

**SENATE BILL No. 370**

By Committee on Financial Institutions and Insurance

1-27

1 AN ACT concerning insurance; relating to the payment of certain  
2 insurance proceeds; cities and counties; amending K.S.A. 40-3901, 40-  
3 3902, 40-3903, 40-3904, 40-3905 and 40-3907 and repealing the  
4 existing sections.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 40-3901 is hereby amended to read as follows: 40-  
8 3901. (a) The governing body of any city is hereby authorized to establish,  
9 by ordinance, a procedure for the payment of not to exceed 15% of the  
10 proceeds of any insurance policy based upon a covered claim payment  
11 made for damage or loss to a building or other structure, ~~caused by or~~  
12 ~~arising out of any fire, explosion or windstorm.~~ The ordinance shall apply  
13 only to a covered claim payment which is in excess of 75% of the face  
14 value of the policy covering a building or other insured structure.

15 (b) The insurer first shall pay all amounts due the holder of a first real  
16 estate mortgage against the building or other structure pursuant to the  
17 terms of the policy and endorsements thereto and then shall withhold from  
18 the covered claim payment a sum not to exceed the amount authorized  
19 pursuant to subsection (a) and shall pay such moneys to the city to deposit  
20 into an interest-bearing account, unless the city has issued a certificate  
21 pursuant to K.S.A. 40-3906, and amendments thereto.

22 (c) The city shall release the insured's proceeds and any interest  
23 which has accrued on such proceeds received under subsection (b) within  
24 ~~30~~ 45 days after receipt of such moneys, unless the city has instituted legal  
25 proceedings under the provisions of K.S.A. 12-1752, and amendments  
26 thereto. If the city has proceeded under the provisions of K.S.A. 12-1752,  
27 and amendments thereto, all moneys in excess of that necessary to comply  
28 with the provisions of K.S.A. 12-1750 et seq., and amendments thereto, for  
29 the removal of the building or structure, less salvage value, shall be paid to  
30 the insured.

31 Sec. 2. K.S.A. 40-3902 is hereby amended to read as follows: 40-  
32 3902. The governing body of any city is hereby authorized to create, by  
33 ordinance, a lien in favor of any such city in the proceeds of any insurance  
34 policy based upon a covered claim payment made for damage or loss to a  
35 building or other structure, ~~caused by or arising out of any fire, explosion~~  
36 ~~or windstorm.~~ The lien arises upon any unpaid tax, special ad valorem

1 levy, special assessment or other charge imposed upon real property by or  
2 on behalf of the city which is an encumbrance on real property, whether or  
3 not evidenced by written instrument, or such tax, levy, assessment,  
4 expense or other charge that has remained undischarged for at least one  
5 year prior to the filing of a proof of loss.

6 Sec. 3. K.S.A. 40-3903 is hereby amended to read as follows: 40-  
7 3903. (a) The governing body of any county is hereby authorized to  
8 establish, by resolution, a procedure for the payment of not to exceed 15%  
9 of the proceeds of any insurance policy based upon a covered claim  
10 payment made for damage or loss to a building or other structure, ~~caused~~  
11 ~~by or arising out of any fire, explosion or windstorm.~~ The resolution shall  
12 not apply to cities which have adopted an ordinance under the provisions  
13 of K.S.A. 40-3901, and amendments thereto. The resolution shall apply  
14 only to a covered claim payment which is in excess of 75% of the face  
15 value of the policy covering a building or other insured structure.

16 (b) The insurer first shall pay all amounts due the holder of a first real  
17 estate mortgage against the building or other structure pursuant to the  
18 terms of the policy and endorsements thereto and then shall withhold from  
19 the covered claim payment of the sum not to exceed the amount authorized  
20 pursuant to subsection (a) and shall pay such moneys to the county to  
21 deposit into an interest-bearing account, unless the city has issued a  
22 certificate pursuant to K.S.A. 40-3906, and amendments thereto.

23 (c) The county shall release the insured's proceeds and any interest  
24 which has accrued on such proceeds received under subsection (b) within  
25 ~~30~~ 45 days after receipt of such moneys, unless the county has instituted  
26 legal proceedings, using the procedure under K.S.A. 12-1752, and  
27 amendments thereto, insofar as the same can be made applicable. If the  
28 county has instituted legal proceedings, all moneys in excess of that  
29 necessary for the removal of the building or structure, less salvage value,  
30 shall be paid to the insured.

31 Sec. 4. K.S.A. 40-3904 is hereby amended to read as follows: 40-  
32 3904. The governing body of any county is hereby authorized to create, by  
33 resolution, a lien in favor of any such county in the proceeds of any  
34 insurance policy based upon a covered claim payment made for damage or  
35 loss to a building or other structure, ~~caused by or arising out of any fire,~~  
36 ~~explosion or windstorms.~~ The lien arises upon any unpaid tax, special ad  
37 valorem levy, special assessment or other charge imposed upon real  
38 property by or on behalf of the county which is an encumbrance on real  
39 property, whether or not evidenced by written instrument, or such tax,  
40 levy, assessment, expense or other charge that has remained undischarged  
41 for at least one year prior to the filing of a proof of loss. This resolution  
42 shall not apply to cities which have adopted an ordinance under the  
43 provisions of K.S.A. 40-3902, and amendments thereto.

1       Sec. 5. K.S.A. 40-3905 is hereby amended to read as follows: 40-  
2 3905. Every city or county which adopts an ordinance or resolution under  
3 the provisions of K.S.A. 40-3901 through 40-3904, and amendments  
4 thereto, shall notify the commissioner of insurance. At least once each  
5 quarter of each calendar year, the commissioner shall prepare and  
6 distribute a list of all cities and counties adopting an ordinance or  
7 resolution under the provisions of this act during the preceding quarter to  
8 all insurance companies which issue policies insuring buildings and other  
9 structures against loss ~~by fire, explosion or windstorms~~. Insurance  
10 companies shall have 60 days after the commissioner notifies them of the  
11 adoption of such ordinance or resolution to establish procedures within  
12 such cities or counties to carry out the provisions of this act.

13       Sec. 6. K.S.A. 40-3907 is hereby amended to read as follows: 40-  
14 3907. This act shall apply to ~~fire or explosion~~ *all covered* claims arising  
15 ~~on~~ *from damage to* all buildings or structures.

16       Sec. 7. K.S.A. 40-3901, 40-3902, 40-3903, 40-3904, 40-3905 and 40-  
17 3907 are hereby repealed.

18       Sec. 8. This act shall take effect and be in force from and after its  
19 publication in the statute book.