

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

HOUSE BILL 1268

By: Representative Catlett

For An Act To Be Entitled

AN ACT CONCERNING THE AUTHORITY OF FIRE DEPARTMENTS
IN RESPONDING TO HIGHWAY EMERGENCIES; TO PROVIDE FOR
RECOVERY OF COSTS IN RESPONDING TO EMERGENCIES; TO
CLARIFY ENVIRONMENTAL RESTORATION UNDER MINIMUM
LIABILITY INSURANCE COVERAGE; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE AUTHORITY OF FIRE
DEPARTMENTS IN RESPONDING TO HIGHWAY
EMERGENCIES, THE RECOVERY OF COSTS IN
RESPONDING TO EMERGENCIES, AND CLARIFYING
ENVIRONMENTAL RESTORATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 14, Chapter 53, is amended to add an additional section to read as follows:

14-53-113. Recovery of costs.

(a) As used in this section, "cost" means all expenses incurred by the public agency as a result of any response, removal, or remedial action to include without limitation:

(1) Actual labor costs of personnel involved;

(2) The cost of:

(A) Expendable equipment;

(B) Consumable materials;

(C) Actual damage or loss to any equipment and material;

and



(D) Any contract labor or materials required for the response, removal, or remedial action.

(b) When an organized fire department of a city or town responds to a highway emergency and provides environmental restoration as defined in § 27-22-104(b), the city or town may recover the cost of its services in responding in an amount not to exceed five thousand dollars (\$5,000).

SECTION 2. Arkansas Code § 20-22-808(b), regarding limited immunity of certified fire departments, is amended to read as follows:

(b) ~~Certified~~ A certified fire ~~departments~~ department entitled to limited immunity under this section ~~shall not be~~ is not liable for damages to persons or property resulting from an act or omission of the fire department or the firefighter occurring at the scene of a reported fire or other emergency and related to the suppression of the reported fire or the emergency service if the act or omission did not constitute gross negligence, wanton conduct, or intentional wrongdoing.

SECTION 3. Arkansas Code § 20-22-901 is amended to read as follows:
20-22-901. Duty to respond to fires.

(a)(1) Upon receipt of a report of an uncontrolled fire or a 911 or other emergency call reporting a fire, it ~~shall be~~ is the duty of a volunteer fire ~~departments~~ department operating within the State of Arkansas to respond to, attempt to control, and put out all fires occurring within ~~their~~ its respective ~~districts~~ district involving ~~any~~ real or personal property, whether that property is owned by one (1) or more members of the fire district.

(2) ~~However, unless the following circumstances exist, the~~ The volunteer fire department ~~shall have no~~ does not have the duty or authority to respond to, ~~or attempt to control, and or~~ or put out any fire that occurs on forest lands, cut-over lands, brush lands, or grasslands owned by a nonmember of the fire district unless the following circumstances exist:

(A) The fire poses an immediate threat to the life of ~~any~~ a person;

(B) There is a written agreement between the volunteer fire department and a nonmember of the fire district who is the owner of the real or personal property ~~and the volunteer fire department~~ requiring the

fire department to respond;

(C) The fire is in violation of a countywide fire ban; or

(D) The fire poses an immediate threat to the real or personal property owned by a member of the fire district.

(b) A volunteer fire department may respond to provide other emergency services including:

(1) Hazardous and toxic materials response services;

(2) Search and rescue services;

(3) Emergency medical services;

(4) Ambulance and patient transport services; or

(5) Other functions or services that may be assigned to or reasonably expected of a local fire services agency and that the local fire services agency is trained and qualified to perform.

~~(b)(c)~~(1)(A) If the property is owned by a nonmember of the fire district, the volunteer fire department may recover from the nonmember property owner the reasonable value of its services.

(B) Recovery under subdivision ~~(b)(c)~~(1)(A) of this section shall not exceed the fair market value of the services rendered.

(2)(A) A claim for services in responding to a fire or other emergency involving only personal property shall be allowed only for personal property of ~~nonmembers~~ a nonmember of the fire district.

(B) The claimed amount under subdivision ~~(b)(c)~~(2)(A) of this section shall not exceed ~~eight hundred dollars (\$800)~~ five thousand dollars (\$5,000).

SECTION 4. Arkansas Code § 20-22-902 is amended to read as follows:

20-22-902. ~~Fire on nonmember's~~ Nonmember's property – Reimbursement from insurance proceeds.

~~When~~ If a volunteer fire department responds to a fire ~~occurring~~ or responds to a 911 or other ~~fire~~ emergency call within its district and the property ~~which~~ that is the subject of the alarm is owned by a nonmember of the fire district and insured in case of any damage resulting from a fire or services under § 27-22-104(b), the insurance company insuring the property ~~against loss~~ shall pay to the volunteer fire department the reasonable cost of its services from the insurance proceeds. The insurance company shall obtain a written and signed release from the fire chief or other authorized

representative of the volunteer fire department ~~prior to~~ before disbursing the remaining proceeds to ~~any other~~ another person, financial institution, company, or corporation ~~which~~ that has a legal interest in the proceeds.

SECTION 5. Arkansas Code § 20-22-904(a), concerning a lien on an uninsured nonmember's property, is amended to read as follows:

(a) If the property ~~which~~ that is the subject of the alarm is owned by a nonmember of the fire district and is not insured and if the volunteer fire department has not been paid for the services rendered, then to secure the payment for the services performed in responding to or fighting the fire or responding to another emergency, the volunteer fire department shall have an absolute lien on the real and personal property ~~which~~ that is the subject of the alarm ~~for the work and labor performed in responding to or fighting the fire to secure the payment of the work and labor performed.~~

SECTION 6. Arkansas Code § 20-22-906 is amended to read as follows:
20-22-906. Attorney's fee.

~~When any~~ If a volunteer fire department gives notice ~~thereof~~ to the nonmember ~~owner~~ of the fire district who owns the property of the costs and expenses of responding to, suppressing, controlling, or attempting to suppress and control ~~the a~~ a fire, or responding to another emergency, and ~~when~~ if the invoice is not paid within ninety (90) days, ~~as provided for in~~ required under this subchapter or under § 23-88-102, ~~if~~ the volunteer fire department ~~is required to~~ may sue for the enforcement of its claim, and the court shall allow the volunteer fire department a reasonable attorney's fee in addition to other relief to which it may be entitled.

SECTION 7. Arkansas Code § 23-88-102(a), regarding paying costs of volunteer fire department services, is amended to read as follows:

(a)(1) Except as provided in subdivision (a)(2) of this section, ~~The~~ amount charged by a volunteer fire department for the cost of its services in responding to a fire on or an emergency call concerning the property of a nonmember of the fire district within ~~its~~ the volunteer fire department's fire district shall not exceed an amount equal to the fair market value of the service rendered..

(2)(A) ~~except that~~ a claim for services in responding to a

fire or other emergency involving only personal property shall be allowed only for personal property of ~~nonmembers~~, and the a nonmember of the fire district.

(B) The claimed amount under subdivision (a)(2)(A) of this section shall not exceed ~~five hundred dollars (\$500)~~ five thousand dollars (\$5,000).

SECTION 8. Arkansas Code § 23-88-102(b)(1), regarding paying costs of volunteer fire department services, is amended to read as follows:

(b)(1) When a volunteer fire department responds to a fire ~~occurring~~ or responds to a 911 or other ~~fire~~ emergency call within its fire district and the property that is the subject of the alarm is owned by a nonmember of the fire district and insured in case of any damage resulting from a fire or covered services as provided for in § 27-22-104(b), the insurance company insuring the property against loss shall pay to the volunteer fire department the fair market value of its services from the insurance proceeds.

SECTION 9. Arkansas Code § 23-88-102(c)(1)(A), regarding paying costs of volunteer fire department services, is amended to read as follows:

(c)(1)(A) In the event a nonmember of the fire district desires to contest an assessment, the nonmember of the fire district may notify the fire department board of his or her objection to the assessment, and the fire department board shall file a civil suit in the nearest district court within ~~ten (10)~~ thirty (30) days asking for the amount claimed by the fire department.

SECTION 10. Arkansas Code § 27-22-104(b), regarding minimum insurance required for motor vehicles, is amended to read as follows:

(b) The policy shall provide as a minimum the following coverage:

(1) Not less than twenty-five thousand dollars (\$25,000) for bodily injury or death of one (1) person in any one (1) accident;

(2) Not less than fifty thousand dollars (\$50,000) for bodily injury or death of two (2) or more persons in any one (1) accident; and

(3)(A) If the accident has resulted in damage to or destruction of property, not less than twenty-five thousand dollars (\$25,000) for the damage to or destruction of property of others and for environmental

restoration in any one (1) accident.

(B)(i) As used in this subsection, "environmental restoration" means restitution for the loss, damage, or destruction of natural resources arising out of an accidental discharge of toxic or other environmentally harmful material or liquid.

(ii) "Environmental restoration" includes the control or removal at the direction of law enforcement or other governmental entity in charge of the scene of the accident of any of the following:

(a) Harmful material or liquid; or

(b) Wreckage or debris.