

1 HB701  
2 167974-1  
3 By Representative Forte (N & P)  
4 RFD: Local Legislation  
5 First Read: 28-MAY-15

2  
3  
4  
5  
6  
7  
8  
9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
12

13 Relating to Russell County; to provide for the  
14 support of volunteer fire departments delivering fire  
15 protection services and emergency medical services; to levy a  
16 fire protection service fee on certain owners of residences  
17 and commercial buildings outside the corporate limits of the  
18 City of Phenix City; to provide for certain exemptions; to  
19 provide for the purposes and uses of funds generated by the  
20 fee; to provide for the collection of funds derived from the  
21 fee; to provide for the distribution of funds derived from the  
22 fee to eligible volunteer fire departments and to the Russell  
23 County Firefighters Association; to provide for the expending  
24 and accounting of the funds; to provide for the treatment of  
25 funds upon dissolution or abandonment of an eligible volunteer  
26 fire department; to provide that the county shall be immune  
27 from certain liability; and to provide for a referendum.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. This act shall apply to all portions of  
3 Russell County except that portion of Russell County which  
4 lies within the city limits of the City of Phenix City.

5 Section 2. The Legislature hereby declares that  
6 eligible volunteer fire departments and the Russell County  
7 Firefighters Association that receive funds pursuant to this  
8 act are nonprofit organizations which are public in nature, as  
9 they protect the health, safety, and welfare of the citizens  
10 of the county.

11 Section 3. For the purposes of this act, the  
12 following terms shall have the following meanings:

13 (1) COMMERCIAL BUILDING. Any building, structure, or  
14 other improvement to real property used or expected to be used  
15 for commercial or business purposes, including rental or lease  
16 property. This term may not apply to any school, church,  
17 senior citizen facility, or any building used primarily for  
18 volunteer fire services and may not apply to any building or  
19 structure used primarily for agricultural purposes or poultry  
20 production by the owner or an employee of an agricultural or  
21 poultry business or concern.

22 (2) ELIGIBLE VOLUNTEER FIRE DEPARTMENT. A certified  
23 nonprofit volunteer fire department located in Russell County  
24 that is certified under the Alabama Forestry Commission  
25 guidelines and is a member in good standing of the Russell  
26 County Firefighters Association.

1           (3) RESIDENCE. Any building, structure, or other  
2 improvement to real property used or expected to be used as a  
3 dwelling or residence for one or more human beings, including,  
4 but not limited to, any of the following:

5           a. Any building, structure, or improvement assessed,  
6 for the purposes of state and county ad valorem taxation, as  
7 Class III single-family, owner-occupied residential property.

8           b. Any mobile home or house trailer used or expected  
9 to be used as a dwelling or residence for one or more human  
10 beings.

11           c. Any duplex or apartment building.

12           d. Any residential property used to generate  
13 revenue.

14           e. Any building, structure, or other improvement  
15 that is wholly or partially vacant or uninhabited at any time  
16 during the year for which a fire protection service fee with  
17 respect thereto is to be levied.

18           f. Any building, structure, or other improvement  
19 that is used or expected to be used simultaneously for a  
20 purpose, whether or not commercial in nature, other than as a  
21 residence.

22           Section 4. The purposes and uses of the funds  
23 generated by this act are to enable all participating eligible  
24 volunteer fire departments in Russell County to lower their  
25 ISO ratings and to provide fire protection services and  
26 emergency medical services to the citizens of the county. All  
27 eligible volunteer fire departments shall attain and maintain

1 an ISO rating of 7/10 or below within two years of the  
2 effective date of this act.

3 Section 5. (a) There is hereby levied on the owner  
4 of each residence in Russell County outside the corporate  
5 limits of the City of Phenix City, a fire protection service  
6 fee of fifty dollars (\$50) per year and on each commercial  
7 business at a specified location, a fire protection service  
8 fee of one hundred dollars (\$100) per year.

9 (b) The fire protection service fee shall not be  
10 construed as a tax on property. The fee shall be levied for  
11 the purposes of funding fire protection services and emergency  
12 medical services under this act.

13 (c) Any person age 65 or older exempted from paying  
14 property tax in Russell County in part or in whole shall also  
15 be exempted from paying the fee levied by this act.

16 (d) (1) Any person less than the age of 65 and having  
17 an annual adjusted gross income of twelve thousand dollars  
18 (\$12,000) or less, as shown on the latest United States income  
19 tax return of the person or of the person and his or her  
20 spouse, may apply for an exemption annually and shall be  
21 exempted from paying the fee levied by this act for the  
22 principal residence of the household, provided the person  
23 seeking to claim the exemption shall present proof of income  
24 to the county administrator no later than July 1 of any year  
25 in which the exemption is desired.

26 (2) In the event that a person or the person and his  
27 or her spouse are not required to file a United States income

1 tax return, then an affidavit indicating that the annual gross  
2 income of the person or the person and his or her spouse for  
3 the preceding taxable year was twelve thousand dollars  
4 (\$12,000) or less shall be sufficient proof.

5 (3) The exemption under this subsection shall apply  
6 only so long as the annual gross income of the person or of  
7 the person and his or her spouse is twelve thousand dollars  
8 (\$12,000) or less and shall be requested each year in which  
9 the exemption is desired.

10 (e) The fee levied by this act shall be assessed  
11 unless application for exemption is submitted to the Russell  
12 County Commission, or its designee, and approved.

13 (f) Any person who knowingly provides false or  
14 misleading information in order to obtain an exemption under  
15 this section shall lose his or her household exemption.

16 Section 6. (a) The fire protection service fee shall  
17 be collected, administered, and enforced in the same manner,  
18 and under the same requirements and laws, as are the ad  
19 valorem taxes of this state. In the case of mobile homes, the  
20 fee shall be collected, administered, and enforced at the same  
21 time, in the same manner, and under the same requirements and  
22 laws as the annual registration fee for manufactured homes  
23 provided in Section 40-12-255 of the Code of Alabama 1975.

24 (b) The proceeds of the fee shall be paid into a  
25 special county fire services fund no later than March 1.  
26 Within 30 days of payment into the special fund, the county

1 commission shall transfer the funds to the eligible volunteer  
2 fire departments in the following manner:

3 (1) 32.5 percent of the fee shall be distributed  
4 among the eligible volunteer fire departments in the county in  
5 equal shares.

6 (2) 67.5 percent of the fee shall be distributed  
7 among the eligible volunteer fire departments based on the  
8 number of eligible residences and commercial buildings in  
9 their respective fire districts as defined by E-911 protective  
10 districts.

11 Section 7. (a) Funds paid to the eligible volunteer  
12 fire departments shall only be expended for fire protection  
13 services and emergency medical services, including training,  
14 supplies, and equipment.

15 (b) In addition to subsection (a), funds may be  
16 expended to purchase insurance, including liability insurance,  
17 to insure coverage of acts or omissions which are directly  
18 related to the functions of an eligible volunteer fire  
19 department which are committed by an eligible volunteer fire  
20 department and the personnel of an eligible volunteer fire  
21 department.

22 (c) The funds may not be expended for salaries,  
23 food, drink, social activities, or fund-raising activities.

24 (d) After receiving the funds, the eligible  
25 volunteer fire departments shall keep accurate records to  
26 verify that the funds were properly expended.

1           (e) With regard to the administration of the fees  
2 levied by this act, the Russell County Commission shall  
3 exercise regulatory control and supervision over the fees and  
4 may adopt rules and regulations as needed to meet the  
5 requirements of this act, including an increase or decrease in  
6 the amount of the fire protection service fee needed to meet  
7 the requirements of this act.

8           (f) Should the Russell County Commission, in its  
9 sole discretion, find or determine that funds provided for by  
10 this act have been improperly expended by an eligible  
11 volunteer fire department, the department that has improperly  
12 expended the funds shall reimburse and refund to the Russell  
13 County Commission all the funds found by the county commission  
14 to have been improperly expended and shall pay a penalty in  
15 the amount equal to 10 percent of all improperly expended  
16 funds.

17           (g) Any eligible volunteer fire department that  
18 fails to comply with this act, at the discretion of the  
19 Russell County Commission, may be deemed to have forfeited the  
20 funds generated by this act and shall be subject to the  
21 penalties provided in this section.

22           Section 8. (a) Upon dissolution or abandonment of  
23 any eligible volunteer fire department, any remaining funds  
24 derived from this act or any assets purchased with funds  
25 derived from this act, after all lawful indebtedness has been  
26 satisfied, shall be transferred to the county commission.

1 (b) If an eligible volunteer fire department is  
2 abandoned or dissolved, the county commission shall equally  
3 divide and transfer the funds to the remaining eligible  
4 volunteer fire departments in good standing with the Russell  
5 County Firefighters Association and the Alabama Forestry  
6 Commission.

7 Section 9. The personnel of eligible volunteer fire  
8 departments or the volunteer fire association provided for in  
9 this act may not be considered employees, servants, or agents  
10 of the county and the members of the county commission and the  
11 officers and employees of the county may not be liable in  
12 either their official capacity or in a private or individual  
13 capacity for the actions of the eligible volunteer fire  
14 departments, volunteer fire association, or their personnel.

15 Section 10. This act shall be inoperative and void  
16 unless it is approved by the Russell County Commission and  
17 shall have been approved by a majority of the qualified  
18 electors of Russell County, except for those qualified  
19 electors who reside in the city limits of the City of Phenix  
20 City, who vote thereon at a referendum held for that purpose  
21 and conducted as nearly as may be in the same way as elections  
22 on amendments to the Constitution, and shall be held on the  
23 same day as the next primary, general, or special countywide  
24 election following final passage of this act. Notice of the  
25 election shall be given by the Judge of Probate of Russell  
26 County, which notice shall be published in accordance with  
27 state law governing the publication of local bills of the

1 Legislature. On the ballots to be used at the election, the  
2 proposition to be voted on shall be stated substantially as  
3 follows:

4  
5 "Do you favor the local law authorizing the levy of  
6 a fire protection service fee of fifty dollars (\$50) per year  
7 on each residence and one hundred dollars (\$100) per year on  
8 each commercial business outside of the City of Phenix City,  
9 which shall be used to fund volunteer fire departments  
10 delivering fire protection services and emergency medical  
11 services outside of the City of Phenix City in Russell  
12 County?"

13 Yes\_\_\_\_\_ No\_\_\_\_\_"

14  
15 If the majority of the votes cast at the election  
16 are affirmative votes, this act shall be in full force and  
17 effect immediately thereafter. If the majority of the votes  
18 cast are in the negative, the act shall have no further  
19 effect. The Judge of Probate of Russell County shall certify  
20 the results of the election to the Secretary of State. The  
21 cost of the election shall be paid out of the county general  
22 fund.

23 Section 11. This act shall become effective  
24 immediately following its passage and approval by the  
25 Governor, or its otherwise becoming law.