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

6090

2009-2010 Regular Sessions

I N S E N A T E

July 14, 2009

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend chapter 241 of the laws of 1930, relating to the New York Board of Fire Underwriters, in relation to establishing the advisory council of the fire patrol, and assessments for the support of the fire patrol and the electricity committee; and to repeal sections 14 and 15 of such chapter relating to the expenses of the fire patrol and statements of premiums

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

Section 1. Section 12 of chapter 241 of the laws of 1930, relating to the New York Board of Fire Underwriters, is amended to read as follows:

S 12. Fire patrol. The fire patrol of the New York Board of Fire Underwriters, as established pursuant to chapter eight hundred [and] forty-six of the laws of eighteen hundred sixty-seven, is continued and shall continue to exercise its powers and perform its duties within the territorial jurisdiction authorized by such act and in such additional territory as may be included within its jurisdiction pursuant to this act. The board shall have power, upon the adoption of a resolution therefor by a two-thirds affirmative vote, of the persons present and voting at the meeting herein provided for, to extend the jurisdiction of its fire patrol to such additional parts of the city of New York, except the borough of Brooklyn, as shall be described in such resolution. Notice of the time and place of the meeting at which such resolution is to be submitted shall be published for at least ten days previous to such meeting, in two newspapers published in the city of New York. Every member of the board insuring property within the existing jurisdiction of the fire patrol or within the territory to which it is proposed to extend such jurisdiction shall be entitled to one vote at such meeting. Every incorporated insurance company or association insuring property located in such territory against loss or damage by fire or sprinkler

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

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leakage shall also be entitled to one vote at such meeting, by an officer or agent, although not then a member of the board. If such resolution be adopted by the required vote, the board may extend the jurisdiction of its fire patrol accordingly. If and when the Fire Insurance Salvage Corps of Brooklyn, Long Island, a corporation incorporated by chapter ten hundred [and] sixteen of the laws of eighteen hundred ninety-five, shall be lawfully consolidated or merged with the New York Board of Fire Underwriters, the jurisdiction of the fire patrol of the board shall be extended to the borough of Brooklyn, subject to all the provisions of this act. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ALL ASSETS, REVENUES AND RECEIPTS DEDICATED TO THE FIRE PATROL BY STATUTE, CUSTOM AND PRACTICE, CORPORATE ACTION OR DECISION, CONTRACT OR AGREEMENT, DECISION OF LAW OR REGULATORY AGENCY, SHALL BE USED SOLELY FOR THE PURPOSES, BENEFIT, RIGHTS AND OBLIGATIONS INCURRED IN AND FOR THE ACTIVITIES OF THE FIRE PATROL, AND THE BOARD ACTING IN REGARD TO THE FIRE PATROL.

S 2. Chapter 241 of the laws of 1930, relating to the New York Board of Fire Underwriters, is amended by adding a new section 12-a to read as follows:

S 12-A. FIRE PATROL ADVISORY COUNCIL. A. THERE IS HEREBY ESTABLISHED UNDER THE BOARD AN ADVISORY COUNCIL OF THE FIRE PATROL. THE ADVISORY BOARD SHALL ASSIST AND DEVELOP APPROPRIATE POLICIES AND PRIORITIES OF EFFECTIVE LOSS PREVENTION, PROPERTY LOSS AND MITIGATION. THE BOARD SHALL CONSULT WITH THE NEW YORK CITY FIRE DEPARTMENT AND OTHERS IN AREAS PERTAINING TO FIRE PREVENTION, LOSS PREVENTION, PROPERTY LOSS AND MITIGATION.

B. THE ADVISORY COUNCIL SHALL CONSIST OF SEVEN MEMBERS TO BE APPOINTED AS FOLLOWS: THREE MEMBERS SHALL BE APPOINTED BY THE MAYOR OF THE CITY OF NEW YORK; TWO MEMBERS SHALL BE APPOINTED BY THE CITY COUNCIL OF THE CITY OF NEW YORK; AND TWO MEMBERS SHALL BE JOINTLY APPOINTED BY THE BOROUGH PRESIDENTS OF THE CITY OF NEW YORK. EACH MEMBER SHALL SERVE A TERM OF THREE YEARS AND SHALL CONTINUE IN OFFICE UNTIL A SUCCESSOR IS APPOINTED. A MEMBER APPOINTED TO FILL A VACANCY SHALL BE APPOINTED FOR THE UNEXPIRED TERM OF THE MEMBER HE OR SHE IS TO SUCCEED. THE MEMBERS SHALL INCLUDE INDIVIDUALS WHO ARE ACTIVE OR RETIRED FIRE OR LAW ENFORCEMENT PERSONNEL, AND WHO HAVE EXPERTISE IN THE AREAS PERTAINING TO FIRE PREVENTION, LOSS PREVENTION, PROPERTY LOSS AND MITIGATION. THE CHAIR OF THE ADVISORY COUNCIL SHALL BE DESIGNATED BY THE MAYOR OF THE CITY OF NEW YORK.

C. THE ADVISORY COUNCIL SHALL SUBMIT A WRITTEN REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY AND THE MAYOR OF THE CITY OF NEW YORK ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND TEN AND ANNUALLY THEREAFTER, SETTING FORTH THE RECOMMENDATIONS AND ACTIVITIES OF THE ADVISORY COUNCIL ON MATTERS WITHIN THE SCOPE OF ITS POWERS AND DUTIES AS SET FORTH IN THIS SECTION, AND DESCRIBING THE PROGRESS MADE REGARDING POLICIES AND PRIORITIES FOR EFFECTIVE FIRE PREVENTION, LOSS PREVENTION, PROPERTY LOSS AND MITIGATION.

D. THE ADVISORY COUNCIL SHALL MEET AS OFTEN AS DEEMED NECESSARY BY THE CHAIR BUT IN NO EVENT LESS THAN TWO TIMES PER YEAR.

E. THE MEMBERS OF THE ADVISORY COUNCIL SHALL RECEIVE NO SALARY OR OTHER COMPENSATION FOR THEIR SERVICES BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES WITHIN AMOUNTS MADE AVAILABLE BY APPROPRIATION THEREFOR SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET.

S 3. Sections 14 and 15 of chapter 241 of the laws of 1930, relating to the New York Board of Fire Underwriters, are REPEALED and three new sections 14, 15 and 15-a are added to read as follows:

S 14. ASSESSMENT FOR SUPPORT OF FIRE PATROL. A. EACH YEAR, IN FEBRUARY, THE BOARD OF DIRECTORS OF THE BOARD SHALL ASSESS EACH MEMBER OF THE BOARD, AND EACH INCORPORATED INSURANCE COMPANY OR ASSOCIATION, INSURING PROPERTY WITHIN THE FIVE BOROUGHS OF THE CITY OF NEW YORK AGAINST LOSS OR DAMAGE BY FIRE OR SPRINKLER LEAKAGE, FOR THE EXPENSES OF THE FIRE PATROL.

B. THE ASSESSMENT SHALL BE A MINIMUM AMOUNT OF $1.25 PER $100 OF THE AGGREGATE OF PREMIUMS RETURNED AS RECEIVED, AS PROVIDED IN SECTION FIFTEEN OF THIS ACT; THE MAXIMUM ASSESSMENT SHALL BE $2.00 PER $100 OF THE AGGREGATE OF PREMIUMS RETURNED AS RECEIVED, AS PROVIDED IN SECTION FIFTEEN OF THIS ACT. THE ASSESSMENT SHALL BE APPLIED UNIFORMLY ON PREMIUMS COLLECTED THROUGHOUT ALL FIVE BOROUGHS OF THE CITY OF NEW YORK. THIS ASSESSMENT WILL BE KNOWN AS THE "FIRE PATROL ASSESSMENT".

C. THE WHOLE OF SUCH AMOUNT SHALL BE ASSESSED UPON THE COMPANIES OR ASSOCIATES IN PROPORTION TO THE SEVERAL AMOUNTS OF PREMIUMS RETURNED AS RECEIVED BY EACH, AS PROVIDED IN SECTION FIFTEEN OF THIS ACT, AND SUCH ASSESSMENT SHALL BE COLLECTIBLE AS PROVIDED BY LAW. ACTIONS TO COLLECT OUTSTANDING ASSESSMENTS SHALL BE PROMPTLY INITIATED, AFTER A GRACE PERIOD OF 15 DAYS.

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

B. SUCH STATEMENT SHALL BE IN FORM AND CONTENT SIMILAR TO RETURNS FILED WITH THE SUPERINTENDENT OF INSURANCE AND OTHER ENTITIES FOR THE RETURN OF PREMIUMS ASSESSED FOR THE SUPPORT OF FIRE SERVICES IN THE STATE AND FOR THE SUPPORT OF THE SUPERINTENDENT OF INSURANCE AND THE INSURANCE DEPARTMENT. THE BOARD OF DIRECTORS OF THE BOARD WILL ADOPT A RECOMMENDED FORMAT AND CONTENT FOR THE RETURNS DESCRIBED IN THIS SECTION.

C. THE BOARD OF DIRECTORS OF THE BOARD SHALL HAVE THE POWER TO REQUEST AND TO TIMELY RECEIVE SUPPORTING DOCUMENTATION FOR THE RETURN DESCRIBED IN THIS SECTION. DOCUMENTS SHALL BE PROVIDED WITHIN 30 DAYS OF REQUEST. THE BOARD OF DIRECTORS SHALL HAVE THE POWER TO SEEK JUDICIAL OR ADMINISTRATIVE ENFORCEMENT OF DOCUMENT REQUESTS.

D. THE ANNUAL RETURN SHALL BE FILED WITH THE BOARD NO LATER THAN JANUARY 31.

S 15-A. ASSESSMENT FOR SUPPORT OF ELECTRICITY COMMITTEE. A. IN ADDITION TO THE ASSESSMENTS DESCRIBED IN SECTION FOURTEEN OF THIS ACT, THE BOARD SHALL IMPOSE AN ANNUAL "ELECTRICITY COMMITTEE ASSESSMENT" OF NO LESS THAN $.10 PER $100 AND NO MORE THAN $0.50 PER $100, ON PREMIUMS FOR FIRE, SPRINKLER LEAKAGE AND FIRE LOSS CASUALTY INSURANCE WRITTEN IN THE FIVE BOROUGHS OF THE CITY OF NEW YORK. THIS "ELECTRICITY COMMITTEE ASSESSMENT" WILL BE USED TO DEFRAY ACCUMULATED DEFICITS OF THE ELECTRICAL INSPECTION SERVICE KNOWN AS THE ELECTRICITY COMMITTEE. THE "ELECTRICITY COMMITTEE ASSESSMENT" SHALL BE APPLIED AS NEEDED TO FULLY FUND

PENSION OBLIGATIONS IN FAVOR OF BOARD EMPLOYEES ASSOCIATED WITH THE ELECTRICAL INSPECTION SERVICE.

B. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE BOARD MAY ELECT TO DISCONTINUE THE OPERATIONS OF THE ELECTRICAL INSPECTION SERVICE, PROVIDED THAT ALL DEBTS AND OBLIGATIONS HAVE BEEN FULLY PAID OR PROVIDED FOR.

C. ALL PENSION OBLIGATIONS OF THE BOARD, FOR THE FIRE PATROL, AND ANY OTHER EMPLOYEES, SHALL BE FULLY FUNDED IN ACCORDANCE WITH FEDERAL LAW. PENSION OBLIGATIONS ASSOCIATED WITH FIRE PATROL EMPLOYEES SHALL BE FUNDED BY THE FIRE PATROL ASSESSMENT OF SECTION FOURTEEN OF THIS ACT. OTHER PENSIONS WILL BE FUNDED BY THE ELECTRICITY COMMITTEE ASSESSMENT OF THIS SECTION.

S 4. a. The superintendent of insurance shall study the economic benefits of the Fire Patrol of the New York Board of Fire Underwriters and shall make a recommendation to the legislature as to the merits of extending the assessments in sections 14 and 15-a of chapter 241 of the laws of 1930, as added by section three of this act, to business interruption insurance carriers, underwriters, and reinsurers insuring against losses in the five boroughs of the city of New York.

b. The superintendent of insurance shall consult with officials of the city of New York, pursuant to paragraph (e) of section 1402 of the not-for-profit corporation law, and with all interested parties, in order to make recommendations to resolve issues of corporate governance and operational effectiveness of the New York Board of Fire Underwriters, including but not limited to issues raised in the November, 2005, Management Report of the New York Board of Fire Underwriters.

c. Within 90 days of the effective date of this section, the superintendent of insurance shall report to the legislature the findings and recommendations of the studies described in this section.

S 5. This act shall take effect immediately, provided that the assessments established by sections 14 and 15-a of chapter 241 of the laws of 1930, as added by section three of this act, shall be imposed, for the calendar year in which this act takes effect, on a pro-rata basis commencing on the effective date of this act and shall be paid on or before the sixtieth day after such date.