

514.05 **WHEN LIEN ATTACHES; NOTICE.** All such liens, as against the owner of the land, shall attach and take effect from the time the first item of material or labor is furnished upon the premises for the beginning of the improvement, and shall be preferred to any mortgage or other encumbrance not then of record, unless the lienholder had actual notice thereof. As against a bona fide purchaser, mortgagee, or encumbrancer without notice, no lien shall attach prior to the actual and visible beginning of the improvement on the ground, but a person having a contract for the furnishing of labor, skill, material, or machinery for such improvement, may file for record with the register of deeds of the county within which the premises are situated, or, if claimed under section 514.04, with the secretary of state, a brief statement of the nature of such contract, which statement shall be notice of his lien. Engineering or land surveying services with respect to real estate shall not constitute the actual and visible beginning of the improvement on the ground referred to in this section, except when such engineering or land surveying services include a visible staking of the premises. No lien shall attach for engineering or land surveying services rendered with respect to a purchaser for value if the value of those services does not exceed \$250.

Approved April 9, 1974.

CHAPTER 382—S.F.No.1679
[Not Coded]

An act relating to the city of St. Cloud; contributions and benefits of members of the firemen's relief association.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. ST. CLOUD, CITY OF; FIREMEN'S RELIEF ASSOCIATION; BENEFITS; DEFINITIONS. Subdivision 1. For the purposes of this act, the terms defined in this section have the meanings ascribed to them:

Subd. 2. "Fire department" means the fire department of the city of St. Cloud.

Subd. 3. "Relief association" or "association" means the St. Cloud fire department relief association.

Subd. 4. "Fireman" means every person who is duly appointed and regularly entered on the payroll of the fire department and who is on active duty with that department. The term does not include emergency employees employed for less than 30 days or temporary employees employed for nine months consecutively in any 12 month period, with the exception of firemen in the association prior to the effective

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date of this act.

Subd. 5. "Member" means every fireman who has been admitted to membership in the relief association as hereinafter provided.

Subd. 6. "Unit" means a fractional part of the highest monthly base salary paid to any fireman as such salary is established from time to time by the city council. A unit shall never be less than 1/75 of such monthly salary.

Subd. 7. "Disability" means physical or mental incapacity, or a combination thereof, which renders a member unable to perform the duties of his position in the fire department.

Subd. 8. "Disability pensioner" means a person incapable of performing his duties by reason of sickness, or injury incurred while an active member.

Subd. 9. "Sick benefits" means such sum of money up to and including 36 units that may be advanced to a sick or injured member in lieu of disability benefits paid upon the recommendation of the relief committee, accompanied by the certificate of disability from one attending physician or surgeon, while the board of examiners is considering, but has not acted upon, the member's application for disability benefits.

Subd. 10. "Temporary disability" means any disability which renders an active member unfit to perform his duties as a fireman upon the member's application therefor in accordance with the procedures set forth in the bylaws and the board of examiners determination thereof which has not been determined by the board of trustees to be permanent.

Subd. 11. "Permanent disability" means that the board of trustees has passed a resolution stating that a member is permanently disabled after the board of examiners has determined that the member was disabled and that the member is entitled to a disability pension.

Subd. 12. "Pensioner" means a member of the association who has qualified and is receiving a pension.

Subd. 13. "Deferred pensioner" means a member of the relief association who has completed not less than 20 years of service in the fire department of the city of St. Cloud, before reaching the age of 50 years, and who is entitled upon request to receive a pension when he attains the age of 50 years.

Subd. 14. "Funeral benefit" means a sum given to assist the family of a deceased member in defraying funeral expenses.

Subd. 15. "Death benefit" means a sum to be paid to beneficiaries

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of a deceased member after his death.

Subd. 16. "Payroll deduction" means deductions from the salaries of members made pursuant to section 4.

Subd. 17. "City" means the city of St. Cloud.

Sec. 2. ORGANIZATION; OPERATION. Subdivision 1. The members of the fire department of the city shall organize a firemen's relief association or maintain the relief association now existing which shall be incorporated under the laws of this state. This association shall create, maintain, and administer a firemen's pension fund for the benefit of its members, their widows, and their children.

Subd. 2. The association shall be organized, operated and maintained in accordance with its own articles of incorporation and bylaws, by firemen who are members of the fire department.

Subd. 3. The general management of the association shall be vested in a board of trustees, which shall be composed of the following persons: six trustees elected annually from their members and the mayor, city clerk and the chief of the fire department, who shall serve as ex officio members.

Sec. 3. MEMBERSHIP. Subdivision 1. Every fireman shall be eligible to apply for membership in the relief association within the time and in the manner set forth in the bylaws of the association.

Subd. 2. The association shall have the right to exclude all applicants for membership who are not physically and mentally sound, so as to prevent unwarranted risks for the association; and additional requirements for the entrance fees and annual dues for membership in the association as may from time to time be prescribed in the bylaws of the association.

Subd. 3. Any active member who is granted a leave of absence, shall cease to be an active member as of the effective date of leave and thereafter shall not be entitled to any benefits unless benefits were granted or applied for prior to such leave. Any member who was on a leave of absence, may resume active membership, and shall be considered an active member from the time he is reentered on the payrolls of the fire department, without medical examination provided his absence does not exceed 30 calendar days. In the event the absence of any member exceeds the 30 calendar days, the member must reapply for membership in accordance with the bylaws, unless such leave was granted due to the member serving with the armed forces of the United States.

Subd. 4. When any active member of the association ceases for any cause to be a member of the fire department, his name shall be stricken from the list of active members of the association, and unless

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his retirement is caused by disability of such character as shall entitle him to a pension under the articles of incorporation or bylaws, or unless he shall subsequently be reinstated pursuant thereto, such retiring member shall thereafter not be entitled to any pecuniary benefit or aid from his membership herein.

Sec. 4. SOURCES AND ADMINISTRATION OF FUNDS. Subdivision 1. Funds of the association shall be derived from the following sources:

(a) Gifts made for such purposes;

(b) Money received under the provisions of Minnesota Statutes, Sections 424.01 to 424.31;

(c) Deductions from each member's salary to be made by the city treasurer, finance commissioner or other fiscal officer in an amount equal to six percent of the monthly salary of a first class fireman. Said sum shall be increased by one half of one percent effective January 1, 1975 and again in identical increments on the first day of January of each year thereafter until such time as the member's contribution equals eight percent of the monthly salary of a first class fireman;

(d) Moneys now in the firemen's relief association treasury and all interest thereon or gains therefrom.

(e) Any other income allowed by law.

Subd. 2. Any surplus remaining in these funds at the close of any fiscal year shall continue therein. Notwithstanding the provisions of subdivision 1, clause (d), the balance in the fund may be reduced proportionately as the number of members of the association and pensioners declines below the number of such members and pensioners on July 1, 1974. Any balance remaining in the fund upon the death of the last member of the association or spouse or eligible beneficiary thereof shall be turned over to the city treasury for general purposes.

Subd. 3. The board of trustees shall have exclusive control and management of all funds received by its treasurer under the provisions of Minnesota Statutes, Sections 424.30 and 424.31 and funds derived for the investment of these funds, and such funds when received, shall be kept in a special fund on the books of the secretary and treasurer of the association and never disbursed for any purpose except the following:

(a) For the relief of sick, injured and disabled members;

(b) For the payment of pensions to disabled firemen and their widows and orphans of firemen;

(c) For the payment of pensions to retired firemen pursuant to the

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laws of the state and the bylaws of the association;

(d) For the payment of such death or funeral benefits as may be from time to time stipulated in the bylaws of the association;

(e) For the payment of all expenses of administering such fund, including the secretary's and treasurer's salaries, and including payments from the fund for the purchase of insurance to cover either the disability or death of a member declaring the special fund as beneficiary and including expenses in connection with the investment and protection of moneys in said fund;

(f) For the payment of premiums for health insurance policies.

Subd. 4. The money received from the various sources shall be kept in two separate and distinct funds, one to be designated as the association special fund and the other as its general fund. All money received from the state, the city of St. Cloud and from all payroll deductions shall be deposited in the special fund, and expended only for purposes hereinafter authorized. All money received from other sources shall be deposited in the general fund and may be expended for any purpose deemed proper by the association.

Sec. 5. FUNERAL AND DEATH BENEFITS. Subdivision 1. Upon the death of any active member of this association in good standing, there shall be allowed and appropriated out of the special fund of the association a funeral benefit in the amount of \$200.

Subd. 2. Upon satisfactory proof of the death of an active member or permanent pensioner of the association, leaving a widow or a child or children who are entitled to a pension pursuant to the provisions of the articles of incorporation of the association, the board of trustees shall allow a pension to be paid out of the special fund of the association to any widow or to any child under 18 years of age of any member as follows:

(a) When a service pensioner, deferred pensioner, disability pensioner, or an active member of the relief association dies leaving a widow who was his legally married wife residing with him, and who was married while or prior to the time he was on the payroll of the fire department, and who, in case the deceased member was a service pensioner or a deferred pensioner, was legally married to the member at least one year before his retirement from the fire department, then to such widow a dependency pension of 18 units per month for her natural life, but, if she remarries, the pension shall cease as of the date of the remarriage.

(b) When a service pensioner, deferred pensioner, disability pensioner, or an active member of the relief association dies leaving a child or children who were living while the deceased was on the payroll of the fire department or born within ten months after the de-

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ceased was withdrawn from such payroll, then to each such child a dependency pension of six units per month until the child reaches 18 years.

(c) The total dependency pensions payable under paragraphs (a) and (b) above for the widow and children of a deceased member shall not exceed 36 units per month. The pension due to any minor child or children shall be paid to the legal guardian of such child or children.

Subd. 3. Upon the death of any active member, or permanent pensioner, leaving neither wife as beneficiary nor any child entitled to a pension as hereinafter provided, the board of trustees shall pay to the person or persons named as beneficiary in his certificate the sum of \$200 out of the special fund of the association as a funeral benefit. In the event the beneficiary named is not permitted under the articles or bylaws of the association to receive said sum, the board of trustees, shall make payment to one of the following people in this order of preference: first, the widow, if any; second, the member's children, if any, in equal shares; third, the parents of the deceased member; and fourth, his brothers and sisters, in equal shares. If the member leaves a minor child or children surviving him, who are entitled to a pension, such child or children shall, upon arriving at the age of 18 years be paid the sum of \$200, mentioned in the benefit certificate, less amounts paid to such child or children as a pension in accordance with the provisions of this section; upon surrender of the certificate. If certificate is lost or illegible an affidavit shall be signed before benefits are granted. No benefit shall be paid out under the provisions of this section except to a child, parent, brother or sister. No payment shall be made pursuant to this section if the making of such payment would reduce the special fund balance below the sum of \$1,000.

Sec. 6. **BENEFITS.** Subdivision 1. Whenever any active member not eligible for a service pension from the association, in good standing, becomes incapacitated from performing his duties as an active fireman in the fire department, by reason of illness or bodily injuries, provided that the condition causing such disability did not result from an attempted suicide or otherwise due to intentional self-inflicted injuries, the member shall then be entitled to relief in the amount of 36 units paid monthly from the time the member is dropped from the payroll upon the expiration of his leave of absence with pay, provided that the member complies with the bylaws of the association governing such disability benefits.

Subd. 2. (a) Any member of the age of 50 years or more who performs the duties as a member of the fire department of the city for 20 years or more, upon his written application after retiring from such duties shall be paid monthly during his lifetime a pension equal to 35 units plus one additional unit for each year of service in excess of 20 years, not to exceed a maximum of 42 units.

(b) Any member who performs duty as a member of the fire de-

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partment of the city for 20 years or more who retires from such duty before he attains the age of 50 years, upon his written application after reaching 50 years of age shall be paid monthly during his lifetime a pension equal to 35 units plus one additional unit for each year of such service in excess of 20 years, but not to exceed a maximum of 42 units. In the case of an applicant for a pension pursuant to clauses (a) and (b) above, who, following admission to membership in the association, has served in the military forces of the United States in any war or national emergency subsequent to January 1, 1940, and thereafter is honorably discharged from military service and resumes membership in the association, the period that the applicant spends in military service shall be counted in computing the period of service required for benefits under this section. During a period of military service any such person is not considered a member of the association and is not entitled to any service pension, disability benefits, or deferred pensions as provided in clauses (a) and (b) above, unless previously earned. If the member does not return to employment of the fire department within one year from the cessation of war or the termination of the period of the emergency, the provisions of this subdivision shall not apply.

Subd. 3. Every member of the association who was retired on January 1, 1961, and was receiving a service pension on that date, or had attained a deferred pensioner status on that date, and who is eligible to receive a pension thereafter, shall receive a pension each month thereafter during the time he is so eligible to receive a service pension equal to not less than 32 units and not more than 35 units, as determined by a uniform rule established by the board of trustees.

Subd. 4. All members who retire after July 1, 1973 shall be eligible for the same group health insurance coverage as is provided by the city for active fire fighters. If such a retired member requests coverage under the group hospitalization insurance plan for city employees, the fireman's pension fund shall pay the city, on behalf of the retired member, an amount equal to the premium for the same coverage for an active fire fighter. Said premium payment shall be in addition to and not deducted from any other payments for which the individual is eligible from the association. In the event such a retired member is receiving deferred pension, he shall be eligible for such insurance, however, the premiums therefore shall be paid by the retired member until such member reaches the age of 50, at which time he shall become eligible to have said premiums paid by the association as specified above. A retired member shall also be eligible to apply for and receive coverage for his eligible dependents under said group plan, however the cost of such additional insurance shall be paid by the retired member. The benefits provided in this section shall cease when the individual receiving said benefits attains the age of 65.

Sec. 7. ACTIONS; EXEMPTION FROM PROCESS. Subdivision 1. No person shall bring an action to recover any benefits provided in sections 5 and 6, unless he shall post a bond in a sufficient amount to defray the cost of the governing board of defending said action. In the

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event the governing board is sustained the portion of the bond necessary to defray these costs shall be forfeited to the association.

Subd. 2. Any payment made by the association under any provision of this act is exempt from any legal process. No person entitled to any such payment may assign the same. The association shall not recognize any assignment or pay any sum on account thereof.

Sec. 8. POWERS OF CITY OFFICIALS LIMITED. Subdivision 1. When the governing board of the firemen's relief association determines what is necessary to adequately protect, maintain, and administer the firemen's pension fund created by section 2, subdivision 1, neither the governing body of the city nor any official of the city may thereafter deny adequate representation therefor.

Subd. 2. Any duties performed by any member of such association under any provision of subdivision 1, are deemed to be fire duties.

Sec. 9. P.E.R.A. MEMBERSHIP. Subdivision 1. Notwithstanding any provisions of this act or any other general or special law to the contrary, all fire fighters first employed by the city on or after the effective date of this act shall be members of the public employees police and fire fund operated pursuant to Minnesota Statutes, Sections 353.63 to 353.68. Such persons shall not be members of the firemen's relief association and pension fund of the city continued and maintained pursuant to this act nor be subject to any of the laws related thereto.

Sec. 10. GUIDELINES ACT NOT AFFECTED. No provision of this act shall be construed as exempting, abridging, repealing, or amending compliance with the provisions of the police and firemen's relief association guidelines act of 1969, as amended, except as herein specifically provided. From and after the effective date of this act, Minnesota Statutes, Sections 424.01 to 424.31 shall not apply to the firemen's relief association of the city of St. Cloud, except as otherwise provided therein.

Sec. 11. This act is effective upon approval by the city council of the city of St. Cloud and upon compliance with Minnesota Statutes, Section 645.021.

Approved April 5, 1974.

CHAPTER 383—S.F.No.1888
[Coded]

An act relating to adoption; providing for appointment of guardian ad litem and attorney for child.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA
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