



STATE OF KANSAS

KANSAS INSURANCE DEPARTMENT

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Consumer Assistance
Division calls only

MAY
KANSAS INSURANCE
EDUCATION MONTH

RON TODD
Commissioner

Fire and Casualty Division
Fire Lien Bulletin No. 71

TO: All Insurers Writing Fire and/or Explosion Insurance in the State of Kansas

IMPORTANT: FOR DISTRIBUTION TO SUPERVISOR(S) OF KANSAS OPERATIONS

FROM: Ron Todd
Commissioner of Insurance

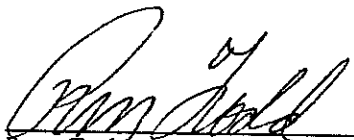
SUBJECT: Promulgation of Ordinances by the City of Princeton, Kansas under the Purview of K.S.A. 40-3901, et seq.

DATE: May 20, 1992

Pursuant to K.S.A. 40-3905, I am enclosing a copy of an ordinance adopted by Princeton, Kansas, which creates a lien on certain insurance proceeds. The ordinance should provide the information needed in order for you to effect compliance therewith. Please read this document carefully as a lack of good faith effort to comply could subject you to the penalty provisions of the Unfair Trade Practices Act, as well as possibly result in duplicate claim payments.

You will note that you have 60 days from the date of this Bulletin to establish necessary procedures and advise adjusters, agents or other persons responsible for your operations in Princeton, Kansas of the steps to be taken to comply with this ordinance.

Please acknowledge receipt of this specific Bulletin by referring to Fire Lien Bulletin No. 71. We also ask that you confirm that the necessary procedures have been established and the appropriate personnel have been notified.



Ron Todd
Commissioner of Insurance

RT:LEC:jbf
4292/(FC1514)
Enclosure

ORDINANCE NO. 146

AN ORDINANCE PROVIDING FOR PAYMENT OF INSURANCE PROCEEDS TO THE CITY OF PRINCETON, KANSAS, UPON ANY COVERED CLAIM MADE FOR DAMAGE OR LOSS TO A BUILDING OR STRUCTURE WITHIN THE CITY DUE TO FIRE OR EXPLOSION AND CREATING A LIEN IN FAVOR OF THE CITY IN SAID INSURANCE PROCEEDS FOR CERTAIN UNPAID TAXES, LEVIES, ASSESSMENTS OR OTHER CHARGES IMPOSED UPON SAID PROPERTY BY OR ON BEHALF OF THE CITY.

BE IT ORDAINED by the Governing Body of the City of Princeton, Kansas:

Section 1. PROCEDURES. The City of Princeton, Kansas, is authorized pursuant to K.S.A. 40-3901, *et seq.*, to establish and does hereby establish procedures whereby no insurance company doing business within the city shall pay a claim of an insured(s) for loss or damage to a building or structure located within the city from fire or explosion where the amount recoverable for the loss or damage to the building or structure under all policies is in excess of seventy-five percent (75%) of the face value of the policy covering the building or structure unless there is compliance with the following procedures:

- (a) When final settlement on a covered claim has been reached between the insured(s) and the insurance company or companies, and said final settlement exceeds seventy-five percent (75%) of the face value of the policies covering the building or 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, have been paid, the insurance company or companies shall execute a draft payable to the city treasurer of the City of Princeton, Kansas, in an amount equal to the sum of Five Thousand Dollars (\$5,000) or ten percent (10%) of the covered claim payment, whichever is less, unless the mayor has issued a certificate to the insurance company or companies that the insured has removed the damaged building or structure and all associated debris, or repaired, rebuilt or otherwise made the premises safe and secure.
- (b) Transfer of insurance proceeds to the city as set forth in Section 1(a) shall be on a pro rata basis by all companies insuring the building or structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms except as otherwise provided herein.
- (c) Upon transfer of the funds as required in Section 1(a) herein, the insurance company shall provide the city with the name and address of the insured(s), the total insurance coverage applicable to the damaged building or structure, and the amount of the final settlement agreed to between the insurance company or companies and the insured(s).

Section 2. DUTIES OF CITY UPON RECEIPT OF INSURANCE PROCEEDS. Upon receipt of insurance proceeds as required in Section 1(a),

- (a) The city treasurer shall establish a separate interest bearing account at a financial institution and deposit all funds received into said account and

shall immediately notify the mayor of said receipt and transmit all documentation received from the insurance company or companies to the mayor.

- (b) The mayor shall contact the named insured(s) by certified mail that insurance proceeds have been received by the city and apprise them of the procedures to be followed regarding dispersal hereunder.
- (c) Within twenty (20) days of the receipt of said proceeds, the mayor shall determine whether the city shall instigate proceedings under the provisions of K.S.A. 12-1750 *et seq.* or other applicable state or federal law.
- (d) Prior to the expiration of the twenty (20) days established in subparagraph (c), the mayor shall notify the city treasurer whether he/she intends to initiate proceedings under K.S.A. 12-1750 *et seq.*
- (e) If the mayor determines that proceedings under K.S.A. 12-1750 *et seq.* shall be initiated, such proceedings shall be initiated no later than thirty (30) days after receipt of the insurance proceeds.
- (f) Upon notification to the city treasurer by the mayor that no proceedings shall be initiated under K.S.A. 12-1750 *et seq.*, the city treasurer shall initiate the return of said proceeds plus accrued interest to the insured(s) within ten (10) days thereafter.
- (g) If the mayor proceeds under the provisions of K.S.A. 12-1750 *et seq.*, all proceeds received in excess of that which is ultimately necessary to remove the damaged building or structure and all associated debris, less salvage value, shall be paid to the insured within twenty (20) days of completion of cleanup. Should the expenses incurred by the city exceed the insurance proceeds paid to the city treasurer under Section 1(a) or in the event no insurance covers the loss, the city shall assess such additional cost against the property as authorized by K.S.A. 12-1756, to be paid in the manner provided by K.S.A. 12-1755.

Section 3. TAX LIEN CREATED. (a) In accordance with K.S.A. 40-3902, the city hereby creates a lien in favor of the city in the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or structure in the city caused by fire or explosion. The lien arises upon any unpaid tax, special ad valorem levy, special assessment or other charge imposed upon the real property by or on behalf of the city which is an encumbrance on the 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 on said property.

(b) Prior to final settlement of any claim covered by this section, the insurer(s) shall contact the treasurer of Franklin County, Kansas, to determine if any such encumbrances exist on the real property. If any such encumbrances are found to exist, the insurer(s) shall execute and transmit a draft payable to the Franklin County Treasurer in an amount equal to either the encumbrances or the insurance proceeds, whichever is less.

Section 4. CITY CLERK; DUTY TO NOTIFY. The city clerk of the City of Princeton, Kansas shall notify the Commissioner of Insurance of the State of Kansas of this ordinance within fourteen (14) days after its adoption and publication.

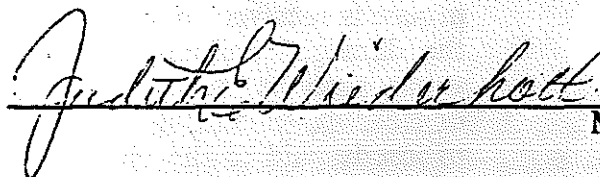
Section 5. APPLICATION. The provisions of this ordinance shall apply to all fire and explosion claims arising on any buildings or structures within the city.

Section 6. OTHER PROVISIONS. The provisions of this ordinance do not make the City of Princeton, Kansas, 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 7. INSURERS IMMUNE. 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 this ordinance, or releasing or disclosing any information pursuant to this ordinance.

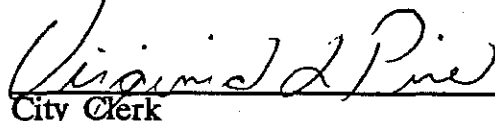
Section 8. EFFECTIVE DATE; PUBLICATION. This ordinance shall take effect after its publication in the official city newspaper.

PASSED AND ADOPTED BY THE GOVERNING BODY of the City of Princeton, Kansas, this 4 day of May, 1992.

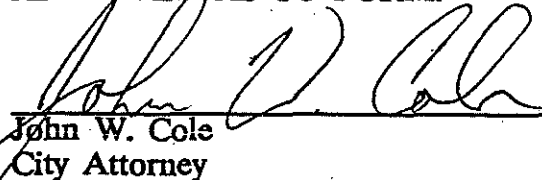


Mayor

ATTEST:


City Clerk

APPROVED AS TO FORM:


John W. Cole
City Attorney

RECEIVED
CITY OF PRINCETON
KANSAS