not-for-profit corporation law, as amended by chapter 351 of the laws of 2000, is amended to read as follows:

(3) In towns outside of villages and fire districts, the consent of a majority of the members of the town board to the formation of a fire corporation shall constitute an appointment of the persons named in the certificate of incorporation as town [firemen] FIREFIGHTERS. Thereafter, other eligible persons may be elected as members pursuant to the by-laws of the fire corporation, but the election of a member must be approved by the town board of each town which consented to the formation of the fire corporation. Such a person shall be a resident of the territory specified in the certificate of incorporation or of territory outside such boundaries which is afforded fire protection by the fire corporation pursuant to a contract for fire protection under which a cash consideration is received by the corporation or for which negotiations for renewal of such a contract are pending. The membership of any volunteer member shall terminate when he OR SHE ceases to be a resident of such inside or outside territory, except that the corporation may authorize his OR HER continued membership where he OR SHE notifies the secretary of the fire corporation (a) that he OR SHE plans to change his OR HER residence to a territory which is not in such inside or outside territory, 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 [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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inside or such outside territory. Voting for such authorization shall be pursuant to the by-laws. Such authorization shall not become effective unless approved by resolution of the town board of each town which consented to the formation of the corporation. Any membership so continued shall terminate when the member can no longer meet the requirements of this subparagraph. A person who cannot meet the residence requirements of this subparagraph may be elected to membership as a volunteer member 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 [fireman] FIREFIGHTER in such inside or outside territory. Voting for such election shall be pursuant to the by-laws. Such election shall not become effective unless approved by resolution of the town board of each town which consented to the formation of the corporation. Such membership shall terminate when the member can no longer meet the requirements of this subparagraph. The election or continuance of any person as a member shall be deemed to have been approved by the town board pursuant to this subparagraph in the event that no action is taken by the town board, either approving or disapproving, within forty days in the case of residents of the territory specified in the certificate of incorporation or of outside contract territory, and within seventy days in the case of all others, after service of written notice of such election or continuance of membership shall have been made by the secretary of the corporation upon the town clerk, either personally or by mail. The membership of any volunteer [fireman] FIREFIGHTER shall not be continued pursuant to this subparagraph, and persons who do not reside in the territory specified in the certificate of incorporation or in territory protected pursuant to a contract for fire protection shall not be elected to membership, if, by so doing, the percentage of such nonresident members in the fire corporation would exceed forty-five per centum of the actual membership thereof, PROVIDED HOWEVER, THAT THE PROVISIONS OF THIS SUBPARAGRAPH SHALL NOT APPLY TO THE MEMBERSHIP OF THE FIRE COMPANIES WITHIN THE TOWN OF FLEMING. Nonresidents of the territory specified in the certificate of incorporation whose volunteer membership has been authorized or continued pursuant to this subparagraph may be elected or appointed to any office in the fire corporation and shall have all the powers, duties, immunities, and privileges of resident volunteer members except a nonresident of this state whose membership has been continued pursuant to this subparagraph, or who was elected to membership pursuant to this subparagraph, shall not be considered to be performing any [firemanic] FIREFIGHTING duty, or to be engaged in any [firemanic] FIREFIGHTING 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 [fireman] 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. A person shall not be eligible to volunteer membership in any other fire corporation or fire company at one time. The provisions of this subparagraph shall not be deemed to authorize the election or the continuance of any person as a member of the corporation if such election or continuance of membership shall be contrary to the by-laws, rules or regulations of the fire corporation.

S 2. This act shall take effect immediately.