

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

In the Matter of the Application of ARMA)
FIREFIGHTERS RELIEF ASSOCIATION,)
CRAWFORD COUNTY #2 FIREFIGHTERS RELIEF)
ASSOCIATION, FRONTENAC FIREFIGHTERS)
RELIEF ASSOCIATION, COLWICH FIREFIGHTERS)
RELIEF ASSOCIATION, BURNS FIREFIGHTERS RELIEF)
ASSOCIATION, BUTLER COUNTY #3 FIREFIGHTERS)
RELIEF ASSOCIATION, SABETHA FIREFIGHTERS)
RELIEF ASSOCIATION, OLATHE FIREFIGHTERS)
RELIEF ASSOCIATION, LAWRENCE FIREFIGHTERS)
RELIEF ASSOCIATION, SHAWNEE COUNTY #2)
FIREFIGHTERS RELIEF ASSOCIATION, COWLEY)
COUNTY #3 FIREFIGHTERS RELIEF ASSOCIATION,)
COWLEY COUNTY #4 FIREFIGHTERS RELIEF)
ASSOCIATION, DELAWARE TOWNSHIP FIREFIGHTERS)
RELIEF ASSOCIATION, GOODLAND FIREFIGHTERS)
RELIEF ASSOCIATION, LIBERAL FIREFIGHTERS)
RELIEF ASSOCIATION, MEADE COUNTY FIREFIGHTERS)
RELIEF ASSOCIATION, TONGANOXIE TOWNSHIP)
FIREFIGHTERS RELIEF ASSOCIATION, UTICA)
FIREFIGHTERS RELIEF ASSOCIATION, FOWLER)
FIREFIGHTERS RELIEF ASSOCIATION, and)
BENNINGTON FIREFIGHTERS RELIEF ASSOCIATION)

Docket No. 2698-FR

ORDER

After due and proper notice, this matter was called for hearing on November 23, 1998, 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 present and applying for a redetermination were Arma Firefighters Relief Association, Crawford County #2 Firefighters Relief Association, Frontenac Firefighters Relief Association, Colwich Firefighters Relief Association, Burns Firefighters Relief Association, Butler County #3 Firefighters Relief Association, Sabetha Firefighters Relief Association, Olathe Firefighters Relief Association,

Lawrence Firefighters Relief Association, Shawnee County #2 Firefighters Relief Association, Cowley County #3 Firefighters Relief Association, Cowley County #4 Firefighters Relief Association, Delaware Township Firefighters Relief Association, Goodland Firefighters Relief Association, Liberal Firefighters Relief Association, Meade County Firefighters Relief Association, Tonganoxie Township Firefighters Relief Association, Utica Firefighters Relief Association, and Fowler Firefighters Relief Association.

The Arma Firefighters Relief Association appeared and presented evidence under oath by Gerald Lynn Wayman, Secretary/Treasurer. The Crawford County #2 Firefighters Relief Association appeared and presented evidence under oath by Gerald Lynn Wayman, Secretary/Treasurer. The Frontenac Firefighters Relief Association appeared and presented evidence under oath by Michael Haggerty, Vice President. The Colwich Firefighters Relief Association appeared and presented evidence under oath by Donald Paul Rowe, President. The Burns Firefighters Relief Association appeared and presented evidence under oath by Barry Black, President. The Butler County #3 Firefighters Relief Association appeared and presented evidence under oath by Dan Armstrong, President. The Sabetha Firefighters Relief Association appeared and presented evidence under oath by Benjamin J. Johnson, Treasurer. The Olathe Firefighters Relief Association appeared and presented evidence under oath by Paul Willey, President. The Lawrence Firefighters Relief Association appeared and presented evidence under oath by Jim Sloan, Treasurer. The Shawnee County #2 Firefighters Relief Association appeared and presented evidence under oath by Kenny Dick, Treasurer. Cowley County #3 Firefighters Relief Association presented evidence by Sworn Affidavit. Cowley County #4 Firefighters Relief Association presented evidence by Sworn Affidavit. Delaware Township Firefighters Relief Association presented evidence by Sworn Affidavit. Goodland Firefighters Relief

Association presented evidence by Sworn Affidavit. Liberal Firefighters Relief Association presented evidence by Sworn Affidavit. Meade County Firefighters Relief Association presented evidence by Sworn Affidavit. Tonganoxie Township Firefighters Relief Association presented evidence by Sworn Affidavit. Utica Firefighters Relief Association presented evidence by Sworn Affidavit. And, Fowler Firefighters Relief association presented evidence by Sworn Affidavit.

The Bennington Firefighter Relief Association withdrew its application and was not heard.

The Kansas Insurance Department was represented by Brian Moline, Staff Attorney, and John Washburn, Fire & Casualty Division policy examiner assigned to Firefighter Relief Association regulatory activities.

Robert L. Kennedy, Jr., Assistant Commissioner of Insurance, is the Presiding Officer duly appointed by Commissioner Sebelius.

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 1999 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 lightening 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 firefighter's 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."

7. Presenting evidence of changed circumstances were the Arma Firefighters Relief Association, the Crawford County #2 Firefighters Relief Association, the Frontenac Firefighters Relief Association, the Colwich Firefighters Relief Association, the Burns Firefighters Relief

Association, the Butler County #3 Firefighters Relief Association, the Sabetha Firefighters Relief Association, and the Olathe Firefighters Relief Association, the Lawrence Firefighters Relief Association, the Shawnee County #2 Firefighters Relief Association, the Cowley County #3 Firefighters Relief Association, the Cowley County #4 Firefighters Relief Association, Delaware township Firefighters Relief Association, the Goodland Firefighters Relief association, the Liberal Firefighters Relief Association, the Meade County Firefighters Relief Association, the Tonganoxie Township Firefighters Relief Association, the Utica Firefighters Relief Association, and the Fowler Firefighters Relief Association, hereinafter collectively referred to as "the Applicants."

8. Bennington Oak Firefighters Relief Association withdrew its application for redetermination.

9. Arma Firefighters Relief Association offered evidence, including a map, that the area served by Arma Fire Department has grown since 1984 and the assessed tangible property valuation for the fire protection area has increased by \$2,722,008 since 1984. 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.

10. As a result of the increase in the assessed tangible property valuation as outlined in paragraph 9 above, it appears that Arma Fire Department is providing fire protection services to a more valuable area than records maintained by the Kansas Insurance Department indicated was served in 1985. The area now has an additional \$2,722,008 in assessed tangible property valuation, as enumerated in paragraph 9.

11. Crawford County #2 Firefighters Relief Association offered evidence, including maps, that the population increased by 460 that the assessed tangible property valuation for the fire protection district had increased \$5,218,308 since 1984. 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 additional area being served as outlined in paragraph 11 above, it appears that Crawford County #2 Fire Department is currently providing fire protection to a more populous and larger area than reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by Crawford County #2 Fire Department has an increased population of 460 and additional assessed tangible property valuation in the amount of \$5,218,308, as enumerated in paragraph 12 above.

13. Frontenac Fire Department Firefighters Relief Association offered evidence, including maps, that the population and assessed tangible property valuation for the enlarged fire protection is a population increase of 116 since 1983 and an increased assessed tangible property valuation of \$7,785,527 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.

14. As a result of the additional area being served as outlined in paragraph 13 above, it appears that Frontenac Fire Department is currently providing fire protection to a larger area than reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by the Frontenac Fire Department has an added population of 116 as well as an additional assessed tangible property valuation in the amount of \$7,785,527, as enumerated in paragraph 13 above.

15. Colwich Firefighters Relief Association offered evidence and a map of the enlarged area. The increased population for the enlarged fire protection area is 1,204 since 1983 and the increased assessed tangible property valuation for the enlarged area is \$27,890,220 since 1993. 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.

17. As a result of the additional area being served as outlined in paragraph 16 above, it appears that the Colwich Fire Department is currently providing fire protection to a larger area than is reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by Colwich Fire Department has an added population of 1,204 as well as an additional assessed tangible property valuation in the amount of \$27,890,220, as enumerated in paragraph 16 above.

18. Burns Firefighters Relief Association offered evidence that the population of the area served by Burns Fire Department has grown by 775 since 1984 and the assessed tangible property valuation has increased by \$7,803,788 since 1984. 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.

19. As a result of the growth in population and increase in the assessed tangible property valuation as outlined in paragraph 18 above, it appears that Burns 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 1985. The area now has an additional population of 775 and an additional \$7,803,788 in assessed tangible property valuation, as enumerated in paragraph 18 above.

20. Butler County #3 Firefighters Relief Association offered evidence, that population of the area serves by Butler County Fire Department #3 has increased by 694 and the area served by Butler County #3 Fire Department has grown and the assessed tangible property valuation has increased by \$14,764,940 since 1984. 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.

21. As a result of the growth in population and the increase in assessed tangible property valuation as outlined in paragraph 20 above, it appears that Butler County #3 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 1985. The area now has an increased population of 694 and an additional \$14,764,940 in assessed tangible property valuation, as enumerated in paragraph 20 above.

22. Sabetha Firefighters Relief Association offered evidence that the population of the area served by Sabetha Fire Department has grown by 287 since 1984 and the assessed tangible property valuation has increased by \$12,299,883 since 1984. 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.

23. As a result of the growth in population and increase in the assessed tangible property valuation as outlined in paragraph 22 above, it appears that Sabetha 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 1985. The area now has an additional population of 287 and an additional \$12,299,883 in assessed tangible property valuation, as enumerated in paragraph 22 above.

24. Olathe Fire Firefighters Relief Association offered evidence that the population of the area served by Olathe Fire Department has grown by 4,914 since 1995 and the assessed tangible property valuation has increased by \$201,736,424 since 1984. 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.

25. As a result of the growth in population and increase in the assessed tangible property valuation as outlined in paragraph 24 above, it appears that Olathe 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 1985. The area now has an additional population of 4,914 and an additional \$201,736,424 in assessed tangible property valuation, as enumerated in paragraph 24 above.

26. Lawrence Firefighters Relief Association offered evidence, including a map, that the population of the area served by Lawrence Fire Department has grown by 3,917 since 1995 and the assessed tangible property valuation for the fire protection area has increased by \$279,647,810 since 1995. 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.

27. As a result of the growth in population and increase in the assessed tangible property valuation as outlined in paragraph 26 above, it appears that Lawrence Fire Department is providing fire protection services to a greater population area and more valuable area than records maintained by the Kansas Insurance Department indicated was served in 1995. The area

now has an additional population of 3,917 and an additional \$279,647,810 in assessed tangible property valuation, as enumerated in paragraph 9.

28. Shawnee County Fire District #2 Firefighters Relief Association offered evidence, including maps, that the assessed tangible property valuation for the fire protection district had increased assessed tangible property valuation of \$7,399,763 since 1984. 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.

29. As a result of the additional area being served as outlined in paragraph 28 above, it appears that Shawnee County Fire District #2 is currently providing fire protection to a larger area than reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by Shawnee County Fire District #2 has an additional assessed tangible property valuation in the amount of \$7,399,763, as enumerated in paragraph 28 above.

30. Cowley County #3 Fire District Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population for the enlarged fire protection is a population increase of 230 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.

31. As a result of the additional area being served as outlined in paragraph 30 above, it appears that Cowley County Fire District #3 is currently providing fire protection to a larger area than reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by the Cowley County Fire District #3 has an added population of 230 as enumerated in paragraph 30 above.

32. Cowley County #4 Firefighters Relief Association offered evidence, by Sworn Affidavit and a map of the enlarged area. The increased population for the enlarged fire protection area is 567 since 1993 and the increased assessed tangible property valuation for the enlarged area is \$3,699,835 since 1993. 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.

33. As a result of the additional area being served as outlined in paragraph 32 above, it appears that the Cowley County Fire District #4 is currently providing fire protection to a larger area than is reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by Cowley County Fire District #4 has an added population of 567 as well as an additional assessed tangible property valuation in the amount of \$3,699,835, as enumerated in paragraph 32 above.

34. Delaware Township Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population of the area served by Delaware Township Fire Department has grown by 3,680 since 1984 and the assessed tangible property valuation has increased by \$32,390,837 since 1984. 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.

35. As a result of the growth in population and increase in the assessed tangible property valuation as outlined in paragraph 34 above, it appears that Delaware Township 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 1985. The area

now has an additional population of 3,680 and an additional \$32,390,837 in assessed tangible property valuation, as enumerated in paragraph 34 above.

36. Goodland Firefighters Relief Association offered evidence, by Sworn Affidavit, that the area served by Goodland Fire Department has grown and the assessed tangible property valuation has increased by \$8,505,963 since 1984. 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.

37. As a result of the increase in the assessed tangible property valuation as outlined in paragraph 36 above, it appears that Goodland 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 1985. The area now has an additional \$8,505,963 in assessed tangible property valuation, as enumerated in paragraph 36 above.

38. Liberal Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population of the area served by Liberal Fire Department has grown by 2,640 since 1984 and the assessed tangible property valuation has increased by \$59,510,781 since 1984. 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.

39. As a result of the growth in population and increase in the assessed tangible property valuation as outlined in paragraph 38 above, it appears that Liberal 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 1985. The area now has

an additional population of 2,640 and an additional \$59,510,781 in assessed tangible property valuation, as enumerated in paragraph 38 above.

40. Meade County Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population of the area served by Meade County Fire Department has grown by 107 since 1984. 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.

41. As a result of the growth in population as outlined in paragraph 40 above, it appears that Meade County Fire Department is providing fire protection services to a more populated area than the records maintained by the Kansas Insurance Department indicated was served in 1985. The area now has an additional population of 107.

42. Tonganoxie Township Firefighter Relief Association offered evidence, by Sworn Affidavit, that the population has grown by 178 and the assessed tangible property valuation has increased by \$5,834,673 since 1984. 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 growth in population as outlined in paragraph 42 above, it appears that Tonganoxie Township Fire Department is providing fire protection services to a more populated and valuable area than the records maintained by the Kansas Insurance Department. The area currently being protected by the Tonganoxie Township Fire Department has an added population of 178 as well as an additional assessed tangible property valuation of \$5,834,673, as enumerated in paragraph 42 above.

43. Utica Firefighters Relief Association offered evidence, by Sworn Affidavit, and a

map of the enlarged area. The increased population for the enlarged fire protection area is 177 and the increased assessed tangible property valuation for the enlarged area is \$4,347,019 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 the amendments thereto.

44. As a result of the additional area being served as outlined in paragraph 43 above, it appears that the Utica Fire Department is currently providing fire protection to a larger area than is reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by the Utica Fire Department has an added population of 177 as well as an additional assessed tangible property valuation in the amount of \$4,347,019, as enumerated in paragraph 43 above.

45. Fowler Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population of the area served by the Fowler Fire Department has grown by 107 since 1984 and the assessed tangible property valuation has increased by \$439,755 since 1984. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase 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 of the area being served as outlined in paragraph 45 above, it appears that Fowler Fire Department is currently providing fire protection to a larger area than reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by the Fowler Fire Department has an added population of 107 as well as an additional assessed tangible property valuation of \$439,755, as enumerated inn paragraph 45 above.

Conclusions of Law

47. 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 1998 and future distributions pursuant to the Firefighters Relief Act, specifically K.S.A. 40-1706(c)(6).

48. 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.

49. Applicants presented evidence that the increased population and 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.

50. To redetermine the proportionate amount payable to all firefighters relief associations for the 1999 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).

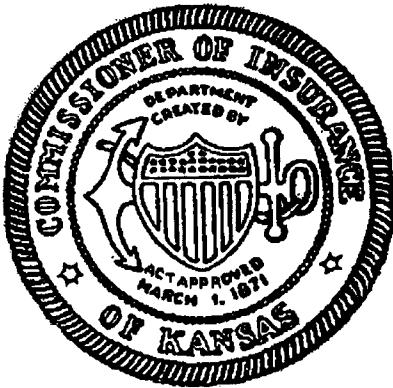
51. The procedure contained in paragraphs 49 and 50 above, shall affect the proportionate amount payable to all firefighters relief associations.

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.

IT IS SO ORDERED THIS 1st DAY OF FEBRUARY, 1999, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Kathleen Sebelius
Commissioner of Insurance
BY:

Robert L. Kennedy, Jr.
Assistant Commissioner

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 2nd day of February, 1999, addressed to the following:

Ms. Lori Warford, Treasurer
Arma Firefighters Relief Association
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