

Article 84.

Local Firefighters' Relief Funds.

**§ 58-84-1:** Repealed by Session Laws 2006-196, s. 6, effective January 1, 2008, and applicable to proceeds credited to the Department of Insurance on or after that date.

**§ 58-84-5. Definitions.**

The following definitions apply in Articles 84, 85, 85A, 87, and 88 of this Chapter:

- (1) City. – A fire district.
- (2) Clerk. – The clerk of a fire district or, if there is no clerk, the person so designated by the governing body of the fire district.
- (3) Fire district. – Any political subdivision of the State or federally recognized Native American tribe within the State that meets all of the following conditions:
  - a. It has an organized fire department under the control of its governing body.
  - b. Its fire department has apparatus and equipment that is in serviceable condition for fire duty and is valued at one thousand dollars (\$1,000) or more.
  - c. It is rated and certified by the Commissioner.
  - d. Its response area has been approved by the local municipal government or, if there is no local municipal government, by the local board of county commissioners.
- (3a) Firefighter. – Any person who meets all of the following requirements:
  - a. Is a volunteer, employee, contractor, or member of a rated and certified fire department, or employee of a County Fire Marshal's Office whose sole duty is to act as fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county.
  - b. Performs work or training connected with fire protection, fire prevention, fire control, fire education, fire inspection, fire investigation, rescue, Emergency Medical Services, special operations, or performs the statutory duties and responsibilities of the fire chief as set forth in G.S. 160A-292.
  - c. Performs work or training at the direction of the fire chief.
  - d. Is included on the certified roster submitted to the North Carolina State Firefighters' Association pursuant to G.S. 58-86-25.
- (4) Town. – A fire district. (1951, c. 1032, s. 1; 1995 (Reg. Sess., 1996), c. 747, s. 5; 2014-64, s. 1(a); 2015-88, s. 1; 2016-51, ss. 1, 6.)

**§§ 58-84-10 through 58-84-20: Repealed by Session Laws 1995 (Regular Session, 1996), c. 747, s. 6.**

**§ 58-84-25. Disbursement of funds by Insurance Commissioner.**

(a) Distribution. – The Insurance Commissioner shall deduct the sum of three percent (3%) from the tax proceeds credited to the Department pursuant to G.S. 105-228.5(d)(3) and pay the

same over to the treasurer of the North Carolina State Firefighters' Association for administrative purposes. The Insurance Commissioner shall deduct the sum of two percent (2%) from the tax proceeds and retain the same in the budget of the Department of Insurance for the purpose of administering the disbursement of funds by the board of trustees in accordance with the provisions of G.S. 58-84-35. The Insurance Commissioner shall, pursuant to G.S. 58-84-50, credit the amount forfeited by nonmember fire districts to the North Carolina State Firefighters' Association. The Insurance Commissioner shall distribute the remaining tax proceeds to the treasurer of each fire district as provided in subsections (b) and (c) of this section.

(b) Allocation to Counties. – The Insurance Commissioner shall allocate to each county an amount of tax proceeds based upon the amount allocated to it in the previous year. If the amount allocable in the current year is less than the amount allocated in the previous year, then the Commissioner shall reduce the amount allocated to each county. The amount of the reduction is equal to the difference in the amount allocated in the previous year and the amount allocable in the current year multiplied by a fraction, the numerator of which is the population of the county and the denominator of which is the population of the State. If the amount allocable in the current year is greater than the amount allocated in the previous year, then the Commissioner shall increase the amount allocated to each county. The amount of the increase is equal to the excess proceeds multiplied by a fraction, the numerator of which is the population of the county and the denominator of which is the population of the State.

(c) Distribution to Fire Districts. – Once the Insurance Commissioner has allocated the tax proceeds to a county under subsection (b) of this section, the Commissioner shall distribute those allocations directly to the fire districts in that county. The Commissioner shall distribute the allocations by electronic funds transfer, unless a fire district's account cannot accept electronic funds transfers, in which case the Commissioner shall distribute the district's allocation by paper check. The amount distributed to each fire district is equal to the total amount allocated to the county multiplied by a fraction, the numerator of which is the tax value of the property located in the fire district and the denominator of which is the tax value of all property located in any fire district in that county. A county shall provide the Commissioner with the tax value of property located in each fire district in that county by February 1 of each year. If a county does not submit information that the Commissioner needs to make a distribution by the date the information is due, the Commissioner shall distribute the allocation based on the most recent information the Commissioner has.

(c1) Certain Amounts Redistributed. – Notwithstanding subsection (c) of this section, the Insurance Commissioner shall not distribute funds to a fire district whose local relief fund's balance exceeds the amount provided under G.S. 58-84-33(a). Instead, the Commissioner shall, using the methodology provided in subsections (b) and (c) of this section, distribute those funds to the fire districts whose local relief funds' balances do not exceed the amount provided under G.S. 58-84-33(a). If all of a county's fire districts' local relief funds' balances exceed the amount provided under G.S. 58-84-33(a), then the Commissioner shall reallocate the amount the county would have received to the counties with fire districts that do not exceed the amount provided under G.S. 58-84-33(a).

(d) Administration. – These funds shall be held by the treasurer of a fire district as a separate and distinct fund. The fire district shall immediately pay the funds to the treasurer of the local board of trustees upon the treasurer's election and qualification, for the use of the board of trustees of the local Firefighters' Relief Fund in each fire district to be used by it for the purposes provided in G.S. 58-84-35. (1907, c. 831, s. 5; C.S., s. 6067; 1925, c. 41; 1985 (Reg. Sess., 1986),

c. 1014, s. 168; 1989, c. 485, s. 63; 1995 (Reg. Sess., 1996), c. 747, s. 7; 2006-196, s. 7; 2007-250, s. 2; 2012-45, s. 1; 2013-360, s. 20.2(c); 2014-64, ss. 1(a), (c); 2016-51, ss. 2, 6.)

**§ 58-84-30. Trustees appointed; organization.**

For each county, town or city complying with and deriving benefits from the provisions of this Article, there shall be appointed a local board of trustees, known as the trustees of the local Firefighters' Relief Fund, to be composed of five members, two of whom shall be elected by the members of the local fire department who are qualified as beneficiaries of such fund, two of whom shall be elected by the mayor and board of aldermen or other local governing body, and one of whom shall be named by the Commissioner of Insurance. Their selection and term of office shall be as follows:

- (1) The members of the fire department shall hold an election to elect two representatives to the board to serve at the pleasure of the members of the department. The elected representatives may serve until their resignation or until the department holds an election to replace them. Board members elected pursuant to this subdivision shall be either (i) residents of the fire district or (ii) active or retired members of the fire department.
- (2) The mayor and board of aldermen or other local governing body shall appoint two representatives to the board to serve at the pleasure of the governing body. Board members appointed pursuant to this subdivision shall be residents of the fire district.
- (3) The Commissioner of Insurance shall appoint one representative to serve as trustee who shall serve at the pleasure of the Commissioner. The member appointed pursuant to this subdivision shall be either (i) a resident of the fire district or (ii) an active or retired member of the fire department.

All of the above trustees shall hold office for their elected or appointed time, or until their successors are elected or appointed, and shall serve without pay for their services. They shall immediately after election and appointment organize by electing from their members a chairman and a secretary and treasurer, which two last positions may be held by the same person. The treasurer of said board of trustees shall give a good and sufficient surety bond in a sum equal to the amount of moneys in his hand, to be approved by the Commissioner of Insurance. The cost of this bond may be deducted by the Insurance Commissioner from the receipts collected pursuant to G.S. 58-84-10 before distribution is made to local relief funds. If the chief or chiefs of the local fire departments are not named on the board of trustees as above provided, then they shall serve as ex officio members without privilege of voting on matters before the board. (1907, c. 831, s. 6; C.S., s. 6068; 1925, c. 41; 1945, c. 74, s. 1; 1947, c. 720; 1949, c. 1054; 1973, c. 1365; 1985, c. 666, s. 64; 1987, c. 174, ss. 1, 5; 2007-246, s. 3; 2012-45, s. 2; 2014-64, s. 1(a); 2016-51, s. 3.)

**§ 58-84-32. Prudent management of funds.**

Local boards of trustees shall manage local relief funds as prudent trustees of the funds, subject to Chapter 36E of the General Statutes. (2014-64, s. 1(a).)

**§ 58-84-33. Maximum fund balances.**

(a) The balance of a local fire department's Firefighters' Relief Fund for a given year shall not exceed the product of multiplying the number of members on the department's roster as of January 1 for that year by the sum of two thousand five hundred dollars (\$2,500).

(b) The North Carolina State Firefighters' Association shall annually calculate and notify each local department of its relief fund's maximum allowable balance.

(c) A local fire department whose relief fund balance, at the time of annual distribution by the Insurance Commissioner, exceeds the amount allowable under subsection (a) of this section shall not be entitled to receive a distribution for that year, and the Commissioner shall redistribute the funds that the department would have received, as provided under G.S. 58-84-25(c1).

(d) A board of trustees of a local Firefighters' Relief Fund may, with the authorization of and under guidelines provided by the North Carolina State Firefighters' Association, dedicate a portion of the local Firefighters' Relief Fund towards providing supplemental retirement. Notwithstanding subsection (a) of this section, if such dedicated amounts are used solely for supplemental retirement within the guidelines provided by the North Carolina State Firefighters' Association, then such dedicated amounts shall not count towards the maximum allowable balance under subsection (a) of this section. (2014-64, s. 1(d); 2016-51, ss. 4, 6.)

#### **§ 58-84-35. Disbursement of funds by trustees.**

(a) The board of trustees shall have entire control of the funds derived from the provisions of this Article, and shall disburse the funds only for the following purposes:

- (1) To safeguard any firefighter in active service from financial loss, occasioned by sickness contracted or injury received while in the performance of his duties as a firefighter.
- (2) To provide a reasonable support for those actually dependent upon the services of any firefighter who may lose his life in the fire service of his town, city, or State, either by accident or from disease contracted or injury received by reason of such service. The amount is to be determined according to the earning capacity of the deceased.
- (2a) To provide assistance, upon approval by the Executive Director of the North Carolina State Firefighters' Association, to a destitute member firefighter who has served or is serving honorably with a certified fire department. The determination of destitute shall be based on the inability of the firefighters, through no fault of their own, to provide basic provisions to themselves or their families. Such basic provisions include, but are not limited to, assistance with housing, vehicle or commuting expenses, food, clothing, utilities, medical care, and funeral expenses.
- (3) Repealed by Session Laws 1985, c. 666, s. 61.
- (4) To provide for the payment of any firefighter's assessment in the Firemen's Fraternal Insurance Fund of the State of North Carolina if the board of trustees finds as a fact that said firefighter is unable to pay the said assessment by reason of disability.
- (5) To provide for benefits of (i) supplemental retirement, including payment of firefighters' monthly assessments for the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund, (ii) workers compensation, including the payment of premiums to the Workers' Compensation Fund established under G.S. 58-87-10, and (iii) other insurance and pension protection for firefighters

otherwise qualifying for benefits from the Firefighters' Relief Fund as set forth in Article 85 of this Chapter.

- (6) To provide for educational benefits to firefighters and their dependents who otherwise qualify for benefits from the Firefighters' Relief Fund as set forth in Article 85 of this Chapter.
- (7) To provide for annual physicals that are required for firefighter positions by the Department of Labor or are recommended by the National Fire Protection Association.
- (8) To cover necessary management and investment costs that are reasonable and appropriate in relation to the assets, purpose, and financial security of the local Firefighters' Relief Fund.

(b) Notwithstanding any other provisions of law, no expenditures shall be made pursuant to subdivision (5), (6), or (7) of subsection (a) of this section unless the North Carolina State Firefighters' Association has certified that such expenditures will not render the Fund financially unsound for the purposes of providing the benefits set forth in subdivisions (1), (2), and (4) of subsection (a) of this section. If, for any reason, funds made available for subdivision (5), (6), or (7) shall be insufficient to pay in full any benefits, the benefits pursuant to subdivisions (5) and (6) shall be reduced pro rata for as long as the amount of insufficient funds exists, after first eliminating the benefits pursuant to subdivision (7). No claim shall accrue with respect to any amount by which a benefit under subdivisions (5) and (6) shall have been reduced.

(c) As used in subsection (b) of this section, the term "financially unsound" means that a local fund could not sustain a requested expenditure or could not make similar payments for five years without the local fund's balance falling below the greater of the following:

- (1) Five hundred dollars (\$500.00) multiplied by the number of eligible firefighters in the local department.
- (2) Twenty thousand dollars (\$20,000).

(d) A local board of trustees shall not be restricted to making disbursements solely from the interest earned on the local board's relief fund. (1907, c. 831, s. 6; 1919, c. 180; C.S., s. 6069; Ex. Sess. 1921, c. 55; 1923, c. 22; 1925, c. 41; 1945, c. 74, s. 2; 1985, c. 666, s. 61; 1987, c. 174, ss. 2, 3; 1997-456, s. 27; 2007-246, s. 4; 2008-187, s. 13; 2014-64, s. 1(a); 2016-51, ss. 5, 6; 2017-99, s. 1.)

#### **§ 58-84-40. Trustees to keep account and file certified reports.**

(a) Each local board of trustees shall keep a correct account of all moneys received and disbursed by them. On a form prescribed by the North Carolina State Firefighters' Association, each local board shall certify by October 31 of each year the following to the Association: the balance of the local fund, proof of sufficient bonding, a full and detailed accounting of the previous year's expenditures, and a full accounting of membership qualifications. Such certification shall be made concurrently with the local unit's statement of Fire Readiness. The accounting of the previous year's expenditures shall include the amounts spent on each of the purposes listed in G.S. 58-84-35(a), including the number of firefighters that received benefits for each of the purposes.

(b) In turn, the North Carolina State Firefighters' Association shall certify to the Department of Insurance by January 1 of each year on a form prescribed by the Department, the following:

- (1) The local units that have complied with the requirements of subsection (a) of this section.
- (2) A listing of the members of each of the local units.
- (3) The fund balances for each of the local units' relief funds.
- (4) Any departments that have exceeded the maximum balance provided under G.S. 58-84-33(a).
- (5) Details on the disbursements from local relief funds, including how much was disbursed for each allowable purpose and how many members received disbursements for those purposes, on both a unit-by-unit basis and total basis.
- (6) Information on any improper disbursements.
- (7) A listing of current members of the local board of trustees appointed pursuant to G.S. 58-84-30, including the chairman and treasurer of the board.

(c) In the event that any board of trustees in any of the towns and cities benefited by this Article shall neglect or fail to perform their duties, or shall willfully misappropriate the funds entrusted in their care by obligating or disbursing such funds for any purpose other than those set forth in G.S. 58-84-35, then the Insurance Commissioner shall withhold any and all further payments to such board of trustees, or their successors, until the matter has been fully investigated by an official of the North Carolina State Firefighters' Association, and adjusted to the satisfaction of the Insurance Commissioner.

(d) In the event that any local relief fund provided for in this Article becomes impaired, then the Statewide Firefighters' Relief Fund may in the discretion of its board of trustees assist the local unit administering the fund in providing for relief to injured firefighters and their dependents or survivors; provided, however, that any funds so provided to such impaired units shall be repaid in full at the statutory rate of interest from future local unit receipts if the impairment resulted from violations of this Article. (1907, c. 831, s. 7; C.S., s. 6070; 1925, c. 41; 1985, c. 666, s. 63; 2007-246, s. 5; 2014-64, s. 1(a); 2016-51, s. 6; 2017-99, s. 2(a).)

**§ 58-84-41. Commissioner of Insurance to maintain database of reports; fire department identification numbers.**

(a) Working with the North Carolina State Firefighters' Association, the Commissioner of Insurance shall develop and maintain a database of the information reported under G.S. 58-84-40(b) and the certifications filed under G.S. 58-84-46.

(b) The Commissioner of Insurance shall issue to each fire department within the State a unique fire department identification number (FDID) that shall be used by the Commissioner and the North Carolina State Firefighters' Association to coordinate database records and reports. (2014-64, s. 1(a); 2016-51, s. 6; 2017-99, s. 2(b).)

**§ 58-84-45: Repealed by Session Laws 2000-67, s. 26.21(a).**

**§ 58-84-46. Certification to Commissioner.**

On or before October 31 of each year, the fire chief of each city or county that has a local board of trustees under G.S. 58-84-30 shall file a certificate of eligibility with the North Carolina State Firefighters' Association on a form prescribed by the Association. If the certificate is not filed with the Association on or before January 31 in the ensuing year:

- (1) The Local Firefighters' Relief Fund for that fire department shall forfeit the payment next due to be paid to the Fund's board of trustees, if the fire chief fails to file the certificate required by this section.
- (2) The Association shall inform the Commissioner of the local Firefighters' Relief Funds that have not filed the certificate required by this section, and the Commissioner shall pay over that amount otherwise due to those local Funds to the treasurer of the North Carolina State Firefighters' Association.
- (3) That amount shall constitute a part of the Statewide Firefighters' Relief Fund. (2000-67, s. 26.21(b); 2001-421, s. 3; 2007-246, s. 6; 2014-64, s. 1(a); 2016-51, s. 6; 2017-99, s. 3.)

**§ 58-84-50. Fire departments to be members of North Carolina State Firefighters' Association.**

For the purpose of supervision and as a guaranty that provisions of this Article shall be honestly administered in a businesslike manner, it is provided that every department enjoying the benefits of this law shall be a member of the North Carolina State Firefighters' Association and comply with its constitution and bylaws. If the fire department of any city, town or village shall fail to comply with the constitution and bylaws of said Association, said city, town or village shall forfeit its right to the next annual payment due from the funds mentioned in this Article, and the Commissioner of Insurance shall pay over said amount to the treasurer of the North Carolina State Firefighters' Association and same shall constitute a part of the Statewide Firefighters' Relief Fund. (1907, c. 831, s. 9; 1919, c. 180; C.S., s. 6072; 1925, c. 41; c. 309, s. 2; 1965, c. 624; 2007-246, s. 7; 2014-64, s. 1(a); 2016-51, s. 6.)

**§ 58-84-52. Benefits available to individual firefighters whose departments are not members of the North Carolina State Firefighters' Association.**

(a) Individual firefighters whose departments are not members of the North Carolina State Firefighters' Association shall be covered under the line of duty coverage offered by the Association.

(b) Benefits under this section shall be paid from the funds that are forfeited from local departments to the Statewide Firefighters' Relief Fund. (2014-64, s. 1(a); 2016-51, s. 6.)

**§ 58-84-55. No discrimination on account of race.**

The local boards of trustees of the local Firefighters' Relief Funds shall make no discrimination based upon race in the payment of benefits. (1907, c. 831, s. 10; C.S., s. 6073; 1985, c. 666, s. 62; 2007-246, s. 8; 2014-64, s. 1(a).)

**§ 58-84-60. Immunity.**

A person serving on a local board of trustees of a local Firefighters' Relief Fund shall be immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of this service, except where the person:

- (1) Was not acting within the scope of that person's official duties;
- (2) Was not acting in good faith;

- (3) Committed gross negligence or willful or wanton misconduct that resulted in the damages or injury;
- (4) Derived an improper personal financial benefit, either directly or indirectly, from the transaction; or
- (5) Incurred the liability from the operation of a motor vehicle. (2007-54, s. 1; 2007-246, s. 8.1; 2014-64, s. 1(a).)

**§ 58-84-65. Repeal of certain local laws inconsistent with this Article.**

The following provisions contained within any local act enacted or amended prior to January 1, 2014, are hereby repealed:

- (1) Any redirection, at the time of receipt, of funds directed to a fire district under G.S. 58-84-25(c) to a fund other than a local relief fund.
- (2) Any restriction that would be inconsistent with G.S. 58-84-35(d).
- (3) Any transfer of interest earned on a local relief fund from the local relief fund to another fund.
- (4) Any transfer of funds from a local relief fund to a supplemental retirement fund based on the local relief fund exceeding a certain amount.
- (5) Any allowable expenditures that are not within the scope of the list provided in G.S. 58-84-35(a).
- (6) Any variation from the certification requirement under G.S. 58-84-35(b). (2014-64, s. 1(a).)