

State of Arkansas

76th General Assembly

Regular Session, 1987

AS ENGROSSED 2/2/87

HOUSE BILL 1050

By: Representative D. Wood

AS ENGROSSED 4/2/87

"AN ACT TO DEFINE THE RESPONSIBILITIES OF VOLUNTEER FIRE DEPARTMENTS, AND TO ESTABLISH A PROCEDURE WHEREBY VOLUNTEER FIRE DEPARTMENTS CAN RECOVER THE COSTS OF THEIR SERVICES; AND FOR OTHER PURPOSES."

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

SECTION 1. Upon receipt of a report of an uncontrolled fire, it shall be the duty of volunteer fire departments operating within the State of Arkansas to respond to, attempt to control and put out, all fires occurring within their respective districts involving property whether it be owned by members or nonmembers of the fire district. However, except as may be otherwise provided in an agreement between a nonmember owner of forested lands, cut-over lands, brush lands or grasslands and a volunteer fire department, such volunteer fire department shall have no duty or authority to respond to or attempt to control and put out any fire which occurs on forest lands owned by a nonmember and which does not pose an immediate threat to life or property of a person or entity other than the owner of the land on which such fire occurs.

SECTION 2. When a volunteer fire department responds to a fire occurring within its district and the property which is the subject of the alarm is owned by a nonmember and insured for damage resulting from the fire, the insurance company insuring the loss shall pay to the volunteer fire department the reasonable cost of its services from the insurance proceeds, and shall obtain a written and signed release from the fire chief of the volunteer fire department prior to disbursing the remaining proceeds to any other person, financial institution, company or corporation which has a legal interest in the proceeds.

SECTION 3. (A) If the property which is the subject of the alarm is owned by a nonmember and not insured and the volunteer fire department has not been paid for the services rendered, then the volunteer fire department shall have an absolute lien on the property which is the subject of the alarm for the work and labor performed in responding to and fighting the fire to secure the payment of the work and labor performed. The lien shall attach to the real estate upon which the property is located and all improvements thereon.

(B) The volunteer fire department shall give ten (10) days notice before the filing of the lien to the owner or agent that it holds a claim against the property, setting forth the amount and from whom the same is due. Such notice may be served by any officer authorized by law to serve process in civil actions. When served by an officer, his official return endorsed thereon shall be proof thereof.

(C) Whenever property is sought to be charged with a lien under this Act, and the owner is not a resident of this State, or conceals himself, or absents himself from his usual place of abode so that the required notice cannot be served upon him, the notice may be filed with the Clerk of the Circuit Court of the county in which the property to be charged with the lien is located, and when filed shall have like effect as if served upon the owner or his agent and shall be received in all courts of this State as evidence of the service of the notice.

(D) The volunteer fire department shall file with the Clerk of the Circuit Court of the county in which the property to be charged with the lien is located, and within one hundred twenty (120) days after the work and labor have been furnished and performed, a just and true account of the amount due and owing, after allowing all credits, and containing a correct description of the property to be charged with said lien, verified by affidavit.

(E) All liens created by this Act shall be enforced in the Circuit Court of the county wherein the property on which the lien is attached is located.

(F) All actions under this Act shall be commenced within fifteen (15) months after the filing of the lien, and no lien shall continue to exist by virtue of the provisions of this Act for more than fifteen (15) months after the lien shall be filed, unless within that time an action shall be instituted thereon.

(G) The pleadings, practice, process and other proceedings shall be the same as in ordinary civil actions and proceedings in circuit courts. The

petition shall allege the facts necessary for securing a lien under this Act together with a complete description of the property on which the lien is attached.

SECTION 4. This Act shall in no way modify or limit the existing authority of the State Forestry Commission, nor shall this Act be construed as repealing any law applicable to the State Forestry Commission.

SECTION 5. Act 1088 of 1985 and all other laws in conflict herewith are repealed.

/s/ Doug Wood

