

Stricken language would be deleted from present law. Underlined language would be added to present law.

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2 State of Arkansas

As Engrossed: H2/25/97 H3/3/97 S3/19/97 S3/25/97

3 81st General Assembly

A Bill

ACT 1150 OF 1997

4 Regular Session, 1997

HOUSE BILL 1483

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6 *By: Representatives Wilkinson, Hunton, Wilson, and Wallis*

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For An Act To Be Entitled

10 "AN ACT TO AMEND VARIOUS SECTIONS OF SUBCHAPTER 9 OF TITLE
11 20, CHAPTER 22 OF THE ARKANSAS CODE OF 1987, ANNOTATED,
12 REGARDING VOLUNTEER FIRE DEPARTMENTS TO CLARIFY THAT
13 DEPARTMENTS HAVE A DUTY TO RESPOND TO 911 FIRE EMERGENCY
14 CALLS AND ARE ENTITLED TO REIMBURSEMENT FOR SERVICES IN
15 RESPONDING TO FIRES INVOLVING PERSONAL PROPERTY; TO ADD A
16 NEW SECTION TO SUBCHAPTER 9 OF TITLE 20, CHAPTER 22 OF THE
17 ARKANSAS CODE OF 1987, ANNOTATED, TO PROVIDE FOR
18 ATTORNEYS' FEES; TO AMEND ARKANSAS CODE § 23-88-102 TO
19 CLARIFY THAT DEPARTMENTS ARE ENTITLED TO REIMBURSEMENT FOR
20 SERVICES IN RESPONDING TO 911 EMERGENCY CALLS INVOLVING
21 NONMEMBERS' PROPERTY; AND FOR OTHER PURPOSES."

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23

Subtitle

24 "TO CLARIFY THAT VOLUNTEER FIRE
25 DEPARTMENTS HAVE TO RESPOND TO FIRE
26 EMERGENCIES AND CAN GET REIMBURSEMENT
27 AND ATTORNEY FEES FOR RESPONDING TO
28 FIRES INVOLVING REAL AND PERSONAL
29 PROPERTY."

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

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33 SECTION 1. Arkansas Code § 20-22-901 is amended to read as follows:

34 "20-22-901. Duty to respond to fires.

35 Upon receipt of a report of an uncontrolled fire or a 911 or other

36 emergency call reporting a fire, it shall be the duty of volunteer fire

37 departments operating within the State of Arkansas to respond to, attempt to

1 control, and put out all fires occurring within their respective districts
2 involving any real or personal property, whether that property is owned by
3 members or nonmembers of the fire district. However, ~~except~~ unless a fire is
4 in violation of a county-wide fire ban, or as may be otherwise provided in an
5 agreement between a nonmember owner of forested lands, cut-over lands, brush
6 lands, or grasslands and a volunteer fire department, the volunteer fire
7 department shall have no duty or authority to respond to or attempt to control
8 and put out any fire which occurs on forest lands owned by a nonmember and
9 which does not pose an immediate threat to life or to the real or personal
10 property of a person or entity other than the owner of the land on which the
11 fire occurs. In the event the property is owned by a non-member of the fire
12 district, then the volunteer fire department shall be entitled to recover from
13 the non-member property owner the reasonable value of its services not to
14 exceed the fair market value of the services rendered, except that a claim for
15 services in responding to a fire involving only personal property shall be
16 allowed only for personal property of nonmembers and the claimed amount shall
17 not exceed three hundred dollars (\$300.00).
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19 SECTION 2. Arkansas Code § 20-22-902 is amended to read as follows:

20 "20-22-902. Fire on nonmember's property - Reimbursement from insurance
21 proceeds.

22 When a volunteer fire department responds to a fire occurring or
23 responds to a 911 or other fire emergency call within its district and the
24 property which is the subject of the alarm is owned by a nonmember and insured
25 ~~for~~ in case of any damage resulting from ~~the~~ a fire, the insurance company
26 insuring the property against loss shall pay to the volunteer fire department
27 the reasonable cost of its services from the insurance proceeds. The
28 insurance company shall obtain a written and signed release from the fire
29 chief of the volunteer fire department prior to disbursing the remaining
30 proceeds to any other person, financial institution, company, or corporation
31 which has a legal interest in the proceeds."
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33 SECTION 3. Arkansas Code § 20-22-904 is amended to read as follows:

34 "20-22-904. Lien on uninsured nonmember's property.

35 (a) If the property which is the subject of the alarm is owned by a
36 nonmember and not insured and the volunteer fire department has not been paid

1 for the services rendered, then the volunteer fire department shall have an
2 absolute lien on the real and personal property which is the subject of the
3 alarm for the work and labor performed in responding to ~~and~~ or fighting the
4 fire to secure the payment of the work and labor performed.

5 (b) The lien on real property shall attach to the real estate upon
6 which the property is located and all improvements thereon.

7 (c) The lien on personalty shall attach to all personal property owned
8 by the nonmember located within the county in which the alarm occurred."

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10 SECTION 4. Subchapter 9 of Title 20, Chapter 22 of the Arkansas Code of
11 1987, Annotated, is amended to add a new Section 20-22-906 to read as follows:

12 "20-22-906. Attorney's fee.

13 When any volunteer fire department who gives notice thereof to the non-
14 member owner of the property of the costs and expenses of responding to,
15 suppressing, controlling or attempting to suppress and control the fire and
16 the invoice is not paid within ninety (90) days, as provided for in this
17 subchapter or under Arkansas Code § 23-88-102, and if the volunteer fire
18 department is required to sue for the enforcement of its claim, the court
19 shall allow the volunteer fire department a reasonable attorneys fee in
20 addition to other relief to which it may be entitled."

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22 SECTION 5. Arkansas Code § 23-88-102 is amended to read as follows:

23 "23-88-102. Paying costs of volunteer fire department services.

24 (a) The amount charged by a volunteer fire department for the cost of
25 its services in responding to a fire on or an emergency call concerning the
26 property of a nonmember within its district shall not exceed an amount equal
27 to the fair market value of the service rendered, except that a claim for
28 services in responding to a fire involving only personal property shall be
29 allowed only for personal property of nonmembers and the claimed amount shall
30 not exceed three hundred dollars (\$300.00).

31 (b) When a volunteer fire department responds to a fire occurring or
32 responds to a 911 or other fire emergency call within its district and the
33 property which is the subject of the alarm is owned by a nonmember and insured
34 ~~for~~ in case of any damage resulting from the a fire, the insurance company
35 insuring the property against loss shall pay to the volunteer fire department
36 the fair market value of its services from the insurance proceeds. Notice to

1 both the insurance company and to the insured nonmember by the volunteer fire
2 department for its costs of services shall be by certified mail within ten
3 (10) days after the date of the services rendered.

4 (c) In the event a nonmember desires to contest an assessment, the
5 nonmember may notify the fire department board of his objection to the
6 assessment, and the fire department board shall file a civil suit in the
7 nearest municipal court within ten (10) days asking for the amount claimed by
8 the fire department. The municipal court shall give a hearing on the matter
9 within ten (10) days to determine if the amount claimed is fair compensation
10 for the services rendered. If the amount of the assessment is contested in
11 municipal court, the fire department shall immediately notify the insurer of
12 the nonmember's property, by certified mail, and the insurer shall upon
13 notification pay into the registry of the court an amount equal to the
14 assessment made by the volunteer fire department for fire services.

15 (d) The insurer shall not be liable for any amount of money which exceeds
16 the face amount of the policy unless the provisions of the policy provide
17 otherwise."

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19 SECTION 6. All provisions of this act of general and permanent nature
20 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
21 Revision Commission shall incorporate the same in the Code.

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23 SECTION 7. If any provisions of this act or the application thereof to
24 any person or circumstance is held invalid, the invalidity shall not affect
25 other provisions or applications of the act which can be given effect without
26 the invalid provisions or application, and to this end the provisions of this
27 act are declared to be severable.

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29 SECTION 8. All laws and parts of laws in conflict with this act are
30 hereby repealed.

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/s/Rep. Wilkinson

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APPROVED:4-07-97

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