

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

HOUSE BILL 1268

5 By: Representative Catlett  
6

## For An Act To Be Entitled

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

15 CONCERNING THE AUTHORITY OF FIRE  
16 DEPARTMENTS IN RESPONDING TO HIGHWAY  
17 EMERGENCIES, THE RECOVERY OF COSTS IN  
18 RESPONDING TO EMERGENCIES, AND CLARIFYING  
19 ENVIRONMENTAL RESTORATION.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code Title 14, Chapter 53, is amended to add an  
26 additional section to read as follows:

27 14-53-113. Recovery of costs.

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

31 (1) Actual labor costs of personnel involved;

32 (2) The cost of:

33 (A) Expendable equipment;

34 (B) Consumable materials;

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

36 and



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

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

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

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

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 18                    SECTION 3. Arkansas Code § 20-22-901 is amended to read as follows:  
 19                    20-22-901. Duty to respond to fires.

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

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

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

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

1 fire department to respond;

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

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

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

7 (1) Hazardous and toxic materials response services;

8 (2) Search and rescue services;

9 (3) Emergency medical services;

10 (4) Ambulance and patient transport services; or

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

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

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

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

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

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

27 20-22-902. ~~Fire on nonmember's~~ Nonmember's property – Reimbursement  
28 from insurance proceeds.

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

1 representative of the volunteer fire department ~~prior to~~ before disbursing  
 2 the remaining proceeds to ~~any other~~ another person, financial institution,  
 3 company, or corporation ~~which~~ that has a legal interest in the proceeds.  
 4

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

7 (a) If the property ~~which~~ that is the subject of the alarm is owned by  
 8 a nonmember of the fire district and is not insured and if the volunteer fire  
 9 department has not been paid for the services rendered, then to secure the  
 10 payment for the services performed in responding to or fighting the fire or  
 11 responding to another emergency, the volunteer fire department shall have an  
 12 absolute lien on the real and personal property ~~which~~ that is the subject of  
 13 the alarm ~~for the work and labor performed in responding to or fighting the~~  
 14 ~~fire to secure the payment of the work and labor performed.~~  
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16 SECTION 6. Arkansas Code § 20-22-906 is amended to read as follows:  
 17 20-22-906. Attorney's fee.

18 ~~When any~~ If a volunteer fire department gives notice ~~thereof~~ to the  
 19 nonmember ~~owner~~ of the fire district who owns the property of the costs and  
 20 expenses of responding to, suppressing, controlling, or attempting to  
 21 suppress and control ~~the~~ a fire, or responding to another emergency, and ~~when~~  
 22 if the invoice is not paid within ninety (90) days, ~~as provided for in~~  
 23 required under this subchapter or under § 23-88-102, ~~if~~ the volunteer fire  
 24 department ~~is required to~~ may sue for the enforcement of its claim, and the  
 25 court shall allow the volunteer fire department a reasonable attorney's fee  
 26 in addition to other relief to which it may be entitled.  
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28 SECTION 7. Arkansas Code § 23-88-102(a), regarding paying costs of  
 29 volunteer fire department services, is amended to read as follows:

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

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

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).

7  
 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 fire district  
 12 and the property that is the subject of the alarm is owned by a nonmember of  
 13 the fire district and insured in case of any damage resulting from a fire or  
 14 covered services as provided for in § 27-22-104(b), the insurance company  
 15 insuring the property against loss shall pay to the volunteer fire department  
 16 the fair market value of its services from the insurance proceeds.

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

26  
 27 SECTION 10. 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 damage to or destruction  
 35 of property, not less than twenty-five thousand dollars (\$25,000) for the  
 36 damage to or destruction of property of others and for environmental

1 restoration in any one (1) accident.

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

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

9 (a) Harmful material or liquid; or

10 (b) Wreckage or debris.

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