

SESSION OF 2024

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2755**

As Amended by House Committee on Judiciary

**Brief\***

HB 2755, as amended, would amend law related to appearance bonds made in municipal and district courts.

***Municipal Courts***

Under current law, an appearance bond for municipal court could be secured by payment of cash or by the execution of an appearance bond by a responsible person living in Kansas.

The bill would clarify if appearance were secured by a responsible person who had paid the bond, they could not be compensated for posting the bond. Additionally, the bill would allow execution of a bond by a compensated surety who is in compliance with continuing law and when approved by the municipal judge.

***Definitions***

***Compensated Surety***

The term “compensated surety” in law would be amended by the bill to mean any person who or entity that is organized under Kansas law that, as surety, issues appearance bonds for compensation, and posts bail for four or more persons in a calendar year, is responsible for any forfeiture and is liable for appearance bonds written by such

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

person's or entity's authorized agents. A compensated surety is either an insurance agent surety, a property surety, or a bail agent.

Under the bill, the definition would be amended to add the provisions concerning posting bail for four or more persons and that a surety may be a bail agent, in addition to insurance agent surety or property surety, as found in continuing law.

#### *Property Surety*

The bill would amend the definition of "property surety" to include corporations in the definition.

#### *Appearance Bond Premium*

The bill would add a definition for the term "appearance bond premium" to mean a fee charged by a compensated surety for posting an appearance bond.

#### ***Compensated Surety Qualifications—District Court***

The bill would add qualifications to law concerning the qualifications for a compensated surety to secure appearance bonds in district court.

#### *Background Check, Fingerprinting*

Under continuing law, the chief judge of a judicial district, or their designee, approves persons or entities to act as a compensated surety in the district court. The bill would allow the chief judge to require a compensated surety to submit to a state and national criminal history record check as part of either initial or continued authorization.

Fingerprints obtained for the record check would be used to identify the individual and to determine whether such

person has a criminal history record in Kansas or any other jurisdiction. The bill would allow the chief judge to submit the fingerprints to the Kansas Bureau of Investigation (KBI) and the Federal Bureau of Investigation for a state and national criminal history record check.

The bill would allow the chief judge to use the information obtained from fingerprinting and the records check to verify the identification of the individual and to determine whether the person is qualified to act as a compensated surety in the judicial district.

Disclosure or use of any fingerprint or records check information for purposes other than those specified by the bill would be considered a class A nonperson misdemeanor.

The bill would also allow the KBI to charge a reasonable fee for conducting the records check. The applicant would be required to pay records check fees and the fingerprinting fee.

#### *Property Surety—Outstanding Appearance Bonds*

Under continuing law, a property surety executes an affidavit describing the property used to write appearance bonds. The bill would specify that limitations in law concerning total outstanding appearance bonds are calculated by considering bonds issued within Kansas.

#### ***Compensated Surety Requirements—District Court***

The bill would create provisions in law concerning requirements of a compensated surety. Under the bill, a compensated surety would:

- Charge a minimum appearance bond premium of 10.0 percent of the face amount of the bond;
- Only post a bond after receiving 50.0 percent of the bond premium in one of the following forms:

- U.S. currency paid to the compensated surety prior to the execution of the bond;
  - A delivered check payable to the compensated surety when delivered and promptly deposited into a bank account;
  - A credit or debit card transaction if the compensated surety obtains prior authorization from the card issuer; or
  - A bank or wire transfer or other electronic funds transfer including, but not limited to peer-to-peer transfer [e.g. Cash App, PayPal, Venmo], prior to the execution of the bond; and
- Be physically present when the bond is posted and sign the bond at the jail.

The bill would require a compensated surety to enter into a premium financing agreement for the remaining portion of the bond premium (at least 50.0 percent of which was paid to have bond posted). [Note: Under the bill, the bond premium would consist of at least 10.0 percent of the total bond amount.]

#### *Termination or Suspension*

The bill would allow a chief judge to terminate or suspend a compensated surety from posting bond. These reasons would include, but would not be limited to:

- Filing false statements with the court;
- Failing to charge the minimum appearance bond premium as required by the bill;
- Paying a fee or rebate, or giving or promising anything of value 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 to:

- A jailer;
  - A law enforcement officer;
  - Any person who has the power to arrest or hold a person in custody; or
  - Any public official or employee.
- Paying a fee or rebate or giving or promising anything of value other than reward payments for information relating to the apprehension of fugitives to an inmate in exchange for a business referral;
  - Requiring or accepting anything of value from a principal other than the appearance bond premium, except that the compensated surety could accept collateral security or other indemnity to secure the face amount of the bond;
  - Intentionally failing to promptly return collateral security to the principal when they are entitled to return of the collateral;
  - Knowingly employing or otherwise compensating convicted felons (unless the conviction was expunged), for any appearance bond-related work, other than reward payments relating to apprehension of a fugitive; or
  - Failing to pay any forfeiture judgment within 30 days of the filing of the journal entry of judgment.

The bill would allow a chief judge to investigate claims of violations of the listed violations. If the chief judge finds that a violation has occurred, the compensated surety may have their authorization terminated or suspended. If terminated, the bill would clarify that the chief judge must make a record as required under continuing law, and provide it to the surety.

### ***Continuing Education***

The bill would raise the limit on the annual continuing education fee charged by the Kansas Bail Agents Association from \$250 to \$300, and allow the Association to prorate course charges according to the number of hours in a particular course.

### ***Technical Amendments***

The bill would make technical amendments, including removing outdated references to provisions established before 2017.

### **Background**

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of a representative of the Kansas Bail Agents Association.

### ***House Committee on Corrections and Juvenile Justice***

In the House committee hearing, **proponent** testimony was provided by two representatives of the Kansas Bail Agents Association, and representatives of the Kansas Sheriffs Association and Wichita Police Department. The proponents indicated the bill would address instances of “discount bonds” being sold, when the person on bond is not required to pay 10.0 percent of the total bond amount, and that the bill would address professionalism of bondsmen.

Written-only proponent testimony was provided by representatives of B&K Bonding, Morey & Crow Bonding, and Owens Bonding.

Written-only opponent testimony was provided by a municipal judge.

The House Committee amended the bill to:

- Clarify that an appearance bond issued for a municipal court proceeding would require the approval of the municipal judge;
- Require that a compensated surety enter into a premium financing agreement for any unpaid minimum appearance bond premium amount; and
- Amend the reasons for which a bond may be terminated or suspended to remove solicitation of appearance bond services at a jail.

### **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration states enactment of the bill could increase the number of cases filed in district court because it would create a new crime, which could result in more time spent by employees and judges processing and deciding these cases. Because this crime carries a misdemeanor penalty, court service officers could be required to perform additional supervision of offenders. According to the Office, a fiscal effect cannot be estimated until the Judicial Branch has an opportunity to operate under the bill's provisions. Enactment of the bill could result in collection of docket fees, fines, and supervision fees, which would be credited to the State General Fund.

The KBI states any fiscal effect resulting from the bill's enactment would be negligible. Any fiscal effect associated with the bill is not reflected in *The FY 2025 Governor's Budget Report*.

The League of Kansas Municipalities states enactment of the bill would have a fiscal effect on cities. Municipal courts would experience increased costs associated with enforcement of the bill's provisions and related training. The League indicates that for some cities, the bill's enactment would create a shift in how the courts currently operate.

Appearance bonds; cash bail; bond agent; judge