

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 circumstance. Upon making such finding, the commissioner of insurance may include such redetermination within the computations prescribed by subsection (c)(4) for payments in subsequent years. Any increase or reduction in the amounts to be distributed as a result of a finding of changed circumstances by the commissioner shall be proportionately distributed among all firefighters relief associations. An application for redetermination shall not be made by any firefighters relief association more 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. 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.