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**As Amended by House Committee**

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*Session of 2010*

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**HOUSE BILL No. 2444**

By Committee on Federal and State Affairs

1-14

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AN ACT concerning the transfer of the office of state fire marshal to the insurance department; amending K.S.A. 75-1511, 75-1515 and 75-1516 and K.S.A. 2009 Supp. 40-110 and repealing the existing sections; also repealing K.S.A. 2009 Supp. 75-1510.

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

New Section 1. There is hereby established, within and as a part of the insurance department, a division of the state fire marshal, the head of which shall be the state fire marshal. Under the supervision of the insurance commissioner, the state fire marshal shall administer the division of the state fire marshal. The insurance commissioner shall appoint the state fire marshal, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and the state fire marshal shall serve at the pleasure of the insurance commissioner. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as state fire marshal shall exercise any power, duty or function as state fire marshal until confirmed by the senate. Any person appointed as state fire marshal shall have a knowledge of building construction and, at the time of appointment, shall have had not less than five years of **supervisory** experience **in administration and** in fire safety inspection and investigation. The state fire marshal shall maintain an office in the city of Topeka.

**New Sec. 2. (a) The state fire marshal’s office created by K.S.A.75-1510 through 75-1517, and amendments thereto, is hereby abolished.**

**(b) Except as otherwise provided by this act, all of the powers, duties and functions of the existing state fire marshal’s office and the existing state fire marshal are hereby transferred to and conferred and imposed upon, the Kansas department of insurance and the division of state fire marshal and the state fire marshal established by this act.**

**(c) Except as otherwise provided by this act, the Kansas department of insurance and the state fire marshal established by this act shall be the successor in every way to the powers, duties**

1 and functions of the state fire marshal's office and the existing state  
2 fire marshal in which the same were vested prior to the effective  
3 date of this act. Every act performed in the exercise of such pow-  
4 ers, duties and functions by or under the authority of the depart-  
5 ment of insurance and the state fire marshal established by this  
6 act shall be deemed to have the same force and effect as if per-  
7 formed by the state fire marshal's office and the state fire marshal,  
8 respectively, in which such powers, duties and functions were  
9 vested prior to the effective date of this act.

10 (d) Except as otherwise provided by this act, whenever the  
11 state fire marshal's office or state fire marshal, or words of like  
12 effect, is referred to or designated by a statute, contract or other  
13 document, such reference or designation shall be deemed to apply  
14 to the division of state fire marshal within the Kansas department  
15 of insurance and the office of state fire marshal established by this  
16 act.

17 (e) Except as otherwise provided by this act, whenever the  
18 state fire marshal, or words of like effect, is referred to or desig-  
19 nated by a statute, contract or other document, such reference or  
20 designation shall be deemed to apply to the state fire marshal es-  
21 tablished by this act.

22 (f) All rules and regulations of the state fire marshal's office or  
23 the state fire marshal in existence on the effective date of this act  
24 shall continue to be effective and shall be deemed to be duly  
25 adopted rules and regulations of the Kansas department of insur-  
26 ance, and the state fire marshal established by this act until re-  
27 vised, amended, revoked or nullified pursuant to law.

28 (g) All orders and directives of the office of state fire marshal  
29 or the state fire marshal in existence on the effective date of this  
30 act shall continue to be effective and shall be deemed to be orders  
31 and directives of the state fire marshal and the division of state  
32 fire marshal, Kansas department of insurance established by this  
33 act, until revised, amended or nullified pursuant to law.

34 (h) On the effective date of this act, the state fire marshal and  
35 Kansas department of insurance shall succeed to whatever right,  
36 title or interest the office of state fire marshal has acquired in any  
37 real property in this state, and the state fire marshal shall hold the  
38 same for and in the name of the state of Kansas. On and after the  
39 effective date of this act, whenever any statute, contract, deed or  
40 other document concerns the power or authority of the office of  
41 state fire marshal or the state fire marshal to acquire, hold or dis-  
42 pose of real property or any interest therein, the Kansas depart-  
43 ment of insurance and the state fire marshal shall succeed to such

1 **power or authority.**

2 **(i) The state fire marshal and the division of state fire marshal**  
3 **of the Kansas department of insurance, established by this act shall**  
4 **be continuations of the office of state fire marshal and the state**  
5 **fire marshal.**

6 **(j) On the effective date of this act, all officers and employees**  
7 **who, immediately prior to such date, were engaged in the per-**  
8 **formance of powers, duties or functions of the office of state fire**  
9 **marshal which are transferred by this act to the division of state**  
10 **fire marshal, Kansas department of insurance, and who, in the**  
11 **opinion of the commissioner of insurance and the state fire mar-**  
12 **shal, are necessary to perform the powers, duties and functions of**  
13 **the division of state fire marshal, shall be transferred to, and shall**  
14 **become officers and employees of the Kansas department of**  
15 **insurance.**

16 **(k) Officers and employees of the office of state fire marshal**  
17 **transferred by this act shall retain all retirement benefits and leave**  
18 **balances and rights which had accrued or vested prior to the date**  
19 **of transfer. The service of each such officer and employee so trans-**  
20 **ferred shall be deemed to have been continuous. All transfers, lay-**  
21 **offs or abolition of classified service positions under the Kansas**  
22 **civil service act shall be made in accordance with the civil service**  
23 **laws and any rules and regulations adopted thereunder. Nothing**  
24 **in this act shall affect the classified status of any transferred person**  
25 **employed by the office of state fire marshal prior to the date of**  
26 **transfer.**

27 **Sec. ~~2~~ 3.** K.S.A. 2009 Supp. 40-110 is hereby amended to read as  
28 follows: 40-110. (a) The commissioner of insurance is hereby authorized  
29 to appoint an assistant commissioner of insurance, *the state fire marshal*  
30 *as provided by section 1, and amendments thereto*, actuaries, two special  
31 attorneys who shall have been regularly admitted to practice, an executive  
32 secretary, policy examiners, two field representatives, and a secretary to  
33 the commissioner. Such appointees shall each receive an annual salary to  
34 be determined by the commissioner of insurance, within the limits of  
35 available appropriations. The commissioner is also authorized to appoint,  
36 within the provisions of the civil service law, and available appropriations,  
37 other employees as necessary to administer the provisions of this act. The  
38 field representatives authorized by this section may be empowered to  
39 conduct inquiries, investigations or to receive complaints. Such field rep-  
40 resentatives shall not be empowered to make, or direct to be made, an  
41 examination of the affairs and financial condition of any insurance com-  
42 pany in the process of organization, or applying for admission or doing  
43 business in this state.

1 (b) The appointees authorized by this section shall take the proper  
2 official oath and shall be in no way interested, except as policyholders, in  
3 any insurance company. In the absence of the commissioner of insurance  
4 the assistant commissioner shall perform the duties of the commissioner  
5 of insurance, but shall in all cases execute papers in the name of the  
6 commissioner of insurance, as assistant. The commissioner of insurance  
7 shall be responsible for all acts of an official nature done and performed  
8 by the commissioner's assistant or any person employed in such office.  
9 All the appointees authorized by this section shall hold their office at the  
10 will and pleasure of the commissioner of insurance.

11 Sec. ~~3~~ **4**. K.S.A. 75-1511 is hereby amended to read as follows: 75-  
12 1511. All the jurisdiction, rights, powers, duties and authority now vested  
13 in or imposed upon the Kansas state department of inspections and reg-  
14 istration or the director thereof which were transferred to said depart-  
15 ment or the director thereof from the state fire marshal by the provisions  
16 of chapter 285 of the Laws of 1933, and including the jurisdiction, rights,  
17 powers, duties and authority conferred, imposed and provided in chapter  
18 31, section 72-4605, 75-1503 and 75-1505 to 75-1509, both sections in-  
19 clusive, of the General Statutes of 1935 and acts amendatory thereof and  
20 supplemental thereto are hereby transferred to, vested in and imposed  
21 upon the state fire marshal created in this act *and subject to the super-*  
22 *vision of the commissioner of insurance.*

23 Sec. ~~4~~ **5**. K.S.A. 75-1515 is hereby amended to read as follows: 75-  
24 1515. The attorney general shall appoint, with the approval of the state  
25 fire marshal *and the commissioner of insurance*, an assistant attorney gen-  
26 eral who shall be the attorney for the state fire marshal and the ~~office~~  
27 *division* of the state fire marshal. Such attorney shall receive an annual  
28 salary fixed by the attorney general with the approval of the state fire  
29 marshal *and the commissioner of insurance*. Such salary shall be paid from  
30 moneys appropriated for the *division of the* state fire marshal.

31 Sec. ~~5~~ **6**. K.S.A. 75-1516 is hereby amended to read as follows: 75-  
32 1516. The assistant attorney general appointed under K.S.A. 75-1515, *and*  
33 *amendments thereto*, shall be the legal advisor for the ~~office~~ *division* of  
34 the state fire marshal. The assistant attorney general appointed under  
35 K.S.A. 75-1515, *and amendments thereto*, shall appear for and on behalf  
36 of the state fire marshal, or any of the deputies of the state fire marshal,  
37 in any litigation that may arise in the discharge of the duties of the ~~office~~  
38 *division* of the state fire marshal.

39 Sec. ~~6~~ **7**. K.S.A. 75-1511, 75-1515 and 75-1516 and K.S.A. 2009  
40 Supp. 40-110 and 75-1510 are hereby repealed.

41 Sec. ~~7~~ **8**. This act shall take effect and be in force from and after its  
42 publication in the statute book.

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