

Frequently Asked Questions

FAQ's

07/2016

Kansas Bail Enforcement Agent Licensing



Pre-Licensure

- **Where can the language and requirements of the Kansas Bail Enforcement Agent Licensing Act (the “BEALA”) be found?**
 - Answer: The BEALA consists of the first ten (10) sections of 2016 Senate Substitute for House Bill 2056 (“S Sub for HB 2056”). In total, S Sub for HB 2056 has 17 sections.
- **When did the BEALA become law?**
 - Answer: The BEALA is effective July 1, 2016.
- **Who administers the BEALA?**
 - Answer: Bail enforcement agents (or BEAs) are licensed by the Office of the Attorney General (OAG).
- **Who is subject to the BEALA?**
 - Answer: The BEALA generally requires the licensure of anyone who is going to engage in activities in Kansas as a BEA.

- A BEA is person who is not 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.”

- **Who is not subject to the BEALA?**

- o Answer:

- Law enforcement officers who track down, capture and surrender to the custody of a court a fugitive who has violated a surety or bail bond agreement;
- a surety;
- a bail agent; or
- an out-of-state BEA who is otherwise in compliance with K.S.A. 22-2809a(e)(2) or (e)(3) (as is amended by section 15 of S Sub for HB 2056).

A “surety” is “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.”

A “bail agent” is “a person authorized by a surety to execute surety bail bonds on its behalf.”

- **What do I need to do on and after July 1, 2016, to lawfully act as surety or bail agent in Kansas?**

- o Answer: Because the OAG does not license or otherwise regulate sureties or bail agents, the only information the OAG can provide to persons who are in, or want to act within, those professions is to contact the Kansas Insurance Department **and any** district court where the surety or bail agent intends to engage in those activities.

- See section 11 of S Sub for HB 2056.

- **Hypothetical: I have the ability to issue bail bonds for “ABC Bail Bonds” (i.e., I’m a surety or bail agent) in Kansas. My friend, who is a surety with “DEF Bail Bonds,” which is also here in Kansas, has asked me to go apprehend someone who skipped out one of their bonds. Since I would not be enforcing a bail bond that my company (ABC Bail Bonds) wrote, do I need to be licensed by the OAG in order to enforce the bail bonds of another surety?**

- o Answer: No.

- The language of the BEALA, section 2, states that a surety or bail agent who has the ability to enforce “a bail bond” does not need a license to do enforce that bail bond.
- The BEALA does not require that the surety or bail agent is enforcing a bond that their company wrote.

- **Where can I get an application to be a BEA?**
 - o Answer: You can access the online application form from the OAG’s website (<http://ag.ks.gov/licensing/bail-enforcement-agents>), or you may request a copy of the application materials from the OAG by calling (785) 296-4240 or sending an email to general@ag.ks.gov.
 - o If requested, the printed materials will be submitted to the requestor upon receipt of a \$15 “materials fee.” That fee will be credited to the person’s “licensure fee” if they choose to apply for a BEA license. That would then reduce the licensure fee to \$185.
 - o All fees are nonrefundable.
- **Where do I submit my BEA application?**
 - o Answer: All applicants for a BEA license must submit their complete application to the OAG at 120 SW Tenth Ave., Topeka, KS, 66612.
- **How much does a BEA license cost?**
 - o Answer: The initial licensure fee is \$200 (less any materials fee if that was previously requested) plus a \$57 payment to reimburse the OAG for the criminal history records check. The fees may be combined into one form of payment or two different forms but all fees must be received before an application will be processed. Cashier’s check, money order or personal check – cash, credit and debit are not acceptable forms of payment.
- **Once I submit my application, how long do I have to get all necessary information and attachments to the BEALU?**
 - o Applications that are missing information or attachments will not be processed until a complete application (all information and attachments) is received from the applicant. Any application that goes more than 30 days without supplementing any missing information or attachment will be deemed abandoned and will not be processed any further.
- **How long does the AG take to process a license application - when can I expect to receive an approval notice?**
 - o Answer: There is no statutory minimum or maximum, but the OAG will strive to keep application processing times as short as possible.
 - An applicant can expect, however, for the review process to take at least 30 days, and the review is largely dictated by the time it takes to obtain and review any criminal history incidents.

- **Do I have to be a resident of the State of Kansas to obtain a BEA license?**
 - o Answer: No. State residency is not a requirement.
 - o For information on out-of-state BEAs conducting business in Kansas, see also K.S.A. 22-2809a (as amended by section 15 of S Sub for HB 2056).
- **Is there any pre-requisite training required?**
 - o Answer: No. Training is not required by the BEALA or proposed regulations.
- **Is there any continuing education required after licensure?**
 - o Answer: No. Continuing education is not required by the BEALA or proposed regulations.
- **What criminal history can disqualify me from becoming a BEA?**
 - o Answer:
 - A non-expunged felony conviction will disqualify an applicant; and
 - In the last 10 years, the applicant has been convicted of a non-expunged offense: (A) that is classified as a person misdemeanor; or (B) from another jurisdiction that is substantially similar to an offense that is classified as a person misdemeanor under Kansas law.
- **What other events can disqualify me from becoming a BEA?**
 - o Answer: Any of the following:
 - Giving a knowingly false response in an initial or renewal application. Regulations currently propose that providing incomplete information regarding an incident etc. will constitute providing a “false” answer;
 - Being subject to a domestic protection order that qualifies under 18 U.S.C. 922(g)(8);
 - Being subject to a temporary domestic protection order that qualifies under 18 U.S.C. 922(g)(8) except for the notice and opportunity for a hearing;
 - On and after July 1, 2016, become subject to a proceeding under K.S.A. 59-2945 *et seq.* or substantially similar proceeding from another jurisdiction;
 - On and after July 1, 2016, become subject to a proceeding under K.S.A. 59-29b45 *et seq.* or a substantially similar proceeding from another jurisdiction;
 - While unlicensed, the person has committed an act or aided and abetted an act that requires licensure;
 - Violated any provision of K.S.A. 22-2809a; or
 - Violated any provision of the BEALA.

A copy of S Sub for HB 2056 is posted within the bail enforcement licensing links at: www.ag.ks.gov/licensing/bail-enforcement-agents

Keep in mind, any ground that may be used to deny a BEA application (under section 3 of the BEALA) may be used to “censure, limit, condition, suspend, or revoke” a license (under section 6 of the BEALA); and any ground that can “censure, limit, condition, suspend, or revoke” a license may be used to deny an application.

- **Can I have my fees refunded if I am denied a license or I need to otherwise withdraw my application?**
 - o Answer: No, all application fees are nonrefundable as proposed by the regulations.

ONCE LICENSED

- o **What does my BEA license allow me to do?**
 - o A Kansas BEA license generally allows the holder to lawfully enforce bail bonds for the sureties and bail agents that issued the bail bonds.
- o **What are my legal rights and authorities as a BEA licensee?**
 - o Beyond the ability to now lawfully enforce bonds as a licensed BEA, the OAG cannot provide you with any legal advice including your rights, abilities, or liabilities as a BEA.
 - o You will need to speak to a private attorney in order to know what your full rights and legal authorities are as a BEA. Because of its role as legal counsel for the State of Kansas and its employees, the OAG generally cannot extend private, individual legal interpretation or advice to citizens.
- **What criminal history can disqualify me from maintaining my BEA license?**
 - o Answer:
 - A felony conviction will disqualify a licensee; and
 - The licensee is convicted of an offense: (A) that is classified as a person misdemeanor; or (B) from another jurisdiction that is substantially similar to an offense that is classified as a person misdemeanor under Kansas law.
- **What other events can disqualify me from maintaining my BEA?**
 - o Answer: Any of the following:

- Giving a knowingly false response in an initial or renewal application or during reinstatement of a license. Regulations currently propose that providing incomplete information regarding an incident etc. will constitute providing a “false” answer;
- Being subject to a domestic protection order that qualifies under 18 U.S.C. 922(g)(8);
- Being subject to a temporary domestic protection order that qualifies under 18 U.S.C. 922(g)(8) except for the notice and opportunity for a hearing;
- On and after July 1, 2016, become subject to a proceeding under K.S.A. 59-2945 et seq. or substantially similar proceeding from another jurisdiction;
- On and after July 1, 2016, become subject to a proceeding under K.S.A. 59-29b45 et seq. or a substantially similar proceeding from another jurisdiction;
- While unlicensed, the person has committed an act or aided and abetted an act that requires licensure;
- Violated any provision of K.S.A. 22-2809a; or
- Violated any provision of the BEALA.

Keep in mind, any ground that may be used to deny a BEA application (under section 3 of the BEALA) may be used to “censure, limit, condition, suspend, or revoke” a license (under section 6 of the BEALA); and any ground that can “censure, limit, condition, suspend, or revoke” a license may be used to deny an application.

- **Does my BEA license entitle me to carry a firearm, knife or other weapon to defend myself?**
 - Answer: No. Even if a person’s criminal history has been expunged, a person that is eligible for a BEA license may still be unlawful to carry certain weapons due to that expunged criminal history. For Kansas criminal histories, see, K.S.A. 21-6304(a); 21-6614(k). Again, for a determination of whether you are lawful to possess certain weapons under Kansas, federal or another state’s law, you need to consult with a private attorney and ask what your specific rights are.
- **How long does the BEA license last and how much does it cost to renew the BEA license?**
 - Answer: Two years from date of licensure. Renewal of a license is currently set at a \$175 licensure fee. However, **every four years**, the licensee will need to submit another reimbursement payment for the criminal history records check (currently \$57) along with a new set of fingerprints and photo.
- **Are my renewal application fees refundable if I am denied a license or I need to otherwise withdraw my application?**
 - Answer: No, all application fees are nonrefundable.

- **What happens if I lose my license?**

- o Answer: The licensee needs to file a notarized statement that the license was lost or stolen and, upon payment of a \$15 fee for a duplicate license, the license can be submitted to the licensee with the term “duplicate” stamped on it.

VIOLATIONS

- **What can happen to those who are not properly licensed and they engage in activities as a BEA?**

- o Answer: A person who violates the BEALA by not being properly licensed (and not meeting a recognized exemption) are subject to:
 - **Criminal** liability of a class A nonperson misdemeanor offense for a first offense (punishable by up to one year in prison and/or a fine of up to \$2500.00). Thereafter, each criminal offense can be punished as a level 9 nonperson offense (see, K.S.A. 22-2809a as amended by S Sub for HB 2056); **and**
 - **civil** liability under the Kansas Consumer Protection Act.

Also, as noted in earlier answers, violations of the BEALA (such as, engaging in the activities of a BEA while not licensed after July 1, 2016) can lead to both loss of license and denial of a license in the future.