

## State Finance

§ 54-e. State assistance to reimburse municipalities for firefighting costs. 1. As used in this section, unless otherwise expressly stated:

a. "Normal operating expenses" shall mean those costs, losses and expenses which are ordinarily associated with the maintenance, administration and day-to-day operations of the fire department of a municipality. Such expenses shall include, but not be limited to, the ordinary wages of firefighters, administrative and other overhead costs, depreciation, the costs of litigation and the costs of employee's benefits, including insurance, disability, death, or health care whether or not such costs are incurred as the result of firefighting services rendered to property under the jurisdiction of the state of New York.

b. "Firefighting costs" shall mean those expenses and losses which would not have been incurred had not the fire in question taken place. Such costs shall include, but not be limited to, salaries for specially employed personnel, costs of supplies expended, and the lesser of (1) the cost of repairing any destroyed or damaged equipment or (2) the value of such equipment immediately preceding the fire. Firefighting costs shall not include: normal operating expenses as defined herein, any firefighting cost for which the municipality is reimbursed under a policy of insurance or any costs associated with false alarms, regardless of cause.

c. "Claim" shall mean that amount which is equal to those firefighting costs incurred by a municipality to the extent that such costs exceed the sum of two hundred fifty dollars.

d. "Fire" shall mean any instance of destructive and uncontrolled burning on property under the jurisdiction of the state of New York including scorch burns and explosions of combustible dust or solids, flammable liquids and gases.

e. "Municipality" shall mean any county, city, village, town or fire district, having a fire department consisting of personnel, apparatus and equipment which has as its purpose protecting property and maintaining the safety and welfare of the public from the dangers of fire, or, in the case of a fire protection district or that portion of a town outside a village or fire district, a fire company as defined in section three of the volunteer firefighters' benefit law. The personnel of any such fire department may be paid employees or unpaid volunteers or any combination thereof.

f. "Property under the jurisdiction of the state of New York" shall mean real property and improvements thereon and appurtenances thereto in which the state of New York holds legal fee simple title and further, any real property conveyed or made available to the New York state housing finance agency or the dormitory authority of the state of New York under agreements for the financing and construction of facilities for the state university of New York; provided however, with the exception of property occupied by the state university of New York, such property shall not include leasehold interest; provided further, such property shall not include any property for which a municipality receives any payments-in-lieu of taxes or any other payments, including real property taxes, that are or may be used for providing fire protection to such property.

2. Any municipality whose fire department has responded to a fire on property under the jurisdiction of the state of New York:

a. shall, within thirty days after such fire, submit a report, on a form prescribed by the office of fire prevention and control, to the office of fire prevention and control stating the location of such a fire and the firefighting costs incurred while fighting such a fire; and

b. may, within thirty days after such a fire, submit a claim, on a form prescribed by the office of fire prevention and control to the

office of fire prevention and control pursuant to the provisions of this section.

3. The office of fire prevention and control shall review each claim to determine if such claim shall be approved, reduced, amended or rejected and shall notify the municipality, within sixty days of receipt of such claim, as to his determination. The municipality shall notify the office of fire prevention and control within thirty days after receipt of the office of fire prevention and control's notification, as to its acceptance or rejection of such determination. Failure to so notify the office of fire prevention and control shall constitute an acceptance of the determination. If accepted by the municipality, such acceptance shall constitute the final and conclusive determination for such claim. If rejected by the municipality, such municipality shall resubmit its claim, within thirty days after receipt of the office of fire prevention and control's notification, together with its reasons for objection and any additional documentation which may justify its claim. Upon receipt of a resubmitted claim, the office of fire prevention and control shall review such claim and within sixty days of receipt of such resubmitted claim, make a final determination as to the amount to be approved for such claim. If the municipality shall dispute such final determination it may commence an action, within sixty days of such final determination, in the court of claims which shall have jurisdiction to adjudicate the claim and enter judgment, which judgment shall be a final determination for purposes of this section and shall be payable in accordance with the provisions of subdivisions four and five of this section.

4. The office of fire prevention and control shall certify all claims for which a final determination has been made. The office of fire prevention and control shall submit all claims certified during the preceding year to the comptroller of the department of audit and control on or before April first of each year. Any claim that has been received prior to April first of such year, but for which no certification has been made, shall, for purposes of payment, be considered as a claim for the year in which such certification is made.

5. All claims certified by the office of fire prevention and control shall be paid annually and shall be paid upon a warrant from the comptroller from funds appropriated in the local assistance fund. In the event such appropriation is insufficient to permit the aggregate annual payments authorized under this section, each municipality's payment for any claim or claims certified during the preceding year shall be decreased proportionally until the total payments are equal to the amount appropriated.

6. The chief fiscal officer of the municipality shall pay the amounts received under this section into the fund or funds from which moneys were expended to provide the firefighting services for which a reimbursement was made under this section.

7. This section shall not in any way impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

8. The office of fire prevention and control shall annually prepare a report on the effectiveness of this section and shall submit such report to the legislature. Such report shall include the number and location of any fire on property under the jurisdiction of the state of New York, the number of claims and the amount of each such claim filed pursuant to this section and further, the total amount of all claims filed and the total amount of payments made under the provisions of this section. The first such report shall be submitted to the legislature on or before June first, nineteen hundred seventy-nine.