

## No. 1993-78

## AN ACT

## HB 675

Amending the act of June 11, 1968 (P.L.149, No.84), entitled "An act relating to volunteer firemen's relief associations, clarifying their purposes and objectives, establishing criteria and standards for the conduct of their affairs, providing for their formation, recognition, continuing operation, and for their dissolution in appropriate circumstances and the distribution of their funds," further providing for the purposes for which funds may be expended; authorizing cooperation agreements between volunteer firefighters' relief associations; and making editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title and section 1 of the act of June 11, 1968 (P.L.149, No.84), known as the Volunteer Firemen's Relief Association Act, are amended to read:

## AN ACT

Relating to volunteer [**firemen's**] **firefighters'** relief associations, clarifying their purposes and objectives, establishing criteria and standards for the conduct of their affairs, providing for their formation, recognition, continuing operation, and for their dissolution in appropriate circumstances and the distribution of their funds.

Section 1. Short Title.—This act shall be known and may be cited as the "Volunteer [**Firemen's**] **Firefighters'** Relief Association Act."

Section 2. Section 2 of the act, amended June 21, 1984 (P.L.427, No.86), is amended to read:

Section 2. Definitions.—As used in this act:

(1) A volunteer [**firemen's**] **firefighters'** relief association is an organization formed primarily for the purpose of affording financial protection to volunteer [**firemen**] **firefighters** against the consequences of misfortune suffered as a result of their participation in the fire service. Such an association may also serve other purposes, as hereinafter set forth, provided only that adequate provisions be first made to serve its primary purpose. It may comprehend within its membership the members of one or more fire companies.

(2) The fire service comprehends the service of organized groups of individuals, not only in training for and in active duty in the protection of the public against fire, but also in the training for and the performance of such other activities as are commonly undertaken by fire companies and their affiliated organizations, including, inter alia, fire prevention, first aid, rescue and salvage, ambulance service, fire police work, radio communications,

assistance at accidents, control of crowds both on the fire grounds and at occasions of public or general assembly, animal rescue, abatement of conditions due to storm, flood, or general peril, abatement or removal of hazards to safety, and participation in public celebrations, parades, demonstrations, and fund-raising campaigns.

(3) Volunteer **[fireman] firefighter** comprehends any member of a fire company, organized and existing under the laws of the Commonwealth of Pennsylvania, and also any member of any fire police unit, rescue squad, ambulance corps, or other like organization affiliated with one or more fire companies, and refers to any individual who is a member of such a fire company or affiliated organization and who participates in the fire service, but does not look to that service as his primary means of livelihood. A person shall not lose his *or her* status as a volunteer **[fireman] firefighter** solely because he *or she* may also be a paid firefighter, as long as he *or she* is acting within the scope of his *or her* responsibilities as a member of a volunteer fire company at the time and not within the scope of his *or her* responsibilities as a paid firefighter.

Section 3. Sections 3, 4 and 5 of the act are amended to read:

Section 3. Statement of Purpose.—The purpose of the Legislature in enacting this statute is to encourage individuals to take part in the fire service as volunteer **[firemen] firefighters**, by establishing criteria and standards for the orderly administration and conduct of the affairs of **[firemen's] firefighters'** relief associations, so as to ensure, as far as circumstances will reasonably permit, that funds shall be available for the protection of volunteer **[firemen] firefighters** and their heirs:

(1) To provide financial assistance to volunteer **[firemen] firefighters** who may suffer injury or misfortune by reason of their participation in the fire service;

(2) To provide financial assistance to the widow, children, and/or other dependents of volunteer **[firemen] firefighters** who lose their lives as a result of their participation in the fire service;

(3) To provide, either by insurance or by the operation of a beneficial fund, for the payment of a sum certain to the designated beneficiaries of a participating member in such fund following the death of such member for any cause, and to establish criteria which members must meet in order to qualify as participants in such death benefit fund;

(4) To provide safeguards for preserving life, health and safety of volunteer **[firemen] firefighters**, so as to ensure their availability to participate in the fire service;

(5) To provide financial assistance to volunteer **[firemen] firefighters** who, after having actively participated in the fire service for a specified minimum term, are no longer physically able to continue such participation and are in need of financial assistance;

(6) To provide funds to aid the rehabilitation of volunteer **[firemen] firefighters** who have suffered an impairment of their physical capacity to

continue to perform their normal occupations; and

(7) In any event, to provide sufficient funds to ensure the efficient and economical handling of the business of the association in accomplishing the objectives hereinabove set forth.

Section 4. Construction.—This act shall be construed, applied, and interpreted, so far as circumstances permit, as justifying the actions of the officers and members of volunteer [**firemen's**] **firefighters'** relief associations affected by it, when such actions appear to have been taken in good faith and in a bona fide belief that they were in furtherance of the purposes of this act, but shall be strictly construed and applied against those responsible for actions taken in wilful disregard of the purposes of this act, or with reckless indifference to such purposes, and in particular, where any action called into question results or has resulted or was likely to result in an unmerited personal benefit to one or more of those responsible for the taking of such action.

Section 5. Structure.—(a) A volunteer [**firemen's**] **firefighters'** relief association may be a body corporate, governed by a charter and bylaws, or it may be an unincorporated association of individuals, governed by a constitution and bylaws. In either case, it must provide for the taking and preserving of minutes of all meetings, and the maintenance of such books of account as may be necessary and appropriate to afford a permanent record of its fiscal affairs.

(b) The constitution or charter shall state the name, the purposes and the form of the organization, shall designate the class or classes of persons eligible for membership, and the procedures to be followed in making amendments.

(c) The bylaws shall specify the requirements for securing membership, the voting rights of different classes of members, if there be different classes, and the conditions under which membership may be terminated. They shall state the notice requirements and the procedure to be followed in calling meetings, as well as the quorum requirements for regular and special meetings of the membership and for regular and special meetings of the body which governs the operations of the association between membership meetings, and shall designate that body, whether it be a board of directors, the trustees, or any similar body, such as an executive committee. Unless otherwise provided in the bylaws, the powers and duties of the officers and directors and/or trustees, shall be such as normally pertain to such positions in nonprofit corporations. The bylaws shall require that the signatures of at least two officers, one of whom shall be the disbursing officer, shall be required in order to bind the association by formal contract or to issue any negotiable instrument. They shall require that the disbursing officer, whether designated treasurer, comptroller, financial secretary, or otherwise, shall be bonded by corporate surety for the faithful performance of his duties. The amount of such bond shall be at least as great as the maximum cash balance in current funds of the association at any time during the fiscal year, and the

premium on such bond shall be a proper charge against the funds of the association. The bylaws shall state the procedure to be followed in nominating and in electing officers, trustees, directors, and members of the executive committee, according to such provisions as shall have been made for the establishment of such positions. The bylaws shall establish procedures for the approval of expenditures and the payment thereof, and for the investment of funds and the sale of investments. The bylaws shall set out the procedure to be followed in amending the bylaws, and shall specify the notice required with respect to proposed amendments, including the time, place, and the date when any proposed amendment shall be considered. The bylaws shall be faithfully preserved in permanent form and any amendments made thereto shall be entered thereon with the date when any such amendment became effective. The bylaws may contain any such other provisions as may to the membership seem to be appropriate or necessary to the orderly conduct of the affairs of the association.

(d) In addition to the bylaws the association may adopt from time to time such matters as the membership may regard as of a routine nature under the head of standing procedures. Such procedures may be adopted, modified or repealed by motion and majority vote but they shall not be inconsistent with the bylaws and they shall be recorded as an appendix to the bylaws.

(e) Any volunteer [**firemen's**] **firefighters'** relief association organized or conducted in accordance with the requirements of this section shall be regarded as a charitable corporation for all purposes including the right to establish exemption from the operation of certain taxes.

Section 4. Section 6 of the act, amended March 23, 1972 (P.L.119, No.44) and March 7, 1982 (P.L.168, No.53), is amended to read:

Section 6. **Funds.**—(a) Any volunteer [**firemen's**] **firefighters'** relief association shall have the right to solicit and receive gifts and contributions from any source including municipal corporations. It shall not have the right to receive any portion of the moneys distributed to the political subdivisions of the Commonwealth under the provisions of [**the act of June 28, 1895 (P.L.408),**] **Chapter 7 of the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act,"** unless and until the governing body of at least one such political subdivision shall have certified to the Auditor General that such association is in fact a bona fide volunteer [**firemen's**] **firefighters'** relief association affiliated with a fire company which affords protection against fire to all or a portion of the political subdivision.

(b) The funds of any volunteer [**firemen's**] **firefighters'** relief association may be deposited in any bank, trust company, or other banking establishment accredited by the Commonwealth or insured by the Government of the United States.

(c) All, or any part of the funds of any volunteer [**firemen's**] **firefighters'** relief association may be invested:

(1) In any form of investment named in the Fiduciaries Act of 1949, as

amended, including first mortgages. Such first mortgages insuring repayment of loans by relief associations must provide for a minimum interest payment of three per cent and not exceed eighty per cent of the appraised value of the real property covered by the mortgage.

(2) In any obligation of a political subdivision, having the power to levy or collect taxes, or

(3) In any obligation of an incorporated fire company which obligation is secured by assets of the company having capital value equal to at least one hundred fifty per cent of the amount of the obligation at the time it is made, and is subject to provisions which will amortize such loan at a rate ensuring that the depreciated value of the assets pledged shall continue to be at least equal to one hundred fifty per cent of the balance remaining due.

(d) No investment shall be acquired, encumbered or sold except pursuant to a resolution duly enacted by the governing body of the association. The income from investments however may be invested or spent in the same way as any other income.

(e) The funds of any volunteer [**firemen's**] **firefighters'** relief association may be spent:

(1) To pay for such normal and reasonable running expenses as may be appropriate to the businesslike conduct of its affairs including legal fees and including but not by way of limitation the rental or purchase of offices, the payment of reasonable compensation of any needed employes, and the purchase of office equipment and supplies.

(2) To purchase contracts of insurance which shall at the least afford financial assistance to active members of the fire service represented by the association against losses due to injury suffered in the fire service and which may also provide in the order named, (i) for payments to the [**widow surviving spouse**] or other dependents of a member in the event of [**his**] **the member's** death, (ii) for protection of active [**firemen**] **firefighters** against disease, (iii) for the replacement or purchase of prosthetic devices such as visual aids, hearing aids, dentures, braces, crutches, and the like, where such devices have been lost or damaged while the owner was engaged in the fire service or where the need for such devices arises because of functional impairment attributable to participation in the fire service, (iv) for the repair or replacement if necessary of articles of clothing **or pocket pagers** damaged **or lost** in the course of participation in the fire service, and (v) for disability incurred after service for a minimum of twenty years as a volunteer [**fireman**] **firefighter**.

(3) To maintain a beneficiary or death benefit fund and to pay a sum certain from that fund to the beneficiary of any participant in that fund upon his **or her** death. In the event a beneficiary is not designated or a designated one has predeceased the participant, the sum certain shall be paid to the estate of the participant.

(4) To pay in full or in part for damage or loss in any of the categories mentioned in clause (2) above in any specific case in which (i) no policy of

insurance is in force which covers the risk, or (ii) the amount payable under insurance policies in force is inadequate to cover the loss.

(5) To pay the costs of procuring and forwarding tokens of sympathy and goodwill. To a volunteer **[fireman] firefighter** who may be ill or hospitalized as a result of participation in the fire service or who may die or who may be seriously ill for any reason.

(6) To make cash payments to families in distressed circumstances by reason of age, infirmities or other disabilities suffered by one of the family in the course of his *or her* participation in the fire service as a volunteer **[fireman] firefighter**.

(7) To acquire and maintain membership in any Statewide association or corporation which extends advice and assistance to **[firemen's] firefighters'** relief associations in the conduct of their affairs and to pay reasonable expenses of travel and maintenance to a duly elected delegate for attendance at such meetings of such Statewide association or corporation.

(8) To contribute or to purchase contracts of insurance which will contribute towards the costs of rehabilitating and retraining volunteer **[firemen] firefighters** who by reason of their participation in the fire service have suffered a major impairment of their ability to continue their vocation.

(9) To pay for medical and surgical bills arising from injuries sustained by volunteer **[firemen] firefighters** while engaged in activities of the fire company to the extent that said bills are not covered by insurance provided by the relief association.

(10) To pay reasonable expenses actually and necessarily incurred for attending bona fide **[firemen's] firefighters'** training schools.

(11) To purchase safeguards for preserving life, health, and safety of volunteer **[firemen] firefighters**, so as to ensure their availability to participate in the volunteer fire service.

(12) To secure insurance against the legal liability of the volunteer **[firemen] firefighters** for loss and expense from claims arising out of the performance of their official, authorized duties while going to, returning from or attending fires or while performing their duties as special fire police.

*(13) To maintain comprehensive health, physical fitness and physical monitoring programs that provide for physical fitness activities, nutrition education and instruction and health and fitness evaluation and monitoring. The programs shall be approved by the nearest State-licensed health care facility which is authorized to provide the service.*

*(14) To purchase exercise and fitness equipment for use by volunteer firefighters. Expenditures for exercise and fitness equipment shall not, however, exceed \$2,000 in any two-year period.*

*(15) To purchase fire hose and nozzles.*

*(16) To purchase fire prevention materials for public distribution.*

Section 5. The act is amended by adding a section to read:

*Section 6.1. Cooperation Agreements.—Two or more volunteer firefighters' relief associations may jointly cooperate to enter into*

*agreements to make expenditures that are authorized under this act. A joint cooperation agreement may be enforced by and against a volunteer firefighters' relief association.*

Section 6. Sections 7 and 8 of the act are amended to read:

Section 7. Audits.—(a) The Department of the Auditor General shall have the power, and its duty shall be, to audit the accounts and records of every volunteer [**firemen's**] *firefighters'* relief association receiving any money under [the act of June 28, 1895 (P.L.408), as amended,] *Chapter 7 of the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act,"* as amended, as far as may be necessary to satisfy the department that the money received was expended or is being expended for no purpose other than that authorized by this act. Copies of all such audits shall be furnished to the Governor.

(b) If at any time the Department of the Auditor General shall find that any money received by a volunteer [**firemen's**] *firefighters'* relief association has been expended for any purpose other than those authorized by this act, it shall forthwith notify the Governor, and shall decline to approve any further requisition calling for payment to such volunteer [**firemen's**] *firefighters'* relief association, until an amount equal to that improperly expended shall have been reimbursed to the relief association fund.

Section 8. Dissolution.—(a) If a majority of those voting in a referendum conducted in any political subdivision shall decide in accordance with the act of June 13, 1955 (P.L.173), to replace a volunteer fire company serving such subdivision with a full-paid fire department or company and the volunteer company so replaced ceases to render fire service to any community it shall withdraw from the volunteer [**firemen's**] *firefighters'* relief association which theretofore extended protection to its membership.

(b) In accordance with the above action the relief association shall continue to function as heretofore granting financial assistance to its remaining members and their families in death, sickness and distress suffered through the unfortunate elements of life.

(c) The volunteer [**firemen's**] *firefighters'* relief association so functioning shall not receive any new members.

(d) When the membership roll of the relief association so functioning shall diminish to five members it shall apply to the local common pleas court for dissolution.

(e) Said court shall direct that all bills including the costs of dissolution be paid and the balance of the funds in the treasury be paid to the pension fund of the paid fire department so created by the governing body of the local political subdivision.

Section 7. This act shall take effect in 60 days.

APPROVED—The 22nd day of December, A.D. 1993.

ROBERT P. CASEY