

## **VFBL/VAWBL Employer's Liability Coverage: Do You Have It? Why Do You Need It?**

When an employee is injured on the job, most employers think a Workers' Compensation (WC) claim is the injured employee's only recourse against the employer. After all, Workers' Compensation laws were developed to both financially protect injured employees as well as eliminate the opportunity for that employee to file a lawsuit against the employer. In most Workers' Compensation cases, that is true. However, there are instances where an employee or employee's family member can bring suit against the employer in addition to (or in absence of) WC coverage. This is referred to as an Employer's Liability (EL) claim. In New York State, Workers' Compensation policies for paid employees automatically include coverage for Employer's Liability.

However, in the case of Volunteer Firefighters Benefit Law (VFBL) and Volunteer Ambulance Workers Law (VAWBL) coverage, the policy must be endorsed and an additional charge of 10% of Manual Premium must be added to the policy. The VFBL/VAWBL Employer's Liability endorsement provides EL coverage to Volunteer Fire Departments or Volunteer Ambulance/Fire Companies and their Fire Chiefs, Fire Commissioners, Ambulance Squad Officers and Board of Trustees if the Fire Department/Ambulance Squad is liable for payment of benefits to an injured volunteer firefighter or ambulance worker. Examples of Employer's Liability claims include:

- Intentional acts/torts by the employer.  
*Example — A Fire Chief knowingly sends firefighters into a situation that any trained emergency officer knows will likely result in death or severe injury.*
- Third-party cross suit.  
*Example — A volunteer firefighter falls off a ladder and files a lawsuit against the ladder*

*manufacturer. The ladder manufacturer then files a third party cross suit against the Fire Department for failure to properly maintain the ladder.*

- Diseases or injuries excluded by New York Workers' Compensation statutes.
- Consortium or other loss of services to family members.

Most Workers' Compensation and General Liability policies exclude coverage for these types of claims, which is why it is recommended Volunteer Fire Departments and Volunteer Ambulance Squads add this coverage to protect themselves and their Commissioners, Chiefs, Officers and Trustees from EL related claims.

