

*Allen County Commission
1 North Washington
Iola, KS 66749
316-365-1406*

August 25, 1999

Kathleen Sebelius
Insurance Commissioner
420 S. W. 9th
Topeka, KS 66612-1678

Dear Commissioner Sebelius,

Allen County Commissioners passed Resolution #99015 "A RESOLUTION CREATING A LIEN IN FAVOR OF ALLEN COUNTY IN THE PROCEEDS OF ANY INSURANCE POLICY BASED UPON A COVERED CLAIM PAYMENT MADE FOR DAMAGE OR LOSS TO A BUILDING OR OTHER STRUCTURE, CAUSED BY OR ARISING OUT OF ANY FIRE, EXPLOSION OR WIND DAMAGE" at our regular session on August 25, 1999. Commissioner Barber moved that said resolution be adopted. The motion was seconded by Commissioner Thompson., motion carried 3-0-0.

If you have any questions, please contact our office at 316-365-1406 or the County Clerk's Office at 316-365-1407.

Sincerely,
ALLEN COUNTY BOARD OF COMMISSIONERS

Jean M. Barber, Chairman

RESOLUTION #99010

A resolution creating a lien in favor of Allen County in the proceeds of any insurance policy based upon a covered claim payment made from damage or loss to a building or other structure, caused by or arising out of any fire or explosion.

WHEREAS, the Allen county Commission wishes to take advantage of the provision of K.S.A. 40-3904 to better insure that Tax revenues will not be lost in the even of a casualty loss of buildings or other improvements in Allen County; and

WHEREAS, K.S.A. 40-3904 allows the Commission to create a lien in insurance proceeds payable by reason of such loss; Now Therefore

BE IT RESOLVED by the Board of County Commissioners of Allen County, Kansas:

Section 1: There is hereby created a lien in favor of Allen County, Kansas in the proceeds of any insurance policies covering buildings and other improvements to real estate in Allen County payable as a result of any damage or loss to such improvements caused by or arising out of any fire or explosion. Said lien shall arise upon any unpaid tax; Special ad valorem levy, special assessment or other charge imposed upon real estate by or on behalf of the county which is an encumbrance or real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other change that has remained undischarged for at least one year prior to the filing of a proof of loss.

Section 2: Upon receipt of satisfactory proof that the insured has or will remove debris and repair, rebuild or otherwise make the premises safe and secure, the commission may certify that such repair or replacement work is accepted in lieu of the insurance proceeds and upon such written certification being delivered to the insurer the lien established in Section 1 is deemed waived.

Section 3: The County Clerk shall notify the Commission of Insurance of the adoption of this ordinance within 14 days of its adoption.

Section 4: This resolution shall take effect from and after its publication in the Iola Register.

Passed and Approved this 25 day of August, 1999.

The Board of County Commissioners of
Allen County, Kansas

Attest:

Jean M. Barber, Chairperson

Sherrie L. Riebel, Clerk

Dick Works, Member

Kent L. Thompson, Member

RESOLUTION #99015

A resolution creating a lien in favor of Allen County in the proceeds of any insurance policy based upon a covered claim payment made from damage or loss to a building or other structure, caused by or arising out of any fire, explosion or wind damage.

WHEREAS, the Allen county Commission wishes to take advantage of the provision of K.S.A. 40-3904 to better insure that Tax revenues will not be lost in the even of a casualty loss of buildings or other improvements in Allen County; and

WHEREAS, K.S.A. 40-3904 allows the Commission to create a lien in insurance proceeds payable by reason of such loss; Now Therefore

BE IT RESOLVED by the Board of County Commissioners of Allen County, Kansas:

Section 1: There is hereby created a lien in favor of Allen County, Kansas in the proceeds of any insurance policies covering buildings and other improvements to real estate in Allen County payable as a result of any damage or loss to such improvements caused by or arising out of any fire, explosion or wind damage. Said lien shall arise upon any unpaid tax; Special ad valorem levy, special assessment or other charge imposed upon real estate by or on behalf of the county which is an encumbrance or real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other change that has remained undischarged for at least one year prior to the filing of a proof of loss.

Section 2: Upon receipt of satisfactory proof that the insured has or will remove debris and repair, rebuild or otherwise make the premises safe and secure, the commission may certify that such repair or replacement work is accepted in lieu of the insurance proceeds and upon such written certification being delivered to the insurer the lien established in Section 1 is deemed waived.

Section 3: The County Clerk shall notify the Commission of Insurance of the adoption of this ordinance within 14 days of its adoption.

Section 4: This resolution shall take effect from and after its publication in the Iola Register.

Passed and Approved this 25 day of August, 1999.

The Board of County Commissioners of
Allen County, Kansas

Attest:

Jean M. Barber, Chairperson

Sherrie L. Riebel, Clerk

Dick Works, Member

Kent L. Thompson, Member

ORDINANCE NO. 185

AN ORDINANCE ESTABLISHING THE CREATION OF A LIEN ON THE INSURANCE PROCEEDS FOR DAMAGE OR LOSS TO STRUCTURES CAUSED BY FIRE, EXPLOSION, OR WINDSTORM, AND THE ESTABLISHMENT OF AN INSURANCE PROCEEDS FUND.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ALLEN, KANSAS, THAT:

Section 1. SCOPE AND APPLICATION. The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this ordinance.

Section 2. LIEN CREATED. The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located with the city, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.

Section 3. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by Section 2, the insurer or insurers shall contact the county treasurer, Lyon County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the county treasurer, Lyon County, Kansas.

Section 4. SAME; PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.

Section 5. PROCEDURE.

(a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city treasurer in an amount equal to the sum of 15 percent of the covered claim payment, unless the chief building inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.

(b) Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

© Upon the transfer of the funds as required by subsection (a) of this ordinance, the insurance company shall provide the city with the name and address of the named insured or insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the chief building inspector shall contact the named insured or insureds by certified mail, return receipt requested, notifying them that said insurance proceeds have been received by the city and apprise them of the

procedures to be followed under this ordinance.

Section 6. FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this ordinance shall be placed in said fund and deposited in an interest-bearing account.

Section 7. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.

(a) Upon receipt of moneys as provided for by this ordinance, the city treasurer shall immediately notify the chief building inspector of said receipt, and transmit all documentation received from the insurance company or companies to the chief building inspector.

(b) Within 20 days of the receipt of said moneys, the chief building inspector shall determine, after prior investigation, whether the city shall instigate proceedings under the provisions of K.S.A. 12-1750 et seq., as amended.

© Prior to the expiration of the 20 days established by subsection (b) of this ordinance, the chief building inspector shall notify the city treasurer whether he or she intends to initiate proceedings under K.S.A. 12-1750 et seq., as amended.

(d) If the chief building inspector has determined that proceedings under K.S.A. 12-1750 et seq., as amended shall be initiated, he or she will do so immediately but no later than 30 days after receipt of the moneys by the city treasurer.

(e) Upon notification to the city treasurer by the chief building inspector that no proceedings shall be initiated under K.S.A. 1750 et seq., as amended, the city treasurer shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company or companies.

Section 8. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector has proceeded under the provisions of K.S.A. 1750 et seq., as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any shall be paid to the insured.

Section 9. SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. 1756, any proceeds received by the city treasurer under the authority of Section 5(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 1756. Upon reimbursement from the insurance proceeds, the chief building inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under Section 5(a), the chief building inspection shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred.

Section 10. EFFECT UPON INSURANCE POLICIES. This ordinance shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

Section 11. INSURERS; LIABILITY. Insurers complying with this ordinance or attempting in good faith to comply with this ordinance shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to the ordinance, or releasing or disclosing any information pursuant to this ordinance.

Section 12. All provisions in conflict herewith are hereby repealed.

Section 13. This Ordinance shall take effect upon the publication in The Emporia Gazette, the official city newspaper.

PASSED AND APPROVED by the Governing Body of the City of Allen, Kansas, this 5th day of May, 2008.

Charles C. Eastman

Mayor

ATTEST: *Dorothy Rye*

City Clerk

AFFIDAVIT OF PUBLICATION

STATE OF KANSAS, LYON COUNTY, ss:

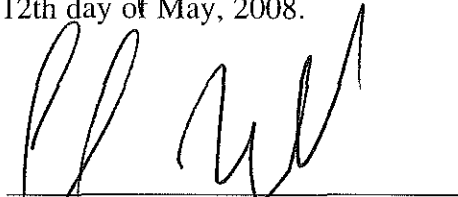
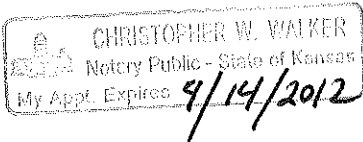
Michelle Heins, being first duly sworn, deposes and says: That she is an employee of The Emporia Gazette, a daily newspaper printed in the State of Kansas, and published in and of general circulation in Lyon County, Kansas, with a general paid circulation on a daily basis in Lyon County, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a daily published at least 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of Emporia in said County as periodical matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for ONE DAY ONLY, the first publication thereof being made as aforesaid on the 12th day of May, 2008, with subsequent publications being made on the following dates:



Subscribed and sworn to by me this 12th day of May, 2008.



Notary Public

Printer's Fee: \$161.00

Date Paid:

Examined and approved this _____ day of _____ 20____

Signed by _____
District Judge

EXHIBIT A

STOCKS M

The Associated Press

NEW YORK — Wall Street rose modestly in early trading today as oil prices ticked lower and the dollar advanced.

The market's concerns about rising inflation and its effect on consumer spending receded somewhat as light, sweet crude fell 77 cents to \$125.19 per barrel in premarket electronic trading on the New York Mercantile Exchange. Oil prices surged nearly

