

**BEFORE THE COMMISSIONER OF INSURANCE  
OF THE STATE OF KANSAS**

**In the Matter of the Application of BLUE RAPIDS FFRA, )  
BURLINGAME FFRA, COLWICH FFRA, CRAWFORD )  
TOWNSHIP FFRA, ELLINWOOD FFRA, ELLIS COUNTY )  
FFRA, GARNETT FFRA, GRANT TOWNSHIP FFRA, )  
HIGHLAND FFRA, HOISINGTON FFRA, KANOPOLIS )  
FFRA, LOUISBURG FFRA, MARION COUNTY #4 FFRA, )  
OSAWATOMIE FFRA, OSBORNE COUNTY #1 FFRA, )  
OTTAWA FFRA, PEABODY FFRA, PITTSBURG FFRA, ) **Docket No. 3584-FR**  
PLAINS FFRA, READING FFRA, SATANTA FFRA, )  
SAWYER FFRA, SHAWNEE FFRA, VICTORIA FFRA, )  
WALTON FFRA, MONTGOMERY COUNTY #1 FFRA, )  
RENO-KINGMAN #1 FFRA, COFFEYVILLE FFRA, )  
LARNED FFRA, COWLEY COUNTY #4 FFRA, LINN )  
COUNTY RURAL FFRA, BUTLER COUNTY#7 FFRA, )  
BUTLER COUNTY #1 FFRA, HIAWATHA FFRA, )  
CIMARRON FFRA, ONAGA FFRA. )**

**ORDER**

After due and proper notice, this matter was called for hearing on November 16, 2006, pursuant to Kansas Statutes Annotated (K.S.A.) 40-1706(c)(6) and the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.* Those Firefighter Relief Associations applying for a redetermination were Blue Rapids FFRA, Burlingame FFRA, Colwich FFRA, Crawford Township FFRA, Ellinwood FFRA, Ellis County FFRA, Garnett FFRA, Grant Township FFRA, Highland FFRA, Hoisington FFRA, Kanopolis FFRA, Louisburg FFRA, Marion County #4 FFRA, Osawatome FFRA, Osborn County #1 FFRA, Ottawa FFRA, Peabody FFRA, Pittsburg FFRA, Plains FFRA, Reading FFRA, Satanta FFRA, Sawyer FFRA, Shawnee FFRA, Victoria FFRA, Walton FFRA, Montgomery County #1 FFRA, Reno-Kingman FFRA, Coffeyville FFRA, Larned FFRA, Cowley County #4 FFRA, Linn County Rural FFRA, Butler County#7 FFRA, Butler County #1 FFRA, Hiawatha FFRA, Cimarron FFRA, Onaga FFRA. The Blue Rapids Firefighters Relief Association withdrew their request for a Hearing. The Burlingame

Firefighters Relief Association presented evidence by Sworn Affidavit. The Colwich Firefighters Relief Association presented evidence By Sworn Affidavit. The Crawford Township Firefighters Relief Association presented evidence by Sworn Affidavit. The Ellinwood Firefighters Relief Association presented evidence by Sworn Affidavit. The Ellis County Firefighters Relief Association presented evidence by Sworn Affidavit. The Garnett Firefighters Relief Association presented evidence by Sworn Affidavit. The Grant Township Firefighters Relief Association presented evidence by Sworn Affidavit. The Highland Firefighters Relief Association presented evidence by Sworn Affidavit. The Hoisington Firefighters Relief Association withdrew their request for a Hearing. The Kanopolis Firefighters Relief Association presented evidence by Sworn Affidavit. The Marion County #4 Firefighters Relief Association presented evidence by Sworn Affidavit. The Osawatomie Firefighters Relief Association presented evidence by Sworn Affidavit. The Osborne County FD #1 Firefighters Relief Association withdrew their request for a Hearing. The Ottawa Firefighters Relief Association presented evidence by Sworn Affidavit. The Peabody Firefighters Relief Association withdrew their request for a Hearing. The Pittsburg Firefighters Relief Association presented evidence by Sworn Affidavit. The Plains Firefighters Relief Association presented evidence by Sworn Affidavit. The Reading Firefighter Relief Association Firefighters Relief Association presented evidence by Sworn Affidavit. The Satanta Firefighters Relief Association presented evidence by Sworn Affidavit. The Sawyer Firefighters Relief Association presented evidence by Sworn Affidavit. The Shawnee Firefighters Relief Association presented evidence by Sworn Affidavit. The Victoria Firefighters Relief Association presented evidence by Sworn Affidavit. The Walton Firefighters Relief Association presented evidence by Sworn Affidavit. The Montgomery County #1 Firefighters Relief Association presented evidence by Sworn

Affidavit. The Reno-Kingman Firefighters Relief Association presented evidence by Sworn Affidavit. The Coffeyville Firefighters Relief Association presented evidence by Sworn Affidavit. The Larned Firefighters Relief Association presented evidence by Sworn Affidavit. The Cowley County #4 Firefighters Relief Association presented evidence by Sworn Affidavit. The Linn County Rural Firefighters Relief Association presented evidence by Sworn Affidavit. The Butler County #7 Firefighters Relief Association presented evidence by Sworn Affidavit. The Butler County #1 Firefighters Relief Association presented evidence by Sworn Affidavit. The Hiawatha Firefighters Relief Association presented evidence by Sworn Affidavit. The Cimarron Firefighters Relief Association presented evidence by Sworn Affidavit. The Onaga Firefighters Relief Association withdrew their request for a Hearing.

The Kansas Insurance Department was represented by Deletria Nash, Staff Attorney, and John Washburn, Fire & Casualty Division Supervisor assigned to Firefighter Relief Association regulatory activities. Jim Lubbers, President, and Adam Frederking, Southwest Trustee, appeared on behalf of the Kansas State Firefighters Association.

Bob Tomlinson, Assistant Commissioner, is the Presiding Officer duly appointed by Commissioner Praeger.

Said Presiding Officer, being fully advised in the premises and giving due consideration to the evidence presented, makes the following findings of fact, conclusions of law, and order, to wit:

**Findings of Fact**

1. At issue is the 2007 and future distributions of the Firefighters Relief Fund to firefighters relief associations throughout the State of Kansas pursuant to the Firefighters Relief Act, K.S.A. 40-1701, *et seq.* Applicants are contending that changed circumstances exist to

warrant a redetermination of proportionate amounts payable to all firefighters relief associations from the Firefighters Relief Fund pursuant to K.S.A. 40-1706.

2. Under the Firefighters Relief Act, every insurance company doing business in the State of Kansas is required to pay an annual two percent (2%) tax based on the amount of premium written on fire and lightning insurance covering risks located within the State of Kansas during the previous calendar year. The Firefighters Relief Act provides for the money collected to be distributed for the purposes outlined in K.S.A. 40-1706.

3. In 1984, K.S.A. 40-1706 was amended by the Kansas Legislature through the enactment of House Bill No. 3090. Part of that amendment dealt with the method by which distribution determinations were to be made to the various firefighters relief associations in the State. This statute was further amended in 1987, 1988, and 1990. Specifically, the relevant provisions of the law are found in K.S.A. 40-1706(c)(4) and (5), which provide:

“(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 subsection (c)(1) through (c)(6) shall be paid as provided therein ...

(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 subsection (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 received from the amounts collected from the tax received from the amounts collected from the tax imposed by K.S.A. 40-1703 and amendments thereto for all of calendar year 1983, years 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 error 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 1987 based on 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 1987, 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 redetermination based upon changed circumstances.

(5) Whenever a firefighters relief association is to receive a payment under subsection (c)(4) but did not receive a payment from any of the taxes collected for the 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 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 the 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 the 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.”

4. K.S.A. 40-1706(c)(6) provides for a determination of the proportionate amount payable to all firefighters relief associations from the Firefighters Relief Fund. The statute provides:

“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 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.”

5. Presenting evidence of changed circumstances were The Burlingame FFRA, The Colwich FFRA, The Crawford Township FFRA, The Ellinwood FFRA, The Ellis

County FFRA, The Garnett FFRA, The Grant Township FFRA, The Highland FFRA, The Kanopolis FFRA, The Louisburg FFRA, The Marion County #4 FFRA, The Osawatomie FFRA, The Ottawa FFRA, The Pittsburg FFRA, The Plains FFRA, The Reading FFRA, The Satanta FFRA, The Sawyer FFRA, The Shawnee FFRA, The Victoria FFRA, The Walton FFRA, The Montgomery County #1 FFRA, The Reno-Kingman FFRA, The Coffeyville FFRA, The Larned FFRA, The Cowley County #4 FFRA, The Linn County Rural FFRA, The Butler County#7 FFRA, The Butler County #1 FFRA, The Hiawatha FFRA, The Cimarron FFRA.

6. The Blue Rapids Firefighters Relief Association withdrew its application for redetermination based on their failure to submit necessary documentation.

7. The Hoisington Firefighters Relief Association withdrew its application for redetermination based on their failure to submit necessary documentation.

8. The Osborne County #1 Firefighters Relief Association withdrew its application for redetermination based on their failure to submit necessary documentation.

9. The Peabody Firefighters Relief Association withdrew its application for redetermination based on their failure to submit necessary documentation.

10. The Onaga Firefighters Relief Association withdrew its application for redetermination based on their failure to submit necessary documentation.

11. Burlingame Firefighters Relief Association offered evidence that population has increased by 958 and the assessed tangible property valuation has increased by \$8,299,746 since 1987. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.



12. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 11 above, it appears that Burlingame Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1987. The area now has increased by 958 in population and an additional \$8,299,746 in assessed tangible property valuation, as enumerated in paragraph 11 above.

13. Colwich Firefighters Relief Association offered evidence, that the assessed tangible property valuation for the fire protection district had increased \$23,032,908 since 1998. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

14. As a result of the additional area being served as outlined in paragraph 13 above, it appears that Colwich Fire Department is providing fire protection services to a more valuable area than records maintained by the Kansas Insurance Department indicated was served in 1998. The area currently being protected by Colwich Fire Department has an additional assessed tangible property valuation in the amount of \$23,032,908, as enumerated in paragraph 13 above.

15. Crawford Township Firefighters Relief Association offered evidence that population has increased by 114 and the assessed tangible property valuation has increased by \$1,539,631 since 1999. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

16. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 15 above, it appears that Crawford Township Fire Department is

providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1999. The area now has increased by 114 in population and an additional \$1,539,631 in assessed tangible property valuation, as enumerated in paragraph 15 above.

17. Ellinwood Firefighters Relief Association offered evidence of an increase in the assessed tangible property valuation. The increased assessed tangible property valuation for the enlarged area is \$5,887,491 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and the amendments thereto.

18. As a result of the increase assessed tangible property valuation as outlined in paragraph 17 above, it appears that the Ellinwood Fire Department is currently providing fire protection to a more valuable area than is reflected by the records maintained by the Kansas Insurance Department in 1983. The area currently being protected by Ellinwood Fire Department has an additional assessed tangible property valuation in the amount of \$5,887,491, as enumerated in paragraph 17 above.

19. Ellis County Firefighters Relief Association offered evidence that the assessed tangible property valuation has increased by \$68,726,717 since 1998. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

20. As a result of the increase in the assessed tangible property valuation as outlined in paragraph 19 above, it appears that Ellis County Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance

Department indicated was served in 1983. The area now being protected by the Ellis County Fire Department has an additional \$68,726,717 in assessed tangible property valuation, as enumerated in paragraph 19 above.

21. Garnett Firefighters Relief Association offered evidence that population has increased by 5 and the assessed tangible property valuation has increased by \$19,783,079 since 1999. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

22. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 21 above, it appears that Garnett Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1999. The area now has increased by 5 in population and an additional \$19,783,079 in assessed tangible property valuation, as enumerated in paragraph 21 above.

23. Grant Township Firefighters Relief Association offered evidence that the assessed tangible property valuation for the fire protection area has increased by \$5,492,264 since 1988. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

24. As a result of the growth in the assessed tangible property valuation as outlined in paragraph 23 above, it appears that Grant Township Fire Department is providing fire protection services to a more valuable area than records maintained by the Kansas Insurance Department

indicated was served in 1988. The area now has an additional \$5,492,264 in assessed tangible property valuation, as enumerated in paragraph 23.

25. Highland Firefighters Relief Association offered evidence that population has increased by 531 and the assessed tangible property valuation has increased by \$13,650,305 since 1983 Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

26. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 25 above, it appears that Highland Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has increased by 531 in population and an additional \$13,650,305 in assessed tangible property valuation, as enumerated in paragraph 25 above.

27. Kanopolis Firefighters Relief Association offered evidence that the assessed tangible property valuation for the fire protection district had increased by \$527,634 since 2003. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

28. As a result of the additional population growth being served as outlined in paragraph 27 above, it appears that Kanopolis Fire Department is currently providing fire protection to a more valuable area than reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by Kanopolis Fire Department has an

assessed tangible property valuation in the amount of \$527,634, as enumerated in paragraph 27 above.

29. Louisburg Fire Firefighters Relief Association offered evidence that the population of the area served by Louisburg Fire Department has grown by 979 since 2000 and the assessed tangible property valuation has increased by \$16,909,078 since 2000. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

30. As a result of the growth in population and increase in the assessed tangible property valuation as outlined in paragraph 31 above, it appears that Louisburg Fire Department is providing fire protection services to a more populated and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 2000. The area now has an additional population of 979 and an additional \$19,909,078 in assessed tangible property valuation, as enumerated in paragraph 29 above.

31. Marion County #4 Firefighters Relief Association offered evidence that population has increased by 478 and the assessed tangible property valuation has increased by \$9,842,617 since 1996. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

32. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 31 above, it appears that Marion County #4 Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1996. The area now

has increased by 478 in population and an additional \$9,842,617 in assessed tangible property valuation, as enumerated in paragraph 31 above.

33. Osawatomie Firefighters Relief Association offered evidence, by Sworn Affidavit, that the area served by Osawatomie Fire Department has grown and the assessed tangible property valuation has increased by \$3,610,269 since 2003. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

34. As a result of the assessed tangible property valuation as outlined in paragraph 33 above, it appears that Osawatomie Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 2003. The area now has an additional \$3,610,269 in assessed tangible property valuation, as enumerated in paragraph 33 above.

35. Ottawa Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 1,581 and the assessed tangible property valuation of the area served by Ottawa Fire Department has the valuation increased by \$50,999,033 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

36. As a result of the increase in population and the assessed tangible property valuation as outlined in paragraph 35 above, it appears that Ottawa Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has an additional

population of 1,581 and \$50,999,033 in assessed tangible property valuation, as enumerated in paragraph 41 above.

37. Pittsburg Firefighters Relief Association offered evidence that population has increased by 155 and the assessed tangible property valuation has increased by \$73,153,039 since 2003. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

38. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 37 above, it appears that Pittsburg Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 2003. The area now has increased by 155 in population and an additional \$73,153,039 in assessed tangible property valuation, as enumerated in paragraph 37 above.

39. Plains Firefighters Relief Association offered evidence that population has increased by 78 and the assessed tangible property valuation has increased by \$1,349,005 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

40. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 39 above, it appears that Plains Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has increased by 78

in population and an additional \$1,349,005 in assessed tangible property valuation, as enumerated in paragraph 39 above.

41. Reading Firefighter Relief Association offered evidence, by Sworn Affidavit, that the assessed tangible property valuation has increased by \$2,959,303 since 1992. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496 et seq., and the amendments thereto.

42. As a result of the increase in assessed tangible property valuation as outlined in paragraph 41 above, it appears that Reading Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department. The area currently being protected by the Reading Fire Department has an additional assessed tangible property valuation of \$2,959,303, as enumerated in paragraph 41 above.

43. Satanta Firefighters Relief Association offered evidence, by Sworn Affidavit, of an increase in population and assessed tangible property valuation. The increased population is 1,406 and the assessed tangible property valuation for the enlarged area is \$161,060,839 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496 et seq., and the amendments thereto.

44. As a result, the Satanta Fire Department is currently providing fire protection to a more populous and valuable area than is reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by the Satanta Fire Department has an increased population of 1,406 and an additional assessed tangible property valuation in the amount of \$161,060,839, as enumerated in paragraph 43 above.



45. Sawyer Firefighters Relief Association offered evidence, by Sworn Affidavit, of an increase in assessed tangible property valuation. The increased assessed tangible property valuation for the enlarged area is \$1,331,771 since 1988. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496 et seq., and the amendments thereto.

46. As a result, the Sawyer Fire Department is currently providing fire protection to a more valuable area than is reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by the Sawyer Fire Department has an additional assessed tangible property valuation in the amount of \$1,331,771, as enumerated in paragraph 45 above.

47. Shawnee Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 11,674 and the assessed tangible property valuation of the area served by Shawnee Fire Department has the valuation increased by \$258,486,397 since 1999. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

48. As a result of the increase in population and the assessed tangible property valuation as outlined in paragraph 47 above, it appears that Shawnee Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1999. The area now has an additional population of 11,674 and \$258,486,397 in assessed tangible property valuation, as enumerated in paragraph 47 above.

49. Victoria Firefighters Relief Association offered evidence, by Sworn Affidavit, that the assessed tangible property valuation of the area served by Victoria Fire Department has the valuation increased by \$1,152,765 since 2000. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

50. As a result of the increase in population and the assessed tangible property valuation as outlined in paragraph 49 above, it appears that Victoria Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 2000. The area now has an additional \$1,152,765 in assessed tangible property valuation, as enumerated in paragraph 49 above.

51. Walton Firefighters Relief Association offered evidence, by Sworn Affidavit, of an increase in population and assessed tangible property valuation. The increased population is 282 and the assessed tangible property valuation for the area is \$2,960,887 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496 *et seq.*, and the amendments thereto.

52. As a result, the Walton Fire Department is currently providing fire protection to a more populous and valuable area than is reflected by the records maintained by the Kansas Insurance Department indicated was served in 1983. The area currently being protected by the Walton Fire Department has an additional population of 282 and an assessed tangible property valuation in the amount of \$2,960,887, as enumerated in paragraph 51 above.

53. Montgomery County FD #1 Firefighters Relief Association offered evidence, by Sworn Affidavit, that the assessed tangible property valuation of the area served by Montgomery County FD #1 Fire Department has the valuation increased by \$50,529,579 since 1988. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

54. As a result of the increase in population and the assessed tangible property valuation as outlined in paragraph 53 above, it appears that Montgomery County FD #1 Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1988. The area now has an additional \$50,529,579 in assessed tangible property valuation, as enumerated in paragraph 53 above.

55. Reno-Kingman #1 Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 591 and the assessed tangible property valuation of the area served by Reno-Kingman #1 Fire Department has the valuation increased by \$12,036,121 since 1988. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

56. As a result of the increase in population and the assessed tangible property valuation as outlined in paragraph 55 above, it appears that Reno-Kingman #1 Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1988. The area now

has an additional population of 591 and \$12,036,121 in assessed tangible property valuation, as enumerated in paragraph 55 above.

57. Coffeyville Firefighter Relief Association offered evidence, by Sworn Affidavit, that the assessed tangible property valuation has increased by \$11,065,987 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496 et seq., and the amendments thereto.

58. As a result of the increase in assessed tangible property valuation as outlined in paragraph 57 above, it appears that Coffeyville Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1983. The area currently being protected by the Coffeyville Fire Department has an additional assessed tangible property valuation of \$11,065,987, as enumerated in paragraph 57 above.

59. Larned Firefighter Relief Association offered evidence, by Sworn Affidavit, that the assessed tangible property valuation has increased by \$8,313,375 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496 et seq., and the amendments thereto.

60. As a result of the increase in assessed tangible property valuation as outlined in paragraph 59 above, it appears that Larned Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1983. The area currently being protected by the Larned Fire Department

has an additional assessed tangible property valuation of \$8,313,375, as enumerated in paragraph 59 above.

61. Cowley County FD #4 Firefighters Relief Association offered evidence, by Sworn Affidavit, that the assessed tangible property valuation of the area served by Cowley County FD #4 Fire Department has the valuation increased by \$929,683 since 2003. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

62. As a result of the increase in population and the assessed tangible property valuation as outlined in paragraph 61 above, it appears that the Cowley County FD #4 Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 2003. The area now has an additional \$929,683 in assessed tangible property valuation, as enumerated in paragraph 61 above.

63. Linn County Rural Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 745 and the assessed tangible property valuation of the area served by Linn County Rural Fire Department has the valuation increased by \$24,450,618 since 2000. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

64. As a result of the increase in population and the assessed tangible property valuation as outlined in paragraph 63 above, it appears that Linn County Rural Fire Department is providing fire protection services to a more populous and valuable area than the records

maintained by the Kansas Insurance Department indicated was served in 2000. The area now has an additional population of 745 and \$24,450,618 in assessed tangible property valuation, as enumerated in paragraph 63 above.

65. Butler County #7 Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 163 and the assessed tangible property valuation of the area served by Butler County #7 Fire Department has the valuation increased by \$13,906,315 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

66. As a result of the increase in population and the assessed tangible property valuation as outlined in paragraph 65 above, it appears that Butler County #7 Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has an additional population of 163 and \$13,906,315 in assessed tangible property valuation, as enumerated in paragraph 65 above.

67. Butler County #1 Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 1,358 and the assessed tangible property valuation of the area served by Butler County #1 Fire Department has the valuation increased by \$22,311,340 since 2003. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

68. As a result of the increase in population and the assessed tangible property valuation as outlined in paragraph 67 above, it appears that Butler County #1 Fire Department is

providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 2003. The area now has an additional population of 1,358 and \$22,311,340 in assessed tangible property valuation, as enumerated in paragraph 67 above.

69. Hiawatha Firefighter Relief Association offered evidence, by Sworn Affidavit, that the assessed tangible property valuation has increased by \$20,423,611 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496 *et seq.*, and the amendments thereto.

70. As a result of the increase in assessed tangible property valuation as outlined in paragraph 69 above, it appears that Hiawatha Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1983. The area currently being protected by the Hiawatha Fire Department has an additional assessed tangible property valuation of \$20,423,611, as enumerated in paragraph 69 above.

71. Cimarron Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 407 and the assessed tangible property valuation of the area served by the Cimarron Fire Department has the valuation increased by \$9,058,092 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

72. As a result of the increase in population and the assessed tangible property valuation as outlined in paragraph 71 above, it appears that Cimarron Fire Department is

providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has an additional population of 407 and \$9,058,092 in assessed tangible property valuation, as enumerated in paragraph 71 above.

72. Mr. Lubbers was asked and provided no evidence of inappropriate expenditures by any association.

### **Conclusions of Law**

73. Based upon the information presented by Applicants and available to the Commissioner of Insurance, changed circumstances are found to exist for all Applicants, to support a redetermination of the proportionate amounts payable to all firefighters relief associations from the Firefighters Relief Fund for 2006 and future distributions pursuant to the Firefighters Relief Act, specifically K.S.A. 40-1706(c)(6).

74. K.S.A. 40-1706(c)(6), which gives the Commissioner of Insurance the authority to redetermine the proportionate amounts payable to all firefighters relief associations, is silent as to the specific method by which the Commissioner is to make such a redetermination. The statute gives the Commissioner the discretion to determine how the redetermination is to be made.

75. Applicants presented evidence that the increased population and/or assessed tangible property valuation has resulted from either the addition of areas or through sheer growth, which was not a record with the Kansas Insurance Department in 1983.

76. To redetermine the proportionate amount payable to all firefighters relief associations for the 2006 and future distributions, the additional population and assessed tangible property valuation added by each applying association shall be treated separately, as a



nonreceiving association, and these figures of the additional population and assessed tangible property valuation of each association will be placed into the formula used to determine the proportionate amounts payable to nonreceiving associations, as contained in K.S.A. 40-1706(c)(5).

77. The procedure contained in paragraphs 81 and 82 above, shall affect the proportionate amount payable to all firefighters relief associations.

78. Associations which were deemed to have withdrawn their application did not receive consideration for redetermination and were not calculated or considered for redetermination for purposes of this hearing.

**IT IS THEREFORE, BY THE COMMISSIONER OF INSURANCE, ORDERED THAT:**

1. Changed circumstances exist as to all Applicants, to warrant a redetermination of the proportionate amounts payable to all firefighters relief associations.

2. The additional population and assessed tangible property valuation of each applying firefighters relief association, shall be individually placed into the formula found in K.S.A. 40-1706(c)(5) used to calculate that nonreceiving association's share of distribution. The resulting amount will be added to the amount that applying association would receive as a receiving association's proportionate share of future distributions.

3. The Kansas Insurance Department shall provide notice to applicants that a line of questioning regarding the expenditures of firefighters relief associations will be a part of the redetermination hearing.

IT IS SO ORDERED THIS   6th   DAY OF DECEMBER, 2006, IN THE CITY  
OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



  /s/ Sandy Praeger    
Sandy Praeger  
Commissioner of Insurance  
BY:

  /s/ Robert Tomlinson    
Robert Tomlinson  
Presiding Officer

**Certificate of Service**

The undersigned hereby certifies that a true and correct copy of the above and foregoing Order was served by placing the same in the United States Mail, first class postage prepaid, on this   6th   day of December, 2006, addressed to the following:

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Ken Rohleder, President  
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/s/ John Washburn\_\_\_\_\_  
John Washburn  
Fire and Casualty Policy Examiner