

Kansas Firefighter Relief Act Handbook and Best Practices



This handbook has been developed to assist Kansas Firefighter Relief Associations in administering their programs in accordance with statutory and regulatory requirements. This handbook also outlines the procedures necessary to maintain a Relief Association in compliance with the Kansas Firefighter Relief Act.



Kansas Insurance Department
Vicki Schmidt, Commissioner of Insurance

Kansas Firefighter Relief Act Handbook and Best Practices



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The Firefighters Relief Fund Act was created in 1895 by the Kansas Legislature to help Kansas Firefighters and their families when an accident occurs in the line of duty. Funds distributed to the Firefighter Relief Associations (FRAs) are used to purchase accident and health, disability and life insurance premiums for their firefighters. The purpose of this handbook is to help new and existing FRAs develop, implement and maintain their program.

Within this handbook you will find requirements, best practices and technical standards an FRA will need to operate. You will also find procedures and forms in the back of this handbook that may be of help to FRAs.

The Kansas Insurance Department is proud to assist Kansas firefighters and the FRAs that help them purchase the insurance they need to take care of themselves and their families.



Sincerely,

Vicki Schmidt,
Commissioner of Insurance

Kansas Firefighter Relief Act

- For the relief of any member of the fire department of such city, township, county or fire district when injured or physically disabled in or by reason of the discharge of such member's duties as a firefighter.
- For the payment of a death benefit when any member of such fire department is killed in the discharge of such member's duties as a firefighter.

Images inside this booklet were submitted to the Kansas Insurance Department by fire departments across the state.

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Introduction

The Kansas Insurance Department has the honor of administering the Firefighters Relief Act fund for the state of Kansas. It is our obligation to ensure that the 2 percent premium tax on all fire and lightning insurance written in the state of Kansas is collected and distributed in a fair and equitable manner. We take this obligation very seriously and strive to make the Firefighter Relief Act program accurate, efficient and transparent for all fire service personnel across the state.

In 1895 the Kansas Legislature created the Firefighters Relief Fund Act, provided that, “in all cities having an organized fire department, under the control of the mayor and council, and having, in serviceable condition for fire duty, fire apparatus and equipment belonging thereto to the value of \$1,000 or upwards, every fire-insurance company, not incorporated under the laws of this state, doing business in such cities should return to this department a just and true account, verified by oath, of all premiums received from fire-insurance business done in such cities, and pay a tax of 2 percent, thereon, for the creation of benefit fund for fire departments.”



The proud history and sacrifice of the Kansas fire service was paramount in enacting legislation to provide benefits to those that protect citizens, communities and the property of our state. At present there are more than 568 participating Firefighter Relief Associations that receive funds to provide relief for firefighters who are injured or die in the line of duty.

This handbook has been developed to assist local Firefighter Relief Associations in the state of Kansas by providing statutory, regulatory and suggested best practices in one comprehensive manual. It is with great pride that we are able to serve the brave firefighters of our state.

Relief Fund Source and Distribution

To establish the Firefighters Relief Fund, a tax of 2 percent of premiums on all fire and lightning insurance written in Kansas is assessed on all companies licensed to write this insurance. The procedure for obtaining and distributing this tax is as follows:

The Commissioner of Insurance:

- Collects the tax from the companies, deducts 3 percent from the total tax collected and pays this amount to the Kansas State Firefighters Association, Inc., for fire prevention and fire extinguishment education and study.
- Deducts 5 percent from the total tax collected and pays this amount to the Kansas State Firefighters Association, Inc., to be set aside as a death benefit fund. This amount, however, may not be more than the lesser of \$100,000 or the result obtained by subtracting the balance in the death fund on July 1 from \$100,000.
- Deducts an amount equal to the administrative expense that has been approved by the Legislature for the Insurance Department's administration of the fund.
- Distributes the remainder of the tax to the qualifying Firefighter Relief Associations as long as they submit proper annual reports to the Commissioner.

Each qualifying Firefighters Relief Association receives a base amount of \$1,000.

- The remaining balance of the fund is distributed to those associations which participated in the tax collected in 1983, and distributed in 1984. Those associations receive an amount equal to the percentage of the total they received in 1984. Those associations that did not participate in the 1984 distribution receive an amount calculated by a formula using the population and assessed tangible property valuation figures furnished to this office by those non-receiving associations. The distribution of this tax to the relief associations is made prior to August 1 of each year.

Participation in the Relief Act

Members of any qualified fire department may participate in distribution of the Firefighters Relief Fund.

K.S.A. 40-1701 defines association as follows:

“Firefighters relief association” or “firemen’s relief association” means an association incorporated under the laws of this state composed of members of a fire department which is:

- (1) a public fire department under the control of the governing body of an incorporated city, township, county or fire district or
- (2) a private fire department operated by a not-for-profit corporation which provides all of the fire protection services for an incorporated city, township, county or fire district pursuant to a contract with the governing body thereof, and which in either case has a fire apparatus and necessary equipment therefore that is in serviceable condition for fire duty and has a value of \$5,000 or more.

In addition, each firefighters relief association shall prepare and file with the Commissioner a plat drawn to scale showing the area provided fire protection service by the fire department of the firefighters relief association and the location of each fire department house. No such plan shall include any part of any area served by another fire department.

Members of a fire department who desire to participate in the distribution of firefighters relief funds shall:

- File articles of incorporation as a not-for-profit corporation from the Kansas Secretary of State at 120 SW 10th Ave, Topeka, KS 66612.
- File with the Commissioner of Insurance a certified copy of the articles of incorporation of the firefighter’s relief association; and
- File with the Commissioner of Insurance evidence of establishment of a fire district within a township or county in accordance with applicable Kansas statutes. This requirement shall not apply to fire departments under the exclusive control of the governing body of an incorporated city.

When the members of a city, township, county, or fire district fire department notify the Commissioner of Insurance of their desire to participate in the firefighter’s relief fund tax and have otherwise qualified for participation, the proper officials shall complete a declaration form, downloaded from the KID website at <https://www.ksinsurance.org/otherservices/firefighter-relief-act.php>, which declares their right to participate in the firefighter’s relief

fund. The completed form shall be submitted to the Commissioner of Insurance. The declaration form shall be executed by the chief executive officer of the city, township, county, or fire district. The clerk of the city, township or county, or the equivalent official of the fire district shall attest to the execution of the form.

Qualified firefighters relief associations shall submit, for newly established associations and for associations requesting redetermination hearings, on forms downloaded from the KID website, a certification by the county clerk, of the population and assessed tangible property valuation of the geographic area provided for protection services by the fire department of the association. The population figure shall be computed using the most recent population figures available from the United States bureau of the census as certified to the Secretary of State by the Division of the Budget on July 1 of each year. The assessed tangible property valuation figure provided on the form shall be computed using the tangible assessed valuation as shown on the latest November 1 assessment roll prepared and maintained by the county clerk.

Each firefighter's relief association shall adopt bylaws to cover all activities of the association and shall set forth the procedures for disbursing funds for the payment of benefits provided by the association. A copy of the bylaws and the procedures shall be filed with the Commissioner of Insurance.

Members Covered Under the Relief Act

A firefighter is covered under the Relief Act from the first day of service regardless of any probationary status. There is no "Opt Out" provision in the relief act, and each firefighter must be treated equal in terms of benefits and contribution by the FRA towards any premium contract. Should a member be denied coverage by an insurance provider, then other means to provide equivalent comparable benefits must be provided.

K.S.A. 40-1707 sets specific prerequisites for any relief or benefit to be available to the members of the firefighters relief association who is injured, physically disabled or killed in or by reason of the discharge of such member's duties as a firefighter. The entitlement of relief or benefit under the Relief Act is exclusively determined upon the function and duties of the intended recipient as a firefighter. The function of the individual as a firefighter is essential in qualifying for any relief under the relief act.

“Relief” defined

Removal in whole or in part of the financial burden, hardship or distress of a fireman, his widow or dependents, resulting from injury or physical disability to a fireman in the discharge of his duties. Within reasonable limits, depending on the funds available and the circumstances of financial need resulting from such injury or physical disability to a fireman, the amount of financial assistance to be paid as relief to such fireman, his widow or dependents, falls within the discretionary power of the FRA to administer the fund.

Reporting Requirements/Annual Financial Statements

On or before April 1 of each year, every firefighters relief association which holds funds received under the Firefighters Relief Act shall submit to the Commissioner of Insurance a verified account showing in full the receipts and disbursements and general condition of such funds for the year ending on the preceding December 31 (K.S.A. 40-1706(a)).

Annual Financial statements will be submitted to the Kansas Insurance Department utilizing the Online Submission Program on or before April 1 of each year. The website is found at <https://www.ksinsurance.org/secure/FRAOnline/index.php>.

If you experience any difficulties or have questions concerning the FRA Online Program, please call the FRA Administrator at (785) 291-3390 or (785) 296-3071.

The FRA Online Program has been developed to facilitate all FRA administrative functions and provides one-stop shopping for members to use whenever time is available. The program provides for the following:

- Access to all FRA records and files
- FRA Library
- Financial Statement Submission
- Redetermination Requests
- Contacting FRA Office

Failure to Comply with the Relief Act

Except as otherwise provided in this section, whenever any firefighters relief association fails to qualify for funds, as provided in the firefighters relief act, for a period of two consecutive years, the funds on deposit with such association shall be returned by the district or county attorney to the Commissioner of Insurance. The Commissioner of Insurance shall remit all such funds to the State Treasurer in accordance with the provisions of K.S.A. 75-4215 and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state firefighters relief fund. The Commissioner of Insurance shall pay such amount of funds to the Kansas State Firefighters Association, Inc., for fire prevention and fire extinguishment education and study (K.S.A. 40-1706(d)).

Financial Statements due by April 1 of every year (K.S.A. 40-1706(a)).

Failure to submit by that time automatically renders the FRA “not qualified” to receive funds under the Relief Act. The following actions may be taken by the FRA Administrator’s office:

Treasurer

- Email notification to Treasurer
- Phone call to Treasurer
- Letter notification to Treasurer

Fire Chief

- Letter to Fire Chief

Governing Body

- Letter to County Commissioners, Township Board, City Council

County Attorney

- Letter to County/District Attorney

Claims of Misappropriations of FRA funds

If such account or other information shows such funds are not being expended for the purposes authorized by the Firefighters Relief Act, the Commissioner of Insurance shall notify the county attorney of the county in which any such firefighters relief association is located and the county attorney shall institute proceedings to recover for the use of the firefighters relief association all moneys expended for purposes not in accordance with the provisions of the Firefighters Relief Act. The Commissioner of Insurance shall hold any funds of such firefighters relief association until the Commissioner is notified by the district or county attorney that such condition has been corrected (K.S.A. 40-1706(a)).

The county or district attorney and/or the State Attorney General's Office will be notified to investigate the claim after receipt of signed affidavit is received from governing body.

Bylaws

Each firefighters relief association shall adopt bylaws to cover all activities of the association and shall set forth the procedures for disbursing funds for the payment of benefits provided by the association to include annuities, death benefits and funeral expenses. A copy of the bylaws and the procedures shall be dated and filed with the Commissioner of Insurance (K.A.R. 40-10-2(e)). As a best practice, FRAs should review their bylaws every five years.

Separate Account

All the moneys so received shall be set apart and used by the firefighters relief association of such cities, townships, counties or fire districts solely and entirely for the objects and purposes of the Firefighters Relief Act and shall be paid to and distributed by the firefighters relief associations of such cities, townships, counties or fire districts under such provisions as shall be made by the governing body thereof (K.S.A. 40-1706(g)).

Benefits and Authorized Expenditures of Relief Funds

Except as otherwise provided in the Firefighters Relief Act, all moneys received by a firefighters relief association under the provisions of the firefighters relief act shall be held in trust and used as a fund for the following:

- Payments for the relief of those injured or physically disabled in or by reason of the discharge of their duties as a firefighter.
- Payment of death benefit to the surviving spouse or those dependent upon such fire fighter who:
 - Is killed in the discharge of his/her duties as a firefighter.
 - Dies from the effects of injuries received in the discharge of his/her duties as a firefighter.
 - Dies from the effect of diseases contracted by reason of his/her duties as a firefighter.

- Payment of funeral expenses for firefighters who die:
 - In the discharge of their duties as firefighters.
 - From injuries received in the discharge of their duties as firefighters.
 - From disease contracted while discharging their duties as firefighters.
- For the purchase of insurance which would provide for any or all of the foregoing purposes for which such fund is authorized to be expended.
 - Purchase of group term, group permanent or individual permanent life insurance.
 - Purchase of accident or accident and health insurance for the benefit of members of the fire department who are injured in the discharge of their duties as firefighters.
- Payment of pensions to members of full-paid fire departments who are unfit for service after having served at least 20 years on such department.
- Establishment of an annuity for members of a fire department consisting of volunteer firefighters who have served for not less than 20 years with such fire department and who attended and fought not less than 75 percent of the fires which were attended by such fire department which the firefighter was available to attend as verified by the governing body of such fire department.
- The cost of the bond for the treasurer of a firefighters relief association, as prescribed by K.S.A. 40-1706, and reasonable administrative expenses, to be determined at the discretion of the Commissioner of Insurance, including stamps, stationery, safe deposit box rental, the expense of having the funds of the association audited, and other similar expenses, shall be permissible disbursements from the firefighters relief funds. Each expenditure shall be itemized in the financial statement.
- Relief may include the replacement of hearing aids, eye glasses, etc., if it is determined that they were damaged during the discharge of such member's duties as a firefighter.

Firefighters Relief Funds may not be expended for any purpose not enumerated previously. Specifically the fund may not be used for:

- Expenses of members attending conventions, training or seminars.
- Donations to cities, townships, counties or fire districts.
- Dues to the Kansas State Firefighters Association, Inc.
- Purchase or cleaning of clothing.
- Banquets, luncheons, dances, etc.
- Capital expenditures (equipment, protective clothing, motor vehicles).
- Personal loans.
- Training Manual, magazines or periodicals.

The use of funds for any purpose contrary to the provisions of the Firefighters Relief Act will subject the Association to loss of any further distribution of receipts from the Firefighters Relief tax until restitution is made. Misuse of Association funds must be reported by the Insurance Commissioner to the county attorney to institute proceedings for recovery of the misused funds. Distribution can be made again only when the county attorney notifies the Commissioner of Insurance that the condition of the Association has been corrected.

Administrative Expenses

Firefighter’s relief association; permissible disbursements. The cost of the bond for the treasurer of a firefighter’s relief association, as prescribed by K.S.A. 40-1706, and “reasonable” administrative expenses, to be determined at the discretion of the Commissioner of Insurance, including stamps, stationery, safe deposit box rental, the expense of having the funds of the association audited, and other similar expenses, shall be permissible disbursements from the firefighter’s relief funds. Each expenditure shall be itemized in the financial statement (Authorized by K.S.A. 40-103, 40-1707(g)).

The treasurer may be compensated for time spent on FRA related activities as an administrative expense that will be reported in the annual financial statement and approved on a case-by-case basis as determined by the Commissioner of Insurance. The expense will be determined as “reasonable” based on the size of the FRA, fund status and activity normally associated in administering the fund.

The FRA may purchase a computer and related items necessary for administering the FRA fund and will be reported on the annual financial statement. The expenditure must be “reasonable” as determined at the discretion of Commissioner of Insurance on a case-by-case basis. Any expenditure of more than \$1,500 will need prior certification from the designated governing body attorney.

Treasurer Bond

The treasurer of a firefighters relief association shall give bond for the safekeeping of funds received under the firefighters relief act and for faithful performance in such sum with such sureties as may be approved by the governing body of such city, township, county or fire district (K.S.A. 40-1706(g)).

(Best Practice Recommendation) The treasurer’s bond coverage should be at least as great as the highest combined total balance in any bank account, CD or any other accounts which allow for the immediate disbursement or transfer of FRA funds via check, draft, withdrawal or transfers of any type. The FRA officers should consider the maximum cash balance available and base the bond coverage on this amount.

Attorney Certification/Approval

In all cases involving expenditures or payments in an amount of \$1,500 or more, prior certification shall be obtained from an attorney designated by the governing body of the city, township, county or fire district stating that such expenditure or payment complies with the requirements of the Firefighters Relief Act (K.S.A. 40-1706(g)).

Prior to the purchase of any annuity contract by a firefighters relief association for and on behalf of the volunteer firefighters, the purchase of the annuity contract shall be approved by the attorney of the governing body (K.A.R. 40-10-5(b)).

Authorized Investments of Relief Funds

The governing body of any county, city, township, firemen's relief association, or subdivision in the state of Kansas having authority to receive, hold and expend public moneys or funds may invest any moneys which are not immediately required for the purposes for which the moneys were collected or received, and the investment of which is not subject to or regulated by any other statute.

The officers of a firefighters relief association may invest any amount, not to exceed 90 percent of all such moneys, in investments authorized by K.S.A. 12-1675 and amendments thereto, in the manner prescribed therein or in purchasing bonds of the city, township, county or fire district in which such firefighters relief association is located. When such investments are not obtainable, United States government bonds may be purchased or municipal bonds or other obligations issued by any municipality of the state of Kansas as defined in K.S.A. 10-1101, and amendments thereto, which are general obligations of the municipality issuing the same. Such investment shall be approved by the governing body of such city, township, county or fire district.

Such moneys shall be invested only:

- In temporary notes or no-fund warrants issued by such investing governmental unit;
- In time deposit, open accounts, certificates of deposit or time certificates of deposit with maturities of not more than two years:
 - (1) In banks, savings and loan associations and savings banks, which have main or branch offices located in such investing governmental unit; or
 - (2) if no main or branch office of a bank, savings and loan association or savings bank is located in such investing governmental unit, then in banks, savings

and loan associations and savings banks, which have main or branch offices in the county or counties in which all or part of such investing governmental unit is located;

- In repurchase agreements with:
 - (1) Banks, savings and loan associations and savings banks, which have main or branch offices located in such investing governmental unit, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or
 - (2) if no main or branch office of a bank, savings and loan association or savings bank, is located in such investing governmental unit; or (ii) if no such bank, savings and loan association or savings bank having a main or branch office located in such investing governmental unit is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks which have main or branch offices in the county or counties in which all or part of such investing governmental unit is located; or
 - (3) if no bank, savings and loan association or savings bank, having a main or branch office in such county or counties is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks located within this state;

- In United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with banks, savings and loan associations and savings banks; the federal reserve bank of Kansas City, MO; or with primary government securities dealers which report to the market report division of the federal reserve bank of New York, or any broker-dealer engaged in the business of selling government securities which is registered in compliance with the requirements of section 15 or 15C of the Securities Exchange Act of 1934 and registered pursuant to K.S.A. 17-12a401 and amendments thereto;

- In the municipal investment pool fund established in K.S.A. 12-1677a and amendments thereto;

- In the investments authorized and in accordance with the conditions prescribed in K.S.A. 12-1677b and amendments thereto; or

- In multiple municipal client investment pools managed by the trust departments of banks which have main or branch offices located in the county or counties where such investing governmental unit is located or with trust companies incorporated under the laws of this state which have contracted to provide trust services under the provisions of K.S.A. 9-2107 and amendments thereto, with banks which have main or branch offices located in the county or counties in which such investing governmental unit is located. Public moneys invested under this paragraph shall be secured in the same manner as provided for under K.S.A. 9-1402 and amendments thereto. Pooled investments of public moneys made by trust departments under this paragraph shall be subject to the same terms, conditions and limitations as are applicable to the municipal investment pool established by K.S.A. 12-1677a and amendments thereto.

The investments authorized in paragraphs (4), (5), (6) or (7) of subsection (b) shall be utilized only if the banks, savings and loan associations and savings banks eligible for investments authorized in paragraph (2) of subsection (b), cannot or will not make the investments authorized in paragraph (2) of subsection (b) available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a and amendments thereto.

In selecting a depository pursuant to paragraph (2) of subsection (b), if a bank, savings and loan association or savings bank eligible for an investment deposit thereunder has an office located in the investing governmental unit and such financial institution will make such deposits available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a and amendments thereto, and such financial institution otherwise qualifies for such deposit, the investing governmental unit shall select one or more of such eligible financial institutions for deposit of funds pursuant to this section. If no such financial institution qualifies for such deposits, the investing governmental unit shall select for such deposits one or more eligible banks, savings and loan associations or savings banks which have offices in the county or counties in which all or a part of such investing governmental unit is located which will make such deposits available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a and amendments thereto, and which otherwise qualify for such deposits.

- All security purchases and repurchase agreements shall occur on a delivery versus payment basis.

All securities, including those acquired by repurchase agreements, shall be perfected in the name of the investing governmental unit and shall be delivered to the purchaser or a third-party custodian which may be the state treasurer.

Authorized Loans of FRA Funds

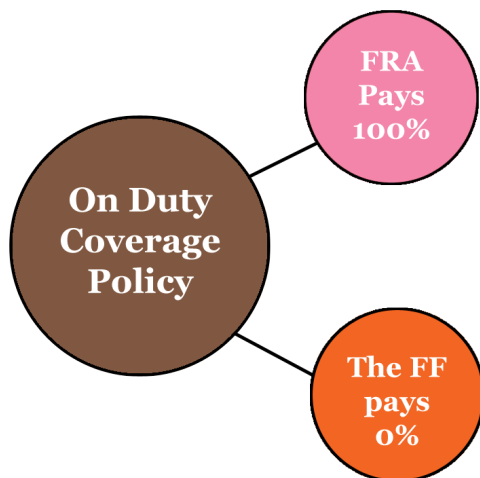
Any such firefighters relief association is hereby authorized to loan part or all of such funds to the city, township, county or fire district in which such association is located, to be used by such city, township, county or fire district in the improvement of its fire department and equipment thereof, and such city, township, county or fire district is hereby authorized to borrow the same and issue to the treasurer of such firefighters relief association its warrant therefore bearing interest payable semiannually, at a rate not to exceed 6 percent per annum (K.S.A. 40-1707(f)).

Examples of authorized improvements to the department could include:

- Purchase of a firetruck.
- Purchase of airpacks/compressors.
- New station construction or addition.
- Purchase of new firefighter turnout gear.

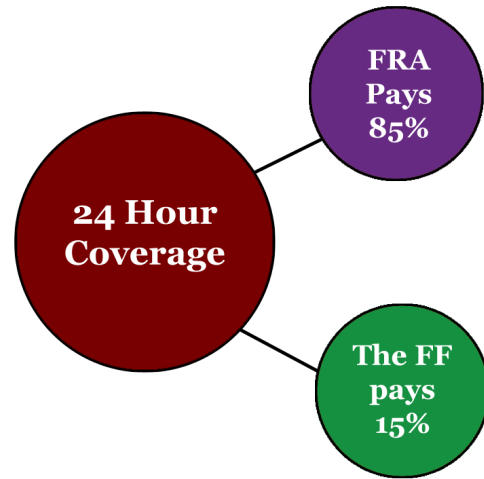
Insurance (On Duty or 24 Hour Coverage)

In a full-paid or any volunteer fire department FRA funds may be expended for the purchase of group term, group permanent or individual permanent life insurance contracts for members of such department. Policies may be for “On Duty Coverage” or “24 Hour Coverage”.



On Duty Coverage is paid 100 percent by the FRA. The firefighter (FF) pays 0 percent.

24 Hour Coverage: The FRA pays only for on duty coverage. The FRA pays no more than 85 percent with the firefighter (FF) contributing no less than 15 percent if the “off duty” portion (cost) of the premium is unknown.



Ownership of the Policy

Each policy shall be purchased, owned and held by the firefighter’s relief association (K.A.R. 40-10-5(a)(1)).

Each policy shall name the firefighter’s relief association as beneficiary of the policy. The policy shall not contain a provision which would permit the beneficiary to be other than a firefighter’s relief association.

The policy shall provide that each indemnity shall be paid to the firefighter’s relief association.

Except as provided by subsection (b), the policy shall be limited to cover only accidental injuries, diseases, or death resulting from duties as a member of the fire department as set forth in K.S.A. 40-1707.

If the contract provides, ownership of the policy may be transferred upon termination of the firefighter if one of the following is met:

- 10 years of service with the department and 5 years under the same policy.
- Total and permanent disability.
- Retirement under the plan in effect for the department.

K.S.A. 40-1707(c)(1)(A)

(A) A member that has completed 10 years of service with the department and has been covered under such policy for a continuous period of not less than five years, a member who suffers a total and permanent disability or death, or a member who retires under the retirement plan in effect for the fire department, shall, upon termination of employment, be entitled to any benefits or coverage available to an individual member under the provisions of the contract; and

(B) A member that has not fulfilled one of the requirements set forth in paragraph (A)

of this subsection (c)(1) shall, upon termination of employment, be entitled to the same proportion of benefits or coverage available to an individual member as such member's individual premium contributions bear to the total premiums paid on the policy at the time of termination. Any additional coverage or benefits may be obtained by reimbursing the firefighters relief association an equitable and reasonable amount in accordance with procedures set forth in the bylaws of the association.

To summarize, those firefighters who meet the 10 years of service with 5 years coverage under the same policy are authorized, at termination, for transfer of ownership of the policy. There is no requirement for the firefighter to purchase the FRA's share of the benefits.

If the firefighter does not meet the 10/5 requirement, the firefighter is entitled to his/her proportionate share. (For example, if the firefighter paid 15 percent of the premiums, then he/she would be entitled to 15 percent of the cash value.) The FRA cash value (if any) remains in possession of the FRA. However the firefighter can pay the cash value amount to the FRA and can then be eligible for transfer of ownership of the policy.

Members that are denied insurance

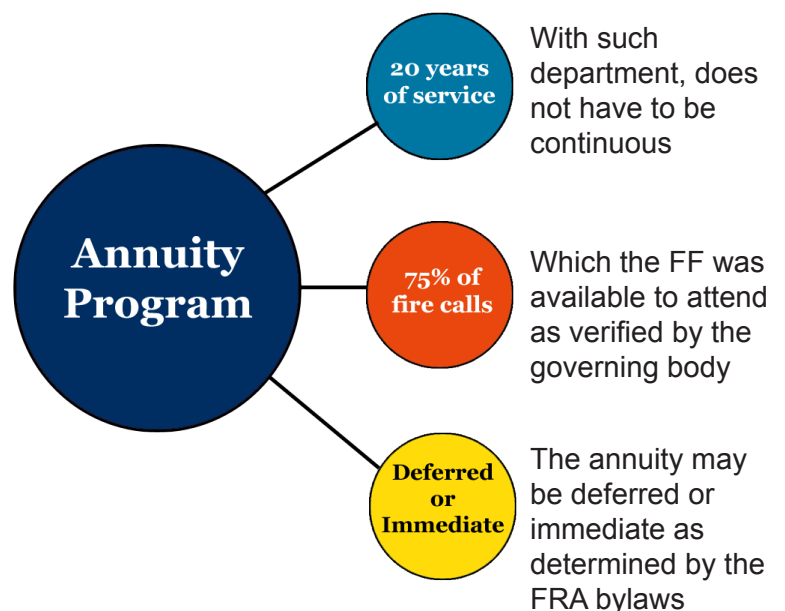
If a member is denied insurance for whatever reason, the FRA has the duty to provide similar or equivalent benefits. It is the "contribution" by the FRA that must be fair and equitable not necessarily the benefit amount.

Annuities & Pensions

Annuities

FRAs may establish an annuity for members of a fire department consisting of volunteer firefighters who have served for not less than 20 years with such fire department and who attended and fought not less than 75 percent of the fires which were attended by such fire department which the firefighter was available to attend as verified by the governing body of such fire department (K.S.A. 40-1707(c)(1)).

Prior to the purchase of any annuity contract by a firefighter's relief association for and on behalf of the volunteer firefighters, the purchase of the annuity contract



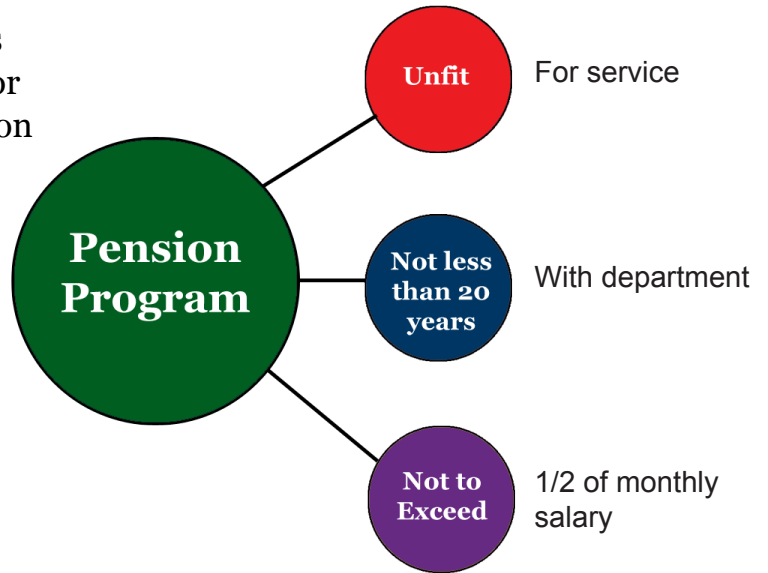
shall be approved by the attorney of the governing body (K.A.R. 40-10-5(b)).

Paying out annuities

Annuity payouts ideally should be accomplished between the contract provider and the member. If the annuity contract indicates that the FRA will be used as a “pass-through,” then this arrangement must be approved by the governing body attorney. “Immediate annuities” may be purchased with FRA funds, however prior to purchase the governing body attorney must approve the contract. The bylaws should reflect the method that is utilized to determine the payout.

Pensions

FRAs may establish pensions to members of full-paid fire departments who are unfit for service after having served at least 20 years on such department (K.S.A. 40-1707(a)(4)).



Cities of the Second Class

In any city of the second class which maintains a fire department consisting of both salaried and volunteer firefighters, such moneys may be expended for the purchase of, or payment of premiums on, policies of life, accident, or accident and health insurance upon members of the fire department of such city, which policies may be owned either by the firefighters relief association of such city or by the individual members thereof but, before any premium is paid on such policies of insurance, the provisions thereof shall be approved by such firefighters relief association as suitable to carry out the objects for which such association was established (K.S.A 40-1707(b)).

Redetermination

A firefighters relief association 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 change in circumstances. 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 often 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 (K.S.A. 40-1706(c)(6)).

Redetermination is now processed utilizing the FRA Online Program. You must log into your account in order to submit your request. Please call the FRA Administrative Office prior to submission. You may request redetermination from January 1 through September 30.

The redetermination allocation is calculated using a formula based on the population and assessed tangible property valuation of the area served by the association that has requested redetermination in relation to the population and assessed tangible property valuation of the state. The assessed tangible property valuation of the area served by the association and the state to be used in the formula is that reported by the Kansas Department of Revenue Statistical Report of Property Assessment and Taxation for the year during which redetermination is requested. The population of the area served by the association and the state to be used in the formula are those certified by the Kansas Secretary of State for the year during which redetermination is requested.

After November 23, 2009, the following formula shall be used to calculate a new base allocation percentage for the association that has requested redetermination:

- (1) The assessed tangible property valuation of the area served by the association that has requested redetermination is divided by the assessed tangible property valuation

of the state, and the quotient is divided by 2 to form one half of the new base allocation percentage.

- (2) The population of the area served by the association that has requested redetermination is divided by the population of the state, and the quotient is divided by 2 to form the second half of the new base allocation percentage.
- (3) The sum of the amounts calculated in (1) and (2) shall be the new base allocation percentage for the association that has requested redetermination.

In making the next distribution of firefighter relief funds following a redetermination, the new base allocation percentage for each association that was redetermined will be added to new base allocation percentages of any associations that were new or merged since the last distribution and the prior year allocation percentages for all other active associations to receive distributions. The sum of these percentages will be proportionately adjusted to equal 100 percent by an equation that uses 100 as the dividend and this sum as the divisor. The new base allocation percentage or prior year percentage will be multiplied by the quotient of this equation so that the total of all percentages will again equal 100 percent.

The allocation formula prescribed by this regulation shall also be used when distributions are determined for new or merged associations. Associations that have failed to qualify for funds for two consecutive years who resume participation shall be required to submit information and participate as a new association. (Authorized by K.S.A. 40-1707(g); implementing K.S.A. 2009 Supp. 40-1706(c)(6); effective May 28, 2011)

Workers Compensation

Firefighters are covered by workers compensation laws. However, some specific duties may not be covered. If an injury is duty-related, you should report it to your Workers Compensation Coordinator and complete a KFIRS Incident Report. A KFIRS Incident Report should be completed on any injury, even if it is a “non-fire” event. Any questions about workers compensation should be directed to the Kansas Department of Labor at (785) 296-4000.

Merging FRAs

When a firefighters relief association fails to qualify for payments under the Firefighters Relief Act as a result of the territory which it serves being consolidated, merged or annexed with another governmental unit having a qualified firefighters relief association, the funds and obligations of such disqualified association shall be transferred to the surviving firefighters relief association and the disqualified association shall dissolve forthwith under the existing laws of this state (K.S.A. 40-1706(6)(e)).

FRAs may not merge unless there is a consolidation of the corresponding fire districts.
Procedures to merge two or more FRAs:

- The attorney(s) for the governing bodies will determine whether the FRAs should merge or if one should transfer funds and obligations to the other FRA and then dissolve.
- In either case, appropriate legal documents must be approved by the Kansas Insurance Department and filed with the Secretary of State.
- In addition, KID needs a map of the new district showing the boundaries and location of the fire station(s).
- Evidence of the fund transfer is to be forwarded to the Kansas Insurance Department.
- Any member of either association becomes a member of the new or surviving association and maintains his/her service time when transferring.
- Changes to bylaws are to be submitted to the Kansas Insurance Department.
- Updated Electronic Deposit and W-9 forms should be submitted to the Kansas Insurance Department.

When any firefighter, the spouse of such firefighter or those dependent upon any member of a disqualified association is receiving reasonable benefits from such association at the time of disqualification, the benefits shall be continued in accordance with the resolution of such disqualified association and shall be paid by the surviving association if the disqualification resulted from consolidation, merger or annexation and shall be paid by the district or county attorney if disqualification resulted from reasons other than consolidation, merger or annexation. Nothing in the Firefighters Relief Act shall be construed as a bar to the lawful receipt of such benefits (K.S.A. 40-1706(6)(f)).

Dissolution of an FRA

Procedure for dissolving an FRA (for whatever reason) involves the following:

- Contact and coordinate with the governing body of the FRA.
- Consult with the governing body designated attorney.
- Contact Kansas Insurance Department Firefighter Relief Act Administrator.
- File for a Dissolution of Charter with Secretary of State Office at 120 SW 10th Ave, Topeka, Ks 66612 or on their website at
http://www.kssos.org/forms/business_services/NM.pdf or
http://www.kssos.org/forms/business_services/NW.pdf.
- Submit the signed copy from the Secretary of State of the Dissolution of Charter to the Kansas Insurance Department.
- FRA Administrator will then execute the dissolution by obtaining KID certification and then hand carrying it directly to the Kansas Secretary of State for processing. A certified copy should then be sent to the FRA and KID.
- County Attorney to transfer all Firefighter Relief Association funds to the Kansas Insurance Department.

Kansas Open Records Act

It is the public policy of Kansas that public records shall be open for inspection by any person. The Act applies to public records (not to private records): Public records are defined as “any recorded information, regardless of form or characteristics, which is made, maintained or kept by or is in the possession of any public agency.”

- Public Agency: the state or any political or taxing subdivision, or any office, officer, or agency thereof, or any other entity, receiving or expending and supported in whole or part by public funds.
- Offices which do not have regular office hours are required to establish reasonable hours when persons may inspect and copy documents, but such offices may require 24 hours’ advance notice.
- All records are open for inspection except personnel records.
- Any person may make abstracts or obtain copies of a public record.
- If copies cannot be made in the place where the records are kept, the custodian shall allow arrangements to be made for use of other copying facilities.
- Members of the public cannot remove a record without written permission of the custodian (K.S.A. 45-218(a)).
- KORA only applies to records as they exist at the time they are asked for.
- If a requestor is asking for information, analysis or an explanation, KORA does not require an agency to do research or provide written answers to questions.
- An agency must act upon a request as soon as possible, but not more than three business days, beginning the day after the request was received.
- The agency must communicate with the requestor within those three days.

The agency must have a Public Records Custodian and procedure, and questions about KORA should be directed to the FRA attorney designated by the governing body.

FRA Suggested Best Practices

This section of the FRA handbook has been developed to assist firefighter relief associations by establishing a comprehensive management program that is based on suggested practices and procedures. The board of directors of each FRA has a fiduciary responsibility to its members to ensure that the FRA funds and accounting methods are utilized in accordance with statutes and acceptable accounting standards.

The firefighter relief association and the fire department are two separate legal entities. The volunteer firefighters relief association records may not be incorporated with those of the fire department. Relief association funds must be maintained in separate relief association account(s), and investments purchased with relief association funds must be issued solely in

the name of the relief association. Since the relief association is a separate legal entity, the organization must have a separate federal tax identification number. The certificates verifying the association's tax numbers should be kept with the association's permanent records.

Charter as a “Not for Profit” Organization

In accordance with the Relief Act, a firefighter relief association must be incorporated and maintain bylaws that address the purpose, structure, and benefits of the organization. The articles of incorporation are maintained on record in each FRA online page and are available for download. Kansas firefighter relief associations may be exempt from filing any federal income tax reports; however, this opinion is not at present acknowledged by the IRS.

Federal Tax Identification Number

The FRA must maintain separate financial accounts from the fire department, county, township or city. When these accounts are opened or investments purchased, the relief association must provide the financial institution with its federal tax Employer Identification Number (EIN). The relief association cannot use the fire department's, county, township or city federal tax EIN because these organizations are legally separate entities. If the relief association uses the fire company's federal tax EIN, the relief association may be in violation of the provisions of the Internal Revenue Code. Furthermore, the relief association may be exceeding the maximum FDIC insurance coverage at its financial institution, thereby subjecting the association's monetary assets to greater risk. If the financial institution is not provided with the relief association's EIN, the financial institution may withhold 30 percent of the income earned on the account as federal income tax withholding.

To obtain a federal tax EIN, the relief association should complete a federal form SS-4 (Application for EIN), and submit it to the Internal Revenue Service. The relief association may also wish to file for federal income tax exemption as a not-for-profit corporation. It is advisable that the relief association obtain tax guidance from a professional tax consultant when filing for federal tax exemption status.

Governing Body

The governing body of any FRA is composed of public officials (elected or appointed) of an incorporated city, township, county or fire district who are in charge of the fire department. The governing body's duties concerning matters related to the FRA include the following:

1. Approve investments authorized by K.S.A. 12-1675.
2. Verify that a firefighter has served not less than 20 years of service with such fire department and fought not less than 75 percent of the fires which the member was available to attend for annuities.
3. Designate an attorney for the FRA.

It is important to foster a good working relationship between the FRA and the governing body in order to maintain accountability with public funds. The FRA should communicate its

activities with the governing body and be responsive to inquiries concerning the use of funds and their intended purpose. This type of partnership facilitates a transparent operation, which reduces perceptions and rumors related to FRA fund management.

Governing Body Attorney

The designated governing body attorney has an important role in the normal business of an FRA. The function of the attorney includes the following:

1. Certifying all expenditures and payments of \$1,500 or more, prior to transaction.
2. Approving annuity contracts prior to purchase.
3. Being available for consultation to review FRA bylaws and to provide other legal services.

FRA Board of Directors

The FRA is composed of “members of a fire department” (K.S.A. 40-1701 (a)). An FRA Board of Directors Member (or Officer of the Corporation) may be a “non-member” if:

- The FRA bylaws allow for the inclusion of non-members to be included in the FRA Board of Directors.
- Any non-member officer on the FRA Board of Directors is not authorized to receive any FRA benefits.

The original articles of incorporation generally specify how many positions (officers) are to be maintained on the FRA board of directors. Generally there are no less than 3 officers on the board: president, secretary and treasurer. For larger FRAs there may be 5 or more members serving on the board because of the size of the membership and related FRA activity. It is recommended that the department fire chief not serve in any board position (if at all possible) to reduce any appearances of a conflict of interest.

The FRA board of directors must be instrumental in determining what policies and procedures are established, implemented and used for formally approving all new policies and any changes to policy approved by the membership. When establishing policy, applicable statutes must be incorporated, and, while internal policy can make further restriction, it cannot contradict the statute. The board of directors should consider if and when it is appropriate to seek legal counsel to assist in developing policies to ensure that compliance with statutes is maintained. All policies and procedures should be kept on file and/or maintained in the bylaws.

One of the primary responsibilities of relief association officers is to make sure that proper procedural controls are maintained in order to help protect relief association assets from fraud, waste, abuse, and possible misappropriation of funds. Most relief associations have some internal control procedures established for the day-to-day operation of the organization.

However, often the association fails to fully adhere to these procedures, or the established procedures are not sufficient to provide adequate protection of association assets.

President: The president shall preside at all meetings of the association, sign all orders to the treasurer, appoint committees, call special meetings when deemed necessary or when requested by a majority of members in writing. The president may designate a member to fill a temporary board member vacancy until such elections are conducted.

Vice-President: The vice-president shall perform all duties of the president in his absence.

Secretary: The secretary shall maintain records and the minutes of any FRA meetings.

Treasurer: The treasurer shall keep a complete and accurate record of all transactions of association funds, shall receive all FRA funds and shall expend them as the association may direct in compliance with the relief act. The treasurer shall keep the FRA funds separate from all other funds and make an itemized statement to be submitted to the association at each meeting. The treasurer should normally be the person that files the annual financial statement to the Kansas Insurance Department on or before April 1 of each year; however, other persons may be entrusted to complete this task on behalf of the treasurer. The relief association may require its treasurer to prepare financial statements on a monthly, quarterly, or annual basis to keep the membership informed as to the financial position of the association and to aid the membership in decision making.

Treasurer's Bond

The treasurer of the firefighters relief association must be bonded. While the statute does not specify the amount of the bond, it should be as great as the maximum cash balance held by the association. The relief association may also bond its other officers for the faithful performance of their duties. The relief association may bond its officers in an amount that includes both cash and investments. The bond can be paid for with FRA funds.

Payments and Invoices

The relief association must maintain all invoices, receipts, and other documentation to support the authorization to expend funds. These invoices and bills should be clearly marked when "paid" to avoid the duplicate payment of the goods and services.

Signatory Authority

The signature of at least two relief association officials should appear on all negotiable instruments, such as checks and drafts payable from relief association funds. Checking, savings, money market and other similar accounts must be maintained such that two relief association officers' signatures are needed for any withdrawals or transfers of funds. Certificates of deposit and any similar relief association assets should also bear two relief association officers' signatures.

Pre-signing Blank Checks

Other relief association officials who are authorized and required to sign checks should never pre-sign an incomplete check or draft. All checks and drafts payable to an entity or individual must be properly authorized by the relief association as required by the relief association bylaws.

Commingling Funds

Since the fire department and the relief association are separate legal entities, the commingling of the two entities' monetary assets is not authorized in the relief act as per K.S.A. 40-1706(g). The commingling of funds causes confusion in the financial record keeping, and increases the chance of errors. Furthermore, the commingling of funds in income-generating accounts and investments creates a greater difficulty in determining the income earned by each entity.

Segregation of Officer Duties

The relief association should provide two different officers (if at all possible) to hold the positions of secretary and treasurer. The separation of responsibilities of these two officers will ensure that the same person is not responsible for the record keeping that authorizes a financial transaction (minutes of meeting) and the record keeping that records a financial transaction (checkbook, journal, ledgers, etc.). This segregation of duties protects the association officers as well as the relief association assets.

Audits of FRA Funds

There is no requirement in the relief act to conduct an audit of funds maintained by the association. However, it is recommended that FRAs weigh the costs versus benefits in determining if and when an audit should be conducted. For small FRAs with limited funds, it may not be feasible to conduct an audit by a certified public accountant (CPA) because of the cost. For mid-to-larger size FRAs, consideration should be given to incorporate the cost of an audit as a part of normal business. The cost of an audit is an authorized expenditure of relief funds as long as it is "reasonable." FRAs that have receipts in excess of \$250,000 may be required by statute to file an audit with the Kansas Department of Administration.

It is recommended that FRAs conduct an audit any time there is a new treasurer elected or appointed. By doing this, the new treasurer and FRA membership has full confidence in the status of their FRA funds. There are 3 types of audits that may be conducted:

- **Independent Annual Audit:** This type of audit is performed for those FRAs that have receipts of more than \$25,000 during the fiscal year and total net assets greater than \$100,000. The audit must be conducted by a CPA who is licensed in the state of Kansas. The objective of this type of audit is written in an expression of an opinion that the financial statements are presented in conformity with generally accepted accounting principles by comparing the last two years.

- **Annual Agreed Upon Procedures:** This type of audit is performed for those FRAs that have receipts of more than \$25,000 during the fiscal year and total net assets less than \$100,000. The audit must be conducted by a CPA who is licensed in the state of Kansas. The Agreed Upon Procedures is much less in scope than an audit, and there is no opinion given on the financial statement. Instead, the auditor renders a statement of the present condition of FRA funds maintained.
- **Internal/External Review:** Those FRAs that have receipts less than \$25,000 and total net assets less than \$50,000 should not consider an audit unless there is a compelling need (general concern for FRA fund status, or change in treasurers). Establishing an internal committee to review the FRA fund records on an annual basis may be all that is necessary to satisfy any concerns or fund status. The FRA financial statements will be reviewed by the FRA Administrator at the Kansas Insurance Department when submitted each year.

Election of FRA Board Members

The FRA board members should be elected by ballot (or by count as directed by the local FRA bylaws) at a regular meeting of the association. The term of each board member should not be less than one year and may be longer if the bylaws allow it or there is a special election due to change in personnel, such as a resignation.

FRA Meetings, Agenda, Conduct

The frequency of FRA meetings is a matter of local concern due to the size, activity and availability of the membership. For smaller FRAs it may be reasonable to conduct, one meeting per year, and larger FRAs may conduct monthly meetings in order to properly administer the program. The Relief Act does not set a minimum or maximum meeting requirement. It is suggested that the local FRA determine the frequency of meetings and schedule accordingly. Remember, FRA meetings are for FRA matters. Fire Department meetings are for Fire Department matters. Do not use one against the other.

The agenda items will also reflect the size and activity of the local FRA, but any meeting should include as a minimum all of the following:

- Old Business
- Treasurer's Report
 - Statement of Financial Position
 - Total Assets (Checking, Savings and other Investments)
 - Liabilities
 - Receipts & Expenses
 - Disbursements
- New Business
- Any other unresolved issues

Minutes of FRA Meetings

All relief association meetings should be held separately from the fire department's meetings. Many fire departments hold the firefighters relief association meetings directly after the fire department's meeting to maximize attendance. Regardless, the minutes of the relief association meetings must be recorded separately from the minutes of the fire department's meeting, and be maintained as a record of the association. The minutes should be legible and should address all business conducted at the meetings.

FRA Records Retention

As a tax-exempt corporation it is necessary for a FRA to maintain financial statements and other documentation as a general rule because of the need to maintain and expend public funds. The types of documents and specific time that these are to be maintained on file should be in line with that of the local jurisdiction policy. These documents are public and may be requested at any time by anyone and must be produced when requested under the Kansas Open Records Act.

Member Benefits

Benefits for members should be discussed and decided in an open forum during a scheduled FRA meeting. The membership should determine what benefit limits should be imposed on firefighters who are injured or die in the line of duty. These limits should be made a part of the bylaws. Under certain circumstances it may be appropriate to provide a predetermined amount (say, \$5,000) as a benefit to the survivor's family in lieu of any life insurance policy that may be in effect. Also, the FRA funds may be used to pay for any funeral expenses, and a set amount may be imposed for that purpose as well. These types of decisions should be made by the membership prior to any of these events occurring.

It is also recommended that an FRA maintain funds in a bank account that can be readily available in the event of a line of duty injury or death of one of the members. The amount to be maintained should be predetermined by the membership based on the amount of receipts, expenditures and assets that are typically experienced by the FRA. For most FRAs this amount will be between \$5,000 - \$10,000.

There are several insurance, annuity and pension products available that can be part of an overall FRA benefit package. It never hurts to shop around in order to find the best products for your membership.

Members and Service Time

Firefighters may belong to several Fire Districts and there is no conflict with the Relief Act when this occurs. Any Firefighter that is a member of any Fire District or Department in the state of Kansas is entitled to receive the same benefits that any other member of the Department receives. Service time remains with each Department separately and cannot be combined unless there is a merger of FRAs. "Service time" relates to the time spent serving

each individual fire department. Service time from another department is not counted unless it is the result of a merger of FRAs. Service time is cumulative with such department and stays with the firefighter throughout his or her career.

Line of Duty Death (LODD)

Should your department have a LODD you should immediately notify the Kansas Fire Marshal's Office at (785) 207-2194. Then call the Kansas State Firefighters Association at (785) 470-7120 or (888) 275-7332.

Minors as Beneficiaries

As a suggested best practice, it would not be a good idea to designate a child as a beneficiary without first consulting a family or estate attorney. Even if you have named a guardian as a beneficiary, the proceeds may not be paid until the court has specifically appointed a guardian or approved the named beneficiary as the guardian for the minor(s). Life insurance companies will not pay the proceeds of a policy directly to minors. If you have not created a trust or made any legal arrangements for someone to manage the money, the court may appoint a guardian, which is a costly process, to handle the proceeds until the child reaches the age of 18.

Junior Firefighter Programs

There are some junior firefighter/explorer programs used by some fire departments, but we advise you to be aware of potential issues that may arise with these (for example, labor laws, liability issues, etc.). Contact your Governing Body Attorney for guidance before implementing a junior firefighter program.

Firefighter Relief Act

Kansas Statutes

K.S.A. 40-1701 et. seq.

Firefighters Relief Act

40-1701

Chapter 40.--INSURANCE

Article 17.--FIREFIGHTERS RELIEF ACT

40-1701. Definitions. As used in the firefighters relief act:

(a) “Firefighters relief association” or “firemen’s relief association” means an association incorporated under the laws of this state composed of members of a fire department which is

(1) a public fire department under the control of the governing body of an incorporated city, township, county or fire district or

(2) a private fire department operated by a not-for-profit corporation which provides all of the fire protection services for an incorporated city, township, county or fire district pursuant to a contract with the governing body thereof, and which in either case has fire apparatus and necessary equipment therefor that is in serviceable condition for fire duty and has a value of \$5,000 or more; and

(b) “insurance company” means every company, corporation, firm or association transacting the business of fire insurance in this state.

History: L. 1927, ch. 231, 40-1701; L. 1957, ch. 287, § 1; L. 1984, ch. 165, § 2; July 1.

40-1702

Chapter 40.--INSURANCE

Article 17.--FIREFIGHTERS RELIEF ACT

40-1702. Return of accounts of premiums by insurance companies; filing of plats of areas provided fire protection.

(a) On or before April 1 of each year, every insurance company doing business in this state shall return to the commissioner of insurance a just and true account, generated by or at the direction of its president and secretary or other chief officers, under penalty of K.S.A. 21-3711, and amendments thereto, of all premiums received for fire and lightning insurance covering risks located within this state during the year ending December 31, or the fire and lightning portion of any other insurance transacted by the insurance company covering risks within this state. Every insurance company shall include in its return an account of all premiums received for fire and lightning insurance covering risks located within this state.

(b) Each firefighters relief association shall prepare and file with the commissioner a plat drawn to scale showing the area provided fire protection service by the fire department of the firefighters relief association and the location of each fire department house. No such plat shall include any part of any area served by another fire department.

History: L. 1927, ch. 231, 40-1702; L. 1941, ch. 257, § 1; L. 1957, ch. 287, § 2; L. 1979, ch. 145, § 1; L. 1984, ch. 165, § 3; L. 2007, ch. 122, § 4; July 1.

40-1703
Chapter 40.--INSURANCE
Article 17.--FIREFIGHTERS RELIEF ACT

40-1703. Assessment of tax of premiums, payment. On or before April 1 of each year, every insurance company shall deliver and pay to the commissioner of insurance a tax at the rate of 2% of the total amount of all premiums on fire and lightning insurance written covering risks located within this state during the preceding calendar year.

History: L. 1927, ch. 231, 40-1703; L. 1941, ch. 257, § 2; L. 1957, ch. 287, § 3; L. 1979, ch. 145, § 2; L. 1984, ch. 165, § 4; July 1.

40-1704
Chapter 40.--INSURANCE
Article 17.--FIREFIGHTERS RELIEF ACT

40-1704. Books of account; fraud. Every insurance company shall keep accurate books of account of all fire and lightning insurance written by them covering risks located within this state. In the case of any fraud or dishonesty in the returns made by an insurance company, as provided in K.S.A. 40-1702 and amendments thereto, the commissioner of insurance shall investigate the returns and collect the amount which the commissioner finds to be due.

History: L. 1927, ch. 231, 40-1704; L. 1941, ch. 257, § 3; L. 1957, ch. 287, § 4; L. 1979, ch. 145, § 3; L. 1984, ch. 165, § 5; July 1.

40-1705
Chapter 40.--INSURANCE
Article 17.--FIREFIGHTERS RELIEF ACT

40-1705.

History: L. 1927, ch. 231, 40-1705; L. 1941, ch. 257, § 4; L. 1957, ch. 287, § 5; L. 1984, ch. 165, § 6; Repealed, L. 1997, ch. 24, § 7; July 1.

40-1706
Chapter 40.--INSURANCE
Article 17.--FIREFIGHTERS RELIEF ACT

40-1706. Financial reports of firefighters relief associations, filing, proceedings for improper expenditures; authorized disposition of tax proceeds; determination and payment of amounts to state and local associations; procedures upon dissolution of local associations; handling and investment of moneys by local association, restrictions.

(a) On or before April 1 of each year, every firefighters relief association which holds funds received under the firefighters relief act shall submit to the commissioner of insurance a verified account showing in full the receipts and disbursements and general condition of such funds for the year ending on the preceding December 31. If such account or other information shows such funds are not being expended for the purposes authorized by the firefighters relief act, the commissioner of insurance shall notify the county attorney of the county in which any such firefighters relief association is located and the county attorney shall institute proceedings to recover for the use of the firefighters relief association all moneys expended for

purposes not in accordance with the provisions of the firefighters relief act. The commissioner of insurance shall hold any funds of such firefighters relief association until the commissioner is notified by the district or county attorney that such condition has been corrected.

(b)

(1) All moneys received by the commissioner of insurance from the tax imposed by K.S.A. 40-1703, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state firefighters relief fund which is hereby created in the state treasury.

(2) The state firefighters relief fund shall be administered by the commissioner of insurance. An amount equal to not more than the amount authorized for expenditure during the current fiscal year by appropriations enacted by the legislature may be set aside in the state firefighters relief fund and expended by the commissioner of insurance for the administrative expenses of the department of insurance under the firefighters relief act, subject to the provisions of appropriations acts.

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

(1) An amount equal to 3% of such total amount shall be paid by the commissioner of insurance to the treasurer of the Kansas state firefighters association, inc. for fire prevention and fire extinguishment education and study.

(2) An amount equal to 5% of such total amount shall be paid by the commissioner of insurance to the Kansas state firefighters association, inc. which shall be set aside as a death benefit fund to provide such benefits as determined by the association in accordance with the constitution and bylaws thereof, except the amount paid under this subsection (c)(2) shall not be more than the lesser of \$100,000 or the result obtained by subtracting the balance in the death benefit fund of the association on July 1 from \$100,000.

(3) The amount of \$1,000 shall be paid by the commissioner of insurance to each firefighters relief association.

(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 subsections (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 the amount such firefighters relief association received from the amounts collected from the tax imposed by K.S.A. 40-1703, and amendments thereto, for all of calendar year 1983, bears 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 errors 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 1983 based on the 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 1983, 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 redeterminations 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 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 a 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 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 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.

(6) 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 circumstances. 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 often 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.

(d) Except as otherwise provided in this section, whenever any firefighters relief association fails to qualify for funds, as provided in the firefighters relief act, for a period of two consecutive years, the funds on deposit with such association shall be returned by the district or county attorney to the commissioner of insurance. The commissioner of insurance shall remit all such funds to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state firefighters relief fund. The commissioner of insurance shall pay such amount of funds to the Kansas state firefighters association, inc. for fire prevention and fire extinguishment education and study.

(e) When a firefighters relief association fails to qualify for payments under the firefighters relief act as a result of the territory which it serves being consolidated, merged or annexed with another governmental unit having a qualified firefighters relief association, the funds and obligations of such disqualified association shall be transferred to the surviving firefighters relief association and the disqualified association shall dissolve forthwith under the existing laws of this state.

(f) When any firefighter, the spouse of such firefighter or those dependent upon any member of a disqualified association is receiving reasonable benefits from such association at the time of disqualification, the benefits shall be continued in accordance with the resolution of such disqualified association and shall be paid by the surviving association if the disqualification resulted from consolidation, merger or annexation and shall be paid by the district or county attorney if disqualification resulted from reasons other than consolidation, merger or annexation. Nothing in the firefighters relief act shall be construed as a bar to the lawful receipt of such benefits.

(g) The treasurer of a firefighters relief association shall give bond for the safekeeping of funds received under the firefighters relief act and for faithful performance in such sum with such sureties as may be approved by the governing body of such city, township, county or fire district. All the moneys so received shall be set apart and used by the firefighters relief association of such cities, townships, counties or fire districts solely and entirely for the objects and purposes of the firefighters relief act and shall be paid to and distributed by the firefighters relief associations of such cities, townships, counties or fire districts under such provisions as shall be made by the governing body thereof. All such expenditures or payments shall be subject to the continued availability of moneys distributed to the association from the tax imposed by K.S.A. 40-1703, and amendments thereto, in amounts sufficient for such expenditures. In all cases involving expenditures or payments in an amount of \$1,500 or more prior certification shall be obtained from an attorney designated by the governing body of the city, township, county or fire district that such expenditure or payment complies with the requirements of the firefighters relief act.

(h) The officers of a firefighters relief association may invest any amount, not to exceed 90% of all such moneys, in investments authorized by K.S.A. 12-1675, and amendments thereto, in the manner prescribed therein or in purchasing bonds of the city, township, county or fire district in which such firefighters relief association is located. When such investments are not obtainable, United States government bonds may be purchased or municipal bonds or other obligations issued by any municipality of the state of Kansas as defined in K.S.A. 10-1101, and amendments thereto, which are general obligations of the municipality issuing the same. Such investment shall be approved by the governing body of such city, township, county or fire district.

History: L. 1927, ch. 231, 40-1706; L. 1935, ch. 200, § 1; L. 1941, ch. 257, § 5; L. 1957, ch. 287, § 6; L. 1967, ch. 269, § 1; L. 1977, ch. 54, § 32; L. 1979, ch. 145, § 4; L. 1984, ch. 165, § 7; L. 1987, ch. 168, § 1; L. 1988, ch. 356, § 97; L. 1990, ch. 167, § 1; L. 2001, ch. 5, § 115; July 1.

40-1707
Chapter 40.--INSURANCE
Article 17.--FIREFIGHTERS RELIEF ACT

40-1707. Authorized uses of moneys received by firefighters relief associations; cessation of private fire department, transfer of association funds to state firefighters association, inc.

(a) Except as otherwise provided in the firefighters relief act, all moneys received by a firefighters relief association under the provisions of the firefighters relief act shall be held in trust and used as a fund:

- (1) For the relief of any member of the fire department of such city, township, county or fire district when injured or physically disabled in or by reason of the discharge of such member's duties as a firefighter;
- (2) for the payment of a death benefit when any member of such fire department is killed in the discharge of such member's duties as a firefighter, or who dies from the effect of injuries so received or from disease contracted by reason of such member's duties as a firefighter, to the beneficiary or beneficiaries as designated by the member or, in the event that no beneficiary has been designated to receive such death benefit, to the following persons in the following priority:
 - (A) If there is a spouse and there are no natural or adopted children of the deceased member, the death benefit shall be for the spouse;
 - (B) if there are one or more natural or adopted children and spouse of the deceased member, 1/2 of the death benefit shall be for the spouse and the remaining 1/2 of the death benefit shall be for the children, in equal shares thereof;
 - (C) if there are one or more natural or adopted children and there is no spouse of the deceased member, the death benefit shall be for the children, in equal shares thereof;
 - (D) if there is a father or mother, or both, and there are no natural or adopted children and no spouse of the deceased member, the death benefit shall be for the father or mother, or to both in equal shares thereof if there are both;
 - (E) if there are one or more siblings and there is no father or mother or spouse and there are no natural or adopted children of the deceased member, the death benefit shall be for the siblings, in equal shares thereof; and
 - (F) if there are no siblings, no father or mother, no natural or adopted children and no spouse of the deceased member, the death benefit shall be for the estate of the deceased member;
- (3) for the payment of the necessary funeral expenses of any member of such fire department

when killed in the discharge of such duties as a firefighter, or in the case of death resulting from injuries so received or disease contracted by reason of such member's duties as a firefighter;

(4) for the further purpose of paying a pension to members of full-paid fire departments who are unfit for service after having served for a period of not less than 20 years with the department, such pension not to exceed 1/2 of the monthly salary at the date of retirement; or

(5) for the purchase of insurance which would provide for any or all of the foregoing purposes for which such fund is authorized to be expended.

(b) In any city of the second class which maintains a fire department consisting of both salaried and volunteer firefighters, such moneys may be expended for the purchase of, or payment of premiums on, policies of life, accident, or accident and health insurance upon members of the fire department of such city, which policies may be owned either by the firefighters relief association of such city or by the individual members thereof but, before any premium is paid on such policies of insurance, the provisions thereof shall be approved by such firefighters relief association as suitable to carry out the objects for which such association was established.

(c)

(1) In any fire department consisting of volunteer firefighters, such moneys may be used to establish an annuity for each firefighter who served for not less than 20 years with such fire department and who attended and fought not less than 75% of the fires which were attended by such fire department during such period of time and which the firefighter was available to attend, as verified by the governing body of such fire department, but such annuity shall not exceed the amount paid to fully paid members of fire departments of comparable size to such volunteer department. In any full-paid or any volunteer fire department such moneys may be expended for the purchase of group term, group permanent or individual permanent life insurance contracts for members of such department. Any benefits or coverage accruing to individual members of the department under such policies shall be and shall remain the property of the firefighters relief association except as follows:

(A) A member that has completed 10 years of service with the department and has been covered under such policy for a continuous period of not less than five years, a member who suffers a total and permanent disability or death, or a member who retires under the retirement plan in effect for the fire department, shall, upon termination of employment, be entitled to any benefits or coverage available to an individual member under the provisions of the contract; and

(B) A member that has not fulfilled one of the requirements set forth in paragraph (A) of this subsection (c)(1) shall, upon termination of employment, be entitled to the same proportion of benefits or coverage available to an individual member as such member's individual premium contributions bear to the total premiums paid on the policy at the time of termination. Any additional coverage or benefits may be obtained by reimbursing the firefighters relief association an equitable and reasonable amount in accordance with procedures set forth in the bylaws of the association.

(2) Prior to the purchase of any annuity contract for and on behalf of any volunteer firefighter, the provisions thereof shall be approved and the adequacy of the funds available for such purpose shall be established by such firefighters relief association.

(d) The moneys paid by the commissioner of insurance to the Kansas state firefighter association, inc., as provided in subsection (c) of K.S.A. 40-1706 and amendments thereto, shall be used by the Kansas state firefighters association, inc., in accordance with that statute and as may be regulated by such association in this state at the annual meetings of the Kansas state firefighters association, inc., which shall be held annually at places to be selected by such association within this state. The Kansas state firefighters association, inc., shall make an annual accounting to the commissioner of insurance of all moneys paid to such association as provided in K.S.A. 40-1706 and amendments thereto.

(e) In the city of El Dorado, in Butler county, which city has by election established a firemen's pension fund under the provisions of K.S.A. 14-10a01 to 14-10a15, inclusive, and amendments thereto, the firefighters relief association of such city may, when the money and securities belonging to such association exceed \$35,000, grant from time to time sums not exceeding 1/2 the earnings of the fund and not exceeding 1/2 the yearly amount received from the commissioner of insurance under this act to the city to be credited to the firemen's pension fund of such city.

(f) Any such firefighters relief association is hereby authorized to loan part or all of such funds to the city, township, county or fire district in which such association is located, to be used by such city, township, county or fire district in the improvement of its fire department and equipment thereof, and such city, township, county or fire district is hereby authorized to borrow the same and issue to the treasurer of such firefighters relief association its warrant therefor bearing interest payable semiannually, at a rate not to exceed 6% per annum.

(g) The commissioner of insurance is hereby authorized to adopt such rules and regulations as are necessary to effect the purposes of the firefighters relief act.

(h) All assets of any firefighters relief association, which is composed of members of a private fire department and which has ceased to provide fire protection services for an incorporated city, township, county or fire district, shall be transferred to and shall become the property of the firefighters relief association for the fire department which is the immediate successor of such private fire department, after satisfaction of any outstanding obligations. If there is no firefighters relief association for the immediately succeeding fire department, such assets shall become the property of the Kansas state firefighters association, inc., as of the date such private fire department ceased to provide such fire protection services, after satisfaction of any outstanding obligations. The Kansas state firefighters association, inc. shall use all such assets for fire prevention and fire extinguishment education and study.

History: L. 1927, ch. 231, 40-1707; L. 1929, ch. 201, § 1; L. 1941, ch. 257, § 6; L. 1943, ch. 187, § 1; L. 1953, ch. 235, § 1; L. 1957, ch. 287, § 7; L. 1974, ch. 188, § 1; L. 1978, ch. 180, § 1; L. 1981, ch. 193, § 1; L. 1984, ch. 165, § 8; L. 1987, ch. 168, § 2; July 1.

40-1708

Chapter 40.--INSURANCE

Article 17.--FIREFIGHTERS RELIEF ACT

40-1708. Citation of act. The provisions of K.S.A. 40-1701 to 40-1707, inclusive, and amendments to those statutes shall be known and may be cited as the firefighters relief act.

History: L. 1984, ch. 165, § 1; July 1.

Chapter 12.--CITIES AND MUNICIPALITIES
Article 16.--MISCELLANEOUS PROVISIONS

12-1675. Investment of public moneys by governmental subdivisions, units and entities; conditions and limitations.

- (a) The governing body of any county, city, township, school district, area vocational-technical school, community college, firemen's relief association, community mental health center, community facility for the mentally retarded or any other governmental entity, unit or subdivision in the state of Kansas having authority to receive, hold and expend public moneys or funds may invest any moneys which are not immediately required for the purposes for which the moneys were collected or received, and the investment of which is not subject to or regulated by any other statute.
- (b) Such moneys shall be invested only:
- (1) In temporary notes or no-fund warrants issued by such investing governmental unit;
 - (2) in time deposit, open accounts, certificates of deposit or time certificates of deposit with maturities of not more than two years:
 - (A) In banks, savings and loan associations and savings banks, which have main or branch offices located in such investing governmental unit; or
 - (B) if no main or branch office of a bank, savings and loan association or savings bank is located in such investing governmental unit, then in banks, savings and loan associations and savings banks, which have main or branch offices in the county or counties in which all or part of such investing governmental unit is located;
 - (3) in repurchase agreements with:
 - (A) Banks, savings and loan associations and savings banks, which have main or branch offices located in such investing governmental unit, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or
 - (B)(i) if no main or branch office of a bank, savings and loan association or savings bank, is located in such investing governmental unit; or (ii) if no such bank, savings and loan association or savings bank having a main or branch office located in such investing governmental unit is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks which have main or branch offices in the county or counties in which all or part of such investing governmental unit is located; or
 - (C) if no bank, savings and loan association or savings bank, having a main or branch office in such county or counties is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks located within this state;

- (4) in United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with banks, savings and loan associations and savings banks; the federal reserve bank of Kansas City, Missouri; or with primary government securities dealers which report to the market report division of the federal reserve bank of New York, or any broker-dealer engaged in the business of selling government securities which is registered in compliance with the requirements of section 15 or 15C of the securities exchange act of 1934 and registered pursuant to K.S.A. 17-12a401, and amendments thereto;
- (5) in the municipal investment pool fund established in K.S.A. 12-1677a, and amendments thereto;
- (6) in the investments authorized and in accordance with the conditions prescribed in K.S.A. 12-1677b, and amendments thereto; or
- (7) in multiple municipal client investment pools managed by the trust departments of banks which have main or branch offices located in the county or counties where such investing governmental unit is located or with trust companies incorporated under the laws of this state which have contracted to provide trust services under the provisions of K.S.A. 9-2107, and amendments thereto, with banks which have main or branch offices located in the county or counties in which such investing governmental unit is located. Public moneys invested under this paragraph shall be secured in the same manner as provided for under K.S.A. 9-1402, and amendments thereto. Pooled investments of public moneys made by trust departments under this paragraph shall be subject to the same terms, conditions and limitations as are applicable to the municipal investment pool established by K.S.A. 12-1677a, and amendments thereto.
- (c) The investments authorized in paragraphs (4), (5), (6) or (7) of subsection (b) shall be utilized only if the banks, savings and loan associations and savings banks eligible for investments authorized in paragraph (2) of subsection (b), cannot or will not make the investments authorized in paragraph (2) of subsection (b) available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto.
- (d) In selecting a depository pursuant to paragraph (2) of subsection (b), if a bank, savings and loan association or savings bank eligible for an investment deposit thereunder has an office located in the investing governmental unit and such financial institution will make such deposits available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and such financial institution otherwise qualifies for such deposit, the investing governmental unit shall select one or more of such eligible financial institutions for deposit of funds pursuant to this section. If no such financial institution qualifies for such deposits, the investing governmental unit shall select for such deposits one or more eligible banks, savings and loan associations or savings banks which have offices in the county or counties in which all or a part of such investing governmental unit is located which will make such deposits available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and which otherwise qualify for such deposits.

- (e) (1) All security purchases and repurchase agreements shall occur on a delivery versus payment basis.
- (2) All securities, including those acquired by repurchase agreements, shall be perfected in the name of the investing governmental unit and shall be delivered to the purchaser or a third-party custodian which may be the state treasurer.

History: L. 1968, ch. 217, § 1; L. 1969, ch. 80, § 1; L. 1973, ch. 63, § 6; L. 1975, ch. 68, § 1; L. 1976, ch. 79, § 2; L. 1977, ch. 55, § 1; L. 1982, ch. 52, § 6; L. 1983, ch. 47, § 7; L. 1986, ch. 76, § 7; L. 1989, ch. 48, § 66; L. 1992, ch. 146, § 3; L. 1993, ch. 207, § 2; L. 1994, ch. 104, § 2; L. 1997, ch. 180, § 14; L. 2004, ch. 154, § 53; L. 2006, ch. 57, § 3; July 1.

12-1675a

Chapter 12.--CITIES AND MUNICIPALITIES

Article 16.--MISCELLANEOUS PROVISIONS

12-1675a. Definitions. As used in K.S.A. 12-1675, 12-1676, 12-1677, 12-1677a and 12-1677b, and amendments thereto:

- (a) “Bank” means any bank incorporated under the laws of this state or any other state, or organized under the laws of the United States which has a main or branch office in this state;
- (b) “savings and loan association” means any savings and loan association incorporated under the laws of this state or any other state, or organized under the laws of the United States and which has a main or branch office in this state;
- (c) “savings bank” means any savings bank organized under the laws of the United States and which has a main or branch office in this state;
- (d) “municipality” includes each investing governmental unit under K.S.A. 12-1675, and amendments thereto;
- (e) “main office” means the place of business specified in the articles of association, certificate of authority or similar document, where the business of the institution is carried on and which is not a branch;
- (f) “branch” means any office within this state, other than the main office, that is approved by a federal or state supervisory agency at which deposits are received, checks paid or money lent. Branch does not include an automated teller machine, remote service unit or similar device or a loan production office; and
- (g) “investment rate” means a rate which is the equivalent yield for United States government securities having a maturity date as published in the Wall Street Journal, nearest the maturity date for equivalent maturities. The 0-90 day rate shall be computed on the average effective federal funds rate as published by the federal reserve system for the previous week.

History: L. 1997, ch. 180, § 13; L. 2006, ch. 57, § 4; July 1.

Kansas Administrative Regulation 40-10-1

40-10-1 Firefighter's relief fund tax; fire marshal tax; companies subject to; amount of premiums taxed.

(a) Each insurance company, authorized to transact business in the state of Kansas, that issues a policy which covers the hazard of fire is subject to the firefighter's relief fund tax and the fire marshal tax. Unless a verifiable, separate charge is made for fire coverage, the following portion of the respective policy premiums shall be allocated as fire premium:

- (1) 25 percent of all premium collected on homeowners multiple-peril policies;
- (2) 55 percent of all premium collected on the property coverage section of commercial multiple-peril policies;
- (3) 20 percent of all premium collected on aircraft policies;
- (4) eight percent of all premium collected on automobile physical damage coverage;
- (5) 15 percent of all premium collected on marine policies;
- (6) 35 percent of all premium collected on farm owners multiple-peril policies; and
- (7) 33 1/3 percent of all premium on all other single premium policies that provide coverage for damage caused by fire and perils other than fire.

(b) The words "fire insurance company" as used in K.S.A. 75-1508, and any amendments, are construed to mean each company issuing a policy which includes coverage for property against the hazard of fire. (Authorized by K.S.A. 40-103, 40-1707(g); implementing K.S.A.1984 Supp. 75-1508, K.S.A. 1984 Supp. 40-1703; effective Jan. 1, 1966; amended May 1, 1981; amended May 1, 1985; amended May 1, 1986.)

Kansas Administrative Regulation 40-10-2

40-10-2 Firefighter's relief association; requirements for participation; procedure.

(a) Members of a fire department who desire to participate in the distribution of firefighter's relief funds shall meet these requirements:

- (1) Apply for a charter and incorporate as a not-for-profit corporation;

- (2) file with the commissioner of insurance a certified copy of the articles of incorporation of the firefighter's relief association; and
- (3) file with the commissioner of insurance evidence of establishment of a fire district within a township or county in accordance with applicable Kansas statutes. This requirement shall not apply to fire departments under the exclusive control of the Governing body of an incorporated city.

(b) When the members of a city, township, county, or fire district fire department notify the commissioner of insurance of their desire to participate in the firefighter's relief fund tax and have otherwise qualified for participation, the proper officials shall complete a declaration form, provided by the commissioner, that declares their right to participate in the firefighter's relief fund. The completed form shall be returned to the commissioner. The declaration form shall be executed by the chief executive officer of the city, township, county, or fire district. The clerk of the city, township, or county, or the equivalent official of the fire district shall attest to the execution of the form.

(c) A declaration form shall be filed annually with the commissioner of insurance.

(d) Qualified firefighter's relief associations shall submit for newly established associations and for associations requesting redetermination hearings pursuant to K.S.A. 40-1706(c)(6), on forms provided by the commissioner, a certification by the county clerk, of the population and assessed tangible property valuation of the geographic area provided fire protection services by the fire department of the association. The population figure shall be computed using the most recent population figures available from the United States bureau of the census, as certified to the secretary of state by the division of the budget on July 1 of each year. The assessed tangible property valuation figure provided on the form shall be computed using the tangible assessed valuation, as shown on the latest November 1 assessment roll prepared and maintained by the county clerk.

(e) Each firefighter's relief association shall adopt bylaws to cover all activities of the association and shall set forth the procedures for disbursing funds for the payment of benefits provided by the association. A copy of the bylaws and the procedures shall be filed with the commissioner. (Authorized by K.S.A. 40-103, 40-1707(g); implementing K.S.A. 40-1701; effective Jan. 1, 1966; amended May 1, 1979; amended May 1, 1981; amended May 1, 1985; amended May 1, 1986; amended Oct. 17, 1997.)

Kansas Administrative Regulation 40-10-5

40-10-5 Firefighter's relief associations; purchase of insurance; on duty coverage.

(a) Except as provided in K.S.A. 40-1707(b), 40-1707(c)(1)(A) and 40-1707(c)(1)(B), and its amendments, any insurance for coverage while on duty which is paid for in whole or in part by a firefighter's relief association from funds paid by the commissioner of insurance shall meet the following conditions:

- (1) Each policy shall be purchased, owned and held by the firefighter's relief association.
- (2) Each policy shall name the firefighter's relief association as beneficiary of the policy. The policy shall not contain a provision which would permit the beneficiary to be other than a firefighter's relief association.
- (3) The policy shall provide that each indemnity shall be paid to the firefighter's relief association.
- (4) Except as provided by subsection (b), the policy shall be limited to cover only accidental injuries, diseases, or death resulting from duties as a member of the fire department as set forth in K.S.A. 40-1707.

(b) Each volunteer fire department may establish annuities in accordance with K.S.A. 40-1707(c)(1), and its amendments. Prior to the purchase of any annuity contract by a firefighter's relief association for and on behalf of the volunteer firefighters, the purchase of the annuity contract shall be approved by the attorney of the governing body.

(c) K.S.A. 40-1707(c)(1)(A) and 40-1707(c)(1)(B), and its amendments, shall be applicable only to group term, group permanent or individual permanent life insurance contracts. (Authorized by K.S.A. 40-103, 40-1707(g); implementing K.S.A. 1984 Supp. 40-1707; effective Jan. 1, 1966; amended Jan. 1, 1968; amended May 1, 1975; amended May 1, 1979; amended May 1, 1985; amended May 1, 1986.)

Kansas Administrative Regulation 40-10-6

40-10-6 Firefighter's relief associations; purchase of insurance; 24 hour coverage.

(a) Except as provided in K.S.A. 40-1707(b), 40-1707(c)(1)(A) and 40-1707(c)(1)(B), and its amendments, any insurance for 24 hour coverage which is paid in part by a firefighter's relief association from funds paid to it by the commissioner of insurance shall meet the following conditions:

- (1) Each policy shall be purchased, owned, and held by the firefighter's relief association.
- (2) Except as provided in subsection (b)(4), each policy shall name the firefighter's relief association as the beneficiary of the policy. The policy shall not contain a provision which would permit the beneficiary to be other than a firefighter's relief association.
- (3) Except as provided in subsection (b)(4), the insurance policy shall provide that each indemnity shall be paid to the firefighter's relief association.

(b) Where individual members of a firefighter's relief association desire to have their dependents insured under a group or franchise accident and health policy issued to the association:

- (1) Dependent's coverage shall be evidenced by endorsements attached to the policy.

- (2) The association shall have authorized the addition of coverage for dependents to its policy.
- (3) The cost of coverage for dependents shall be paid by the individual firefighter. Firefighter's relief tax funds cannot be used to pay for the coverage.
- (4) The endorsement shall provide that benefits under the endorsement for dependents shall be paid directly to the firefighter who has paid for them or to another beneficiary of the firefighter's choice. The association shall not be a beneficiary.

(c) When a firefighter's relief association purchases 24 hour coverage for its members, each individual member shall pay that portion of the cost (premiums) which is beyond "on duty" coverage. The contribution by the individual members shall not be less than 15 percent of the total premium for this coverage.

(d) K.S.A. 40-1707(c)(1)(A) and 40-1707(c)(1) (B), and its amendments, shall be applicable only to group term, group permanent or individual permanent life insurance contracts. (Authorized by K.S.A. 40-103, 40-1707(g); implementing K.S.A. 1984 Supp. 40-1707; effective Jan. 1, 1966; amended Jan. 1, 1968; amended May 1, 1975; amended May 1, 1979; amended May 1, 1985; amended May 1, 1986.)

Kansas Administrative Regulation 40-10-10

40-10-10 Firefighter's relief association; permissible disbursements.

The cost of the bond for the treasurer of a firefighter's relief association, as prescribed by K.S.A. 40-1706, and reasonable administrative expenses, to be determined at the discretion of the commissioner of insurance, including stamps, stationery, safe deposit box rent, the expense of having the funds of the association audited, and other similar expenses, shall be permissible disbursements from the firefighter's relief funds. Each expenditure shall be itemized in the financial statement. (Authorized by K.S.A. 40-103, 40-1707(g); implementing K.S.A. 40-1707(g); effective Jan. 1, 1966; amended May 1, 1979; amended May 1, 1986; amended Oct. 17, 1997.)

Kansas Administrative Regulation 40-10-14

40-10-14 Same; purchase of bonds; requirements.

Each bond purchased with firefighter's relief funds shall be shown on the financial statement at the initial purchase price. Bonds shall not be carried at market or maturity value. When the bonds mature or are sold, each change in the value from the initial purchase price shall be reflected in the financial statement. (Authorized by K.S.A. 40-103, 40-1707(g); implementing K.S.A. 40-1706; effective Jan. 1, 1966; amended May 1, 1986; amended May 1, 1987.)

Kansas Administrative Regulation 40-10-15

40-10-15 Firefighters relief act; application of statutory formula.

In applying the formula set forth in L. 1987, Ch. 168, Sec. 1(c)(5), the result of the calculation prescribed by subsection (A)(ii) and (B)(ii) shall be the “amount received from taxes collected for all of calendar year 1983” referenced in subsections (A)(iv) and (B)(iv) respectively.

(Authorized by L. 1987, Ch. 168, Sec. 2(g); implementing L. 1987, Ch. 168, Sec. 1(c)(5); effective, T-88-21, July 1, 1987; amended May 1, 1988.)

Kansas Administrative Regulation 40-10-16

K.A.R. 40-10-16. Firefighters relief act; fund allocation.

(a) The annual redetermination allocation shall be calculated using a formula based on the population and the assessed tangible property valuation of the area served by the association that requests redetermination in relation to the population and the assessed tangible property valuation of the state. The assessed tangible property valuation of the area served by the association and the state to be used in the formula shall be as reported by the Kansas department of revenue’s statistical report of property assessment and taxation for the year during which redetermination is requested. The populations of the area served by the association and the state to be used in the formula shall be those population totals certified by the Kansas secretary of state for the year during which redetermination is requested.

(b) The following formula shall be used to calculate a new base allocation percentage for the association that requests redetermination:

- (1) The assessed tangible property valuation of the area served by the association shall be divided by the assessed tangible property valuation of the state, and the quotient shall be divided by two to form one-half of the new base allocation percentage.
- (2) The population of the area served by the association shall be divided by the population of the state, and the quotient shall be divided by two to form the second half of the new base allocation percentage.
- (3) The sum of the amounts calculated in paragraphs (b)(1) and (2) shall be the new base allocation percentage for the association.

(c) The next distribution of firefighters relief funds following a redetermination shall be computed as follows:

(1) The new base allocation percentage for each association that was redetermined shall be added to the new base allocation percentage of any associations eligible for the distribution that were new or merged since the last distribution and the prior year's allocation percentage for all other active associations.

(2) The sum computed in paragraph (c)(1) shall be divided into 100.

(3) The quotient computed in paragraph (c)(2) shall be multiplied by each new base allocation percentage for associations that were redetermined, new, or merged in the prior year and each prior year's allocation percentage for other associations to receive distributions so that the total of all percentages of associations eligible for the distribution equals 100.

(d) The allocation formula prescribed by this regulation shall also be used when distributions are determined for new or merged associations. Any association that has failed to qualify for funds for two consecutive years may resume participation as a new association by submitting the information required by K.A.R. 40-10-2(d) and K.S.A. 40-1706(a), and amendments thereto. (Authorized by K.S.A. 40-1707(g); implementing K.S.A. 2010 Supp. 40-1706; effective May 27, 2011.)

Model Bylaws

Following is an example of bylaws which have been adopted by some Firefighters Relief Associations. Each association should write their bylaws in a manner to cover all functions and operations contemplated in the normal conduct of business.

ARTICLE 1. Name and Membership. This association shall be known as the _____ Firefighters Relief Association, and shall be composed of the regularly appointed members of the _____ fire department.

ARTICLE 2. Purpose. To receive, use and disburse funds for the benefit of the members of the association or their dependents.

ARTICLE 3. Officers. The officers of this association shall consist of a president, vice-president, secretary-treasurer and a board of directors.

ARTICLE 4. Duties of Officers. The president shall preside at all meetings of this association and of the board of directors; sign all orders on the treasurer, when issued in conformity with these bylaws; appoint committees not otherwise provided; call special meetings of the association or of the board of directors when he deems it necessary, or when requested by five or more members in writing.

The vice-president shall perform all the duties of the president in his absence.

The secretary shall keep a complete and accurate record of all meetings of the association and the board of directors.

The treasurer shall keep a complete and accurate record of all transactions of the association; shall receive all monies and disburse them as the association may direct, keep separate accounts of the funds received under the provisions of the firefighters relief fund act and those received from other sources, and make an itemized statement in this manner, to be submitted to the association at each regular meeting, together with an annual statement to be reported at the regular meeting in January. A copy of the portion of this report concerning the funds received under the provisions of the firefighters relief fund act shall be sent to the Insurance Department on a form furnished by the department for the purpose. Such treasurer shall give bond for the safekeeping of such funds and for faithful performance in such sum, with such sureties as may be approved by the governing body of such city, township, county or fire district. The fees for such bonds to be paid by the Association.

The board of directors shall make or receive and investigate recommendations for benefit to any member of the department, or his dependents and make a report to the association at the next regular meeting, or a special meeting called for the purpose, if necessary, where the report will be considered and the necessity and legality of the benefit decided, and allowed or disapproved by the association.

ARTICLE 5. Election. The officers and the board of directors shall be elected by ballot at the regular meeting of the association in January of each year.

The two members who receive the highest number of votes on the ballot cast for the members at large of the board of directors shall be declared and elected.

When a permanent vacancy shall occur in the position of secretary-treasurer, or any member of the board of directors, such vacancy shall be filled for the unexpired term by ballot, in like manner as provided above. The president may designate a member to fill a temporary vacancy.

ARTICLE 6. Meetings. The regular meeting of the association shall be held on _____ of each month at _____ o'clock. A majority of all members constitute a quorum. Should an alarm of fire interfere, the meeting shall stand adjourned until the following day at the same hour.

ARTICLE 7. Use of Funds. All monies received under the provisions of the firefighters relief fund act shall be used only as provided by the Laws of Kansas. Any other funds, except those specifically appropriated, shall be used as directed by the association from time to time.

ARTICLE 8. Benefits. Accident insurance payable in case of accident or accidental death occasioned by duty as firefighters, and health insurance payable in case of sickness or death caused by exposure or disease contracted while on duty as firefighters, shall be at all times carried by the association in a reliable company upon each member in such principal amount as its funds may permit; or the association shall reward its members or their dependent, in like manner from the funds of the association.

ARTICLE 9. Beneficiary. Each member of the association shall keep on file with the secretary of the association the name of the beneficiary to whom he desires the benefits, named in these bylaws, be paid in case of his death.

ARTICLE 10. Death Certificate. In every case of death of a member of this association the certificate of a competent physician, stating the true cause of such death shall be immediately filed with the secretary of the association.

ARTICLE 11. Amendments. Amendments to this constitution must be presented in writing, lie over thirty days or until the next regular meeting, and be adopted by a vote of at least two-thirds of the members of the association.

ARTICLE 12. Order of Business.

- Call to order.
- Roll call.
- Reading the minutes.
- Reports of board of trustees, treasurer and of committees.
- Unfinished business.
- New business.
- Adjournment.

K.S.A. 40-1707(f) LOAN WARRANT

COMES NOW, on this _____ day of _____, 20_____,
_____ and does hereby acknowledge that by
_____ and through the undersigned governing body of said Fire District that it does on this date
hereof, pursuant to K.S.A. 40-1707(f) borrow from the Firefighters Relief Association Fund the sum of
\$_____: and that the undersigned governing body by signature hereto does warrant, that the
said sum of \$ _____, will be repaid within a period of _____ year(s) at the rate of _____ %
per annum with the interest thereon to be paid semi-annually.

MEMBERS: _____

CERTIFICATION

The undersigned, on this _____ day of _____, 20 _____ as _____
Attorney for _____ Kansas, does hereby certify that the Warrant
hereinabove complies with K.S.A. 40-1706(G), Supp.

Attorney of Governing Body

ACKNOWLEDGMENT

The foregoing loan and warrant of repayment is hereby acknowledged and duly recorded on this
_____ day of _____, 20 _____.

Treasurer, Firefighters Relief Association

**SPECIMEN JOINDER AGREEMENT FOR DESIGNATION OF
RECIPIENT OF PLAN BENEFITS AND BENEFIT PAYMENT OPTIONS**

I. RECIPIENT DESIGNATION

Pursuant the _____ Firefighters Relief Association master agreement,
I hereby designate the following recipients to receive any payments which may be due under
such agreement after my death:

Primary recipient _____

Secondary recipients _____

The primary recipient named above shall be the designated recipient referred to in article II of said agreement if he is living at the time a death benefit payment thereunder becomes due and payable, and the secondary recipient named above shall be the designated recipient referred to in article II of said agreement only if he is living at the time a death benefit becomes payable and the primary recipient is not then living.

II. BENEFIT PAYMENTS

I hereby elect to have benefit payments described in Article II made as follows:

Pension benefit option _____	Option:
Annuity benefit option _____	1. Lump sum
Death benefit option _____	2. Installments of a designated amount.
Disability benefit option _____	

III. ELECTION OF 24 HOUR COVERAGE

I do _____ do not _____ elect 24 hour life insurance coverage by agreeing to pay at least 15%, \$ _____ premium, \$ _____ , for this coverage.

I understand the premiums I am paying represent the cost of beyond "on duty" coverage. This application shall become effective upon receipt by the administrative committee.

date

signature of participant

Address (home) _____



Kansas Insurance Department

Firefighters Relief Association Financial Statement

Calendar year: _____

Firefighter Relief Association Name: _____

FRA#: _____ Federal Tax Identification #: _____

Receipts and expenditures

1. Net assets from previous year	\$ _____
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Receipts	Amount
2. Amount received from Kansas Insurance Department this year	\$ _____
3. Interest received from government, municipal (township) bonds or warrants	\$ _____
4. Interest received from other investments	\$ _____
5. Interest on bank account	\$ _____
6. Refund of insurance premium overpayment	\$ _____
7. Proceeds received from insurance policy(s)	\$ _____
8. Annuity/Pension Gain or Loss	\$ _____
9. Investment contribution into Annuity/Pension	\$ _____
10. Firefighters portion of insurance premium	\$ _____
11. Other income	\$ _____
Total current receipts	\$ _____
Net assets from previous year + Total current receipts	\$ _____

Expenditures (over \$1,500 requires certification by an attorney)	Amount
12. Relief to firefighters (injured/disabled)	\$ _____
13. Benefits to spouse or dependents	\$ _____
14. Funeral expenses	\$ _____
15. Insurance premiums	\$ _____
16. Investment contribution into Annuity/Pension	\$ _____
17. Pensions to Full-paid firefighters (unfit for service)	\$ _____
18. Annuities to Volunteer firefighters	\$ _____
19. Treasurer's bond	\$ _____
20. Other expenses	\$ _____
Total current expenditures	\$ _____

Net assets (Net assets from previous year + Total current receipts - Total current expenditures)	\$ _____
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Asset and investment report

As of Dec. 31

Type of asset/investment

City bond	\$ _____
County bond	\$ _____
Township bond	\$ _____
Fire district bond	\$ _____
U.S. bond	\$ _____
Kansas municipal bond	\$ _____
Checking account	\$ _____
Certificates of deposit	\$ _____
Repurchase agreement	\$ _____
Time certificate of deposit	\$ _____
U.S. Treasury bill	\$ _____
Warrants held	\$ _____
Annuity program (describe)	\$ _____

Pension program (describe)	\$ _____

Savings account	\$ _____
Other investment income (specify)	\$ _____

Current year total	\$ _____

Fire department information

Governing body

- Chairman
- Trustee
- Mayor

Name _____

Government type

- County
- City
- Township
- Fire district

Fire department name _____

Fire department types

- All volunteer
- Full paid
- Part volunteer/paid
- Private

of volunteer firefighters _____

of paid firefighters _____

Fire apparatus and serviceable equipment value: \$ _____

Verification and certification

A reminder: Bank statements must be submitted to FRA administrator.

Treasurer's bond available as per K.S.A. 40-1706(g).

Attorney certification for expenditures over \$1,500 available as per K.S.A. 40-1706(g).

I verify under penalty of perjury that the foregoing is true and correct and I further certify that the governing body has declared that the FRA remains entitled to participate in the Firefighters Relief Act.

Printed name: _____ Phone number: (____) _____

Signature _____

Return forms by April 1 to Firefighter Relief Act, c/o Kansas Insurance Department, 420 S.W. 9th St., Topeka, KS 66612

Kansas Firefighter Relief Act Handbook and Best Practices



Kansas Firefighter Relief Act Handbook and Best Practices

For questions, call 785-291-3390

Fax: 785-291-3190

For more information about the Kansas Firefighter Relief Act, visit
www.ksinsurance.org/otherservices/firefighter-relief-act.php



Kansas Insurance Department
Vicki Schmidt, Commissioner of Insurance