

6313

2011-2012 Regular Sessions

I N A S S E M B L Y

March 14, 2011

Introduced by M. of A. FINCH -- read once and referred 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 for firefighters of the fire
departments in the town of Fleming in Cayuga County

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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 276 of the laws of
3 2010, 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 firefighters. Thereafter, other
8 eligible persons may be elected as members pursuant to the by-laws of
9 the fire corporation, but the election of a member must be approved by
10 the town board of each town which consented to the formation of the fire
11 corporation. Such a person shall be a resident of the territory speci-
12 fied in the certificate of incorporation or of territory outside such
13 boundaries which is afforded fire protection by the fire corporation
14 pursuant to a contract for fire protection under which a cash consider-
15 ation is received by the corporation or for which negotiations for
16 renewal of such a contract are pending. The membership of any volunteer
17 member shall terminate when he or she ceases to be a resident of such
18 inside or outside territory, except that the corporation may authorize
19 his or her continued membership where he or she notifies the secretary
20 of the fire corporation (a) that he or she plans to change his or her
21 residence to a territory which is not in such inside or outside territo-
22 ry, and (b) that by reason of his or her residence in the vicinity or
23 his or her usual occupation he or she will be available to render active
24 service as a volunteer firefighter in either such inside or such outside

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

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1 territory. Voting for such authorization shall be pursuant to the
2 by-laws. Such authorization shall not become effective unless approved
3 by resolution of the town board of each town which consented to the
4 formation of the corporation. Any membership so continued shall termi-
5 nate when the member can no longer meet the requirements of this subpar-
6 agraph. A person who cannot meet the residence requirements of this
7 subparagraph may be elected to membership as a volunteer member if by
8 reason of his or her residence in the vicinity or his or her usual occu-
9 pation he or she will be available to render active service as a volun-
10 teer firefighter in such inside or outside territory. Voting for such
11 election shall be pursuant to the by-laws. Such election shall not
12 become effective unless approved by resolution of the town board of each
13 town which consented to the formation of the corporation. Such member-
14 ship shall terminate when the member can no longer meet the requirements
15 of this subparagraph. The election or continuance of any person as a
16 member shall be deemed to have been approved by the town board pursuant
17 to this subparagraph in the event that no action is taken by the town
18 board, either approving or disapproving, within forty days in the case
19 of residents of the territory specified in the certificate of incorpo-
20 ration or of outside contract territory, and within seventy days in the
21 case of all others, after service of written notice of such election or
22 continuance of membership shall have been made by the secretary of the
23 corporation upon the town clerk, either personally or by mail. The
24 membership of any volunteer firefighter shall not be continued pursuant
25 to this subparagraph, and persons who do not reside in the territory
26 specified in the certificate of incorporation or in territory protected
27 pursuant to a contract for fire protection shall not be elected to
28 membership, if, by so doing, the percentage of such nonresident members
29 in the fire corporation would exceed forty-five per centum of the actual
30 membership thereof, provided, however, that the forty-five percent limit
31 on non-resident members shall not apply to the membership of the Huguen-
32 ot Fire Company, Inc., within the town of Deerpark, Orange county OR TO
33 MEMBERSHIP OF THE FIRE DEPARTMENTS WITHIN THE TOWN OF FLEMING, CAYUGA
34 COUNTY. Nonresidents of the territory specified in the certificate of
35 incorporation whose volunteer membership has been authorized or contin-
36 ued pursuant to this subparagraph may be elected or appointed to any
37 office in the fire corporation and shall have all the powers, duties,
38 immunities, and privileges of resident volunteer members except a non-
39 resident of this state whose membership has been continued pursuant to
40 this subparagraph, or who was elected to membership pursuant to this
41 subparagraph, shall not be considered to be performing any firefighting
42 duty, or to be engaged in any firefighting activity, as a member of the
43 fire company while he or she is outside of this state unless and until
44 he or she has first reported to the officer or firefighter in command of
45 his or her fire department, or any company, squad or other unit thereof,
46 engaged or to be engaged in rendering service outside this state, or has
47 received orders or authorization from an officer of the fire department
48 or fire company to participate in or attend authorized activities
49 outside of this state in the same manner as resident members of the fire
50 company. A person shall not be eligible to volunteer membership in any
51 other fire corporation or fire company at one time. The provisions of
52 this subparagraph shall not be deemed to authorize the election or the
53 continuance of any person as a member of the corporation if such
54 election or continuance of membership shall be contrary to the by-laws,
55 rules or regulations of the fire corporation.

56 S 2. This act shall take effect immediately.