

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: H3/29/01
A Bill

HOUSE BILL 2414

5 By: Representative Bevis
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8 **For An Act To Be Entitled**

9 AN ACT TO PROVIDE FOR FIRE DEPARTMENT SERVICES
10 AGREEMENTS; TO ALLOW FOR THE PLEDGING OF FIRE
11 DEPARTMENT SERVICES AGREEMENTS AS COLLATERAL FOR
12 LOANS; TO PROVIDE FOR ENFORCEMENT OF PAYMENT OF
13 SUMS DUE UNDER FIRE DEPARTMENT SERVICES
14 AGREEMENTS; TO PROVIDE FOR COLLECTION OF SUMS
15 FROM PERSONS AND ENTITIES REQUIRING FIREFIGHTING
16 SERVICES WHO HAVE NOT EXECUTED FIRE DEPARTMENT
17 SERVICES AGREEMENTS; AND FOR OTHER PURPOSES.

18
19 **Subtitle**

20 PROVIDE FIRE DEPARTMENT SERVICES
21 AGREEMENTS; ALLOW PLEDGING OF FIRE
22 DEPARTMENT SERVICES AGREEMENTS AS
23 COLLATERAL FOR LOANS; PROVIDE FOR
24 ENFORCEMENT OF PAYMENT OF SUMS; PROVIDE
25 FOR COLLECTION.
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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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30 SECTION 1. Legislative intent.

31 (a) The General Assembly of the State of Arkansas does hereby
32 recognize that:

33 (1) Rural fire departments and other firefighting organizations
34 and entities across the State of Arkansas do not possess proper and adequate
35 firefighting equipment necessary to protect the health, safety and welfare of
36 the citizens of the State of Arkansas; and

1 (2) The State of Arkansas has no mechanism pursuant to which
2 rural fire departments and other firefighting organizations and entities can
3 generate reliable reoccurring revenue that can be used to fund the purchase
4 of necessary firefighting equipment; and

5 (3) The absence of necessary firefighting equipment has resulted
6 in the loss of life, the loss of property and the assessment of excessive
7 insurance ratings and premium costs that burden residents of rural portions
8 of the State of Arkansas.

9 (b) In remedying the foregoing, it is the intent of the General
10 Assembly to provide a means by which volunteer, not-for-profit and other fire
11 departments can develop a reoccurring revenue source which can be pledged to
12 lenders and third parties as security for the repayment of loan proceeds used
13 by fire departments to acquire fire trucks, equipment and related
14 appurtenances.

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16 SECTION 2. Definitions.

17 As used in this act, unless the context clearly expresses otherwise:

18 (1) "Beneficiaries" means those persons or entities who have executed
19 services agreements and who have paid and remain current in the payment of
20 services availability fees to a fire department or fire departments that are
21 recognized as providing firefighting services to the beneficiaries' property;

22 (2) "Fire department" means any fire protection district, improvement
23 district, subordinate service district, other governmental entity or
24 volunteer, not for profit, rural, or other organization or entity of any
25 nature that is involved in the providing of firefighting services;

26 (3) "Firefighting equipment" means all equipment, vehicles,
27 improvements and other real and personal property of every nature that might
28 be used by a fire department in connection with the supplying of firefighting
29 services, specifically including, without limitation, all fire trucks, lines,
30 hoses, pump, ladders, fire houses, office facilities, storage facilities and
31 other improvements of every nature;

32 (4) "Firefighting services" means the providing of all services of
33 whatever nature which might be utilized in connection with the extinguishing
34 of fire, and the preservation of life and real and personal property;

35 (5) "Lenders" means those parties who extend funds or credit to fire
36 departments for the purpose of acquiring, upgrading, leasing, accessing or

1 otherwise gaining the use and enjoyment of firefighting equipment,
2 specifically including, without limitation, banks, savings associations,
3 commercial lenders, indenture trustees, other lenders, or other parties of
4 whatever nature who extend credit or financing to others;

5 (6) "Non-beneficiary" means those persons or entities who have not
6 executed a services agreement or who have not paid or are not current in the
7 payment of services availability fees to a fire department or fire
8 departments recognized as being capable of providing firefighting services to
9 the non-beneficiary's property;

10 (7) "Services agreement" means a written agreement between a fire
11 department and a beneficiary which shall address the following:

12 (A) That period of time during which the services agreement
13 shall be effective;

14 (B) Provisions for the renewal of the services agreement for
15 successive terms;

16 (C) The dollar amount of that services availability fee which
17 the beneficiary shall annually pay to the fire department in consideration
18 for the providing by the fire department to the beneficiary of firefighting
19 services, along with any provisions that the fire department may specify
20 which allow for the installment payment of the annual services availability
21 fee;

22 (D) The manner in which the fire department might increase the
23 services availability fee during the term of the services agreement;

24 (E) An explanation of the nature and extent of the firefighting
25 services which are offered by the fire department;

26 (F) Such other information as the fire department might specify
27 and determine from time to time; and

28 (8) "Services availability fee" means that annual fee that is charged
29 by fire departments to beneficiaries in consideration for the providing of
30 firefighting services, it being understood that the fire department may set
31 varying services availability fees dependent upon the square footage of real
32 property improvements, property type and usage, or other criteria identified
33 by the fire department.

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35 SECTION 3. Services agreements, authority, pledge and assignment.

36 Any fire department may enter into services agreements with its

1 beneficiaries. Fire departments are authorized and empowered to enter into
2 loans, lease-purchase agreements and other extensions of credit from lenders
3 and are empowered to pledge and assign services agreements to lenders in
4 order to collateralize and secure repayment of loans, lease-purchase
5 agreements and other extensions of credit that might be advanced by lenders
6 to fire departments for the purpose of acquiring, improving, accessing or
7 otherwise gaining use of fire equipment. Fire departments may additionally
8 grant to lenders all mortgages, security interests and other liens to secure
9 and collateralize repayment of credit extended by lenders to fire
10 departments. Notwithstanding any other applicable statute, rule or
11 regulation, the pledging and collateral assignment of services agreements,
12 the encumbering of all other fire department assets, and the execution of all
13 other debt evidencing and debt securing documents shall occur by means of a
14 resolution which is duly adopted by the governing board or body of the fire
15 department.

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17 SECTION 4. Firefighting services entitlement.

18 Beneficiaries shall be entitled to receive all firefighting services
19 specified in the services agreement. Should a fire department provide
20 firefighting services to a non-beneficiary, then the non-beneficiary shall
21 pay to the fire department a sum not to exceed five thousand dollars (\$5,000)
22 as consideration for the providing of firefighting services, it being
23 understood that the exact amount of said sum shall be specified by written
24 resolution of the fire department in the services agreement. If any non-
25 beneficiary owing such a debt to a fire department fails to pay such debt in
26 full within thirty (30) days after receipt of a written request for payment
27 delivered by certified mail from the fire department, the fire department may
28 initiate litigation against that non-beneficiary to collect the amount owed
29 to the fire department.

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31 SECTION 5. Payment of service availability fees.

32 Fire departments shall adopt written procedures pursuant to which their
33 service availability fees shall be paid. If not paid within thirty (30) days
34 after their due date, then fire departments shall have the right to initiate
35 collection litigation against the delinquent beneficiary and shall have the
36 right to receive a judgment in the amount of the delinquent service

1 availability fee, plus all reasonable costs and fees. Fire departments shall
2 have the right to contract with third parties for the providing of
3 accounting, invoicing, servicing and related and unrelated services
4 associated with the assessment, collection and administration of service
5 availability fees.

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SECTION 6. Provisions supplemental.

The provisions of this act supersede all other provisions of the
Arkansas Code which are in express contradiction hereof. To the extent that
no express contradictions exist, then the powers and authority granted by
this act supplement all other powers and authority otherwise granted to fire
departments under the laws of the State of Arkansas.

/s/ Bevis