

# STATE OF NEW YORK

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7630

2021-2022 Regular Sessions

## IN ASSEMBLY

May 19, 2021

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Introduced by M. of A. McMAHON -- read once and referred to the Committee on Local Governments

AN ACT to amend the not-for-profit corporation law, in relation to exempting the East Amherst 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 separately amended by chapters 275  
3 and 276 of the laws of 2019, 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 specified  
12 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 consideration  
15 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 territory,  
22 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

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

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1 service as a volunteer firefighter in either such inside or such outside  
2 territory. Voting for such authorization shall be pursuant to the  
3 by-laws. Such authorization shall not become effective unless approved  
4 by resolution of the town board of each town which consented to the  
5 formation of the corporation. Any membership so continued shall termi-  
6 nate when the member can no longer meet the requirements of this subpar-  
7 agraph. A person who cannot meet the residence requirements of this  
8 subparagraph may be elected to membership as a volunteer member if by  
9 reason of his or her residence in the vicinity or his or her usual occu-  
10 pation he or she will be available to render active service as a volun-  
11 teer firefighter in such inside or outside territory. Voting for such  
12 election shall be pursuant to the by-laws. Such election shall not  
13 become effective unless approved by resolution of the town board of each  
14 town which consented to the formation of the corporation. Such member-  
15 ship shall terminate when the member can no longer meet the requirements  
16 of this subparagraph. The election or continuance of any person as a  
17 member shall be deemed to have been approved by the town board pursuant  
18 to this subparagraph in the event that no action is taken by the town  
19 board, either approving or disapproving, within forty days in the case  
20 of residents of the territory specified in the certificate of incorpo-  
21 ration or of outside contract territory, and within seventy days in the  
22 case of all others, after service of written notice of such election or  
23 continuance of membership shall have been made by the secretary of the  
24 corporation upon the town clerk, either personally or by mail. The  
25 membership of any volunteer firefighter shall not be continued pursuant  
26 to this subparagraph, and persons who do not reside in the territory  
27 specified in the certificate of incorporation or in territory protected  
28 pursuant to a contract for fire protection shall not be elected to  
29 membership, if, by so doing, the percentage of such nonresident members  
30 in the fire corporation would exceed forty-five per centum of the actual  
31 membership thereof, provided, however, that the forty-five percent limit  
32 on non-resident members shall not apply to the membership of the Huguen-  
33 ot Fire Company, Inc., within the town of Deerpark, Orange county, to  
34 the membership of the Prospect Terrace Fire Company, Inc., within the  
35 town of Dickinson, Broome county, to membership of the Hopewell Volun-  
36 teer Fire Department, Inc., to membership of the Wales Center Volunteer  
37 Fire Company, Inc., within the town of Wales, Erie county, to the  
38 membership of the Nedrow Fire Department, within the town of Onondaga,  
39 Onondaga county, to the membership of the Howlett Hill Fire Department,  
40 within the town of Onondaga, Onondaga county, to the membership of the  
41 East Syracuse Fire Department, within the town of Dewitt, Onondaga coun-  
42 ty, to the membership of the Pleasant Square Fire Company, Inc. within  
43 the town of Johnstown, Fulton county, to the membership of the East  
44 Amherst Fire Department, Inc., within the town of Amherst, Erie county,  
45 or to membership of the fire departments within the town of Fleming,  
46 Cayuga county. Nonresidents of the territory specified in the certifi-  
47 cate of incorporation whose volunteer membership has been authorized or  
48 continued pursuant to this subparagraph may be elected or appointed to  
49 any office in the fire corporation and shall have all the powers,  
50 duties, immunities, and privileges of resident volunteer members except  
51 a non-resident of this state whose membership has been continued pursu-  
52 ant to this subparagraph, or who was elected to membership pursuant to  
53 this subparagraph, shall not be considered to be performing any fire-  
54 fighting duty, or to be engaged in any firefighting activity, as a  
55 member of the fire company while he or she is outside of this state  
56 unless and until he or she has first reported to the officer or fire-

1 fighter in command of his or her fire department, or any company, squad  
2 or other unit thereof, engaged or to be engaged in rendering service  
3 outside this state, or has received orders or authorization from an  
4 officer of the fire department or fire company to participate in or  
5 attend authorized activities outside of this state in the same manner as  
6 resident members of the fire company. A person shall not be eligible to  
7 volunteer membership in any other fire corporation or fire company at  
8 one time. The provisions of this subparagraph shall not be deemed to  
9 authorize the election or the continuance of any person as a member of  
10 the corporation if such election or continuance of membership shall be  
11 contrary to the by-laws, rules or regulations of the fire corporation.  
12 § 2. This act shall take effect immediately.