

6368

I N S E N A T E

January 21, 2014

Introduced by Sen. GALLIVAN -- 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 exempting Wales Center Volunteer Fire Department, Inc. from the requirement that the percentage of non-resident fire department members not exceed forty-five percent of the membership

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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 505 of the laws of
3 2013, 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
25 territory. Voting for such authorization shall be pursuant to the
26 by-laws. Such authorization shall not become effective unless approved
27 by resolution of the town board of each town which consented to the
28 formation of the corporation. Any membership so continued shall termi-

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

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