

K.R.S. 75.400

STATE STATUTES

PERTAINING TO

FIRE DEPARTMENT

CERTIFICATION FOR

STATE FUNDING

75.400 Definitions for KRS 75.400 to 75.460.

As used in KRS 75.400 to 75.460, unless the context requires otherwise:

- (1) "Commission" means the Commission on Fire Protection Personnel Standards and Education, attached to the state fire marshal's office in the Department of Housing, Buildings and Construction.
- (2) "Fire department" includes all of the officers, firefighters, and clerical and maintenance employees, whether paid or volunteer.
- (3) "Full-time paid firefighters" means an individual who receives a minimum salary of eight thousand dollars (\$8,000) annually, and who works a minimum of two thousand and eighty (2,080) hours per year as an employee of a fire department recognized by the fire commission.
- (4) "Paid fire department" means a fire department recognized by the commission, of which at least fifty percent (50%) of its firefighters are full-time paid firefighters.
- (5) "Volunteer fire department" means a fire department with a minimum of twelve (12) members and a chief, at least one (1) operational fire apparatus or one (1) on order, with fewer than fifty percent (50%) of its firefighters being full-time paid firefighters.

Effective: July 15, 1994

75.410 Program for recognition and certification of volunteer fire department -Authority for administrative regulations.

- (1) The commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to create a program for recognition and annual certification of volunteer fire departments. The criteria for recognition and certification shall be consistent with the provisions of KRS 95A.262.
- (2) In order to be recognized and certified, a volunteer fire department shall be organized pursuant to KRS 75.010, KRS 67.083, KRS Chapter 95, or KRS Chapter 273.
- (3) Volunteer fire departments existing on July 15, 1994, which are receiving volunteer fire department aid pursuant to KRS 95A.262(2) shall have until July 1, 1995, to comply with regulations promulgated pursuant to subsection (1) of this section in order for their aid to continue. Volunteer fire departments created after July 15, 1994, shall comply with the criteria of these regulations in a manner consistent with the time requirements specified in KRS 95A.262(2).

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75.420 Application for recognition of fire department -- Boundaries.

- (1) The commission shall recognize all fire departments which comply with the provisions of KRS 75.410 and regulations promulgated in compliance therewith. Applications for recognition shall be made on forms provided by the commission. The department shall attach to the application an accurate map and a written description which delineates the boundaries of the area served by the department. The map and description shall also be filed with the county clerk of the county in which the department is located. If the boundaries extend into two (2) or more counties, the map and description shall be filed with the county clerk in each county in which a part of the department's service area is located.
- (2) The boundaries between two (2) or more departments created pursuant to KRS Chapter 273 may be altered if the departments enter into a written agreement establishing the boundaries, and if a majority of the property owners in the affected area approve the new boundaries. A new map and written description of the altered boundaries shall be filed with the commission and with the county clerks in the affected counties.

Effective: July 15, 1994

75.430 Annual report -- Financial statement -- Audit.

- (1) Each recognized and certified fire department created pursuant to KRS Chapter 273 shall send a copy of its annual report as required by KRS 273.3671 to the commission at the time the report is filed with the Secretary of State.
- (2) The governing body of each recognized and certified volunteer fire department created pursuant to KRS Chapter 273 which, for the year in question, receives from all sources or expends for all purposes less than one hundred thousand dollars (\$100,000) shall prepare a financial statement and submit it to the commission by July 31 of each year.
- (3) The governing body of each recognized and certified volunteer fire department created pursuant to KRS Chapter 273 which, for the year in question, receives from all sources or expends for all purposes one hundred thousand dollars (\$100,000) or more shall prepare a financial statement and shall employ an independent certified public accountant or contract with the Auditor of Public Accounts to perform a review of the financial statement, and shall submit the reviewed statement to the commission by July 31 of each year.

Effective: July 15, 1994

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75.440 Funds available to recognized and certified fire department -- Rights and responsibilities of department -- Fire chief

- (1) Only fire departments recognized and certified by the commission shall be eligible to receive volunteer fire department aid pursuant to KRS 95A.262(2), to receive low interest loans pursuant to KRS 95A.262(14), or to participate in the Professional Firefighters Foundation Program, pursuant to KRS 95A.200 to 95A.290.
- (2) A fire department created pursuant to KRS Chapter 273 which has been recognized and certified by the commission shall have the following rights and responsibilities:
 - (a) Designation as the only fire department authorized to protect property within its geographic area as filed with the commission and the county clerk, but the department may seek the assistance of other departments, and may make reciprocal aid contracts pursuant to KRS 75.050;
 - (b) Authority to secure water immediately for purposes of fighting a fire from any source, public or private, Upon request, the department shall compensate the owner in a reasonable amount for water used within six (6) months of use; and
 - (c) All rights identified in the Kentucky Revised Statutes for fire departments.
- (3) The officers and firefighters, whether paid or unpaid, of each fire department created pursuant to KRS Chapter 273 and recognized and certified by the commission shall select a chief. The appointment of the chief shall be subject to the approval of the governing board of the department. The chief shall establish a chain of command within the department. The chief, or the highest person available in the chain of command if the chief cannot be present, shall, subject to all state statutes as applicable, have the following rights and responsibilities:
 - (a) Authority to order the immediate evacuation of areas endangered by fire, a hazardous materials incident, or other impending disaster that constitutes a threat to life or property;
 - (b) Authority to be in charge of all fire ground operations at the scene of a fire or other emergency;
 - (c) Control of all department personnel while on duty; and
 - (d) Control of all equipment of the department.

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- (4) The chief of each fire department created pursuant to KRS Chapter 273 and recognized and certified by the commission shall perform necessary actions to maintain recognition and certification of the department by the commission.

Effective: July 15, 1994

**75.450 Fees for services -- Exemptions -- Response to all fires in jurisdiction required --
Mission statement.**

- (1) A fire department which collects membership charges or subscriber fees for combatting fires or serving in other emergencies shall base its annual fee or charge on the level of protection offered.
- (2) A fire department that responds to a fire or other emergency on the property of a nonmember or nonsubscriber may charge the following fees for services rendered:
 - (a) Up to five hundred dollars (\$500) for single family residential units; utility occupancies of two thousand (2,000) or fewer square feet; assembly and business occupancies having a capacity which does not exceed one hundred (100) persons; equipment; vehicles; and grass or woods fires; and
 - (b) Up to one thousand dollars (\$ 1,000) for multifamily residential units; assembly and business occupancies having a capacity exceeding one hundred (100) persons; storage occupancies; utility occupancies of more than two thousand (2,000) square feet; and all industrial, educational, or institutional occupancies; and
 - (c) Up to five hundred dollars (\$500) for responding to emergencies not covered in subsections (2)(a) and (2)(b) of this section, including response to high hazard occupancies as defined in KRS 198B.010. The department may be entitled to recover necessary and reasonable costs in excess of the five hundred dollar (\$500) limit based upon submission of a written itemized claim for the total costs incurred. Disputes involving fees in excess of the five hundred dollar (\$500) limit shall be submitted to arbitration by the commission.
- (3) For the purposes of subsections (2)(a) and (2)(b) of this section, the meaning of assembly, business, industrial, educational, and institutional occupancies shall be as defined in KRS 198B.010. The meaning of storage and utility occupancies shall be as defined in the Kentucky Building Code, sections 311.1 and 312.1 respectively, promulgated pursuant KRS 198B.050.

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- (4) Property owned by the Commonwealth of Kentucky and the federal government shall be exempt from charges.
- (5) If more than one (1) department responds to a fire or other emergency, the fee shall be paid only to the department which is authorized to protect the property pursuant to KRS 75.440(2)(a).
- (6) A fire department shall respond within its jurisdiction to all fires and to other emergencies for which it is responsible as set forth in its mission statement. A copy of each fire department mission statement shall be filed with the commission. A new department shall file its statement when it is incorporated. A department in existence on July 15, 1994, shall file its mission statement by July 1, 1995. A copy of the mission statement shall be posted in a conspicuous location in each station of the department, and shall be filed with the county clerk of each county in which the department has jurisdiction pursuant to KRS 75.440(2)(a). The mission statement shall remain in effect until amended, and filed and posted by the fire department in the locations as required by this subsection.

Effective: July 15, 1994

**75.460 Payment by insurance company of property owner's bill from fire department --
Property owner's responsibility.**

- (1) If a property owner who is not a member or subscriber of the fire department which charges membership or subscriber fees experiences a fire, incident, or emergency that the department responds to, he may provide his insurance company with the billing statement from the fire department.
- (2) All insurance companies paying a claim pursuant to subsection one (1) of this section shall make payment of the stated charge for service in the following manner:
 - (a) The insurance company may make the check or draft payable to both the affected property owner and the affected Fire department; or
 - (b) The insurance company may make the check or draft payable solely to the affected fire department.
- (3) If an insurance company makes a claim check or draft payable both to the property owner and the fire department, the property owner shall make payment to the fire department within thirty (30) days of receipt of the check or draft. If the claim check or draft is not sufficient to cover the charge levied by the fire department, the property owner shall be responsible for payment of the balance to the fire department.

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- (4) A, property owner who is not a member or subscriber of the fire department who does not have fire insurance coverage shall be fully responsible for payment of all charges levied by a fire department for services rendered in response to a fire, incident, or emergency within thirty (30) days of the date of the response by the department, or within thirty (30) days of the date of an arbitration award rendered pursuant to KRS 75-450(2)(c). Payment to the fire department shall be in full, unless a written agreement has been reached between the fire department and the property owner to establish a payment schedule to satisfy all charges to the property owner.
- (5) If payment for services rendered has not been received within sixty (60) days from the date of response, or within thirty (30) days of the date of an arbitration award rendered pursuant to KRS 75.450(2)(c), and if a payment schedule has not been established, a fire department may proceed in small claims court or in other appropriate court action to recover from the property owner all fees associated with the response, including attorney fees and court costs.

Effective: July 15, 1994

75.470 KRS 75.400 to 75.460 not to be construed to conflict with authority of other named agencies.

Nothing in KRS 75.400 to 75.460 shall be construed to conflict with or supersede the authority of the Natural Resources and the Environmental Protection Cabinet, pursuant to the provisions of KRS Chapter 149, over management of forestry areas, and KRS Chapter 224, over management of hazardous wastes, nor the authority of the Division of Disaster and Emergency Services, pursuant to KRS Chapter 39, over response to disasters and emergencies.

Effective: July 15, 1994