

SENATE BILL No. 244

By Committee on Judiciary

2-6

1 AN ACT concerning release prior to trial; minimum appearance bond
2 premium; prohibiting a compensated surety from making a loan for
3 certain portions of the minimum appearance bond premium required;
4 amending K.S.A. 2024 Supp. 22-2809b and repealing the existing
5 section.
6

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

8 Section 1. K.S.A. 2024 Supp. 22-2809b is hereby amended to read as
9 follows: 22-2809b. (a) As used in this section:

10 (1) "Compensated surety" means any person who or entity that is
11 organized under the laws of the state of Kansas that, as surety, issues
12 appearance bonds for compensation, posts bail for four or more persons in
13 a calendar year, is responsible for any forfeiture and is liable for
14 appearance bonds written by such person's or entity's authorized agents. A
15 "compensated surety" is either an insurance agent surety, a property surety
16 or a bail agent.

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

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

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

28 (5) "Appearance bond premium" means the fee charged by a
29 compensated surety for posting an appearance bond.

30 (b) Every compensated surety shall submit an application to the chief
31 judge of the judicial district, or the chief judge's designee, in each judicial
32 district where such surety seeks to act as a surety. A compensated surety
33 shall not act as a surety in such judicial district prior to approval of such
34 application.

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

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

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

6 (C) a certificate of continuing education compliance in accordance
7 with subsection (g).

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

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

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

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

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

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

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

26 (4) The chief judge of the judicial district may require, as a
27 qualification for initial or continued authorization in the judicial district, a
28 compensated surety to submit to a state and national criminal history
29 record check. The fingerprints shall be used to identify the individual and
30 to determine whether the individual has a record of criminal history in this
31 state or any other jurisdiction. The chief judge or the chief judge's designee
32 is authorized to submit the fingerprints to the Kansas bureau of
33 investigation and the federal bureau of investigation for a state and
34 national criminal history record check. The chief judge or the chief judge's
35 designee may use the information obtained from fingerprinting and the
36 criminal history record check for purposes of verifying the identification
37 of the individual and for making an official determination of the
38 qualifications for authorization in the judicial district. Disclosure or use of
39 any information received by the chief judge or the chief judge's designee
40 for any purpose other than the purposes provided for in this paragraph
41 shall be a class A nonperson misdemeanor. The Kansas bureau of
42 investigation may charge a reasonable fee for conducting a criminal
43 history record check, and the individual seeking initial or continued

1 authorization under this section shall pay the costs of fingerprinting and
2 the state and national criminal history record check.

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

9 (d) (1) A compensated surety shall:

10 (A) Charge a minimum appearance bond premium of 10% of the face
11 amount of the appearance bond;

12 (B) only post a bond after the compensated surety has received at
13 least $\frac{1}{2}$ of the required minimum appearance bond premium in one of the
14 following forms:

15 (i) Currency of the United States paid to the compensated surety prior
16 to the execution of an appearance bond;

17 (ii) a check delivered to a compensated surety that shall be properly
18 payable when delivered and promptly deposited in the compensated
19 surety's bank account;

20 (iii) a credit or debit card transaction if the compensated surety
21 obtains authorization from the card issuer for the amount due and an
22 approval number from the card issuer; or

23 (iv) a bank or wire transfer or other electronic funds transfer
24 including, but not limited to, peer-to-peer transfer, if such transfer occurs
25 prior to the execution of the appearance bond; and

26 (C) be physically present when the bond is posted and sign the bond
27 at the jail.

28 (2) A compensated surety shall enter into a premium financing
29 agreement for any unpaid minimum appearance bond premium amount. *A*
30 *compensated surety shall not provide a loan for the portion of the*
31 *minimum appearance bond premium required by subsection (d)(1)(B). Any*
32 *loan obtained for the purpose of paying the portion of a minimum*
33 *appearance bond premium required by subsection (d)(1)(B) shall be*
34 *obtained from a financial institution that is properly licensed in the state*
35 *of Kansas. A compensated surety shall not be an owner, in whole or in*
36 *part, or in any way affiliated with any financial institution making loans*
37 *for the portion of the minimum appearance bond premium required by*
38 *subsection (d)(1)(B).*

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

42 (2) A judicial district shall not require any compensated surety to
43 apply for authorization in such judicial district more than once per year,

1 but may require additional reporting from any compensated surety in its
2 discretion. If the judicial district does not require an annual application,
3 each compensated surety or bail agent shall provide a certificate of
4 continuing education compliance in accordance with subsection (g) to the
5 judicial district each year.

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

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

13 (2) (A) If such authorization is granted, the chief judge of the judicial
14 district, or the chief judge's designee, may terminate or suspend the
15 authorization at any time. Reasons for terminating or suspending such
16 authorization include, but are not limited to:

17 (i) Filing false statements with the court;

18 (ii) failing to charge the minimum appearance bond premium as
19 required by this section;

20 (iii) paying a fee or rebate or giving or promising anything of value to
21 a jailer, law enforcement officer, any person who has the power to arrest or
22 hold a person in custody or any public official or employee in order to
23 secure a settlement, compromise, remission or reduction of the amount of
24 any appearance bond, forfeiture or estreatment, or to secure or delay an
25 appearance bond;

26 (iv) paying a fee or rebate or giving or promising anything of value,
27 other than reward payments for information relating to the apprehension of
28 fugitives, to an inmate in exchange for a business referral;

29 (v) requiring or accepting anything of value from a principal other
30 than the appearance bond premium, except that the compensated surety
31 may accept collateral security or other indemnity to secure the face amount
32 of the bond;

33 (vi) intentionally failing to promptly return collateral security to the
34 principal when the principal is entitled to return of such security;

35 (vii) knowingly employing or otherwise compensating for any
36 appearance bond related work, any person who has been convicted of a
37 felony unless such conviction has been expunged, other than reward
38 payments for information relating to the apprehension of fugitives; or

39 (viii) failing to pay any forfeiture judgment within 30 days of the
40 filing of the journal entry of judgment.

41 (B) The judge or the judge's designee may investigate claims of
42 violations described in subparagraph (A). If the chief judge makes a
43 finding that a violation has occurred, the chief judge may suspend or

1 terminate the authorization of the compensated surety.

2 (C) If the authorization is suspended for 30 days or more, the chief
3 judge shall make a record describing the length of the suspension and the
4 underlying cause and provide such record to the surety. Such surety, upon
5 request, shall be entitled to a hearing within 30 days after the suspension is
6 ordered.

7 (D) If the authorization is terminated, the chief judge shall make a
8 record describing the underlying cause and provide such record to the
9 surety. Such surety, upon request, shall be entitled to a hearing within 30
10 days after the termination is ordered.

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

19 (g) (1) Every compensated surety shall obtain at least eight hours of
20 continuing education credits during each 12-month period.

21 (2) The Kansas bail agents association shall either provide or contract
22 for a minimum of eight hours of continuing education classes to be held at
23 least once annually in each congressional district and may provide
24 additional classes in its discretion. The chief judge in each judicial district
25 may provide a list of topics to be covered during the continuing education
26 classes. A schedule of such classes shall be publicly available. The
27 association shall not charge more than \$300 annually for the eight hours of
28 continuing education classes, and the cost of any class with less than eight
29 hours of continuing education may be prorated accordingly. Any fee
30 charged for attending continuing education classes shall not be increased
31 or decreased based upon a compensated surety's membership or lack of
32 membership in the association.

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

42 (4) Any continuing education credits used to comply with conditional
43 authorization pursuant to subsection (f)(3) shall not be applied towards

1 compliance in the current 12-month period or any subsequent 12-month
2 period.

3 Sec. 2. K.S.A. 2024 Supp. 22-2809b is hereby repealed.

4 Sec. 3. This act shall take effect and be in force from and after its
5 publication in the statute book.