

**RESOLUTION TO AMEND THE WICHITA-SEDGWICK COUNTY UNIFIED  
BUILDING AND TRADE PROVISIONS REGARDING INSURANCE PROCEEDS TO  
COMPORT WITH LEGISLATIVE CHANGE**

RESOLUTION NO. 160-2017

Published on: \_\_\_\_\_

Effective Upon Publication

WHEREAS, Sections 2.6.010 through 2.6.110 of the Wichita-Sedgwick County Unified Building and Trade Code contains provisions, pursuant to K.S.A. 40-3903, that enable Sedgwick County to receive up to fifteen percent (15%) of the insurance proceeds; and

WHEREAS, in 2016, the Kansas legislature amended K.S.A. 40-3903 to extend the timeframe for a county to initiate proceedings from thirty (30) days to forty-five (45) days, meaning that property owners would have more time to bring their property into compliance before the county would have to initiate proceedings to make the property safe; and

WHEREAS, the 2016 legislative change also broadened its application to apply to any covered claim payment, as opposed to only those arising out of fire, explosion, or windstorm, as stated in the prior version of K.S.A. 40-3903; and

WHEREAS, this Resolution proposes changes to the Wichita-Sedgwick County Unified Building and Trade Code that are consistent with those legislative changes.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS:

**SECTION 1.**

*Section 2.6.010 of the Wichita-Sedgwick County Unified Building and Trade Code is amended to state as follows:*

**Sec. 2.6.010. - Scope and application.**

The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., and amendments thereto, and for Sedgwick County, K.S.A 40-3903 and amendments thereto, whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city or county, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of seventy-five percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this section.

## **SECTION 2.**

*Section 2.6.020 of the Wichita-Sedgwick County Unified Building and Trade Code is amended to state as follows:*

### **Sec. 2.6.020. - Lien created.**

The governing bodies of the city and county hereby create a lien in favor of the city or county, within the jurisdiction of each government entity, on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city or county, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of seventy-five percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.

## **SECTION 3.**

*Section 2.6.070 of the Wichita-Sedgwick County Unified Building and Trade Code is amended to state as follows:*

### **Sec. 2.6.070. - Director of the MABCD—Investigation, removal of structure.**

(a) Upon receipt of moneys as provided for by this Section, the Director of Finance for the city or county shall immediately notify the Director of the MABCD of said receipt, and transmit all documentation received from the insurance company or companies to him or her.

(b) Within thirty-five (35) days of the receipt of said monies, the Director of the MABCD shall determine, after prior investigation, whether the city or county shall instigate proceedings under the provisions of K.S.A. 12-1750 et. seq., or for the county under the provisions of Sedgwick County Code Sec. 19-41 et. seq., and amendments thereto.

(c) Prior to the expiration of the thirty-five (35) days established by subsection (b) of this section, the Director of the MABCD shall notify the Director of Finance of the city or county whether he or she intends to initiate proceedings under K.S.A. 12-1750 et seq., or Sedgwick County Code Sec. 19-41 et. seq., and amendments thereto.

(d) If the Director of the MABCD has determined that proceedings under K.S.A. 12-1750 et. seq., or Sec. 19-41, et. seq., and amendments thereto, shall be initiated, he or she will do so immediately but no later than forty-five (45) days after receipt of the moneys by the Director of Finance of the city or county.

(e) Upon notification of the Director of Finance of the city or county by the Director of the MABCD that no proceedings shall be initiated under K.S.A. 12-1750 et. seq., or Sec. 19-41 et. seq., and amendments thereto, the Director of Finance of the city or county shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the

insurance company or companies. Such return shall be accomplished within thirty days of the receipt of the moneys from the insurance company or companies.

**SECTION 4.**

*Section 2.6.090 of the Wichita-Sedgwick County Unified Building and Trade Code is amended to state as follows:*

**Sec. 2.6.090. - Same—Disposition of funds.**

If the Director of the MABCD, with regard to a building or other structure where insurance proceeds have been received pursuant to K.S.A. 40-3901 et seq., determines that it is necessary to act under K.S.A. 12-1756 or Sec. 19-41, et. seq., and amendments thereto, any proceeds received by the Director of Finance of the city or county under the authority of Section 2.6.050(a) of this Code relating to that building or other structure shall be used to reimburse the City of Wichita or Sedgwick County for any expenses incurred by the city or county in proceeding under K.S.A. 12-1756, or Sec. 19-41 et. seq. and amendments thereto. The Director of the MABCD shall be responsible for notifying the Director of Finance of the city or county the amount of these expenses incurred by the city or county. Upon reimbursement from the insurance proceeds, the Director of Finance of the city or county shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city or county exceed the insurance proceeds paid over to the Director of Finance of the city or county under Section 2.6.050(a) of this Code, he or she shall publish a new lien as authorized by

K.S.A. 12-1756, or Sec. 19-41, et. seq. and amendments thereto, in an amount equal to such excess expenses incurred.

**SECTION 5.**

Should any section, clause or provision of this Resolution be declared by any court of competent jurisdiction to be invalid, the same shall not affect the validity of this Resolution as a whole, or any part thereof, other than the part so declared to be invalid.

**SECTION 6.**

The Sedgwick County Clerk is directed to publish this Resolution upon its approval. This Resolution shall be effective upon publication.

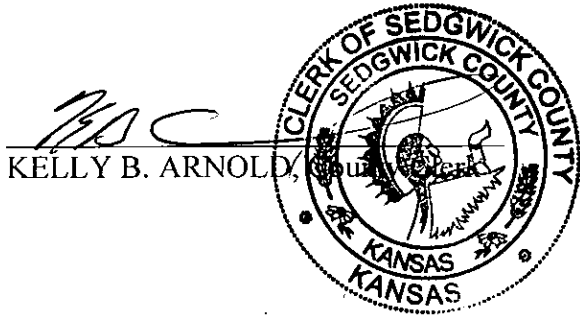
Commissioners present and voting were:

DAVID M. UNRUH	<u>aye</u>
MICHAEL B. O'DONNELL, II	<u>aye</u>
DAVID T. DENNIS	<u>aye</u>
RICHARD RANZAU	<u>aye</u>
JAMES M. HOWELL	<u>aye</u>

Dated this 13<sup>th</sup> day of September, 2017.

BOARD OF COUNTY COMMISSIONERS  
OF SEDGWICK COUNTY, KANSAS

ATTEST:



David M. Unruh  
 DAVID M. UNRUH, Chairman  
 Commissioner, First District

Michael B. O'Donnell, II  
 MICHAEL B. O'DONNELL, II, Chair Pro Tem  
 Commissioner, Second District

APPROVED AS TO FORM:

Justin M. Waggoner  
 JUSTIN M. WAGGONER,  
 Assistant County Counselor

David T. Dennis  
 DAVID T. DENNIS  
 Commissioner, Third District

Richard Ranzau  
 RICHARD RANZAU  
 Commissioner, Fourth District

James M. Howell  
 JAMES M. HOWELL  
 Commissioner, Fifth District