

Proposed

State of Kansas
Office of the Attorney General
Notice of Public Hearing on Proposed Administrative Regulations

July 1, 2016

A public hearing will be conducted on **Thursday, September 8, 2016, at 10:00 a.m.** in the 2nd Fl. Auditorium of the Memorial Hall State Office Building, 120 S.W. Tenth Ave., Topeka, Kansas. The hearing is scheduled to last for 30 minutes. The hearing is to consider the adoption of proposed regulations by the Office of the Attorney General on a permanent basis.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments for the proposed regulations noted below. All interested parties may submit written comments prior to the hearing to the Bail Enforcement Agent Licensing Unit, 120 SW Tenth Ave., 2nd Fl., Topeka, KS, 66612 or by email to general@ag.ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulations during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to an appropriate timeframe.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made *at least one week* in advance of the hearing by contacting **Jancy Hunter at (785) 296-4240**. The south public entrance to Memorial Hall Office Building is handicap accessible. Handicapped parking is located in front of Memorial Hall and on Jackson Ave., between 9th and 10th streets. A summary of the proposed regulations and their Economic Impact follow.

Copies of the full proposed regulations and the Economic Impact Statement for the proposed regulations can be obtained at 120 S.W. Tenth Ave., Topeka, Kansas, 66612, and the regulation may be viewed at the following website: <https://ag.ks.gov/licensing/bail-enforcement-agents>.

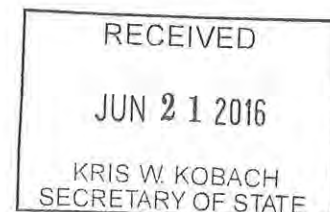
K.A.R. 16-15-1: Definitions. This new regulation provides some definitions for terms that are used throughout 16-15-2, 16-15-3, and 16-15-4 pertaining to licensed bail enforcement agents.

K.A.R. 16-15-2: Application for licensure. This new regulation lays out the initial application process on what information is needed to be provided to the Attorney General in order for the person to be considered for licensure as a bail enforcement agent.

K.A.R. 16-15-3: Fees. Simply, this new regulation establishes what the rate of certain fees will be in order to become a licensed bail enforcement agent.

K.A.R. 16-15-4: License renewal. This new regulation lays out the process to renew a bail enforcement agent license.

Economic Impact. The Attorney General anticipates that there should be little, if any, economic impact to State and local governments due to these regulations.



Article 15. Bail Enforcement Agent Licensing

16-15-1. Definitions. For purposes of these regulations, each of the following terms shall have the meaning specified in this regulation:

(a) "Attorney general" means the Kansas attorney general and the attorney general's designees.

(b) "Authorization" means a registration, certificate, permit, licensure, or other documented approval that allows an applicant or a licensee to act as a bail enforcement agent or bounty hunter in another jurisdiction.

(c) "Conviction" means any of the following, whether the penalty has been imposed, reduced, suspended, deferred, or otherwise withheld, unless the conviction has been expunged:

- (1) An unvacated adjudication of guilt;
- (2) a plea of guilty or nolo contendere accepted by the court; or
- (3) a deferred judgment or probation agreement.

(d) "Encumbered" means that the issuing authority for an authorization has fined, censured, limited, conditioned, suspended, revoked, or taken any other similar action or penalty against the authorization, whether done publicly or privately.

(e) "Expunged" shall have the meaning consistent with the definition of "expungement" in K.S.A. 21-5111, and amendments thereto, which shall include substantially similar processes from other jurisdictions.

(f) "Jurisdiction" means any of the following:

(1) Kansas, or any other state of the United States, and any department or branch of that state's government, or any agency, authority, institution, or other instrumentality thereof;

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(2) municipality, which shall mean any county, township, city, school district, or other political or taxing subdivision of Kansas, or any other state of the United States, or any agency, authority, institution, or other instrumentality thereof;

(3) the District of Columbia;

(4) any territory of the United States; or

(5) any district, province, territory, or state of any foreign country.

(g) "License" means a bail enforcement agent license issued by Kansas.

(h) "Licensee" means a person who holds a license. (Authorized by 2016 S Sub for HB 2056, § 7; implementing 2016 S Sub for HB 2056, §§ 3, 6; effective, T-_____, _____; effective P-_____.)

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16-15-2. Application for license. (a) Except as otherwise provided by law, each person wanting to engage in activities as a bail enforcement agent, which is commonly known as a bounty hunter, shall submit an application to the attorney general on the form prescribed by the attorney general.

(b) The application shall be available electronically on the attorney general's web site. A printed copy of the application, the bail enforcement agent licensing act, and these regulations may be obtained from the attorney general for a fee of \$15.

(c) Each applicant shall meet the following requirements:

- (1) Complete the entire application under penalty of perjury;
- (2) have notarized those portions of the application required to be notarized; and
- (3) make complete and correct statements in the application.

(d) The applicant's fingerprints shall be taken at a law enforcement agency. The fingerprint card shall include the name of the person who took the applicant's fingerprints.

(e) An application shall be deemed incomplete and shall not be considered for approval by the attorney general if the application fails to include any of the following:

- (1) All signatures and information required by the application;
- (2) payment of all required fees as specified in K.A.R. 16-15-3; or
- (3) all attachments required by the application.

(f) Each application that remains incomplete for at least 30 days following the attorney general's request for the applicant to provide any missing information shall be deemed abandoned and shall be withdrawn from consideration.

(g) Each applicant shall include the following with the application:

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(1) The applicant's full name, date of birth, residential address, business address, and name of the applicant's current employer or employers;

(2) in accordance with K.A.R. 16-15-3, payment of the following:

(A) The initial licensure fee; and

(B) the fee for the criminal history records check;

(3) a photocopy of the applicant's driver's license or other government-issued identification card from the applicant's state of residence;

(4) two color, passport-size photographs of the applicant taken within the preceding 30 days. Each photograph shall depict a full-frontal view of the applicant's head;

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

(6) one classifiable set of the applicant's fingerprints taken by a federal, state, or municipal law enforcement agency;

(7) if the applicant has a criminal history, a statement of the applicant's entire criminal history including, pursuant to K.S.A. 12-4516 and K.S.A. 2015 Supp. 21-6614 and amendments thereto, any criminal history that has been expunged;

(8) a copy of the criminal history waiver form that was completed by the applicant before getting the applicant's fingerprints taken by a law enforcement agency;

(9)(A) If the applicant holds or has held an authorization to act as a bail enforcement agent in a jurisdiction other than Kansas, a copy of any current or prior authorizations held by the applicant or, if the prior authorization is no longer in the possession of the applicant, a description of who the authorizing entity was and a date as to when the authorization was last valid; and

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(B) if any current or prior authorization has been encumbered by the authorizing entity, an explanation as to why that authorization was encumbered and a certified copy of any document ordering or establishing that encumbrance. The certified copy shall be submitted by the authorizing entity directly to the attorney general; and

(10) a statement that the applicant does not meet the criteria for denial of licensure under 2016 S Sub for HB 2056, § 3, and amendments thereto, and does not meet the criteria for any encumbrance pursuant to 2016 S Sub for HB 2056, § 6, and amendments thereto.

(h) Each applicant shall be responsible for the payment of any other expenses required in order to complete the application requirements specified in this regulation. (Authorized by 2016 S Sub for HB 2056, § 7; implementing 2016 S Sub for HB 2056, §§, 3, 6, and 8; effective, T-_____, _____; effective P-_____.)

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16-15-3. Fees. (a) The following fees shall be submitted in full to the attorney general when required:

- (1) An initial licensure fee of \$200, less the materials fee if that fee was previously paid;
- (2) a renewal of licensure fee of \$175, less the materials fee if that fee was previously paid;
- (3) in accordance with K.A.R. 16-15-2 or 16-15-4, a fee of \$57 for the criminal history records check; and

(4) a materials fee of \$15 if the applicant or licensee requests a printed copy of any of the application or renewal application materials before submitting an application.

(b) All fees, whether paid in full or part, associated with any complete or incomplete application shall be nonrefundable.


(c) Payment of application fees and renewal application fees shall be submitted by personal check, cashier's check, or money order and shall be payable to the attorney general. An applicant or licensee who has previously had a personal check submitted to the attorney general that was returned unpaid for any reason shall not be allowed to pay any required fees with a personal check.

(d) A fee of \$15 shall be charged to any licensee for a duplicate license. Each licensee requesting a duplicate license shall submit a notarized affidavit attesting to the circumstances surrounding the license being lost or stolen. (Authorized by 2016 S Sub for HB 2056, § 7; implementing 2016 S Sub for HB 2056, §§ 3, 5, and 8; effective, T-_____, _____; effective P-_____.)

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16-15-4. License renewal. (a) Any license issued under the bail enforcement agent licensing act may be renewed every two years from the license issuance date.

(b) Fingerprints and the photographs of a licensee shall not be required in a renewal application, unless these items have already been on file with the attorney general for more than four years.

(c)(1) Each renewal application shall be submitted on the form prescribed by the attorney general and shall be complete before the license shall be eligible for renewal by the attorney general.

(2) A renewal application shall be deemed incomplete and shall not be considered for approval if the applicant fails to include any of the following:

- (A) All signatures and information required by the renewal application;
- (B) payment of all required fees as provided in K.A.R. 16-15-3; or
- (C) all attachments required by the renewal application.


(3) A complete renewal application shall be deemed submitted according to either of the following:

- (A) If mailed, the date of the last postmark on the complete renewal application; or
- (B) if filed in person, the last file-stamped date applied to the complete renewal application

by the attorney general.

(d) If a licensee has not submitted a complete renewal application within 30 days of the license expiration date, that license shall be considered abandoned and shall not be renewed. Any abandoned license may be reissued only after the individual successfully completes the initial application process specified in K.A.R. 16-15-2.

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(e) Upon submitting a renewal application, each licensee shall notify the attorney general of the following:

(1) Any new authorizations that have been obtained by that licensee;

(2) any authorizations that have lapsed or otherwise expired; and

(3) if not already submitted to the attorney general, any authorization that has been encumbered by the issuing jurisdiction. (Authorized by 2016 S Sub for HB 2056, § 7; implementing 2016 S Sub for HB 2056, §§ 5, 8; effective, T-_____, _____; effective P-_____.)

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ECONOMIC IMPACT STATEMENT
K.A.R. 16-15-1 through 16-15-4

I. Summary of Proposed Permanent Regulations, Including Their Purpose.

Identical to the temporary regulations, K.A.R. 16-15-1 through 16-15-4 are new regulations which correspond to the bail enforcement agent licensing act (hereinafter the Act). The Act was brought about by 2016 Senate Substitute for House Bill 2056 (L. 2016, ch. 85) (hereinafter "HB 2056").

The core function of the Act establishes the Office of the Attorney General (OAG) as the licensing entity for an individual that wants to act as a "bail enforcement agent" (hereinafter BEA), more commonly known as a "bounty hunter." A "BEA" is defined by the Act. The OAG would not be licensing the bail bonding sureties or any "bail agent" (a person authorized by a surety to write bail bonds for that surety).

These regulations are sought to assist the OAG in establishing some foundational elements for the BEA licensing program. Specifically, the regulations establish: a few extra definitions (*see*, K.A.R. 16-15-1); an application processes for initial and renewal versions (*see*, KAR 16-15-2 and 16-15-4, respectively); and a fee schedule (K.A.R. 16-15-3).

II. Whether the Regulation Is Mandated by Federal Law and Whether it Exceeds Requirements of Federal law.

This is not a regulation required by Federal law; therefore, the regulation does not exceed the requirements of federal law.

III. Anticipated Economic Impact upon the OAG.

Under these temporary regulations (and the proposed permanent versions), for each BEA that applies for licensure, the OAG will initially bring in a licensure fee of \$200. Then, every two years thereafter, these regulations establish that the OAG will collect a \$175 if the licensee seeks a renewal of their license. The number of BEAs that will need to be licensed under the Act is roughly estimated to be less than 500. The fees brought in should offset any costs associated with administering the program.

Any costs to the OAG's office related to these regulations are *de minimus* and only related to the oversight of the BEA licensing program. The "criminal history records check" fee is specifically authorized by statute in order to assist the OAG at keeping its costs to a minimal level by not having the OAG's office have to pay those background check costs. That fee is set by these regulations at \$57 (\$48 for the criminal history check itself and then 3 years of "rapback" fees at \$3 per year).

IV. Anticipated Financial Impact upon Other Governmental Agencies and upon Private Business or Individuals.

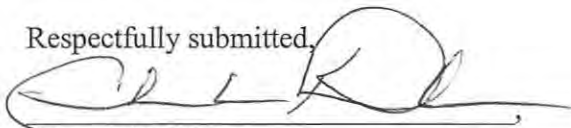
Any State or municipal entity which previously regulated persons who were solely acting as a BEA (as opposed to a surety or bail agent who also served as a BEA) will no longer receive fees, if any existed previously, from that oversight. At this point in time, this will likely only impact the Kansas Insurance Department but staff for the K.I.D. has indicated any impact should be minimal if at all.

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VI. Less Costly or Intrusive Methods That Were Considered, but Rejected, and the Reason for Rejection.

The OAG has left this process as streamlined as possible based on the current statutory structure. At this point in time, however, it is completely unknown how many individuals will apply for this license and, consequently, even a general fiscal impact upon the OAG can only be speculative at this juncture. So, for the time being, fees have been left at their upper limits for the time being. After the licensing process has been up and running and the OAG has a better idea on the figures noted above, a review of the program itself and the fiscal numbers can be done so that anything which needs adjusting can be adjusted accordingly.

Respectfully submitted,



Charles W. Klebe
Director & Assistant Attorney General

