

# 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:

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

15 § 2. Persons eligible for membership. All persons who are now, or have  
16 been, or hereafter shall be active volunteer members of the East Amherst  
17 Fire Department, Inc. in the county of Erie, and who have acquired or  
18 shall hereafter acquire the status of exempt volunteer firefighter as  
19 defined in section 200 of the general municipal law by virtue of having  
20 rendered service in the East Amherst Fire Department, Inc., and all  
21 persons who are now or hereafter shall be active volunteer members of  
22 the East Amherst Fire Department, Inc., shall be eligible for membership  
23 in the corporation created by this act, except that any firefighter who  
24 has been removed for cause, expelled or dropped from the rolls of the  
25 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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1 therein, shall not be eligible for membership in such corporation. The  
2 membership of any person in such corporation shall terminate upon the  
3 withdrawal of such person as an active volunteer member of the East  
4 Amherst Fire Department, Inc. prior to the actual performance by such  
5 person of five years' service as an active volunteer member of the East  
6 Amherst Fire Department, Inc. Paid firefighters, if any, of the East  
7 Amherst Fire Department, Inc., shall not be eligible for membership in  
8 the corporation.

9 § 3. Purposes. The purposes of the corporation created by this act  
10 are: to provide relief, aid and assistance to the volunteer members of  
11 such corporation who are indigent or disabled or injured in the perform-  
12 ance of their duties, and their families; to maintain a suitable head-  
13 quarters for the members of the corporation; to promote and safeguard  
14 the welfare of the volunteer members of the corporation, and their fami-  
15 lies; to provide for the health and safety of the volunteer members of  
16 the corporation; and to enhance the morale of the volunteer members of  
17 the corporation by providing social and recreational activities for the  
18 volunteer members of the corporation, and the promotion of the volunteer  
19 fire service within the territory protected by the East Amherst Fire  
20 Department, Inc.

21 § 4. Powers and duties. Such corporation shall have all the powers of  
22 a not-for-profit corporation, and the provisions of law relating to  
23 not-for-profit corporations shall apply to such corporation except where  
24 they conflict with the provisions of this act. However, unless the writ-  
25 ten approval of the applicable governmental agency or department shall  
26 have first been obtained, such corporation shall not establish and main-  
27 tain any home or institution which, if separately incorporated, would  
28 require the approval of such department or governmental agency.

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

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

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

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