

BOARDS AND COMMISSIONS
Board of Private Investigators
(Amendment)

201 KAR 41:020. Application for licensure.

RELATES TO: KRS [~~Chapter 64,~~]329A.035, 329A.040(1), 329A.065(1), 28 C.F.R. 16.33[~~16.3345, 164.512(a), (d), (e)~~]

STATUTORY AUTHORITY: KRS 329A.025(1), 329A.035[;]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 329A.025(1) requires the Kentucky State Board of Licensure for Private Investigators to evaluate the qualification of candidates for licensure as private investigators and private investigating companies. KRS 329A.035 establishes application requirements for private investigators and private investigation companies. This administrative regulation establishes the application requirements and process for licensure.

Section 1. Individual Applicant[~~Application for Individual Private Investigator License~~]. (1) An individual seeking licensure as a private investigator shall submit to the board:

~~(a) A complete,~~[~~A person who has met the qualifications established in KRS 329A.035 may submit to the board the Private Investigator Application and Applicant Instructions.~~

~~(2) With a]~~ sworn and notarized Private Investigator Application;

~~(b) The nonrefundable,~~[~~the applicant shall submit to the board:~~

~~(a) The]~~ initial application fee established in 201 KAR 41:040, Section 1;[~~which shall be nonrefundable;~~

~~(c)[(b)]~~ Two (2) 2 in. x 2 in. color passport-style photographs;

~~(d)[(e)]~~ A check or money order made payable to the "Kentucky State Treasurer" for the criminal background check and fingerprint fee; and

~~(e)[(d)]~~ Authorization for release of medical, psychological, and, if applicable, records pursuant to the requirements of KRS 329A.035(3)(e)-(l).

~~(2)[(e)]~~ The applicant shall contact the Department of Professional Licensing[~~Division of Occupations and Professions~~] for the combined amount of state and federal fees, pursuant to 502 KAR 30:060 and 28 C.F.R. 16.33.

Section 2. Application for Company Private Investigator License.

(1) Owners, partners, or qualifying agents of a company seeking licensure as a private investigating company shall[~~companies who have met the qualifications established in KRS 329A.035, may]~~ submit to the board:

(a) A complete Private Investigator Company Application that has been:

1. Sworn by[~~and Applicant Instructions.~~

~~(2) With the application sworn by the individual applicant;]~~ each partner, if the applicant is a partnership;

2. Sworn by[~~or]~~ the qualifying agent;[;]

3. Notarized.

~~(b) The nonrefundable,~~[~~the applicant shall submit:~~

~~(a) The]~~ initial application fee established in 201 KAR 41:040, Section 2;[~~which shall be non-refundable; and]~~

~~(c)[(b)]~~ A check or money order made payable to the "Kentucky State Treasurer" for the criminal background check and fingerprint fee; and

~~(d)[(e)]~~ A list of all private investigators employed by the company[~~and a "proof of affilia-~~

tion" letter for each private investigator].

(2)[(d)] The applicant shall contact the Department of Professional Licensing[Division of Occupations and Professions] for the combined amount of state and federal fees, pursuant to 502 KAR 30:060 and 28 C.F.R. 16.33.

Section 3. Status Change. (1) An individual[A] licensee, applicant, or private investigation company shall notify the board in writing within thirty (30) days of a change in company affiliation, business address, residence address, or phone number[during the application process and after license issuance].

(2)(a) A private investigation company shall notify the board in writing within thirty (30) days of a change in company affiliation or upon the death or termination of a private investigator working for that company.

(b) If a private investigator's employment is terminated, the private investigation company employer shall notify the board of the reason for the termination within thirty (30) days of[state within thirty (30) days of the termination the reason for the] termination.

Section 4. Application Processing. Except for proof of a passing examination score, all application documents and fees shall be submitted within thirty (30) days of the submission of the application to the board. Failure to provide all required documents[(1) The average processing time for an application is two (2) to three (3) months.]

(2) Failure to respond to correspondence during the application processing period may delay the application.

(3)(a) An application on file with the board for more than six (6) months shall be placed in "inactive status".

(b) If a license is sought for an application in "inactive status", a new application and fee shall be required.

(4) Licensure fees not paid] within thirty (30) days of the submission of the application to the board shall result in automatic denial of the application[request or application shall result in closure of the application without further notice].

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Private Investigator Application and Applicant Instructions", 10/2008 edition; and

(b) "Private Investigator Company Application and Applicant Instructions", 10/2008 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensure for Private Investigators, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

RICK HESSIG, Board Chair

APPROVED BY AGENCY: May 14, 2019

FILED WITH LRC: May 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 10:00 a.m. on June 24, 2019 at 911 Leawood Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the

public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on June 30, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Jamar Carter, Board Administrator, 911 Leawood Drive, Frankfort, Kentucky 40601, phone 502-564-3296, fax 502-564-4818, email jamar.carter@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Jamar Carter

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for application to be a licensed private investigator or a private investigation company in the Commonwealth.

(b) The necessity of this administrative regulation: This regulation is necessary because the Board is required, pursuant to KRS 329A.025 and 329A.035, to promulgate administrative regulations establishing the procedures to apply for a Private Investigator License.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 329A.025 and KRS 329A.035 require the Board to promulgate administrative regulations establishing the procedures to apply for a Private Investigator License.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation provides the procedures for an applicant to obtain a Private Investigator or Private Investigation Company license.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment shortens the time for an applicant to complete their application to thirty (30) days from six (6) months. These change will alleviate the administrative burden of monitoring applications that have not been completed for six (6) months. An applicant should already have the necessary information prior to submitting the application and a six (6) month window is unnecessary. The remaining amendments are stylistic changes to promote clarity and ease of understanding.

(b) The necessity of the amendment to this administrative regulation: The administrative regulation amendment is necessary to shorten the time an application can be incomplete yet remain on file from six (6) months to thirty (30) days.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 329A.035 requires the Board to evaluate the qualifications of applicants for Private Investigator licensure. KRS 329A.035 expressly requires an applicant to fill out a Board approved application form.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will alleviate the administrative burden of tracking applications that have not been completed within thirty (30) days of their submission.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all new applicants for Private Investigator and Private Investigation Company licensure.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Those affected by this regulation will have thirty (30) days to complete an incomplete application rather than six (6) months.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: This administrative regulation does not impose any new costs on an applicant.

(c) As a result of compliance, what benefits will accrue to the entities: Applicants complying with this administrative regulation can expect a more efficient licensing process.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This administrative regulation is not anticipated to create costs for the administrative body.

(b) On a continuing basis: This administrative regulation is not anticipated to create costs for the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No additional funding is needed to implement this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional fees or funding are necessary to implement this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No tiering is applied because this regulation applies equally to similarly situated applicants and licensees.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Private Investigators

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 329A.035

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment to the administrative regulation will not generate additional revenue for the state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment to the administrative regulation will not generate additional revenue for the state or local government.

(c) How much will it cost to administer this program for the first year? This amendment to the administrative regulation will not cost the Commonwealth any additional funds to administer.

(d) How much will it cost to administer this program for subsequent years? This amendment to the administrative regulation will not cost the Commonwealth any additional funds to administer.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain

the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: The fees referenced in this administrative regulation are set in a comprehensive Fee regulation at 201 KAR 41:040.