§ 205-g. Defense and indemnification of volunteer firefighters. 1. As used in this section:

a. "Volunteer firefighter" means an active member of a fire company.

b. "Fire company" means: (i) A fire company of a city, town, village or fire district fire department, whether or not any such company has been incorporated under any general or special law,

(ii) A fire corporation incorporated under or subject to the provisions of article ten of the not-for-profit corporation law, which is not included within subparagraph (i) of this paragraph, if such corporation is, by law, under the general control of, or recognized as a fire corporation by, the governing board of a city, town, village or fire district; or

(iii) A fire corporation incorporated under, or established pursuant to the provision of, any general or special law, which is not included within subparagraphs (i) or (ii) of this paragraph, if such corporation is, by law, under the general control of, or recognized as a fire corporation by, the governing board of a city, town, village or fire district or Indian reservation. A "fire department" may be composed of one or more fire companies.

c. "Line of duty" means the performance by a volunteer firefighter of the duties and activities described in subdivision one of section five of the volunteer firefighters' benefit law and the same such duties and activities performed for a specialized team established pursuant to the provisions of section two hundred nine-bb of this article for which the volunteer firefighter does not receive any remuneration or a gratuity and shall be deemed to include any date of injury as determined by the workers' compensation board pursuant to the provisions of section forty-one of the volunteer firefighters' benefit law. The following shall not be deemed to be remuneration or a gratuity: reimbursement of expenses for meals, lodging and actual and necessary travel; the receipt of a mileage allowance in lieu of travel expense; reimbursement of expenses for registration and tuition fees payable under section seventy-two-g of this chapter, the acceptance of transportation, food, drink, shelter, clothing and similar items while on duty or engaged in

such activities; and receipt of a training stipend as outlined in section two hundred-aa of this article.

d. "Public entity" means the city, town, village or fire district having general control of the fire company.

2. The public entity shall provide for the defense of the volunteer firefighter in any civil action or proceeding, state or federal, arising out of any alleged act or omission which occurred or allegedly occurred while the volunteer firefighter was acting in the line of duty if the volunteer firefighter is in compliance with the provisions of subdivision seven of this section. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or at the behest of the public entity.

3. Subject to the conditions set forth in subdivision two of this section, the volunteer firefighter shall be entitled to be represented by private counsel of his or her choice in any civil action or proceeding whenever the chief legal officer of the public entity or other counsel designated by the public entity determines that a conflict of interest exists, or whenever a court, upon appropriate motion or otherwise by a special proceeding, determines that a conflict of interest exists and that the volunteer firefighter is entitled to be represented by counsel of his or her choice, provided, however, that the chief legal officer or other counsel designated by the public entity may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such volunteer firefighters be represented by the same counsel. Reasonable attorneys' fees and litigation expenses shall be paid by the public entity to such private counsel from time to time during the pendency of the civil action or proceeding with the approval of the governing body of the public entity.

4. Any dispute with respect to representation of multiple volunteer firefighters by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

5. Where the volunteer firefighter delivers process and a written request for a defense to the public entity under subdivision seven of this section, the public entity shall take the necessary steps on behalf of the volunteer firefighter to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

6. a. The public entity shall indemnify and save harmless its volunteer firefighters in the amount of any judgment obtained against such volunteer firefighters in a state or federal court, or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or claim arose occurred while the volunteer firefighter was acting in the line of duty; provided further that in the case of a settlement the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement by the governing body of the public entity.

b. The duty to indemnify and save harmless shall be construed in the same manner as provided in section two hundred five-b of this article.

c. Nothing in this subdivision shall authorize a public entity to indemnify or save harmless a volunteer firefighter with respect to punitive or exemplary damages, fines or penalties, or money recovered from a volunteer firefighter pursuant to section fifty-one of this chapter; provided, however, that the public entity shall indemnify and save harmless its volunteer firefighters in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that a volunteer firefighter, acting in the line of duty, has, without willfulness or intent on his or her part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of this state or of the United States.

d. Upon entry of a final judgment against the volunteer firefighter, or upon the settlement of the claim, the volunteer firefighter shall serve a copy of such judgment or settlement, personally or by certified or registered mail within thirty days of the date of entry or settlement, upon the chief administrative officer of the public entity;

and if not inconsistent with the provisions of this section, the amount of such judgment or settlement shall be paid by the public entity.

7. The duty to defend or indemnify and save harmless prescribed by this section shall be conditioned upon:

a. delivery by the volunteer firefighter to the chief legal officer of the public entity or to its chief administrative officer of a written request to provide for his or her defense together with the original or a copy of any summons, complaint, process, notice, demand or pleading within ten days after he or she is served with such document;

b. the full cooperation of the volunteer firefighter in the defense of such action or proceeding and in defense of any action or proceeding against the public entity based upon the same act or omission, and in the prosecution of any appeal; and

c. the volunteer firefighter maintaining at least the minimum level of training required by the public entity.

8. The benefits of this section shall inure only to volunteer firefighters as defined in this section and shall not enlarge or diminish the rights of any other party nor shall any provision of this section be construed to affect, alter or repeal any provision of the workers' compensation law or volunteer firefighters' benefit law.

9. This section shall not in any way affect the obligation of any claimant to give notice to the public entity under section ten of the court of claims act, section fifty-e of this chapter, or any other provision of law.

10. Any public entity is hereby authorized and empowered to purchase insurance from any insurance company created by or under the laws of this state, or authorized by law to transact business in this state, against any liability imposed by the provisions of this section, or to act as a self-insurer with respect thereto.

11. All payments made under the terms of this section, whether for insurance or otherwise, shall be deemed to be for a public purpose and shall be audited and paid in the same manner as other public charges.

12. The provisions of this section shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

13. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity to liability available to or conferred upon any unit, entity, officer or volunteer firefighter of any public entity by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.