

STATE OF NEW YORK

10902

IN ASSEMBLY

April 8, 2026

Introduced by M. of A. SMULLEN -- 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 Herkimer Volunteer Fire Department No.1, 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 369 of the laws of
3 2025, 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 such member ceases to be a resident of such
18 inside or outside territory, except that the corporation may authorize
19 their continued membership where such member notifies the secretary of
20 the fire corporation (a) that they plan to change their residence to a
21 territory which is not in such inside or outside territory, and (b) that
22 by reason of such member's residence in the vicinity or such member's
23 usual occupation they will be available to render active service as a
24 volunteer firefighter in either such inside or such outside territory.
25 Voting for such authorization shall be pursuant to the by-laws. Such
26 authorization shall not become effective unless approved by resolution

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

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1 of the town board of each town which consented to the formation of the
2 corporation. Any membership so continued shall terminate when the member
3 can no longer meet the requirements of this subparagraph. A person who
4 cannot meet the residence requirements of this subparagraph may be
5 elected to membership as a volunteer member if by reason of such
6 member's residence in the vicinity or such member's usual occupation
7 they will be available to render active service as a volunteer fire-
8 fighter in such inside or outside territory. Voting for such election
9 shall be pursuant to the by-laws. Such election shall not become effec-
10 tive unless approved by resolution of the town board of each town which
11 consented to the formation of the corporation. Such membership shall
12 terminate when the member can no longer meet the requirements of this
13 subparagraph. The election or continuance of any person as a member
14 shall be deemed to have been approved by the town board pursuant to this
15 subparagraph in the event that no action is taken by the town board,
16 either approving or disapproving, within forty days in the case of resi-
17 dents of the territory specified in the certificate of incorporation or
18 of outside contract territory, and within seventy days in the case of
19 all others, after service of written notice of such election or contin-
20 uance of membership shall have been made by the secretary of the corpo-
21 ration upon the town clerk, either personally or by mail. The membership
22 of any volunteer firefighter shall not be continued pursuant to this
23 subparagraph, and persons who do not reside in the territory specified
24 in the certificate of incorporation or in territory protected pursuant
25 to a contract for fire protection shall not be elected to membership,
26 if, by so doing, the percentage of such nonresident members in the fire
27 corporation would exceed forty-five per centum of the actual membership
28 thereof, provided, however, that the forty-five percent limit on non-re-
29 sident members shall not apply to the membership of the Huguenot Fire
30 Company, Inc., within the town of Deerpark, Orange county, to the
31 membership of the Prospect Terrace Fire Company, Inc., within the town
32 of Dickinson, Broome county, to membership of the Hopewell Volunteer
33 Fire Department, Inc., to membership of the Wales Center Volunteer Fire
34 Company, Inc., within the town of Wales, Erie county, to the membership
35 of the Nedrow Fire Department, within the town of Onondaga, Onondaga
36 county, to the membership of the Howlett Hill Fire Department, within
37 the town of Onondaga, Onondaga county, to the membership of the South
38 Onondaga Fire Department, within the town of Onondaga, Onondaga county,
39 to the membership of the Southwood Volunteer Fire Department, Inc.,
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 Camillus Volunteer Fire Department, Inc.,
43 within the town of Camillus, Onondaga county, to the membership of the
44 Pleasant Square Fire Company, Inc. within the town of Johnstown, Fulton
45 county, to the membership of the East Amherst Fire Department, Inc.,
46 within the town of Amherst, Erie county, to the membership of the Crit-
47 tenden Volunteer Fire Department, Inc., within the town of Alden, Erie
48 county, to membership of the fire departments within the town of Flem-
49 ing, Cayuga county, to membership of the Bushnell's Basin Fire Depart-
50 ment, in the town of Perinton, Monroe county, to the membership of the
51 East Dunkirk Volunteer Fire Company, Inc. within the town of Dunkirk,
52 Chautauqua county, to the membership of the Varna Volunteer Fire Compa-
53 ny, Inc., within the town of Dryden, Tompkins county, to the membership
54 of the Leeds Hose Company No. 1, Inc. within the town of Catskill,
55 Greene county to membership of the East Herkimer Volunteer Fire Depart-
56 ment No. 1, Inc. within the town of Herkimer, Herkimer county or to

1 membership of the Salina Consolidated Fire District #2, in the town of
2 Salina, Onondaga county. Nonresidents of the territory specified in the
3 certificate of incorporation whose volunteer membership has been author-
4 ized or continued pursuant to this subparagraph may be elected or
5 appointed to any office in the fire corporation and shall have all the
6 powers, duties, immunities, and privileges of resident volunteer members
7 except a non-resident of this state whose membership has been continued
8 pursuant to this subparagraph, or who was elected to membership pursuant
9 to this subparagraph, shall not be considered to be performing any fire-
10 fighting duty, or to be engaged in any firefighting activity, as a
11 member of the fire company while such member is outside of this state
12 unless and until such member has first reported to the officer or fire-
13 fighter in command of their fire department, or any company, squad or
14 other unit thereof, engaged or to be engaged in rendering service
15 outside this state, or has received orders or authorization from an
16 officer of the fire department or fire company to participate in or
17 attend authorized activities outside of this state in the same manner as
18 resident members of the fire company. A person shall not be eligible to
19 volunteer membership in any other fire corporation or fire company at
20 one time. The provisions of this subparagraph shall not be deemed to
21 authorize the election or the continuance of any person as a member of
22 the corporation if such election or continuance of membership shall be
23 contrary to the by-laws, rules or regulations of the fire corporation.
24 § 2. This act shall take effect immediately.