

1 INTERIM STUDY PROPOSAL 2011-104

2 State of Arkansas  
3 88th General Assembly  
4 Regular Session, 2011

*As Engrossed: H3/18/11*

# A Bill

HOUSE BILL 2218

5  
6 By: Representative Catlett

7 Filed with: Interim House Committee on Public Health, Welfare and Labor  
8 pursuant to A.C.A. §10-3-217.

## For An Act To Be Entitled

9  
10 AN ACT CONCERNING THE AUTHORITY OF FIRE DEPARTMENTS  
11 IN RESPONDING TO HIGHWAY EMERGENCIES; TO PROVIDE FOR  
12 RECOVERY OF COSTS IN RESPONDING TO EMERGENCIES; TO  
13 CLARIFY ENVIRONMENTAL RESTORATION UNDER MINIMUM  
14 LIABILITY INSURANCE COVERAGE; AND FOR OTHER PURPOSES.

## Subtitle

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17 CONCERNING THE AUTHORITY OF FIRE  
18 DEPARTMENTS IN RESPONDING TO HIGHWAY  
19 EMERGENCIES, THE RECOVERY OF COSTS IN  
20 RESPONDING TO EMERGENCIES, AND CLARIFYING  
21 ENVIRONMENTAL RESTORATION.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26  
27 *SECTION 1. Arkansas Code § 27-22-104(b), regarding minimum insurance*  
28 *required for motor vehicles, is amended to read as follows:*

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

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

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

34 *(3)(A) If the accident has resulted in ~~injury~~ damage to or*  
35 *destruction of property, not less than twenty-five thousand dollars (\$25,000)*

1 for the ~~injury~~ damage to or destruction of property of others and for  
2 environmental restoration in any one (1) accident.

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

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

11 (a) Harmful materials or liquids; or

12 (b) Wreckage or debris.

13  
14 SECTION 2. Arkansas Code § 20-22-808(b), regarding limited immunity of  
15 certified fire departments, is amended to read as follows:

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

22  
23 SECTION 3. Arkansas Code § 20-22-901 is amended to read as follows:  
24 20-22-901. Duty to respond to fires.

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

31 (2) However, ~~unless the following circumstances exist,~~ the  
32 volunteer fire department shall have no duty or authority to respond to or  
33 attempt to control and put out any fire that occurs on forest lands, cut-over  
34 lands, brush lands, or grasslands owned by a nonmember unless the following  
35 circumstances exist:

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

3 (B) There is a written agreement between a nonmember owner  
4 of the real or personal property and the volunteer fire department requiring  
5 the fire department to respond;

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

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

9 (b) A volunteer fire department shall have no duty to but may respond  
10 to provide other emergency services to include:

11 (1) Hazardous and toxic materials response services;

12 (2) Search and rescue services;

13 (3) Emergency medical services;

14 (4) Ambulance and patient transport services; or

15 (5) Other functions or services as may be assigned to or  
16 reasonably expected of a local fire services agency and for which it is  
17 trained and qualified to perform.

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

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

23 (2)(A) A claim for services in responding to a fire or other  
24 emergency involving only personal property shall be allowed only for personal  
25 property of nonmembers.

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

29  
30 SECTION 4. Arkansas Code § 20-22-902 is amended to read as follows:

31 20-22-902. ~~Fire on nonmember's~~ Nonmember's property – Reimbursement  
32 from insurance proceeds.

33 When a volunteer fire department responds to a fire occurring or  
34 responds to a 911 or other ~~fire~~ emergency call within its district and the  
35 property ~~which~~ that is the subject of the alarm is owned by a nonmember and  
36 insured in case of any damage resulting from a fire or services as provided

1 for in § 27-22-104(b), the insurance company insuring the property ~~against~~  
 2 ~~loss~~ shall pay to the volunteer fire department the reasonable cost of its  
 3 services from the insurance proceeds. The insurance company shall obtain a  
 4 written and signed release from the fire chief or other authorized  
 5 representative of the volunteer fire department ~~prior to~~ before disbursing  
 6 the remaining proceeds to any other person, financial institution, company,  
 7 or corporation ~~which~~ that has a legal interest in the proceeds.

8  
 9 SECTION 5. Arkansas Code § 20-22-904(a), regarding a lien on uninsured  
 10 nonmember's property, is amended to read as follows:

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

18  
 19 SECTION 6. Arkansas Code § 20-22-906 is amended to read as follows:  
 20 20-22-906. Attorney's fee.

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

29  
 30 SECTION 7. Arkansas Code § 23-88-102(a), regarding paying costs of  
 31 volunteer fire department services, is amended to read as follows:

32 (a)(1) Except as provided in subdivision (a)(2) of this section, the  
 33 ~~The~~ amount charged by a volunteer fire department for the cost of its  
 34 services in responding to a fire on or an emergency call concerning the  
 35 property of a nonmember within its district shall not exceed an amount equal  
 36 to the fair market value of the service rendered~~7.~~

1            (2)(A) ~~except that a~~ A claim for services in responding to a  
 2 fire or other emergency involving only personal property shall be allowed  
 3 only for personal property of nonmembers, ~~and the.~~

4            (B) The claimed amount under subdivision (a)(2)(A) of this  
 5 section shall not exceed ~~five hundred dollars (\$500)~~ five thousand dollars  
 6 (\$5,000).

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

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

17  
 18            SECTION 9. Arkansas Code § 23-88-102(c)(1)(A), regarding paying costs  
 19 of volunteer fire department services, is amended to read as follows:

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

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 26            SECTION 10. Arkansas Code Title 14, Chapter 53 is amended to add an  
 27 additional section to read as follows:

28            14-53-113. Recovery of costs.

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

32                    (1) Actual labor costs of personnel involved;

33                    (2) The cost of:

34                            (A) Expendable equipment;

35                            (B) Consumable materials;

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

2 and

3                    (D) Any contract labor or materials necessary as a  
4 function of the response, removal, or remedial action.

5                    (b) When an organized fire department of a city or town responds to a  
6 highway emergency and provides environmental restoration as defined in § 27-  
7 22-104(b), the city or town may recover the cost of its services in  
8 responding in an amount not to exceed five thousand dollars (\$5,000).

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10                    /s/Catlett

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33 Referred by the Arkansas House of Representatives

34 Prepared by: JSE/VJF