

{As Amended by Senate Committee of the Whole}

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Session of 2016

SENATE BILL No. 374

By Committee on Corrections and Juvenile Justice

1-27

Proposed Amendments to SB 374
Senate Committee on Corrections and Juvenile Justice
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Office of Revisor of Statutes
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1 AN ACT concerning sureties; relating to justification and approval;
2 amending K.S.A. 22-2806 and repealing the existing section.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 22-2806 is hereby amended to read as follows: 22-
6 2806. Every *uncompensated* surety, except an insurance company
7 authorized to transact business pursuant to ~~subsection (d)~~ of K.S.A. 40-
8 1102(d), and amendments thereto, shall justify by affidavit and may be
9 required to describe in the affidavit the property by which such surety
10 proposes to justify and the encumbrances thereon, the number and amount
11 of other bonds and undertakings for bail entered into by such surety and
12 remaining undischarged and all such surety's other liabilities. No bond
13 shall be approved unless the *uncompensated* surety appears to be qualified.
14 The appearance bond and

15 the *uncompensated* sureties may be approved and accepted by a judge
16 of the court where the action is pending or by the sheriff of the county.

17 New Sec. 2. (a) As used in this section:

18 (1) "Compensated surety" means any person who ~~or entity that~~ *for*
19 *entity that is not a corporation that*, as surety, issues appearance bonds
20 for compensation, is responsible for any forfeiture and is liable for
21 appearance bonds written by such person's or entity's authorized agents. A
22 compensated surety is either an insurance agent surety or a property surety.

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

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

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

34 (b) Every compensated surety shall submit an application to the chief

1 judge of the judicial district, or the chief judge's designee, in each judicial
2 district where such surety seeks to act as a surety. A compensated surety
3 shall not act as a surety in such judicial district prior to approval of such
4 application.

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (2) A judicial district shall not require any compensated surety to
42 apply for authorization in such judicial district more than once per year,
43 but may require additional reporting from any compensated surety in its

1 discretion. If the judicial district does not require an annual application,
 2 each compensated surety or bail agent shall provide a certificate of
 3 continuing education compliance in accordance with subsection (f) to the
 4 judicial district each year.

5 ~~(3) A judicial district shall not assess any fee or charge related to a~~
 6 ~~compensated surety's application to act as a surety in such judicial district.~~

7 ~~(4)~~—A judicial district shall not decline authorization for a
 8 compensated surety solely on the basis of type of compensated surety.

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

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

17 (A) If the authorization is suspended for 30 days or more, the judge
 18 or designee shall make a record describing the length of the suspension
 19 and the underlying cause and provide such record to the surety. Such
 20 surety, upon request, shall be entitled to a hearing within 30 days after the
 21 suspension is ordered.

22 (B) If the authorization is terminated, the judge or designee shall
 23 make a record describing the underlying cause and provide such record to
 24 the surety. Such surety, upon request, shall be entitled to a hearing within
 25 30 days after the termination is ordered.

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

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

37 (2) The Kansas bail agents association shall either provide or contract
 38 for a minimum of eight hours of continuing education classes to be held at
 39 least once annually in each congressional district and may provide
 40 additional classes in its discretion. ~~Judges {The chief judge} in each~~
 41 ~~judicial district may provide a list of topics to be covered during the~~
 42 ~~continuing education classes. A schedule of such classes shall be publicly~~
 43 available. The association shall not charge more than \$250 annually for the

The attorney general shall have oversight
 authority over such continuing education
 classes.

1 eight hours of continuing education classes, and the cost of any class with
2 less than eight hours of continuing education shall be prorated accordingly.
3 Any fee charged for attending continuing education classes shall not be
4 increased or decreased based upon a compensated surety's membership or
5 lack of membership in the association.

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

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

19 Sec. 3. K.S.A. 22-2806 is hereby repealed.

20 Sec. 4. This act shall take effect and be in force from and after its
21 publication in the statute book.

that is signed by the attorney
general