

INSURANCE

40-252. Schedules of fees and taxes for insurance companies and fraternal benefit societies; credits; deductions; returns; time for payment. Every insurance company or fraternal benefit society organized under the laws of this state or doing business in this state shall pay to the commissioner of insurance fees and taxes specified in the following schedule:

A

Insurance companies organized under the laws of this state:

1. Capital stock insurance companies and mutual legal reserve life insurance companies:

Filing application for sale of stock or certificates of indebtedness \$25

Admission fees:

Examination of charter and other documents...500
Filing annual statement.....100
Certificate of authority..... 10

Annual fees:

Filing annual statement.....100
Continuation of certificate of authority.....10

2. Mutual life, accident and health associations:

Admission fees:

Examination of charter and other documents...\$500
Filing annual statement.....100
Certificate of authority..... 10

Annual fees:

Filing annual statement.....100
Continuation of certificate of authority.....10

3. Mutual fire, hail, casualty and multiple line insurers and reciprocal or interinsurance exchanges:

Admission fees:

Examination of charter and other documents...\$500
Filing annual statement.....100
Certificate of authority..... 10

Annual fees:

Filing annual statement.....100
Continuation of certificate of authority.....10

In addition to the above fees and as a condition precedent to the continuation of the certificate of authority provided in this code, all such companies shall pay a fee of \$2 for each agent certified by the company and shall also pay a tax annually upon all premiums received on risk located in this state at the rate of 1% for tax year 1997, and 2% for all tax years thereafter per annum less (1) for tax years prior to 1984, any taxes paid on business in this state pursuant to the provisions of K.S.A. 40-1701 to 40-1707, inclusive, and 75-1508 and amendments thereto and (2) for tax years 1984 and thereafter, any taxes paid on business in this state pursuant to the provisions of K.S.A. 75-1508 and amendments thereto and the amount of the firefighters relief tax credit determined by the commissioner of insurance. The amount of the firefighters relief tax credit for a company for the current tax year shall be determined by the commissioner of insurance by dividing (A) the total amount of

credits against the tax imposed by this section for taxes paid by all such companies on business in this state under K.S.A. 40-1701 to 40-1707, inclusive, and amendments thereto for tax year 1983, by (B) the total amount of taxes paid by all such companies on business in this state under K.S.A. 40-1703 and amendments thereto for the tax year immediately preceding the current tax year, and by multiplying the result so obtained by (C) the amount of taxes paid by the company on business in this state under K.S.A. 40-1703 and amendments thereto for the current tax year.

In the computation of the gross premiums all such companies shall be entitled to deduct any premiums returned on account of cancellations, including funds accepted before January 1, 1997, and declared and taxed as annuity premiums which, on or after January 1, 1997, are withdrawn before application to the purchase of annuities, all premiums received for reinsurance from any other company authorized to do business in this state, dividends returned to policyholders and premiums received in connection with the funding of a pension, deferred compensation, annuity or profit-sharing plan qualified or exempt under sections 401, 403, 404, 408, 457 or 501 of the United States internal revenue code of 1986. Funds received by life insurers for the purchase of annuity contracts and funds applied by life insurers to the purchase of annuities shall not be deemed taxable premiums or be subject to tax under this section for tax years commencing on or after January 1, 1997.

B

Fraternal benefit societies organized under the laws of this state:

Admission fees:

Examination of charter and other documents.....\$500
Filing annual statement..... 100
Certificate of authority.....10

Annual fees:

Filing annual statement.....100
Continuation of certificate of authority.....10

C

Mutual nonprofit hospital service corporations, nonprofit medical service corporations, nonprofit dental service corporations, nonprofit optometric service corporations and nonprofit pharmacy service corporations organized under the laws of this state:

1. Mutual nonprofit hospital service corporations:

Admission fees:

Examination of charter and other documents.....\$500
Filing annual statement..... 100
Certificate of authority.....10

Annual fees:

Filing annual statement.....100
Continuation of certificate of authority.....10

2. Nonprofit medical service corporations:

Admission fees:

Examination of charter and other documents.....\$500
Filing annual statement..... 100
Certificate of authority.....10

Annual fees:

Filing annual statement.....	100
Continuation of certificate of authority.....	10
3. Nonprofit dental service corporations:	
Admission fees:	
Examination of charter and other documents.....	\$500
Filing annual statement.....	100
Certificate of authority.....	10
Annual fees:	
Filing annual statement.....	100
Continuation of certificate of authority.....	10
4. Nonprofit optometric service corporations:	
Admission fees:	
Examination of charter and other documents.....	\$500
Filing annual statement.....	100
Certificate of authority.....	10
Annual fees:	
Filing annual statement.....	100
Continuation of certificate of authority.....	10
5. Nonprofit pharmacy service corporations:	
Admission fees:	
Examination of charter and other documents.....	\$500
Filing annual statement.....	100
Certificate of authority.....	10
Annual fees:	
Filing annual statement.....	100
Continuation of certificate of authority.....	10

In addition to the above fees and as a condition precedent to the continuation of the certificate of authority, provided in this code, every corporation or association shall pay annually to the commissioner of insurance a tax in an amount equal to 1% for tax year 1997, and 2% for all tax years thereafter per annum of the total of all premiums, subscription charges, or any other term which may be used to describe the charges made by such corporation or association to subscribers for hospital, medical or other health services or indemnity received during the preceding year. In such computations all such corporations or associations shall be entitled to deduct any premiums or subscription charges returned on account of cancellations and dividends returned to members or subscribers.

D

Insurance companies organized under the laws of any other state, territory or country:

1. Capital stock insurance companies and mutual legal reserve life insurance companies:	
Filing application for sale of stock or certificates of indebtedness	\$25
Admission fees:	
Examination of charter and other documents.....	\$500
Filing annual statement.....	100
Certificate of authority.....	10
Annual fees:	
Filing annual statement.....	100
Continuation of certificate of authority.....	10

In addition to the above fees all such companies shall pay \$5 for each agent certified by the company, except as otherwise provided by law.

As a condition precedent to the continuation of the certificate of authority, provided in this code, every company organized under the laws of any other state of the United States or of any foreign country shall pay a tax upon all premiums received during the preceding year at the rate of 2% per annum.

In the computation of the gross premiums all such companies shall be entitled to deduct any premiums returned on account of cancellations, including funds accepted before January 1, 1997, and declared and taxed as annuity premiums which, on or after January 1, 1997, are withdrawn before application to the purchase of annuities, dividends returned to policyholders and all premiums received for reinsurance from any other company authorized to do business in this state and premiums received in connection with the funding of a pension, deferred compensation, annuity or profit-sharing plan qualified or exempt under sections 401, 403, 404, 408, 457 or 501 of the United States internal revenue code of 1986. Funds received by life insurers for the purchase of annuity contracts and funds applied by life insurers to the purchase of annuities shall not be deemed taxable premiums or be subject to tax under this section for tax years commencing on or after January 1, 1997.

2. Mutual life, accident and health associations:

Admission fees:	
Examination of charter and other documents.....	\$500
Filing annual statement.....	100
Certificate of authority.....	10
Annual fees:	
Filing annual statement.....	100
Continuation of certificate of authority.....	10

In addition to the above fees, every such company organized under the laws of any other state of the United States shall pay \$5 for each agent certified by the company, and shall pay a tax annually upon all premiums received at the rate of 2% per annum.

In the computation of the gross premiums all such companies shall be entitled to deduct any premiums returned on account of cancellations, including funds accepted before January 1, 1997, and declared and taxed as annuity premiums which, on or after January 1, 1997, are withdrawn before application to the purchase of annuities, dividends returned to policyholders and all premiums received for reinsurance from any other company authorized to do business in this state and premiums received in connection with the funding of a pension, deferred compensation, annuity or profit-sharing plan qualified or exempt under sections 401, 403, 404, 408, 457 or 501 of the United States internal revenue code of 1986. Funds received by life insurers for the purchase of annuity contracts and funds applied by life insurers to the purchase of annuities shall not be deemed taxable premiums or be subject to tax under this section for tax years commencing on or after January 1, 1997.

3. Mutual fire, casualty and multiple line insurers and reciprocal or interinsurance exchanges:

Admission fees:

- Examination of charter and other documents.....\$500
- Filing annual statement..... 100
- Certificate of authority.....10

Annual fees:

- Filing annual statement.....100
- Continuation of certificate of authority.....10

In addition to the above fees, every such company or association organized under the laws of any other state of the United States shall pay a fee of \$5 for each agent certified by the company and shall also pay a tax annually upon all premiums received at the rate of 2% per annum.

For tax years 1998 and thereafter, the annual tax shall be reduced by the "applicable percentage" of (1) any taxes paid on business in this state pursuant to the provisions of K.S.A. 75-1508 and amendments thereto and (2) the amount of the firefighters relief tax credit determined by the commissioner of insurance. The amount of the firefighters relief tax credit for a company taxable under this subsection for the current tax year shall be determined by the commissioner of insurance by dividing (A) the total amount of taxes paid by all such companies on business in this state under K.S.A. 40-1701 to 40-1707 and amendments thereto for tax year 1983 as then in effect, by (B) the total amount of taxes paid by all such companies on business in this state under K.S.A. 40-1703 and amendments thereto for the tax year immediately preceding the current tax year, and by multiplying the result so obtained by (C) the amount of taxes paid by the company on business in this state under K.S.A. 40-1703 and amendments thereto for the current tax year. The "applicable percentage" shall be as follows:

Tax Year	Applicable Percentage
1998	10%
1999	20%
2000	30%
2001	40%
2002	50%
2003	60%
2004	70%
2005	80%
2006	90%
2007 and thereafter	100%

In the computation of the gross premiums all such companies shall be entitled to deduct any premiums returned on account of cancellations, all premiums received for reinsurance from any other company authorized to do business in this state, and dividends returned to policyholders.

E

Fraternal benefit societies organized under the laws of any other state, territory or country:

Admission fees:

- Examination of charter and other documents.....\$500
- Filing annual statement..... 100
- Certificate of authority.....10

Annual fees:

- Filing annual statement.....100
- Continuation of certificate of authority.....10

F

Mutual nonprofit hospital service corporations, nonprofit medical service corporations, nonprofit dental service corporations, nonprofit optometric service corporations and nonprofit pharmacy service corporations organized under the laws of any other state, territory or country:

1. Mutual nonprofit hospital service corporations:

Admission fees:

- Examination of charter and other documents.....\$500
- Filing annual statement..... 100
- Certificate of authority.....10

Annual fees:

- Filing annual statement.....100
- Continuation of certificate of authority.....10

2. Nonprofit medical service corporations, nonprofit dental service corporations, nonprofit optometric service corporations and nonprofit pharmacy service corporations:

Admission fees:

- Examination of charter and other documents.....\$500
- Filing annual statement..... 100
- Certificate of authority.....10

Annual fees:

- Filing annual statement.....100
- Continuation of certificate of authority.....10

In addition to the above fees and as a condition precedent to the continuation of the certificate of authority, provided in this code, every corporation or association shall pay annually to the commissioner of insurance a tax in an amount equal to 2% per annum of the total of all premiums, subscription charges, or any other term which may be used to describe the charges made by such corporation or association to subscribers in this state for hospital, medical or other health services or indemnity received during the preceding year. In such computations all such corporations or associations shall be entitled to deduct any premiums or subscription charges returned on account of cancellations and dividends returned to members or subscribers.

G

Payment of Taxes.

For the purpose of insuring the collection of the tax upon premiums, assessments and charges as set out in subsection A, C, D or F, every insurance company, corporation or association shall at the time it files its annual statement, as required by the provisions of K.S.A. 40-225, and amendments thereto, make a return, verified by affidavits of its president and secretary or other chief officers, to the commissioner of insurance, stating the amount of all premiums, assessments and charges received by the companies or corporations in this state, whether in cash or notes, during the year ending on the December 31 next preceding.

Commencing in 1985 and annually thereafter the estimated taxes shall be paid as follows: On or before June 15 and December 15 of such year an amount equal to 50% of the full amount of the prior year's taxes as reported by the company shall be remitted to the commissioner of insurance. As used in this paragraph, "prior year's taxes" in-

cludes (1) taxes assessed pursuant to this section for the prior calendar year, (2) fees and taxes assessed pursuant to K.S.A. 40-253, and amendments thereto, for the prior calendar year, and (3) taxes paid for maintenance of the department of the state fire marshal pursuant to K.S.A. 75-1508, and amendments thereto, for the prior calendar year. Upon the receipt of such returns the commissioner of insurance shall verify the same and assess the taxes upon such companies, corporations or associations on the basis and at the rate provided herein and the balance of such taxes shall thereupon become due and payable giving credit for amounts paid pursuant to the preceding paragraph, or the commissioner shall make a refund if the taxes paid in the prior June and December are in excess of the taxes assessed.

H

The fee prescribed for the examination of charters and other documents shall apply to each company's initial application for admission and shall not be refundable for any reason.

History: L. 1927, ch. 231, 40-252; L. 1965, ch. 299, § 1; L. 1970, ch. 183, § 1; L. 1972, ch. 174, § 15; L. 1974, ch. 295, § 2; L. 1975, ch. 243, § 15; L. 1976, ch. 311, § 4; L. 1978, ch. 164, § 7; L. 1980, ch. 131, § 1; L. 1981, ch. 189, § 1; L. 1984, ch. 161, § 2; L. 1984, ch. 165, § 9; L. 1985, ch. 160, § 1; L. 1987, ch. 159, § 15; L. 1997, ch. 175, § 3; L. 1998, ch. 10, § 1; Feb. 19.

AGO: 97-81, 88-95

40-252b. Fees, charges and taxes under 40-252; in lieu of all other license fees and taxes; exceptions. For taxable years commencing on and after January 1, 1998, the fees, charges and taxes provided for by K.S.A. 40-252 and amendments thereto shall be in lieu of all other license fees, premium or occupation taxes, income taxes, intangible property taxes, or other fees levied or assessed upon the basis of income, premiums, gross receipts and intangible property by this state and any municipality, county or other political subdivision of this state, and no municipality, county or other political subdivision of this state shall impose any license fee or privilege, premium, income, intangible property or gross receipts tax or fee upon any insurance company or corporation taxed under the provisions of K.S.A. 40-252 and amendments thereto and organized under the laws of this state or doing business in this state, or upon any of its agents or representatives for the privilege of doing an insurance business therein. This section shall not be construed to prohibit the levy and collection of (a) state, county or municipal taxes upon the real and tangible personal property of such company, (b) tax for the purpose of maintaining the office of the fire marshal of this state as provided in K.S.A. 75-1508 and amendments thereto, (c) the firemen's relief fund tax as provided for in K.S.A. 40-1701 through 40-1707 and amendments thereto, and (d) municipal occupation taxes levied upon any basis other than income, intangible property, premiums or gross receipts.

History: L. 1970, ch. 183, § 4; L. 1997, ch. 175, § 4; July 1.

40-253. Payment of fees and taxes in other states by Kansas companies; retaliatory measures, when. Whenever the existing or future laws of any other state or country shall require from insurance companies or fraternal benefit societies organized under the laws of this state, applying to do business in such other state or country, any deposit of securities in such state or country for the protection of policyholders therein or any payment for taxes, fines, penalties, certificates of authority, licenses, fees, or compensation for examination, including taxes or fees based on fire premiums, greater than the amount required for such purpose from insurance companies or agents of other states by the then existing laws of this state, then, and in every case, all companies and agents of any such state or country, doing business in this state shall make the same deposit, for a like purpose, with the commissioner of insurance of this state, and pay to the commissioner of insurance for taxes, fines, penalties, certificates of authority, licenses, fees, or compensation for examination, including taxes or fees based on fire premiums, an amount equal to the amount of such charges and payments imposed by the laws of such other state or country upon the companies of this state and the agents thereof. The provisions of this section shall not apply to special purpose assessments or guaranty association assessments both under the laws of this state and under the laws of any other state or country, and any tax offset or credit for any such assessment shall, for purposes of this section, be treated as a tax paid both under the laws of this state and under the laws of any other state or country.

History: L. 1927, ch. 231, 40-253; L. 1951, ch. 293, § 1; L. 1967, ch. 256, § 1; L. 1997, ch. 175, § 6; July 1.

40-2,110. Reporting fire losses; rules and regulations; report forms. (a) Every property or casualty insurance company transacting business in this state shall file with the state fire marshal, directly or through a reporting service, a monthly report of each fire loss paid which exceeds five hundred dollars (\$500) and an annual report setting forth the total number of fire losses and the total amount of losses paid.

(b) The state fire marshal shall adopt rules and regulations prescribing the contents of the reports required to be filed pursuant to the provisions of subsection (a) and prescribing the time for filing such reports. The state fire marshal shall make report forms available upon request.

History: L. 1980, ch. 136, § 1; July 1.

40-1701. Definitions. As used in the firefighters relief act: (a) "Firefighters relief association" or "firemen's relief association" means an association incorporated under the laws of this state composed of members of a fire department which is (1) a public fire department under the control of the governing body of an incorporated city, township, county or fire district or (2) a private fire department operated by a not-for-profit corporation which provides all of the fire protection services for an incorporated city, township, county or fire district pursuant to a contract with the

governing body thereof, and which in either case has fire apparatus and necessary equipment therefor that is in serviceable condition for fire duty and has a value of \$5,000 or more; and

(b) "insurance company" means every company, corporation, firm or association transacting the business of fire insurance in this state.

History: L. 1927, ch. 231, 40-1701; L. 1957, ch. 287, § 1; L. 1984, ch. 165, § 2; July 1.

AGO: 2000-40

40-1702. Return of accounts of premiums by insurance companies; filing of plats of areas provided fire protection. (a) On or before April 1 of each year, every insurance company doing business in this state shall return to the commissioner of insurance a just and true account, verified by oath, of all premiums received for fire and lightning insurance covering risks located within this state during the year ending December 31, or the fire and lightning portion of any other insurance transacted by the insurance company covering risks within this state. Every insurance company shall include in its return an account of all premiums received for fire and lightning insurance covering risks located within this state.

b) Each firefighters relief association shall prepare and file with the commissioner a plat drawn to scale showing the area provided fire protection service by the fire department of the firefighters relief association and the location of each fire department house. No such plat shall include any part of any area served by another fire department.

History: L. 1927, ch. 231, 40-1702; L. 1941, ch. 257, § 1; L. 1957, ch. 287, § 2; L. 1979, ch. 145, § 1; L. 1984, ch. 165, § 3; July 1.

40-1703. Assessment of tax of premiums, payment. On or before April 1 of each year, every insurance company shall deliver and pay to the commissioner of insurance a tax at the rate of 2% of the total amount of all premiums on fire and lightning insurance written covering risks located within this state during the preceding calendar year.

History: L. 1927, ch. 231, 40-1703; L. 1941, ch. 257, § 2; L. 1957, ch. 287, § 3; L. 1979, ch. 145, § 2; L. 1984, ch. 165, § 4; July 1.

AGO: 89-12

40-1704. Books of account; fraud. Every insurance company shall keep accurate books of account of all fire and lightning insurance written by them covering risks located within this state. In the case of any fraud or dishonesty in the returns made by an insurance company, as provided in K.S.A. 40-1702 and amendments thereto, the commissioner of insurance shall investigate the returns and collect the amount which the commissioner finds to be due.

History: L. 1927, ch. 231, 40-1704; L. 1941, ch. 257, § 3; L. 1957, ch. 287, § 4; L. 1979, ch. 145, § 3; L. 1984, ch. 165, § 5; July 1.

40-1706. Financial reports of firefighters relief associations, filing, proceedings for improper expenditures; authorized disposition of tax proceeds; determination and payment of amounts to state and local associations; procedures upon dissolution of local associations; handling and investment of moneys by local association, restrictions. (a) On or before April 1 of each year, every firefighters relief association which holds funds received under the firefighters relief act shall submit to the commissioner of insurance a verified account showing in full the receipts and disbursements and general condition of such funds for the year ending on the preceding December 31. If such account or other information shows such funds are not being expended for the purposes authorized by the firefighters relief act, the commissioner of insurance shall notify the county attorney of the county in which any such firefighters relief association is located and the county attorney shall institute proceedings to recover for the use of the firefighters relief association all moneys expended for purposes not in accordance with the provisions of the firefighters relief act. The commissioner of insurance shall hold any funds of such firefighters relief association until the commissioner is notified by the district or county attorney that such condition has been corrected.

(b) (1) All moneys received by the commissioner of insurance from the tax imposed by K.S.A. 40-1703, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state firefighters relief fund which is hereby created in the state treasury.

(2) The state firefighters relief fund shall be administered by the commissioner of insurance. An amount equal to not more than the amount authorized for expenditure during the current fiscal year by appropriations enacted by the legislature may be set aside in the state firefighters relief fund and expended by the commissioner of insurance for the administrative expenses of the department of insurance under the firefighters relief act, subject to the provisions of appropriations acts.

(c) Prior to August 1, 1987, and each August 1 thereafter, except as provided in subsections (b) and (d), of the total amount of moneys credited to the state firefighters relief fund as of July 1 of the same year the amounts determined as prescribed in subsections (c)(1) through (c)(6) shall be paid as provided therein.

(1) An amount equal to 3% of such total amount shall be paid by the commissioner of insurance to the treasurer of the Kansas state firefighters association, inc. for fire prevention and fire extinguishment education and study.

(2) An amount equal to 5% of such total amount shall be paid by the commissioner of insurance to the Kansas state firefighters association, inc. which shall be set aside as a death benefit fund to provide such benefits as determined by the association in accordance with the constitution and bylaws thereof, except the amount paid under this subsection (c)(2) shall not be more than the lesser of

\$100,000 or the result obtained by subtracting the balance in the death benefit fund of the association on July 1 from \$100,000.

(3) The amount of \$1,000 shall be paid by the commissioner of insurance to each firefighters relief association.

(4) The remaining amount of the moneys credited to the state firefighters relief fund, after the amounts are reserved or paid for the purposes authorized by subsections (b)(2), (c)(1), (c)(2) and (c)(3), shall be paid by the commissioner of insurance to firefighters relief associations so that the amount received by each firefighters relief association bears the same proportion to the total amount to be paid as the amount such firefighters relief association received from the amounts collected from the tax imposed by K.S.A. 40-1703, and amendments thereto, for all of calendar year 1983, bears to the total amount paid to all firefighters relief associations from the taxes collected for all of calendar year 1983, subject to adjustments made to correct for errors in the payments distributed and as otherwise provided pursuant to this subsection (c)(4), adjustments made pursuant to subsection (c)(5) for firefighters relief associations that did not receive a payment from taxes paid for all of calendar year 1983 and adjustments pursuant to subsection (c)(6) for redeterminations based upon changed circumstances. The commissioner of insurance may make adjustments in the amounts of payments for the current year made under this subsection (c)(4) for errors in the payments distributed for the prior year, except that adjustments may be made in the payments to be distributed by August 1, 1987, for any errors in the payments distributed during the period from July 1, 1984, through June 30, 1987, and an adjustment shall be made in the payment to be distributed by August 1, 1987, for each firefighters relief association which was in existence for only part of calendar year 1983 and which received a payment for calendar year 1983 based on the taxes received for only part of calendar year 1983, to reflect the total of the payments that would most probably have been received by such firefighters relief association during the period from August 1, 1984, through June 30, 1987, if such firefighters relief association had been in existence for all of calendar year 1983, reduced by the payments actually received by such firefighters relief association during the period from August 1, 1984, through June 30, 1987. For purposes of all payments under subsection (c)(4) after the adjusted payment distributed by August 1, 1987, such firefighters relief association shall be considered to have received for calendar year 1983, the amount it most probably would have received if it had been in existence for all of calendar year 1983, which shall be the amount having the same proportional relationship to 365 days as the amount actually received for calendar year 1983 has to the number of days that such firefighters relief association was in existence during calendar year 1983, subject to adjustments pursuant to subsection (c)(6) for redeterminations based upon changed circumstances.

(5) Whenever a firefighters relief association is to receive a payment under subsection (c)(4) but did not receive a pay-

ment from any of the taxes collected for calendar year 1983, the commissioner of insurance shall determine for the nonreceiving association, from such information as is made available to the commissioner by the nonreceiving association, the amount the nonreceiving association would most probably have received if it had actually received such a payment from the taxes collected for all of calendar year 1983, with appropriate adjustments based on payments to firefighters relief associations of fire departments providing fire protection services within geographic areas having similar populations and assessed tangible property valuation as the geographic area provided fire protection services by the fire department of each such nonreceiving association. The commissioner shall make such determination as follows:

(A) One-half of the amount due shall be determined based upon the population figure provided by the association pursuant to administrative rules and regulations adopted by the commissioner. The determination of this 1/2 of the amount due shall be made in accordance with the following formula:

(i) An association which received a payment from the taxes collected for all of calendar year 1983 and which has a population similar to that of the nonreceiving association shall be ascertained;

(ii) the payment the comparable association received from taxes collected for all of calendar year 1983 shall be divided by two;

(iii) the population of the area served by the nonreceiving association shall be divided by the population of the area served by the association to which the nonreceiving association is being compared, to produce an adjustment factor reflecting the variance in population size; and

(iv) the amount received from taxes collected for all of calendar year 1983 by the association with the comparable population shall be multiplied by the population adjustment factor obtained in paragraph (iii) of this subsection (c)(5)(A).

(B) The remaining 1/2 of the amount due shall be determined based upon the assessed tangible property valuation figure provided by the nonreceiving association pursuant to administrative rules and regulations adopted by the commissioner. The determination of the remaining 1/2 of the amount due shall be made in accordance with the following formula:

(i) An association which received a payment from the taxes collected for all of calendar year 1983 and which has an assessed tangible property valuation as of November 1, 1989, similar to that of the nonreceiving association shall be ascertained;

(ii) the payment the comparable association received from taxes collected for all of calendar year 1983 shall be divided by two;

(iii) the assessed tangible property valuation of the area served by the nonreceiving association shall be divided by the assessed tangible property valuation of the area served by the association to which the nonreceiving association is being compared, to produce an adjustment

factor reflecting the variance in assessed tangible property valuation; and

(iv) the amount received from taxes collected for all of calendar year 1983 by the association with the comparable assessed tangible property valuation shall be multiplied by the valuation adjustment factor obtained in paragraph (iii) of this subsection (c)(5)(B).

(C) The amount obtained in paragraph (iv) of subsection (c)(5)(A) shall be added to the amount obtained in paragraph (iv) of subsection (c)(5)(B) to determine the total amount the nonreceiving association most probably would have received if it had actually received a payment from the taxes collected for all of calendar year 1983. The amount a nonreceiving association most probably would have received if it had actually received a payment from taxes collected for all of calendar year 1983 shall be divided by the total amount paid to all firefighters relief associations from the taxes collected for all of calendar year 1983 to determine the proportionate amount due the nonreceiving association for the current and succeeding years and thereafter such association shall not be considered to be a nonreceiving association. The commissioner of insurance shall include the amount so determined within the computations prescribed by subsection (c)(4) for payments thereunder.

(6) One or more firefighters relief associations may apply, prior to October 1 of any year, to the commissioner of insurance for a redetermination of the proportionate amounts payable to all firefighters relief associations under subsection (c)(4) and, upon receipt of such application, the commissioner of insurance shall hold one joint hearing in accordance with the provisions of the Kansas administrative procedure act prior to December 1 of such year, at which all applicants shall be heard and may present information. The commissioner of insurance may redetermine such proportionate amounts based upon such information as is presented to or otherwise made available by the applicants to the commissioner and may make a finding of changed circumstances. However, increases in the assessed tangible property valuation resulting from a statewide reappraisal conducted pursuant to K.S.A. 79-1476 *et seq.*, and amendments thereto, shall not constitute a changed circumstance. Upon making such finding, the commissioner of insurance may include such redetermination within the computations prescribed by subsection (c)(4) for payments in subsequent years. Any increase or reduction in the amounts to be distributed as a result of a finding of changed circumstances by the commissioner shall be proportionately distributed among all firefighters relief associations. An application for redetermination shall not be made by any firefighters relief association more often than once every three years, but this restriction shall not apply with respect to applications for redetermination submitted in calendar year 1989 that were based in whole or in part on an increase in the assessed tangible property valuation resulting from statewide reappraisal.

(d) Except as otherwise provided in this section, whenever any firefighters relief association fails to qualify

for funds, as provided in the firefighters relief act, for a period of two consecutive years, the funds on deposit with such association shall be returned by the district or county attorney to the commissioner of insurance. The commissioner of insurance shall remit all such funds to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state firefighters relief fund. The commissioner of insurance shall pay such amount of funds to the Kansas state firefighters association, inc. for fire prevention and fire extinguishment education and study.

(e) When a firefighters relief association fails to qualify for payments under the firefighters relief act as a result of the territory which it serves being consolidated, merged or annexed with another governmental unit having a qualified firefighters relief association, the funds and obligations of such disqualified association shall be transferred to the surviving firefighters relief association and the disqualified association shall dissolve forthwith under the existing laws of this state.

(f) When any firefighter, the spouse of such firefighter or those dependent upon any member of a disqualified association is receiving reasonable benefits from such association at the time of disqualification, the benefits shall be continued in accordance with the resolution of such disqualified association and shall be paid by the surviving association if the disqualification resulted from consolidation, merger or annexation and shall be paid by the district or county attorney if disqualification resulted from reasons other than consolidation, merger or annexation. Nothing in the firefighters relief act shall be construed as a bar to the lawful receipt of such benefits.

(g) The treasurer of a firefighters relief association shall give bond for the safekeeping of funds received under the firefighters relief act and for faithful performance in such sum with such sureties as may be approved by the governing body of such city, township, county or fire district. All the moneys so received shall be set apart and used by the firefighters relief association of such cities, townships, counties or fire districts solely and entirely for the objects and purposes of the firefighters relief act and shall be paid to and distributed by the firefighters relief associations of such cities, townships, counties or fire districts under such provisions as shall be made by the governing body thereof. All such expenditures or payments shall be subject to the continued availability of moneys distributed to the association from the tax imposed by K.S.A. 40-1703, and amendments thereto, in amounts sufficient for such expenditures. In all cases involving expenditures or payments in an amount of \$1,500 or more prior certification shall be obtained from an attorney designated by the governing body of the city, township, county or fire district that such expenditure or payment complies with the requirements of the firefighters relief act.

(h) The officers of a firefighters relief association may invest any amount, not to exceed 90% of all such

moneys, in investments authorized by K.S.A. 12-1675, and amendments thereto, in the manner prescribed therein or in purchasing bonds of the city, township, county or fire district in which such firefighters relief association is located. When such investments are not obtainable, United States government bonds may be purchased or municipal bonds or other obligations issued by any municipality of the state of Kansas as defined in K.S.A. 10-1101, and amendments thereto, which are general obligations of the municipality issuing the same. Such investment shall be approved by the governing body of such city, township, county or fire district.

History: L. 1927, ch. 231, 40-1706; L. 1935, ch. 200, § 1; L. 1941, ch. 257, § 5; L. 1957, ch. 287, § 6; L. 1967, ch. 269, § 1; L. 1977, ch. 54, § 32; L. 1979, ch. 145, § 4; L. 1984, ch. 165, § 7; L. 1987, ch. 168, § 1; L. 1988, ch. 356, § 97; L. 1990, ch. 167, § 1; L. 2001, ch. 5, § 115; July 1.

40-1707. Authorized uses of moneys received by firefighters relief associations; cessation of private fire department, transfer of association funds to state firefighters association, inc. (a) Except as otherwise provided in the firefighters relief act, all moneys received by a firefighters relief association under the provisions of the firefighters relief act shall be held in trust and used as a fund:

(1) For the relief of any member of the fire department of such city, township, county or fire district when injured or physically disabled in or by reason of the discharge of such member's duties as a firefighter;

(2) for the payment of a death benefit when any member of such fire department is killed in the discharge of such member's duties as a firefighter, or who dies from the effect of injuries so received or from disease contracted by reason of such member's duties as a firefighter, to the beneficiary or beneficiaries as designated by the member or, in the event that no beneficiary has been designated to receive such death benefit, to the following persons in the following priority:

(A) If there is a spouse and there are no natural or adopted children of the deceased member, the death benefit shall be for the spouse;

(B) if there are one or more natural or adopted children and spouse of the deceased member, 1/2 of the death benefit shall be for the spouse and the remaining 1/2 of the death benefit shall be for the children, in equal shares thereof;

(C) if there are one or more natural or adopted children and there is no spouse of the deceased member, the death benefit shall be for the children, in equal shares thereof;

(D) if there is a father or mother, or both, and there are no natural or adopted children and no spouse of the deceased member, the death benefit shall be for the father or mother, or to both in equal shares thereof if there are both;

(E) if there are one or more siblings and there is no father or mother or spouse and there are no natural or

adopted children of the deceased member, the death benefit shall be for the siblings, in equal shares thereof; and

(F) if there are no siblings, no father or mother, no natural or adopted children and no spouse of the deceased member, the death benefit shall be for the estate of the deceased member;

(3) for the payment of the necessary funeral expenses of any member of such fire department when killed in the discharge of such duties as a firefighter, or in the case of death resulting from injuries so received or disease contracted by reason of such member's duties as a firefighter;

(4) for the further purpose of paying a pension to members of full-paid fire departments who are unfit for service after having served for a period of not less than 20 years with the department, such pension not to exceed 1/2 of the monthly salary at the date of retirement; or

(5) for the purchase of insurance which would provide for any or all of the foregoing purposes for which such fund is authorized to be expended.

(b) In any city of the second class which maintains a fire department consisting of both salaried and volunteer firefighters, such moneys may be expended for the purchase of, or payment of premiums on, policies of life, accident, or accident and health insurance upon members of the fire department of such city, which policies may be owned either by the firefighters relief association of such city or by the individual members thereof but, before any premium is paid on such policies of insurance, the provisions thereof shall be approved by such firefighters relief association as suitable to carry out the objects for which such association was established.

(c) (1) In any fire department consisting of volunteer firefighters, such moneys may be used to establish an annuity for each firefighter who served for not less than 20 years with such fire department and who attended and fought not less than 75% of the fires which were attended by such fire department during such period of time and which the firefighter was available to attend, as verified by the governing body of such fire department, but such annuity shall not exceed the amount paid to fully paid members of fire departments of comparable size to such volunteer department. In any full-paid or any volunteer fire department such moneys may be expended for the purchase of group term, group permanent or individual permanent life insurance contracts for members of such department. Any benefits or coverage accruing to individual members of the department under such policies shall be and shall remain the property of the firefighters relief association except as follows:

(A) A member that has completed 10 years of service with the department and has been covered under such policy for a continuous period of not less than five years, a member who suffers a total and permanent disability or death, or a member who retires under the retirement plan in effect for the fire department, shall, upon termination of employment, be entitled to any benefits or coverage avail-

able to an individual member under the provisions of the contract; and

(B) A member that has not fulfilled one of the requirements set forth in paragraph (A) of this subsection (c)(1) shall, upon termination of employment, be entitled to the same proportion of benefits or coverage available to an individual member as such member's individual premium contributions bear to the total premiums paid on the policy at the time of termination. Any additional coverage or benefits may be obtained by reimbursing the firefighters relief association an equitable and reasonable amount in accordance with procedures set forth in the bylaws of the association.

(2) Prior to the purchase of any annuity contract for and on behalf of any volunteer firefighter, the provisions thereof shall be approved and the adequacy of the funds available for such purpose shall be established by such firefighters relief association.

(d) The moneys paid by the commissioner of insurance to the Kansas state firefighters association, inc., as provided in subsection (c) of K.S.A. 40-1706 and amendments thereto, shall be used by the Kansas state firefighters association, inc., in accordance with that statute and as may be regulated by such association in this state at the annual meetings of the Kansas state firefighters association, inc., which shall be held annually at places to be selected by such association within this state. The Kansas state firefighters association, inc., shall make an annual accounting to the commissioner of insurance of all moneys paid to such association as provided in K.S.A. 40-1706 and amendments thereto.

(e) In the city of El Dorado, in Butler county, which city has by election established a firemen's pension fund under the provisions of K.S.A. 14-10a01 to 14-10a15, inclusive, and amendments thereto, the firefighters relief association of such city may, when the money and securities belonging to such association exceed \$35,000, grant from time to time sums not exceeding 1/2 the earnings of the fund and not exceeding 1/2 the yearly amount received from the commissioner of insurance under this act to the city to be credited to the firemen's pension fund of such city.

(f) Any such firefighters relief association is hereby authorized to loan part or all of such funds to the city, township, county or fire district in which such association is located, to be used by such city, township, county or fire district in the improvement of its fire department and equipment thereof, and such city, township, county or fire district is hereby authorized to borrow the same and issue to the treasurer of such firefighters relief association its warrant therefor bearing interest payable semiannually, at a rate not to exceed 6% per annum.

(g) The commissioner of insurance is hereby authorized to adopt such rules and regulations as are necessary to effect the purposes of the firefighters relief act.

(h) All assets of any firefighters relief association, which is composed of members of a private fire department and which has ceased to provide fire protection services for

an incorporated city, township, county or fire district, shall be transferred to and shall become the property of the firefighters relief association for the fire department which is the immediate successor of such private fire department, after satisfaction of any outstanding obligations. If there is no firefighters relief association for the immediately succeeding fire department, such assets shall become the property of the Kansas state firefighters association, inc., as of the date such private fire department ceased to provide such fire protection services, after satisfaction of any outstanding obligations. The Kansas state firefighters association, inc. shall use all such assets for fire prevention and fire extinguishment education and study.

History: L. 1927, ch. 231, 40-1707; L. 1929, ch. 201, § 1; L. 1941, ch. 257, § 6; L. 1943, ch. 187, § 1; L. 1953, ch. 235, § 1; L. 1957, ch. 287, § 7; L. 1974, ch. 188, § 1; L. 1978, ch. 180, § 1; L. 1981, ch. 193, § 1; L. 1984, ch. 165, § 8; L. 1987, ch. 168, § 2; July 1.

AGO: 89-12

40-1708. Citation of act. The provisions of K.S.A. 40-1701 to 40-1707, inclusive, and amendments to those statutes shall be known and may be cited as the firefighters relief act.

History: L. 1984, ch. 165, § 1; July 1.

40-2210. Blanket sickness and accident insurance; payments, when blanket disability income policy is integrated with social security benefits. (A) Blanket sickness and accident insurance is hereby declared to be that form of sickness and accident insurance covering special groups of persons as enumerated in one of the following paragraphs (1) to (8) inclusive: (1) Under a policy or contract issued to any common carrier, or to any operator, owner or lessee of a means of transportation, who or which shall be deemed the policyholder, covering a group defined as all persons who may become passengers on such common carrier or such means of transportation.

(2) Under a policy or contract issued to a college, school or other institutions of learning, a school district or districts, or school jurisdictional unit, or to the head, or principal; or governing board of any such educational unit, who or which shall be deemed the policyholder, covering students, teachers or other employees.

(3) Under a policy or contract issued to any volunteer fire department, first aid, civil defense, or other such volunteer organization, which shall be deemed the policyholder, covering all the members of such department or group, defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

(4) Under a policy or contract issued to a sports team, camp or sponsor thereof, which shall be deemed the policyholder, covering ten (10) or more members, campers, employees, officials or supervisors.

(5) Under a policy or contract issued to an employer, who shall be deemed the policyholder, covering any group of employees, dependents or guests, defined by ref-

erence to specified hazards incident to an activity or activities or operations of the policyholder.

(6) Under a policy or contract issued to any religious, charitable, recreational, educational, or civic organization, or branch thereof, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

(7) Under a policy or contract issued to a newspaper or other publisher, which shall be deemed the policyholder, covering its carriers.

(8) Under a policy or contract issued to any other type of group which the commissioner of insurance may find properly subject to the issuance of blanket sickness and accident policy or contract.

(B) Every such blanket policy shall contain provisions which in the opinion of the commissioner are not less favorable to the policyholder and the individual insured than the following:

(1) A provision that the policy, including endorsements and a copy of the application, if any, of the policyholder and the persons insured shall constitute the entire contract between the parties, and that any statement made by the policyholder or by a person insured shall in absence of fraud, be deemed a representation and not a warranty, and that no such statements shall be used in defense to a claim under the policy, unless contained in a written application. Such person, his or her beneficiary, or assignee, shall have the right to make written request to the insurer for a copy of such application and the insurer shall, within fifteen (15) days after the receipt of such request at its home office or any branch office of the insurer, deliver or mail to the person making such request a copy of such application. If such copy shall not be so delivered or mailed, the insurer shall be precluded from introducing such application as evidence in any action based upon or involving any statements contained therein.

(2) A provision that written notice of sickness or of injury must be given to the insurer within twenty (20) days after the date when such a sickness or injury occurred. Failure to give notice within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as was reasonably possible.

(3) A provision that the insurer will furnish either to the claimant or to the policyholder for delivery to the claimant such forms as are usually furnished by it for filing proof of loss. If such forms are not furnished before the expiration of fifteen (15) days after giving of such notice, the claimant shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

(4) A provision that in the case of claim for loss of time for disability, written proof of such loss must be furnished to the insurer within ninety (90) days after the

commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of such disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of claim for any other loss, written proof of such loss must be furnished to the insurer within ninety (90) days after the date of such loss. Failure to furnish such proof within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to furnish such proof and that such proof was furnished as soon as was reasonably possible.

(5) A provision that all benefits payable under the policy other than benefits for loss of time will be payable immediately upon receipt of due written proof of such loss, and that, subject to due proof of loss, all accrued benefits payable under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and that any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of such proof.

(6) A provision that the insurer at its own expense, shall have the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make an autopsy where it is not prohibited by law.

(7) A provision that no action at law or in equity shall be brought to recover under the policy prior to the expiration of sixty (60) days after written proof of loss has been furnished in accordance with the requirements of the policy and that no action shall be brought after the expiration of five (5) years after the time written proof of loss is required to be furnished.

(C) Each person insured under such blanket sickness and accident policy or contract shall, except where authorization is otherwise given by the commissioner of insurance, be furnished a memorandum approved by the commissioner of insurance setting forth the essential coverages of the contract, including the conditions under which an individual's coverage may be terminated under the policy and the age, if any, to which the coverage shall be limited, reduced, or restricted; the procedure to be followed in making claim under the policy; and, to whom benefits under the policy are payable. Such certificates shall also contain a summary of the provisions set forth in (B) of this subsection.

(D) All benefits under any blanket sickness and accident policy shall be payable to the person insured, or to his or her designated beneficiary or beneficiaries, or to his or her estate, except that if the person insured be a minor, such benefits may be made payable to his or her parents, guardian, or other person actually supporting him or her.

(E) No blanket disability income policy which integrates benefits with social security benefits, shall provide that the amount of any disability benefit actually being paid to the disabled person shall be reduced by changes in the level of social security benefits resulting either from changes in the social security law or due to cost of living

adjustments which become effective after the first day for which disability benefits become payable.

History: L. 1951, ch. 296, § 10; L. 1965, ch. 306, § 2; L. 1977, ch. 162, § 2; July 1.