STATE OF NEW YORK

7645

2021-2022 Regular Sessions

IN ASSEMBLY

May 19, 2021

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

AN ACT to incorporate the East Amherst Fire Department Benevolent Association, and providing for its powers and duties

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Incorporation; membership. A not-for-profit corporation by the name of the "East Amherst Fire Department Benevolent Association" is hereby created. It shall be composed of such persons eligible to membership therein as shall be provided pursuant to the provisions of this act and shall (a) notify the secretary of the East Amherst Fire Department, Inc., a volunteer fire company, in writing prior to the organization meeting hereinafter provided for of the corporation created by this act of their desire to become members, or (b) attend such meeting or an adjournment thereof and signify their intention of becoming members of such corporation at such meeting, or (c) notify the secretary of the corporation hereby created in writing within sixty days after his or her election of their desire to become members thereof, and also such persons so eligible as may thereafter become members of such corporation pursuant to its by-laws.

§ 2. Persons eligible for membership. All persons who are now, or have been, or hereafter shall be active volunteer members of the East Amherst Fire Department, Inc. in the county of Erie, and who have acquired or shall hereafter acquire the status of exempt volunteer firefighter as defined in section 200 of the general municipal law by virtue of having rendered service in the East Amherst Fire Department, Inc., and all persons who are now or hereafter shall be active volunteer members of the East Amherst Fire Department, Inc., shall be eligible for membership in the corporation created by this act, except that any firefighter who has been removed for cause, expelled or dropped from the rolls of the East Amherst Fire Department, Inc., and who has not been reinstated

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

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therein, shall not be eligible for membership in such corporation. The membership of any person in such corporation shall terminate upon the withdrawal of such person as an active volunteer member of the East Amherst Fire Department, Inc. prior to the actual performance by such person of five years' service as an active volunteer member of the East Amherst Fire Department, Inc. Paid firefighters, if any, of the East Amherst Fire Department, Inc., shall not be eligible for membership in the corporation.

§ 3. Purposes. The purposes of the corporation created by this act are: to provide relief, aid and assistance to the volunteer members of such corporation who are indigent or disabled or injured in the performance of their duties, and their families; to maintain a suitable headquarters for the members of the corporation; to promote and safeguard the welfare of the volunteer members of the corporation, and their families; to provide for the health and safety of the volunteer members of the corporation; and to enhance the morale of the volunteer members of the corporation by providing social and recreational activities for the volunteer members of the corporation, and the promotion of the volunteer fire service within the territory protected by the East Amherst Fire Department, Inc.

§ 4. Powers and duties. Such corporation shall have all the powers of a not-for-profit corporation, and the provisions of law relating to not-for-profit corporations shall apply to such corporation except where they conflict with the provisions of this act. However, unless the written approval of the applicable governmental agency or department shall have first been obtained, such corporation shall not establish and maintain any home or institution which, if separately incorporated, would require the approval of such department or governmental agency.

§ 5. Organization meeting; by-laws. The secretary of the East Amherst Fire Department, Inc. shall call a meeting for the organization of such corporation to be held not later than 60 days after this act takes effect, notice of which shall be given by the secretary by posting or causing to be posted a notice thereof in five conspicuous places within the territory protected by the East Amherst Fire Department, Inc. and also by publication of notice thereof in one or more newspapers having a general circulation within such territory and also by conspicuously posting such notice on the fire company's internet website. Such posting and publication shall be effectuated at least 10 days prior to the date of such meeting. At such meeting or any adjournment thereof, the members of such corporation present shall adopt by-laws and elect officers and directors to serve until the first annual meeting which shall be held on a date to be fixed by the by-laws. Any member failing to comply with the by-laws, rules or regulations duly adopted by such corporation shall be subject to suspension and expulsion in such manner as may be provided for in such by-laws. Any member, who ceases to be such, voluntarily or otherwise, shall forfeit all interest in the property of such corporation.

§ 6. Control and disposal of funds and property. The control and disposal of the funds and property of the said corporation, the exercise of its powers, and the management and control of its affairs, except as hereinafter provided, shall be vested in and exercised by a board of trustees which shall consist of no less than 7 members of the corporation, to wit: the president, the vice-president, the secretary and treasurer and 3 other members having the title of trustee. Such officers and directors shall be elected at the annual meeting of such corporation in the manner prescribed by its by-laws.

§ 7. Precept for payment of foreign fire insurance premium taxes. Such corporation shall collect and there shall be paid to it all taxes imposed by section 9104 of the insurance law for fire department use and benefit, upon premiums for insurance against loss or damage by fire covering property protected by the East Amherst Fire Department, Inc., in the county of Erie, or within any duly organized territory in which the East Amherst Fire Department, Inc. is or may be obligated to render fire protection. The officer of said corporation designated by its by-laws to collect and receive the aforesaid tax shall have all the powers and be subject to all the provisions of the insurance law, relating to treasurers of fire departments. Such corporation shall also be entitled to receive a share of the tax imposed by section 9105 of the insurance law, based upon the business written in the territory with respect to which it is entitled to collect and receive the tax under section 9104 of the insurance law. Such taxes shall only be used by the corporation in furtherance of its purposes as set forth in section three of this act.

§ 8. This act shall take effect immediately; provided, however, that the provisions of section seven of this act shall apply to taxes due on premiums received on and after January 1, 2022.