

FINAL ORDER

Effective: 3-26-12

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

In the Matter of the Application of)
 Arma FRA; Atchison CO FD #2 FRA;)
 Baldwin FRA; Bonner Springs FRA;)
 Butler CO #5 FRA; Centropolis Township FRA;)
 Cheyenne CO Rural FD #1; Columbus FRA;)
 Crawford CO #2 FRA; Dodge City FRA;)
 Fairview-Walnut FD FRA; Grandview Plaza FRA;)
 Hoisington FRA; Jefferson CO #11;) **Docket No. 4370-FR**
 Kaw TWP Jefferson CO FRA; Liberal FRA)
 Linc Ottawa Har TWP FRA; Long Island FRA;)
 Marysville FRA; McPherson CO #5 FRA;)
 Morrill FRA; Neodesha FRA; Palmyra Township FD)
 Reno CO #8; Shawnee CO #2, FRA;)
 Shawnee CO #3; South Hutchinson FRA;)
 Stafford CO #1 FRA; Stevens CO #1 FRA;)
 Tonganoxie Township FRA; Topeka FRA;)

FINAL ORDER

After due and proper notice, this matter was called for hearing on November 21, 2011, 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 (“Applicants”) were: The Arma FRA withdrew their request for a hearing. The Atchison CO FD #2 Firefighters Relief Association presented evidence BY Sworn Electronic Affidavit. The Baldwin Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Bonner Springs Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Butler CO #5 Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Centropolis Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. Cheyenne CO Rural FD #1 Firefighters Relief

Association presented evidence By Sworn Electronic Affidavit. The Columbus Firefighters Relief Association withdrew their request for a hearing. The Crawford CO #2 Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Dodge City Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. Fairview-Walnut FD Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. Grandview Plaza withdrew their request for a hearing. The Hoisington Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Jefferson CO #11 Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Kaw TWP Jefferson CO Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Liberal Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Linc Ottawa Har TWP Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Long Island FD did not submit evidence and did not withdraw their request for a hearing. The Marysville Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The McPherson Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Morrill Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Neodesha Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Palmyra Township FD Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Reno CO #8 Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Shawnee CO #2 Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Shawnee CO #3 Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The South Hutchinson Firefighters

Relief Association presented evidence By Sworn Electronic Affidavit. The Stafford CO #1 Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Stevens CO #1 Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Tonganoxie Township Firefighters Relief Association presented evidence By Sworn Electronic Affidavit. The Topeka Firefighters Relief Association presented evidence By Sworn Electronic Affidavit.

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

The Kansas Insurance Department was represented by John Wine, Staff Attorney, and John Boyd, administering the Firefighter Relief Association regulatory activities for the Kansas Insurance Department.

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 determination of public policy:

Findings of Fact

At issue is the 2012 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. Exempt Property was not included in the evidence or used for computation of assessed tangible property valuations in accordance with K.S.A. 40-1706(c)(6) and K.A.R. 40-10-2(d) excluding exempt property. John D. Boyd submitted an affidavit

dated March 7, 2012, (Exhibit 32) describing the additional investigation he conducted as directed by the Presiding Officer and explaining the basis for the revised exhibits attached. After reviewing this additional evidence the Presiding Officer makes the following findings of fact:

EXHIBIT 1: The Arma Firefighters Relief Association withdrew its application for redetermination.

EXHIBIT 2: The Atchison County FD #2 Relief Association offered evidence in support of a finding of a population of 653 and assessed tangible property valuation of \$6,152,086.

EXHIBIT 3: The Baldwin Firefighters Relief Association offered evidence in support of a finding of a population of 4,515 and assessed tangible property valuation of \$31,019,145. The 2011 Kansas Assessed Tangible Property Report revealed a valuation of \$30,958.913.

EXHIBIT 4: The Bonner Springs Firefighters Relief Association offered evidence in support of a finding of a population of 7,308 and assessed tangible property valuation of \$69,964,553. The 2011 Kansas Assessed Tangible Property Report revealed a valuation of \$67,451,219.

EXHIBIT 5: The Butler CO #5 Firefighters Relief Association offered evidence in support of a finding of a population of 1,100 and assessed tangible property valuation of \$8,839,077.

EXHIBIT 6: The Centropolis Firefighters Relief Association offered evidence in support of a finding of a population of 492 and assessed tangible property valuation of \$4,150,816.

EXHIBIT 7: The Cheyenne CO Rural FD #1 Firefighters Relief Association offered evidence support of a finding of a in population of 2,726 and assessed tangible property valuation of \$37,737,683. The 2011 Kansas Assessed Tangible Property Report revealed a valuation of \$38,448,756.

EXHIBIT 8: The Columbus Firefighters Relief Association withdrew their request for a hearing.

EXHIBIT 9: The Crawford CO #2 Firefighters Relief Association offered evidence in support of a finding of a population of 2,542 and assessed tangible property valuation of \$14,112,994.

EXHIBIT 10: The Dodge City Firefighters Relief Association offered evidence in support of a finding of a population of 27,430 and assessed tangible property valuation of \$129,876,355. The July 1, 2011 Kansas Certified Population revealed 27,340 with a 2011 Kansas Assessed Tangible Property Report valuation of \$129,728,280.

EXHIBIT 11: The Fairview-Walnut Firefighters Relief Association Firefighters Relief Association offered evidence in support of a finding of a population of 1,080 and assessed tangible property valuation of \$22,463,150. The July 1, 2011 Kansas Certified Population revealed 1,403 with a 2011 Kansas Assessed Tangible Property Report valuation of \$24,634,264.

EXHIBIT 12: The Grandview Plaza Firefighters Relief Association withdrew its application for redetermination.

EXHIBIT 13: The Hoisington Firefighters Relief Association offered evidence in support of a finding of a population of 3,351 and assessed tangible property valuation of \$32,252,624.

EXHIBIT 14: The Jefferson CO #11 Firefighters Relief Association offered evidence in support of a finding of a population of 2,149 and assessed tangible property valuation of \$7,508,625. The July 1, 2011 Kansas Certified Population revealed 1,939 with a valuation of \$12,926,149 from the 2011 Kansas Assessed Tangible Property Report.

EXHIBIT 15: The Kaw TWP Jefferson CO Firefighters Relief Association offered evidence in support of a finding of a population of 1,461 and assessed tangible property valuation of \$11,813,438.

EXHIBIT 16: The Liberal Firefighters Relief Association offered evidence in support of a finding of a population of 20 and assessed tangible property valuation of \$114. The July 1, 2011 Kansas Certified Population revealed 20,525 with a valuation of \$114,234,284 from the 2011 Kansas Assessed Tangible Property.

EXHIBIT 17: The Linc Ottawa Har Twp Firefighters Relief Association offered evidence in support of a finding of a population of 2,108 and assessed tangible property valuation of \$37,362,647.

EXHIBIT 18: Long Island Firefighters Relief Association did not submit evidence and did not withdraw their request for a hearing. The July 1, 2011 Kansas Certified Population revealed 342 with a valuation of \$5,900,014 from the 2011 Kansas Assessed Tangible Property Report

EXHIBIT 19: The Marysville Firefighters Relief Association offered evidence in support of a finding of a population of 3,680 and assessed tangible property valuation of \$34,477.828.

EXHIBIT 20: The McPherson CO #5 Firefighters Relief Association offered evidence in support of a finding of a population of 2,731 and assessed tangible property valuation of \$32,801,828.

EXHIBIT 21: The Morrill Firefighters Relief Association offered evidence in support of a finding of a population of 816 and assessed tangible property valuation of \$10,572,000. The July 1, 2011 Kansas Certified Population revealed 732 with a valuation of \$10,488,239 from the 2011 Kansas Assessed Tangible Property Report

EXHIBIT 22: The Neodesha Firefighters Relief Association offered evidence in support of a finding of a population of 3,045 and assessed tangible property valuation of \$17,596,530. The July 1, 2011 Kansas Certified Population revealed 3,049.

EXHIBIT 23: The Palmyra Township FD Firefighters Relief Association offered evidence in support of a finding of a population of 2,558 and assessed tangible property valuation of \$31,909,972. The 2011 Kansas Assessed Tangible Property Report revealed a valuation of \$31,849,262.

EXHIBIT 24: The Reno Co #8 Firefighters Relief Association offered evidence in support of a finding of a population of 2,778 and assessed tangible property valuation of \$15,603,749.

EXHIBIT 25: The Shawnee CO #2 Firefighters Relief Association offered evidence in support of a finding of a population of 3,147 and assessed tangible property valuation of \$26,432,445. The 2011 Kansas Assessed Tangible Property Report revealed a valuation of \$26,426,848.

EXHIBIT 26: The Shawnee CO #3 Firefighters Relief Association offered evidence in support of a finding of a population of 1,907 and assessed tangible property valuation of \$14,381,392.

EXHIBIT 27: The South Hutchinson Firefighters Relief Association offered evidence in support of a finding of a population of 2,457 and assessed tangible property valuation of \$20,846,492.

EXHIBIT 28: The Stafford CO #1 Firefighters Relief Association offered evidence in support of a finding of a population of 4,437 and assessed tangible property valuation of \$83,430,643. The July 1, 2011 Kansas Certified Population revealed 1,333 with a valuation of \$72,917,579 from the 2011 Kansas Assessed Tangible Property Report.

EXHIBIT 29: The Stevens County Firefighters Relief Association offered evidence in support of a finding of a population of 5,724 and assessed tangible property valuation of \$294,087,878.

EXHIBIT 30: The Tonganoxie Township Firefighters Relief Association offered evidence in support of a finding of a population of 2,456 and assessed tangible property valuation of \$19,560,442. The 2011 Kansas Assessed Tangible Property Report revealed a valuation of \$23,015,665.

EXHIBIT 31: The Topeka Firefighters Relief Association offered evidence in support of a finding of a population of 127,473 and assessed tangible property valuation of \$1,007,170,956.

The presiding officer therefore makes findings of fact consistent with the above evidence.

Conclusions of Law

Based upon the evidence and subject to the limitations discussed herein changed circumstances are found to exist for the Applicants as noted above, to support a redetermination of the proportionate amounts payable to all firefighters relief associations from the Firefighters Relief Fund for 2012 and future distributions pursuant to the Firefighters Relief Act, specifically K.S.A. 40-1706(c)(6).

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 after hearing. The statute gives the Commissioner the discretion to determine how the redetermination is to be made.

To redetermine the proportionate amount payable to all firefighters relief associations, the Commissioner has previously determined and continues to hold that the additional population and assessed tangible property valuation added above 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)(6) and K.A.R. 40-10-16.

The procedure described above shall affect the proportionate amount payable to all firefighters relief associations.

Associations that were deemed to have withdrawn their application did not complete the application for redetermination process as provided by K.S.A. 40-1706(c)

and were not considered for redetermination for purposes of this hearing and are not prohibited from being considered for redetermination next year.

Determination of Public Policy

The presiding officer previously ordered that from 2009 and forward that the distribution to the FRAs that redetermine in the state of Kansas will be calculated by a formula based on the population and Assessed Tangible Property Valuation in accordance with K.S.A. 40-1706 (a) (5) (A) and K.A.R. 40-10-2 (d):

- 50% of the distribution is based on the population of the respective FRA in comparison to the entire population as certified to the secretary of state on July 1.
- 50% of the distribution is based on the assessed tangible property valuation of each FRA in proportion to the entire state of Kansas as reported by the County Clerks on the November 1 tax rolls. This formula has been codified in K.A.R. 40-10-16.

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

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

The changed population and assessed tangible property valuation of each applying firefighters relief association which has not withdrawn its application shall be individually placed into the formula as described in the "Determination of Public Policy" paragraph used to calculate shares of distribution. The resulting amount will be added

to the amount that the applying association would receive as a receiving association's proportionate share of future distributions.

Each firefighters relief association shall receive their 2012 distribution amount calculated in accordance with K.S.A. 40-1706 on or about July, 2012.

The Commissioner of Insurance retains jurisdiction over this matter to issue any and all further Orders deemed appropriate or to take such further action necessary to dispose of this matter.

IT IS SO ORDERED THIS __26th__ DAY OF MARCH, 2012, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



_____/s/ Sandy Praeger_____

Sandy Praeger

Commissioner of Insurance

BY:

_____/s/ Robert M. Tomlinson_____

Robert M. Tomlinson

Assistant Commissioner

Presiding Officer

NOTICE OF RIGHTS

Pursuant to K.S.A. §77-601 et seq. any party is entitled to judicial review to the extent that this order constitutes final agency action. The petition for judicial review must be filed within thirty (30) days of service of this Order (Plus three (3) days for service by mail pursuant to K.S.A. §77-531). In the event a party files a petition for judicial review pursuant to K.S.A. §77-613(e), the Agency Officer to be served on behalf of the Kansas Insurance Department is:

Zachary J.C. Aushutz, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

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 __26th__ day of March, 2012, addressed to the following:

Kenneth P. Yoakum
ARMA F R A 110
BOX 703
ARMA, KS 66712

Jason Allison
COLUMBUS F R A 168
300 E MAPLE
COLUMBUS, KS 66725

Eric Noll
ATCHISON CO FD #2 F R A 572
5348 DICKENSON RD
EFFINGHAM, KS 66023

Kenneth P. Yoakum
CRAWFORD CO #2 F R A 535
PO BOX 703
ARMA, KS 66712

Allen Craig
BALDWIN F R A 118
813 DEER RIDGE CT
BALDWIN CITY, KS 66006

Clifford I Bell
DODGE CITY F R A 181
PO BOX 943
DODGE CITY, KS 67801

Ben Wessel
BONNER SPRINGS F R A 132
233 N 134TH ST
BONNER SPRINGS, KS 66012

Greg Jackson
FAIRVIEW-WALNUT FD FRA 201
PO BOX 31
FAIRVIEW, KS 66425

Doug Owen
BUTLER CO #5 F R A 549
5719 SE US HWY 54
EL DORADO, KS 67042

Shane A. Andereck
HOISINGTON F R A 245
821 N CLAY
HOISINGTON, KS 67544

Elizabeth Barkley
CENTROPOLIS TOWNSHIP F R A 675
4795 FLORIDA TERRACE
POMONA, KS 66076

John Gordon
JEFFERSON CO #11 F R A 641
300 SYCAMORE
VALLEY FALLS, KS 66088

Derrick Tice
CHEYENNE CO RURAL FD #1 F R A 667
PO BOX 23
ST FRANCIS, KS 67756

Gary W. Kraus
KAW TWP JEFFERSON CO
F R A 548
PO BOX 72
GRANTVILLE, KS 66429

Matt Friederich
LIBERAL F R A 284
PO BOX 2199
LIBERAL, KS 67091

Donna Dornes
LINC OTTAWA HAR TWP F R A 682
1508 HWY 59
PRINCETON, KS 66078

Arthur L. Lee
LONG ISLAND FD #2 F R A 524
PO BOX 25
LONG ISLAND, KS 67647

Greg Price
MARYSVILLE F R A 301
714 BROADWAY
MARYSVILLE, KS 66508

Brian D. Brumley
MCPHERSON CO #5 F R A 493
1094 8TH AVE
MCPHERSON, KS 67460

Harland J Schuster
MORRILL F R A 318
2840 FALCON RD
MORRILL, KS 66515

Landon Woodward
NEODESHA F R A 326
PO BOX 336
NEODESHA, KS 66757

Rex Hagerman
PALMYRA TOWNSHIP FD F R A 601
1893 W 800 RD
EUDORA, KS 66025

Marvin Miller
RENO CO #8 F R A 607
6918 W MILLS AVE
HUTCHINSON, KS 67501

Kevin Norton
SHAWNEE CO #2 F R A 565
370 WEST 13TH
AUBURN, KS 66402

Lance William Bailey
SHAWNEE CO #3 F R A 559
PO BOX 756
ROSSVILLE, KS 66533

Steve Rippie
SOUTH HUTCHINSON F R A 406
301 S POPLAR
SOUTH HUTCHINSON, KS 67505

Douglas K Brown
STAFFORD CO #1 F R A 485
112 W BROADWAY
STAFFORD, KS 67578

Tommy Romero
STEVENS CO #1 F R A 460
109 NW AV
HUGOTON, KS 67951

Richard Koleber
TONGANOXIE TOWNSHIP FRA 568
21273 MCLOUTH RD
MCLOUTH, KS 66086

Richard Moran
TOPEKA F R A 421
FIRE STATION #8 2700 SW
FAIRLAWN RD
TOPEKA, KS 66604

_____/s/ John D. Boyd_____
John D. Boyd
Administrator, Firefighter Relief Act
Kansas Insurance Department