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MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: March 20, 2024
Subject: Bill Brief for HB 2755

House Bill 2755, As Amended by House Committee, requires compensated sureties who post bond in municipal court to comply with certain requirements, requires a minimum bond premium in district court, and provides reasons for suspending or terminating authorization of a compensated surety.

Section 1 amends K.S.A. 12-4301 relating to appearance bonds in municipal court. Current law in subsection (a) requires the municipal judge to set an amount for an appearance bond. The bill adds language to require the amount to be the same regardless of the method used to secure the appearance of the accused person. Subsection (b) lists the available methods of securing the appearance of an accused person, and the bill adds the execution of an appearance bond by a compensated surety to the available methods. The House Committee on Judiciary added language requiring the approval of the municipal judge for the execution of an appearance bond by a compensated surety.

Section 2 amends K.S.A. 22-2809b relating to requirements for compensated sureties. The bill changes the definition of “compensated surety” so that only a surety that posts bail for four or more persons in a calendar year is subject to the laws concerning compensated sureties. The bill also adds a definition of “appearance bond premium” which means the fee charged by a compensated surety for posting an appearance bond. Subsection (b)(4) is added to provide that the chief judge of a judicial district may require a compensated surety to submit to a state and national criminal history record check as part of an initial or continued authorization in the judicial district. Subsection (c) is amended to clarify that the current law requirement that property sureties shall not be allowed outstanding appearance bonds that exceed an aggregate amount which is 15 times the valuation of the property described only applies to outstanding appearance bonds in the state of Kansas.

Subsection (d) is added to provide that a compensated surety is required to: (1) Charge a minimum appearance bond premium of 10% of the face amount of the appearance bond; (2) only post a bond after the surety has received at least half of the required minimum appearance bond premium; and (3) be physically present when the bond is posted and sign the bond at the jail. The House Committee on Judiciary amended the provision in subsection (d)(2) to require a compensated surety to enter into a premium financing agreement for any unpaid minimum appearance bond premium amount.

Subsection (f) provides that the chief judge, or designee, may terminate or suspend a compensated surety's authorization in a judicial district at any time. The bill, as amended by the House Committee on Judiciary, provides a non-exhaustive list of reasons for terminating or suspending such authorization, including: (1) Filing false statements with the court; (2) failing to charge the minimum appearance bond premium; (3) paying a fee or rebate or giving or promising anything of value to a jailer, law enforcement officer, any person who has the power to arrest or hold a person in custody or any public official or employee in order to secure a settlement, compromise, remission or reduction of the amount of any appearance bond, forfeiture or estreatment, or to secure or delay an appearance bond; (4) paying a fee or rebate or giving or promising anything of value to an inmate in exchange for a business referral; (5) requiring or accepting anything of value from a principal other than the appearance bond premium, except that the compensated surety may accept collateral security or other indemnity to secure the face amount of the bond; (6) intentionally failing to promptly return collateral security to the principal when the principal is entitled to return of such security; (7) knowingly employing or otherwise compensating for any appearance bond related work, any person who has been convicted of a felony unless such conviction has been expunged; or (8) failing to pay any forfeiture judgment within 30 days of the filing of the journal entry of judgment.

The bill also amends subsection (f) to allow the chief judge, or designee, to investigate claims of violations. If the chief judge makes a finding that a violation has occurred, the chief judge may suspend or terminate the authorization of the compensated surety. Finally, the bill amends subsection (g) to change the cap on the fee charged for continuing education by the Kansas bail agents association from \$250 to \$300 annually for the eight hours of required continuing education classes, and to provide that the cost of any class with less than eight hours of continuing education may be prorated.

The bill would take effect from and after publication in the statute book, July 1, 2024.