

# BROOME COUNTY FIREFIGHTERS' ASSOCIATION

BROOME COUNTY, NEW YORK

## FIRE DEPARTMENT THAT ACCEPTS INDIVIDUAL MEMBERS FOR MUTUAL AID REQUIRED TO PROVIDE VFBL COVERAGE

*If your fire company accept riders from other departments for  
engine 97, 98 or 99, this affects you!*

There has been some discussion lately of who provides VFBL (the equivalent or workers compensation coverage) for volunteer firefighters who offer their services to other fire departments on an individual basis, for example those who may be involved at a 'bunk-in' program in an area near a college.

The VFBL law is clear that whenever your entire fire company responds mutual aid to another area, your home fire department's VFBL insurance covers you if you are injured. However, if your whole department is not called out, but you offer assistance, individual "mutual aid", either by going up the Chief and offering it or taking part in a bunk-in program, the situation is totally different. In this case the department who accepts the assistance agrees to cover you if you are injured.

General Municipal Law §209-I (1-a) provides in relevant part that a "volunteer firefighter" "who, because of his or her residence or usual occupation, is regularly in the area served by a volunteer fire company or department of which he or she is not a member, may volunteer his or her services on an on-going basis to the officer in command of the company or department to assist the company's or department's general or emergency ambulance services, or to assist at a fire or other emergency scene. The commanding officer of a fire district fire department, when authorized by the board of the fire commissioners, is empowered, in his or her discretion, to so accept the services of such a volunteer firefighter. Section 209-i(1-a) further provides that a volunteer firefighter whose services are accepted by the commanding officer of a fire district fire department under that section is entitled to all powers, rights, privileges and immunities granted by law to the volunteer members of the fire department during the time services are rendered, including benefits under the Volunteer Firefighters' Benefit Law ("VFBL"), in the same manner and to the same extent as if he or she were a member of the fire department."

Scenario: What if your home fire company enters into an agreement with another fire department, fire company "B", and your home fire department agrees to cover you even when you are helping out company "B"?

If this were to be done, the Boards of Fire Commissioners of BOTH fire districts, the home fire company AND the accepting fire company, would have to agree and enter into an inter-municipal agreement stating that the home fire department agreed to provide VFBL coverage. If one of the fire companies is a fire protection district, the fire company board cannot enter this agreement, it must be entered into by the town board where the fire company is located. Even with such an inter-municipal agreement in place, however, lawyers say that because of the state VFBL law, a judge could disregard the agreement and follow the VFBL law, placing the responsibility for insurance on the department accepting the firefighters' service .

If your fire department runs one of the cooperative daytime engine companies, such as Engine 97, Engine 98 , or Engine 99, then this affects you. Once you permit a firefighter from another fire department to ride your engine for this, YOU have accepted them on an individual mutual aid basis. If they are injured, YOUR fire company is obligated to provide VFBL coverage for the injured firefighter.

Note that there has also been some speculation that, because firefighters who participate in the bunk-in programs receive room and board as part of this program, that it could be argued that they are no longer volunteers and should be covered by Workers Compensation insurance, rather than VFBL insurance.