

## SENATE BILL No. 392

By Committee on Ways and Means

4-25

---

9 AN ACT concerning law enforcement officers; enacting the law enforce-  
10 ment officers relief act; amending K.S.A. 40-252b and 40-1611 and  
11 repealing the existing sections.  
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. The provisions of sections 1 through 7, and amend-  
15 ments thereto, shall be known and may be cited as the law enforcement  
16 officers relief act.

17 New Sec. 2. As used in the law enforcement officers relief act:

18 (a) "Law enforcement officers relief association" means an associa-  
19 tion incorporated under the laws of this state composed of members of  
20 a law enforcement agency which is a public law enforcement agency un-  
21 der the control of the state, the governing body of an incorporated city  
22 or county.

23 (b) "Insurance company" means every company, corporation, firm or  
24 association transacting the business of fire insurance in this state.

25 (c) "Theft insurance" shall include coverage for theft, criminal dam-  
26 age to property, vandalism or malicious mischief or any combination  
27 thereof.

28 New Sec. 3. (a) On or before April 1 of each year, every insurance  
29 company doing business in this state shall return to the commissioner of  
30 insurance a just and true account, verified by oath, of all premiums re-  
31 ceived for theft insurance covering risks located within this state during  
32 the year ending December 31, or the theft insurance portion of any other  
33 insurance transacted by the insurance company covering risks within this  
34 state. Every insurance company shall include in its return an account of  
35 all premiums received for theft insurance covering risks located within  
36 this state.

37 (b) Each law enforcement officers relief association shall prepare and  
38 file with the commissioner a description of the area provided law enforce-  
39 ment services by the law enforcement agency of the law enforcement  
40 officers relief association.

41 New Sec. 4. On or before April 1 of each year, every insurance com-  
42 pany shall deliver and pay to the commissioner of insurance a tax at the  
43 rate of 2% of the total amount of all premiums on theft insurance written

1 covering risks located within this state during the preceding calendar year.

2 New Sec. 5. Every insurance company shall keep accurate books of  
3 account of all theft insurance written by such company covering risks  
4 located within this state. In the case of any fraud or dishonesty in the  
5 returns made by an insurance company, as provided in section 2, and  
6 amendments thereto, the commissioner of insurance shall investigate the  
7 returns and collect the amount which the commissioner finds to be due.

8 New Sec. 6. (a) On or before April 1 of each year, every law enforce-  
9 ment officers relief association which holds funds received under the law  
10 enforcement officers relief act shall submit to the commissioner of in-  
11 surance a verified account showing in full the receipts and disbursements  
12 and general condition of such funds for the year ending on the preceding  
13 December 31. If such account or other information shows such funds are  
14 not being expended for the purposes authorized by the law enforcement  
15 officers relief act, the commissioner of insurance shall notify the district  
16 or county attorney of the county in which any such law enforcement  
17 officers relief association is located and the county attorney shall institute  
18 proceedings to recover for the use of the law enforcement officers relief  
19 association all moneys expended for purposes not in accordance with the  
20 provisions of the law enforcement officers relief act. The commissioner  
21 of insurance shall hold any funds of such law enforcement officers relief  
22 association until the commissioner is notified by the district or county  
23 attorney that such condition has been corrected.

24 (b) (1) All moneys received by the commissioner of insurance from  
25 the tax imposed by section 4, and amendments thereto, shall be remitted  
26 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,  
27 and amendments thereto. Upon receipt of each such remittance, the state  
28 treasurer shall deposit the entire amount in the state treasury to the credit  
29 of the state law enforcement officers relief fund which is hereby created  
30 in the state treasury.

31 (2) The state law enforcement officers relief fund shall be adminis-  
32 tered by the commissioner of insurance. An amount equal to not more  
33 than the amount authorized for expenditure during the current fiscal year  
34 by appropriations enacted by the legislature may be set aside in the state  
35 law enforcement officers relief fund and expended by the commissioner  
36 of insurance for the administrative expenses of the department of insur-  
37 ance under the law enforcement officers relief act, subject to the provi-  
38 sions of appropriation acts.

39 (c) Each August 1, except as provided in subsections (b) and (d), of  
40 the total amount of moneys credited to the state law enforcement officers  
41 relief fund as of July 1 of the same year the amounts determined as  
42 prescribed in subsections (c)(1) through (c)(6) shall be paid as provided  
43 therein.

- 1 (1) An amount equal to 3% of such total amount shall be paid by the  
2 commissioner of insurance to the Kansas state law enforcement training  
3 center for law enforcement education and training.
- 4 (2) An amount equal to 5% of such total amount shall be paid by the  
5 commissioner of insurance to the Kansas state law enforcement officers  
6 association, inc. which shall be set aside as a death benefit fund to provide  
7 such benefits as determined by the association in accordance with the  
8 constitution and bylaws thereof, except the amount paid under this par-  
9 agraph shall not be more than the lesser of \$100,000 or the result obtained  
10 by subtracting the balance in the death benefit fund of the association on  
11 July 1 from \$100,000.
- 12 (3) The amount of \$1,000 shall be paid by the commissioner of in-  
13 surance to each law enforcement officers relief association.
- 14 (4) The remaining amount of the moneys credited to the state law  
15 enforcement officers relief fund, after the amounts are reserved or paid  
16 for the purposes authorized by subsections (b)(2), (c)(1), (c)(2) and (c)(3),  
17 shall be paid by the commissioner of insurance to law enforcement offi-  
18 cers relief associations so that the amount received by each law enforce-  
19 ment officers relief association bears the same proportion to the total  
20 amount to be paid as the amount such law enforcement officers relief  
21 association received from the amounts collected from the tax imposed by  
22 section 4, and amendments thereto, for all of the preceding calendar years  
23 following the effective date of this act.
- 24 (5) Whenever a law enforcement officers relief association is to re-  
25 ceive a payment under subsection (c)(4) but did not receive a payment  
26 from any of the taxes collected from the preceding calendar year, the  
27 commissioner of insurance shall determine for the nonreceiving associa-  
28 tion, from such information as is made available to the commissioner by  
29 the nonreceiving association, the amount the nonreceiving association  
30 would most probably have received if it had actually received such a  
31 payment from the taxes collected for all of the previous calendar year,  
32 with appropriate adjustments based on payments to law enforcement of-  
33 ficers relief associations of law enforcement agencies providing law en-  
34 forcement services within geographic areas having similar populations and  
35 assessed tangible property valuation as the geographic area provided law  
36 enforcement services by the law enforcement agency of each such non-  
37 receiving association. The commissioner shall make such determination  
38 based on rules and regulations adopted by the commissioner.
- 39 (6) One or more law enforcement officers relief associations may ap-  
40 ply, prior to October 1 of any year, to the commissioner of insurance for  
41 a redetermination of the proportionate amounts payable to all law en-  
42 forcement officers relief associations under subsection (c)(4) and, upon  
43 receipt of such application, the commissioner of insurance shall hold one

1 joint hearing in accordance with the provisions of the Kansas administra-  
2 tive procedure act prior to December 1 of such year, at which all appli-  
3 cants shall be heard and may present information. The commissioner of  
4 insurance may redetermine such proportionate amounts based upon such  
5 information as is presented to or otherwise made available by the appli-  
6 cants to the commissioner and may make a finding of changed circum-  
7 stances. However, increases in the assessed tangible property valuation  
8 resulting from a statewide reappraisal conducted pursuant to K.S.A. 79-  
9 1476 et seq., and amendments thereto, shall not constitute a changed  
10 circumstance. Upon making such finding, the commissioner of insurance  
11 may include such redetermination within the computations prescribed by  
12 subsection (c)(4) for payments in subsequent years. Any increase or re-  
13 duction in the amounts to be distributed as a result of a finding of changed  
14 circumstances by the commissioner shall be proportionately distributed  
15 among all law enforcement officers relief associations. An application for  
16 redetermination shall not be made by any law enforcement officers relief  
17 association more often than once every three years.

18 (d) Except as otherwise provided in this section, whenever any law  
19 enforcement officers relief association fails to qualify for funds, as pro-  
20 vided in the law enforcement officers relief act, for a period of two con-  
21 secutive years, the funds on deposit with such association shall be re-  
22 turned by the district or county attorney to the commissioner of  
23 insurance. The commissioner of insurance shall remit all such funds to  
24 the state treasurer in accordance with the provisions of K.S.A. 75-4215,  
25 and amendments thereto. Upon receipt of each such remittance, the state  
26 treasurer shall deposit the entire amount in the state treasury to the credit  
27 of the state law enforcement officers relief fund. The commissioner of  
28 insurance shall pay such amount of funds to the Kansas state law enforce-  
29 ment training center for law enforcement education and training.

30 (e) When a law enforcement officers relief association fails to qualify  
31 for payments under the law enforcement officers relief act as a result of  
32 the territory which it serves being consolidated, merged or annexed with  
33 another governmental unit having a qualified law enforcement officers  
34 relief association, the funds and obligations of such disqualified associa-  
35 tion shall be transferred to the surviving law enforcement officers relief  
36 association and the disqualified association shall dissolve forthwith under  
37 the existing laws of this state.

38 (f) When any law enforcement officer, the spouse of such law en-  
39 forcement officer or those dependent upon any member of a disqualified  
40 association is receiving reasonable benefits from such association at the  
41 time of disqualification, the benefits shall be continued in accordance with  
42 the resolution of such disqualified association and shall be paid by the  
43 surviving association if the disqualification resulted from consolidation,

1 merger or annexation and shall be paid by the district or county attorney  
2 if disqualification resulted from reasons other than consolidation, merger  
3 or annexation. Nothing in the law enforcement officers relief act shall be  
4 construed as a bar to the lawful receipt of such benefits.

5 (g) The treasurer of a law enforcement officers relief association shall  
6 give bond for the safekeeping of funds received under the law enforce-  
7 ment officers relief act and for faithful performance in such sum with  
8 such sureties as may be approved by the state or the governing body of  
9 such city or county. All the moneys so received shall be set apart and  
10 used by the law enforcement officers relief association of the state or such  
11 cities or counties solely and entirely for the objects and purposes of the  
12 law enforcement officers relief act and shall be paid to and distributed  
13 by the law enforcement officers relief associations of the state or such  
14 cities or counties under such provisions as shall be made by the governing  
15 body thereof. All such expenditures or payments shall be subject to the  
16 continued availability of moneys distributed to the association from the  
17 tax imposed by section 4, and amendments thereto, in amounts sufficient  
18 for such expenditures. In all cases involving expenditures or payments in  
19 an amount of \$1,500 or more, prior certification shall be obtained from  
20 an attorney designated by the state or the governing body of the city or  
21 county that such expenditure or payment complies with the requirements  
22 of the law enforcement officers relief act.

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

34 New Sec. 7. (a) Except as otherwise provided in the law enforcement  
35 officers relief act, all moneys received by a law enforcement officers relief  
36 association under the provisions of the law enforcement officers relief act  
37 shall be held in trust and used as a fund:

38 (1) For the relief of any member of the law enforcement agency of  
39 the state, city or county when injured or physically disabled in or by reason  
40 of the discharge of such member's duties as a law enforcement officer;

41 (2) for the payment of a death benefit when any member of such law  
42 enforcement agency is killed in the discharge of such member's duties as  
43 a law enforcement officer, or who dies from the effect of injuries so

- 1 received or from disease contracted by reason of such member's duties  
2 as a law enforcement officer, to the beneficiary or beneficiaries as des-  
3 ignated by the member or, in the event that no beneficiary has been  
4 designated to receive such death benefit, to the following persons in the  
5 following priority:
- 6 (A) If there is a spouse and there are no natural or adopted children  
7 of the deceased member, the death benefit shall be for the spouse;
- 8 (B) if there are one or more natural or adopted children and spouse  
9 of the deceased member,  $\frac{1}{2}$  of the death benefit shall be for the spouse  
10 and the remaining  $\frac{1}{2}$  of the death benefit shall be for the children, in  
11 equal shares thereof;
- 12 (C) if there are one or more natural or adopted children and there is  
13 no spouse of the deceased member, the death benefit shall be for the  
14 children, in equal shares thereof;
- 15 (D) if there is a father or mother, or both, and there are no natural  
16 or adopted children and no spouse of the deceased member, the death  
17 benefit shall be for the father or mother, or to both in equal shares thereof  
18 if there are both;
- 19 (E) if there are one or more siblings and there is no father or mother  
20 or spouse and there are no natural or adopted children of the deceased  
21 member, the death benefit shall be for the siblings, in equal shares  
22 thereof; and
- 23 (F) if there are no siblings, no father or mother, no natural or adopted  
24 children and no spouse of the deceased member, the death benefit shall  
25 be for the estate of the deceased member;
- 26 (3) for the payment of the necessary funeral expenses of any member  
27 of such law enforcement agency when killed in the discharge of such  
28 duties as a law enforcement officer, or in the case of death resulting from  
29 injuries so received or disease contracted by reason of such member's  
30 duties as a law enforcement officer;
- 31 (4) for the further purpose of paying a pension to members of full-  
32 time paid law enforcement agencies who are unfit for service after having  
33 served for a period of not less than 20 years with the agency, such pension  
34 not to exceed  $\frac{1}{2}$  of the monthly salary at the date of retirement; or
- 35 (5) for the purchase of insurance which would provide for any or all  
36 of the foregoing purposes for which such fund is authorized to be  
37 expended.
- 38 (b) For any law enforcement agency that maintains in addition to  
39 salaried law enforcement officers, volunteer or reserve law enforcement  
40 officers, such moneys may be used to establish an annuity for each vol-  
41 unteer or reserve law enforcement officer who served for not less than  
42 20 years with such law enforcement agency, as verified by such law en-  
43 forcement agency, but such annuity shall not exceed the amount paid to

1 fully paid members of the law enforcement agency. Such moneys may be  
2 expended for the purchase of group term, group permanent or individual  
3 permanent life insurance contracts for members of such agency. Any ben-  
4 efits or coverage accruing to individual members of the agency under  
5 such policies shall be and shall remain the property of the law enforce-  
6 ment officers relief association except as follows:

7 (1) A volunteer or reserve law enforcement officer who has com-  
8 pleted 10 years of service with the agency and has been covered under  
9 such policy for a continuous period of not less than five years, a member  
10 who suffers a total and permanent disability or death, shall, upon termi-  
11 nation of service, be entitled to any benefits or coverage available to an  
12 individual member under the provisions of the contract; and

13 (2) a volunteer or reserve law enforcement officer who has not ful-  
14 filled one of the requirements set forth in paragraph (A) shall, upon ter-  
15 mination of service, be entitled to the same proportion of benefits or  
16 coverage available to an individual member as such member's individual  
17 premium contributions bear to the total premiums paid on the policy at  
18 the time of termination. Any additional coverage or benefits may be ob-  
19 tained by reimbursing the law enforcement officers relief association an  
20 equitable and reasonable amount in accordance with procedures set forth  
21 in the bylaws of the association.

22 (c) Prior to the purchase of any annuity contract for and on behalf of  
23 any volunteer or reserve law enforcement officer, the provisions thereof  
24 shall be approved and the adequacy of the funds available for such pur-  
25 pose shall be established by such law enforcement officers relief  
26 association.

27 (d) The moneys paid by the commissioner of insurance to the Kansas  
28 state law enforcement officers association, inc., as provided in subsection  
29 (c) of section 6, and amendments thereto, shall be used by the Kansas  
30 state law enforcement officers association, inc., in accordance with that  
31 statute and as may be regulated by such association in this state at the  
32 annual meetings of the Kansas state law enforcement officers association,  
33 inc., which shall be held annually at places to be selected by such asso-  
34 ciation within this state. The Kansas state law enforcement officers as-  
35 sociation, inc., shall make an annual accounting to the commissioner of  
36 insurance of all moneys paid to such association as provided in section 6,  
37 and amendments thereto.

38 (e) Any such law enforcement officers relief association is hereby au-  
39 thorized to loan part or all of such funds to the city or county in which  
40 such association is located, to be used by such city or county in the im-  
41 provement of its law enforcement agency and equipment thereof, and  
42 such city or county is hereby authorized to borrow the same and issue to  
43 the treasurer of such law enforcement officers relief association its war-

1 rant therefor bearing interest payable semiannually, at a rate not to exceed  
2 6% per annum.

3 (f) The commissioner of insurance is hereby authorized to adopt such  
4 rules and regulations as are necessary to effect the purposes of the law  
5 enforcement officers relief act.

6 Sec. 8. K.S.A. 40-252b is hereby amended to read as follows: 40-  
7 252b. For taxable years commencing on and after January 1, 1998, the  
8 fees, charges and taxes provided for by K.S.A. 40-252 and amendments  
9 thereto shall be in lieu of all other license fees, premium or occupation  
10 taxes, income taxes, intangible property taxes, or other fees levied or as-  
11 sessed upon the basis of income, premiums, gross receipts and intangible  
12 property by this state and any municipality, county or other political sub-  
13 division of this state, and no municipality, county or other political sub-  
14 division of this state shall impose any license fee or privilege, premium,  
15 income, intangible property or gross receipts tax or fee upon any insur-  
16 ance company or corporation taxed under the provisions of K.S.A. 40-252  
17 and amendments thereto and organized under the laws of this state or  
18 doing business in this state, or upon any of its agents or representatives  
19 for the privilege of doing an insurance business therein. This section shall  
20 not be construed to prohibit the levy and collection of (a) state, county  
21 or municipal taxes upon the real and tangible personal property of such  
22 company, (b) tax for the purpose of maintaining the office of the fire  
23 marshal of this state as provided in K.S.A. 75-1508 and amendments  
24 thereto, (c) the firemen's relief fund tax as provided for in K.S.A. 40-1701  
25 through 40-1707 and amendments thereto, ~~and~~ (d) municipal occupation  
26 taxes levied upon any basis other than income, intangible property, pre-  
27 miums or gross receipts, *and (e) the law enforcement officers relief fund*  
28 *tax as provided for in sections 1 through 7, and amendments thereto.*

29 Sec. 9. K.S.A. 40-1611 is hereby amended to read as follows: 40-  
30 1611. Each reciprocal shall pay to the commissioner of insurance levies  
31 and taxes in the amount and as specified in *section 4*, K.S.A. 40-252, 40-  
32 1703, 40-1704 and 75-1508, and amendments thereto. All such levies and  
33 taxes on premiums shall be applicable to premiums received on or after  
34 January 1, 1957. *In addition, all such levies and taxes on premiums which*  
35 *pertain to the law enforcement officers relief act, sections 1 through 7,*  
36 *and amendments thereto, shall be applicable to premiums received on or*  
37 *after January 1, 2008.* The above fees, levies and taxes shall be in lieu of  
38 all license fees and taxes of whatever character in this state and in cal-  
39 culating all such levies and taxes such reciprocal shall be permitted to  
40 deduct therefrom premiums returned on account of cancellations, all pre-  
41 miums received for reinsurance from any other company authorized to  
42 do business in this state, and savings paid or credited to subscriber  
43 policyholders.



- 1     Sec. 10. K.S.A. 40-252b and 40-1611 are hereby repealed.
- 2     Sec. 11. This act shall take effect and be in force on and after January
- 3     1, 2008, and its publication in the statute book.