

# KANSAS BAIL ENFORCEMENT AGENT LICENSING ACT

(K.S.A. §§ 75-7e01 through 75-7e09)

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## **75-7e01. Bail enforcement agents; definitions.**

As used in K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto:

(a) "Surety" means a person or commercial surety, other than a defendant in a criminal proceeding, that guarantees the appearance of a defendant in a criminal proceeding, by executing an appearance bond.

(b) "Bail agent" means a person authorized by a surety to execute surety bail bonds on its behalf.

(c) "Bail enforcement agent" means a person not performing the duties of a law enforcement officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a surety or bail bond agreement, commonly referred to as a bounty hunter.

**History:** L. 2016, ch. 85, § 1; July 1.

## **75-7e02. Same; license required.**

(a) Except as provided in subsection (b), it shall be unlawful for any person to engage in the business of a bail enforcement agent in this state unless such person is licensed as a bail enforcement agent under K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto.

(b) The following persons shall not be deemed to be engaging in the bail enforcement business:

(1) A surety, authorized as such in the state of Kansas, who is attempting to enforce a bail bond; or

(2) a bail agent attempting to enforce a bail bond.

**History:** L. 2016, ch. 85, § 2; July 1.

## **75-7e03. Same; licensure; application; fee; grounds for denial of license.**

(a) Every person desiring to be licensed in Kansas as a bail enforcement agent shall make application to the attorney general. An application for a bail enforcement agent license shall be on a form prescribed by the attorney general and accompanied by the required application fee. An application shall be verified under penalty of perjury and shall include:

(1) The full name and business address of the applicant;

(2) two photographs of the applicant taken within 30 days before the date of application, of a type prescribed by the attorney general;

(3) a statement of the applicant's employment history;

(4) a statement of the applicant's criminal history, if any; and

(5) one classifiable set of the applicant's fingerprints.

(b) (1) Fingerprints submitted pursuant to this section shall be released by the attorney general to the Kansas bureau of investigation for the purpose of conducting criminal history records checks, utilizing the files and records of the Kansas bureau of investigation and the federal bureau of investigation.

(2) Each applicant shall be subject to a state and national criminal history records check which conforms to applicable federal standards for the purpose of verifying the identity of the applicant and whether the applicant has been convicted of any crime that would disqualify the applicant from being licensed as a bail enforcement agent under K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto. The attorney general is authorized to use the information obtained from the state and national criminal history records check to determine the applicant's eligibility for such license.

(3) Each applicant shall pay a fee for the criminal history records check in an amount necessary to reimburse the attorney general for the cost of the criminal history records check. Such fee shall be in an amount fixed by the attorney general pursuant to K.S.A. 2017 Supp. 75-7e08, and amendments thereto, and shall be in addition to the applicable original or renewal application fee amount fixed by the attorney general pursuant to K.S.A. 2017 Supp. 75-7e08, and amendments thereto.

(c) In accordance with the Kansas administrative procedure act, the attorney general may deny a license if the applicant has:

(1) Committed any act on or after July 1, 2016, which, if committed by a licensee, would be grounds for the censure, limitation, conditioning, suspension or revocation of a license under K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto;

(2) been convicted of a felony, unless such conviction has been expunged;

(3) in the 10 years immediately preceding the submission of the application, been convicted of an offense classified as a person misdemeanor offense, or a substantially similar offense from another jurisdiction, unless such conviction has been expunged;

(4) while unlicensed, committed or aided and abetted the commission of any act for which a license is required by K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto; or

(5) knowingly made any false statement in the application.

(d) The attorney general may charge a fee for initial application forms and materials in an amount fixed by the attorney general pursuant to K.S.A. 2017 Supp. 75-7e08, and amendments thereto. Such fee shall be credited against the application fee of any person who subsequently submits an application.

(e) Every application for an initial or a renewal license shall be accompanied by a fee in an amount fixed by the attorney general pursuant to K.S.A. 2017 Supp. 75-7e08, and amendments thereto.

**History:** L. 2016, ch. 85, § 3; July 1.

**75-7e04. Same; license; form; display; pocket card; change of information.**

(a) The license, when issued, shall be in such form as may be determined by the attorney general and shall include the:

(1) Name of the licensee; and

(2) number and date of the license.

(b) The license at all times shall be posted in a conspicuous place in the principal place of business of the licensee. Upon the issuance of a license, a pocket card of such size, design and content as determined by the attorney general shall be issued without charge to each licensee. Such card shall be evidence that the licensee is duly licensed pursuant to K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto. When any licensee terminates such licensee's activities as a bail enforcement agent, or such licensee's license has been suspended or revoked, the card shall be surrendered, within five days after such termination, suspension or revocation, to the attorney general for cancellation. Within 30 days after any change of address or of any change in its officers, directors, partners or associates, a licensee shall notify the attorney general thereof. The principal place of business may be at a residence or at a business address, but it shall be the place at which the licensee maintains a permanent office.

**History:** L. 2016, ch. 85, § 4; July 1.

#### **75-7e05. Same; license renewal.**

(a) Any license issued under K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto, shall expire two years from the date of issuance and may be renewed every two years thereafter. Renewal of any such license shall be made in the manner prescribed for obtaining an original license, including payment of the appropriate fee required by K.S.A. 2017 Supp. 75-7e08, and amendments thereto, except that:

(1) The application for renewal shall provide the information required of original applicants if the information shown on the original application or any renewal thereof on file with the attorney general is no longer accurate;

(2) a new photograph and classifiable set of fingerprints shall be submitted with the application for renewal only if the photograph and fingerprints on file with the attorney general has been on file more than four years; and

(3) additional information may be required by rules and regulations adopted by the attorney general.

(b) A license issued under K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto, shall not be assignable.

**History:** L. 2016, ch. 85, § 5; July 1.

#### **75-7e06. Same; suspension or revocation of license; attorney general determination.**

(a) In accordance with the Kansas administrative procedure act, the attorney general may censure, limit, condition, suspend or revoke a license issued under K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto, if the attorney general determines that the licensee has:

(1) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement thereof;

(2) violated any provisions of K.S.A. 22-2809a or K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto;

(3) been convicted of a felony or any other offense described in K.S.A. 2017 Supp. 75-7e03, and amendments thereto;

(4) committed any act, while the license was expired, which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license;

(5) committed any act which is grounds for denial of an application for a license;

(6) become subject to a domestic protection order from this or any jurisdiction which complies with 18 U.S.C. § 922(g)(8);

(7) become subject to K.S.A. 59-2945 et seq. or K.S.A. 59-29b45 et seq., and amendments thereto, or a substantially similar proceeding from another jurisdiction; or

(8) become subject to any proceeding which could render the licensee subject to censure, limitation, condition, suspension or revocation of such licensee's license under the provisions of this section.

(b) The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction as that term is used in this section or in K.S.A. 2017 Supp. 75-7e03, and amendments thereto, and a plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning thereof.

**History:** L. 2016, ch. 85, § 6; July 1.

**75-7e07. Same; attorney general exclusive control over licensing and regulation; rules and regulations.**

(a) The licensing and regulation of bail enforcement agents shall be under the exclusive jurisdiction and control of the attorney general, as provided in K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto, and no city may adopt any ordinance which provides for the licensing or regulation of bail enforcement agents. Any such ordinance which is so adopted, or which has been adopted on or before July 1, 2015\*, is hereby declared null and void.

(b) The attorney general shall adopt such rules and regulations as may be necessary to carry out the provisions of K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto.

**History:** L. 2016, ch. 85, § 7; July 1.

\* Reference should be to 2016, not 2015.

**75-7e08. Same; license, renewal or application; fee set by attorney general; rules and regulations.**

(a) In each fiscal year, the attorney general shall determine the amount of funds which will be required during the next ensuing fiscal year to properly administer the laws which the attorney general is directed to enforce and administer relating to the licensure and regulation of bail enforcement agents. The attorney general, by the adoption of rules and regulations, shall fix fees in accordance with this section in such reasonable sums as may be necessary for such purposes.

(b) After fixing such fees, the attorney general may charge and collect the fees, in advance for the following purposes, subject to the following limitations:

(1) For initial application forms and materials, not to exceed \$15;

- (2) for application for licensure, not to exceed \$200; and
- (3) for renewal of license, not to exceed \$175.

(c) A duplicate license shall be issued upon the filing of a statement covering the loss of the license and the payment of a fee of \$15 for the issuance of a duplicate license. Each duplicate license shall have the word "duplicate" stamped across the face thereof and shall bear the same number as the original.

(d) In addition to the applicable original or renewal application fee amount fixed by the attorney general pursuant to this section, the attorney general may charge and collect a fee from each applicant to conduct a criminal history records check. Such fee shall be in an amount fixed by the attorney general and shall not exceed an amount necessary to reimburse the attorney general for the cost of such criminal history records check.

**History:** L. 2016, ch. 85, § 8; July 1.

**75-7e09. Same; bail enforcement agents fee fund; receipts and expenditures.**

The attorney general shall remit all moneys received from fees or charges imposed pursuant to K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto, 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 bail enforcement agents fee fund, which is hereby created. Moneys in the bail enforcement agents fee fund shall be used solely for the purpose of administering and implementing K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto, and any other law relating to the licensure and regulation of bail enforcement agents. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general.

**History:** L. 2016, ch. 85, § 9; July 1.

**OTHER STATUTES OF IMMEDIATE CONSIDERATION**

**22-2809a. Surety or agent thereof; felons disqualified to act as; notice of intent to apprehend fugitive; violations, penalties.** (a) As used in this section:

(1) "Surety" means a person or commercial surety, other than a defendant in a criminal proceeding, that guarantees the appearance of a defendant in a criminal proceeding, by executing an appearance bond;

(2) "bail agent" means a person authorized by a surety to execute surety bail bonds on behalf of such surety; and

(3) "bail enforcement agent" means a person not performing the duties of a law enforcement officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a surety or bail bond agreement, commonly referred to as a bounty hunter, but is not a surety or bail agent.

(b) Any surety, bail agent or bail enforcement agent who intends to apprehend any person in this state pursuant to K.S.A. 22-2809, and amendments thereto, or under similar authority from any other state, shall inform law enforcement authorities in the city or county in which such

surety, bail agent or bail enforcement agent intends such apprehension, before attempting such apprehension. The surety, bail agent or bail enforcement agent shall present to the local law enforcement authorities a copy of the bond, a valid government-issued photo identification, written appointment of agency, if not the actual surety, and all other appropriate paperwork identifying the principal and the person to be apprehended. Local law enforcement may accompany the surety, bail agent or bail enforcement agent.

(c) No person who has been convicted, in this or any other jurisdiction, of a felony shall act as a surety, bail agent or bail enforcement agent, unless such conviction has been expunged.

(d) A bail enforcement agent must be licensed under K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. Supp. 2016 50-6,141, and amendments thereto, in order to apprehend a person pursuant to K.S.A. 22-2809, and amendments thereto.

(e) An out-of-state surety, bail agent or bail enforcement agent who intends to apprehend any person in this state pursuant to K.S.A. 22-2809, and amendments thereto, or under similar authority from any other state, before attempting such apprehension, shall:

(1) Have a bail enforcement agent's license pursuant to K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto;

(2) contract with an individual that has been authorized by any court in this state to act as a surety and be accompanied by such individual during such apprehension; or

(3) contract with an individual who is currently a licensed bail enforcement agent pursuant to K.S.A. 2017 Supp. 75-7e01 through 75-7e09 and K.S.A. 2017 Supp. 50-6,141, and amendments thereto, and be accompanied by such individual during such apprehension.

(f) Violation of this section is a class A nonperson misdemeanor for the first conviction of a violation and a severity level 9, nonperson felony upon a second or subsequent conviction of a violation.

**History:** L. 2004, ch. 108, § 1; L. 2014, ch. 90, § 9; L. 2016, ch. 85, § 15; July 1.

**22-2809b. Compensated surety; application; authorization by judicial district; continuing education requirements.** (a) As used in this section:

(1) "Compensated surety" means any person who or entity that is organized under the laws of the state of Kansas that, as surety, issues appearance bonds for compensation, is responsible for any forfeiture and is liable for appearance bonds written by such person's or entity's authorized agents. A compensated surety is either an insurance agent surety or a property surety.

(2) "Insurance agent surety" means a compensated surety licensed by the insurance commissioner to issue surety bonds or appearance bonds in this state and who represents an authorized insurance company. An insurance agent surety may have other insurance agent sureties working with or for such surety.

(3) "Property surety" means a compensated surety who secures appearance bonds by property pledged as security. A property surety may be a person or entity, other than a corporation, and may authorize bail agents to act on behalf of the property surety in writing appearance bonds.

(4) "Bail agent" means a person authorized by a compensated surety to execute surety bail bonds on such surety's behalf.

(b) Every compensated surety shall submit an application to the chief judge of the judicial district, or the chief judge's designee, in each judicial district where such surety seeks to act as a

surety. A compensated surety shall not act as a surety in such judicial district prior to approval of such application.

(1) The application shall include, but is not limited to, the following information for each insurance agent surety, property surety or bail agent:

(A) A copy of the applicant's Kansas driver's license or nondriver's identification card;

(B) a statement, made under penalty of perjury, that the applicant is a resident of this state and is not prohibited by K.S.A. 22-2809a(c), and amendments thereto, from acting as a surety;

(C) a certificate of continuing education compliance in accordance with subsection (f).

(2) The application for each insurance agent surety also shall include:

(A) A copy of the qualifying power of attorney certificates issued to such surety by any insurance company;

(B) a current and valid certificate of license from the insurance department; and

(C) a current and valid certificate of authority from the insurance department.

(3) The application for each property surety also shall include:

(A) A list of all bail agents authorized by such property surety to write appearance bonds on such property surety's behalf and all documentation from such bail agents demonstrating compliance with subsection (b)(1); and

(B) an affidavit describing the property by which such property surety proposes to justify its obligations and the encumbrances thereon, and all such surety's other liabilities. The description shall include a valuation of the property described therein. If the valuation is not readily evident, an appraisal of the property may be required and, if required, shall be incorporated into the affidavit.

(c) A property surety authorized to act as a surety in a judicial district pursuant to subsection (b) shall be allowed outstanding appearance bonds not to exceed an aggregate amount which is 15 times the valuation of the property described in subsection (b)(3). Such property surety shall not write any single appearance bond that exceeds 35% of the total valuation of the property described in subsection (b)(3).

(d) (1) Each judicial district may, by local rule, require additional information from any compensated surety and establish what property is acceptable for bonding purposes under subsection (b)(3).

(2) A judicial district shall not require any compensated surety to apply for authorization in such judicial district more than once per year, but may require additional reporting from any compensated surety in its discretion. If the judicial district does not require an annual application, each compensated surety or bail agent shall provide a certificate of continuing education compliance in accordance with subsection (f) to the judicial district each year.

(3) A judicial district shall not decline authorization for a compensated surety solely on the basis of type of compensated surety.

(e) (1) Nothing in this section shall be construed to require the chief judge of the judicial district, or the chief judge's designee, to authorize any compensated surety to act as a surety in such judicial district if the judge or designee finds, in such person's discretion, that such authorization is not warranted.

(2) If such authorization is granted, the chief judge of the judicial district, or the chief judge's designee, may terminate or suspend the authorization at any time.

(A) If the authorization is suspended for 30 days or more, the judge or designee shall make a record describing the length of the suspension and the underlying cause and provide such record

to the surety. Such surety, upon request, shall be entitled to a hearing within 30 days after the suspension is ordered.

(B) If the authorization is terminated, the judge or designee shall make a record describing the underlying cause and provide such record to the surety. Such surety, upon request, shall be entitled to a hearing within 30 days after the termination is ordered.

(3) If an authorized compensated surety does not comply with the continuing education requirements in subsection (f), the chief judge of the judicial district, or the chief judge's designee, may allow a conditional authorization to continue acting as a surety for 90 days. If such compensated surety does not comply with the continuing education requirements in subsection (f) within 90 days, such conditional authorization shall be terminated and such compensated surety shall not act as a surety in such judicial district.

(f) (1) Every compensated surety shall obtain at least eight hours of continuing education credits during each 12-month period beginning on January 1, 2017.

(2) The Kansas bail agents association shall either provide or contract for a minimum of eight hours of continuing education classes to be held at least once annually in each congressional district and may provide additional classes in its discretion. The chief judge in each judicial district may provide a list of topics to be covered during the continuing education classes. A schedule of such classes shall be publicly available. The association shall not charge more than \$250 annually for the eight hours of continuing education classes, and the cost of any class with less than eight hours of continuing education shall be prorated accordingly. Any fee charged for attending continuing education classes shall not be increased or decreased based upon a compensated surety's membership or lack of membership in the association.

(3) Upon completion of at least eight hours of continuing education credits during each 12-month period by a compensated surety, the Kansas bail agents association shall issue a certificate of continuing education compliance to such surety. The certificate shall be prepared and delivered to the compensated surety within 30 days of such surety's completion of the continuing education requirements. The certificate shall show in detail the dates and hours of each course attended, along with the signature of the Kansas bail agents association official attesting that all continuing education requirements have been completed.

(4) Any continuing education credits used to comply with conditional authorization pursuant to subsection (e)(3) shall not be applied towards compliance in the current 12-month period or any subsequent 12-month period.

(5) A person operating as a sufficient surety or bail bondsman in the state immediately prior to the effective date of this act shall be deemed to be compensated surety under this act and shall be exempt from the continuing education requirements for a conditional authorization pursuant to this section until July 1, 2017.

**History:** L. 2016, ch. 85, § 11; July 1.

**50-6,141. Unlicensed conduct as a bail enforcement agent; penalties** (a) The unlicensed conduct as a bail enforcement agent prohibited by this act and K.S.A. 22-2809a, and amendments thereto, constitutes an unconscionable act or practice in violation of K.S.A. 50-627, and amendments thereto, and any person who engages in unlicensed conduct as a bail enforcement agent shall be subject to the remedies and penalties provided by the Kansas consumer protection act.



(b) For the purposes of the remedies and penalties provided by the Kansas consumer protection act:

(1) The person committing unlicensed conduct as a bail enforcement agent shall be deemed the supplier, and the person who is the victim of such conduct shall be deemed the consumer; and

(2) proof of a consumer transaction shall not be required.

(c) Notwithstanding any provision of the Kansas consumer protection act to the contrary, only the attorney general, or the attorney general's designee, may bring a civil action alleging a violation of the Kansas consumer protection act pursuant to this section. This section shall not be construed as creating or allowing a private right of action under the Kansas consumer protection act.

(d) In addition to any civil penalties provided by this section, a person who violates any provision of this section and K.S.A. 2017 Supp. 75-7e01 through 75-7e09, and amendments thereto, may be prosecuted for, convicted of, and punished for an offense under K.S.A. 22-2809a, and amendments thereto.

(e) This section shall be part of and supplemental to the Kansas consumer protection act.

**History:** L. 2016, ch. 85, § 10; July 1.

\* "This act" means L. 2016, ch. 85.