

OFFICE OF ATTORNEY GENERAL
Kentucky Office of Regulatory Relief
(Amendment)

40 KAR 12:510. Prior approval to obtain excess going out of business sale license ~~[Application procedure for obtaining going out of business sale permits in excess of two (2) sales in a four (4) year period].~~

RELATES TO: KRS 365.447

STATUTORY AUTHORITY: KRS 15.180, KRS 367.150(4), 365.447

CERTIFICATION STATEMENT: This is to certify that this administrative regulation amendment complies with the requirements of 2025 RS HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.180 authorizes the Attorney General to promulgate administrative regulations that will facilitate performing the duties and exercising the authority vested in the Attorney General and the Department of Law. KRS 367.150(4) requires the Department of Law to study the operation of all laws, rules, administrative regulations, orders, and state policies affecting consumers and to promulgate administrative regulations in the consumers' interest. KRS 365.447 requires ~~[in pertinent part the Office of]~~the Attorney General to promulgate administrative regulations to establish an ~~[pertaining to] application[applications], procedures, and investigation charges[by any party]~~ for persons seeking prior approval to conduct more than two (2) going out of business sales ~~[going out of business sale permits]~~ during a four (4) year period. This administrative regulation establishes the online approval application, application processes and criteria for investigation, and ~~[sets forth the procedures for applying for a subsequent permit, the investigation to be initiated and conducted by the Attorney General], and the investigation fees for the online approval application[charges to the applicant, pursuant to KRS 365.447].~~

Section 1. Online application for prior approval to obtain excess going out of business sale license ~~[Application Procedure for Exeess Permits].~~

(1) A seller shall not acquire more than two (2) going out of business sale licenses from any county clerk during a four (4) year period unless the Attorney General approves the seller's online prior approval application in accordance with this administrative regulation. An applicant shall submit an online prior approval application using the "Prior approval to obtain excess going out of business sale license" application portal available at <https://www.ag.ky.gov/Resources/Pages/forms.aspx>

(2) When submitting an online prior approval application, the applicant shall submit: The initial seventy-five (75) dollar investigation fee; Copies of the two (2) or more prior going out of Business sale licenses issued to the applicant by any county clerk during the preceding four (4) year period; and A completed Going out of Business, Fire, Removal, or Other Sale license application, Form GOB-1, as incorporated by reference in 40 KAR 12:500, for the proposed excess going out of business sale for which the applicant seeks approval.

(3) An applicant shall complete its application by submitting additional information or documents for its approval application within thirty (30) days of any request by the Attorney General. The Attorney General may deny any approval application if an Applicant fails to timely complete the application by not paying the initial investigation fee or providing requested information or documents. ~~[When any individual, partnership, corporation or other firm seeks a permit to conduct more than two (2) going out of business sales within a four (4) year period, such party shall obtain, complete, and submit to the Office of the Attorney General, Division of Consumer Protection, an application form to obtain such permit].~~

Section 2. Initial Investigation Fee. The initial investigation fee for an approval application to obtain an excess going out of business sale license shall be seventy-five (75) dollars.

Section 3. Investigation to Determine Legitimate Business Purpose.

(1) Upon submission of a completed online prior approval application, the Attorney General, shall conduct an investigation to determine whether a legitimate business reason exists for the applicant to conduct more than two (2) going out of business sales within a four (4) year period. The Attorney General shall investigate the circumstances of the prior going out of business sales conducted by the applicant and consider all relevant information in reaching a decision. [~~Upon receipt of such application, the Office of the Attorney General, Division of Consumer Protection, shall initiate and conduct an investigation to determine if there is a legitimate business reason to conduct more than two (2) going out of business sales within a four (4) year period. The Division of Consumer Protection shall investigate the circumstances of all previous going out of business sales conducted by the applicant within the previous four (4) years and consider all relevant information in reaching its decision. Relevant business records and information shall include information relating to activities and going out of business sales conducted in other jurisdictions. The Attorney General may request additional information and relevant business records from the applicant in determining the legitimacy of the business reason for the application.~~]

(2) The Attorney General shall deny or approve an online prior approval application within thirty (30) days of receiving a completed application. [~~The Attorney General shall determine if there is a legitimate business reason for the applicant's request for any excess permits and deny or grant the permit within thirty (30) days of receiving the application.~~]

(3) Valid business reasons for conducting more than two (2) going out of business [~~going out of business~~] sales within a four (4) year period shall include:

- (a) Insolvency of the business or owner(s);
- (b) Unprofitability or inadequate profitability of the business;
- (c) Retirement of the owner(s);
- (d) Intent of the owner(s) to engage in other enterprises or endeavors;
- (e) Termination of the business to free assets to pay any judgment of any court;
- (f) Death of the owner(s), and the representatives of the estate(s), or their heirs, distributees, devisees, legatees, or their successors and assigns seek to terminate the business;
- (g) Where the business is required or compelled to be discontinued because:
 1. The premises upon which it is being conducted have been taken by eminent domain; or
 2. The premises upon which it is being conducted must be vacated pursuant to court order pursuant to a legal or judicial proceeding; or
 3. The business's lease on the premises upon which it is operating has been terminated by the landlord, or the landlord will not renew the lease.

(4) Business reasons which are not legitimate for conducting more than two (2) going out of business sales within a four (4) year period [~~the purposes of KRS 365.447~~] shall include, but not be limited to:

- (a) Opening the business with intent to conduct a going out of business [~~going out of business~~] sale with inventory brought in for that purpose, whether such inventory is owned by the business owner(s) or not, more than ninety (90) days prior to the application for the permit;
- (b) Buying into an existing business with the intent to conduct a going out of business [~~going out of business~~] sale, and bringing in large quantities of goods for that purpose, whether such inventory is owned by the business owner(s) or not, more than ninety (90) days prior to the application for the permit.

Section 4. When the Attorney General approves an applicant's online prior approval application, the applicant shall thereafter file the completed Going out of Business, Fire, Removal, or Other Sale license application, Form GOB-1, incorporated by reference in Section 2 (c) of this regulation, and a satisfactory surety bond, with the county clerk in accordance with 40 KAR 12:500 in order to obtain a license authorizing the excess sale.

Section 5. ~~Section 3.~~ Application Investigation Costs. ~~The applicant may be charged the costs of the investigation.~~ The Attorney General may charge the applicant for the actual costs of the prior approval application investigation which exceed the initial investigation fee~~. The actual costs shall be assessed the applicant by the Attorney General~~, however ~~the minimum charge shall be twenty-five (25) dollars, and~~ the maximum total charge shall not exceed five hundred dollars (\$500.00)~~[\$250]~~.

Section 6. ~~Section 4.~~ Applicant may request an administrative hearing on application denial. If the Attorney General denies an applicant's application for prior approval to obtain an excess license, the applicant may submit a written request to the Attorney General for an administrative hearing on the application denial pursuant to KRS Chapter 13B. ~~Any applicant whose application is denied by the Attorney General following investigation may seek appeal of the denial pursuant to 40 KAR 2:230 and 40 KAR 2:240.~~

Section 7. Incorporation by Reference.

(1) "Prior Approval to obtain Excess Going Out of Business Sale license application portal," Feb. 2026, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Attorney General, Capital Complex East, 1024 Capital Drive, Frankfort, Kentucky 40601, Monday through Friday, between the hours of 8:00 a.m. and 4:30 p.m. This material is also available on the Attorney General's website, <https://ag.ky.gov/Pages/default.aspx>.

STEPHEN B. HUMPHRESS, Executive Director
RUSSELL COLEMAN, Attorney General

APPROVED BY AGENCY: February 20, 2026

FILED WITH LRC: February 24, 2026 at 1:04 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 21, 2026, at 11:00 a.m. Eastern Time at the Office of Administrative Hearings, Conference Room B, 105 Sea Hero Road, Suite 2, Conference Room B, Frankfort, Kentucky 40601. Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the Attorney General in writing at least five (5) working days 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 May 31, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Stephen B. Humphress, Executive Director, Kentucky Office of Regulatory Relief, Kentucky Office of Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone: 502-696-5408, fax: (502) 573-8317, email: steve.humphress@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Stephen B. Humphress

Subject Headings: Attorney General; County Clerks; Occupations and Professions; Bonds

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation prescribes the online prior approval application form, application processes and criteria, investigation costs, and administrative hearing rights for persons wishing to conduct more than two (2) going out of business ("excess") sales within a four (4) year period.

(b) The necessity of this administrative regulation:

This regulation is necessary since it allows the Office of Attorney General ("Attorney General"), to perform its statutory mandates.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 15.180 directs the Attorney General to promulgate administrative regulations that will facilitate the performance of duties vested in the Attorney General and the Department of Law. KRS 367.150(4) requires the Department of Law to study the operation of all laws, rules, administrative regulations, orders, and state policies affecting consumers and to recommend administrative regulations in the consumers' interest. KRS 365.447 requires Attorney General to promulgate administrative regulations to establish a prior approval application, application processes, and investigation charges for persons wishing to conduct more than two (2) going-out-of-business sales within a four (4) year period.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation establishes an online prior approval application process to be used by applicants seeking to conduct excess going out of business sales. This administrative regulation also establishes application processes and criteria, investigation fees, and administrative hearing rights of persons seeking to conduct more than two (2) going-out-of-business sales within a four (4) year period.

(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 makes changes to comply with KRS Chapter 13A drafting requirements. The amendment removes unnecessary language from the regulation, so it is easier to understand. This amendment and companion amendment to 40 KAR 12:500 combine three (3) regulations into two (2) regulations to reduce the regulatory burden on regulated entities. These companion amendments eliminate the need for 40 KAR 2:200, which will be repealed. The amendment provides for a new online application form which is easier to complete and provides better instructions to regulated businesses. The amendment increases the initial investigation fee of \$25.00 to \$75.00 and increases maximum investigation fee of \$250.00 to the statutory maximum of \$500.00.

(b) The necessity of the amendment to this administrative regulation:

The Attorney General needs to update its regulations to conform to KRS Chapter 13A drafting requirements. The Attorney General needs to update its regulations and cause them to be easier to understand. The Attorney General needs to reduce the number of regulations to relieve the regulatory burden on regulated businesses. The Attorney General needs to modernize application and payment processes by providing for online processes.

(c) How the amendment conforms to the content of the authorizing statutes:

As previously explained, KRS 15.180, KRS 367.150(4) and KRS 365.447 authorize the administrative regulation amendments.

(d) How the amendment will assist in the effective administration of the statutes:

The regulation amendments will cause the regulation to be more easily understood by regulated entities and consumers. The regulation amendments will provide an easier online application and payment processes for regulated entities.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? No

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

The regulation will affect an unknown but small number of applicants who seek prior approval to obtain an excess going out of business sale license. The regulation will affect the Attorney General and all county clerks.

(5) Provide an analysis of how the entities identified in question (4) 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 that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment:

Excess going out to business sale applicants will be required to use the new online application process and pay the investigation fee. The Attorney General will review and process the online application submissions for compliance with the law. County clerks will require applicants to obtain prior Attorney General approval through the online application processes before issuing a local excess going out of business sale license.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

Applicants will incur no additional to use the online processes available on the Attorney General's website at no cost. Applicants will be required to pay an investigation fee of \$75.00. The Attorney General will incur no additional costs to process the online application submissions. County clerks will incur no costs by the new online processes.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

It is intended that the online application process will make it easier for applicants to apply and provide required documentation. In addition, it is intended that the regulation amendments will result in saved administrative resources and time and provide quicker application processing by Attorney General staff. It is intended that the regulation amendments will result in saved administrative resources and time and provide quicker local license application processing by county clerks after Attorney General approval.

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

(a) Initially:

There are no costs to implement this administrative regulation amendment.

(b) On a continuing basis:

There are no continuing costs to implement this administrative regulation amendment.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment:

There are no additional costs associated with implementing this administrative regulation amendment.

(8) 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:

There is no anticipated increase in fees or funding necessary to amend this administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation amendment increases the initial investigation fee from \$25.00 to \$75.00 and increases the maximum investigation fee from \$250.00 to the statutory maximum of \$500.00.

(10) TIERING: Is tiering applied?

No. This administrative regulation applies equally to all prior approval excess going out of sale applicants.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation:

. KRS 15.180, 367.150(4), and 365.447.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

This administrative regulation is expressly authorized by 1960 Ky. Acts ch. 68, Art. II, sec. 1; 1972 Ky. Acts ch. 4, sec. 4; and 1994 Ky. Acts ch. 305, sec. 4.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:

The Office of Attorney General, Kentucky Office of Regulatory Relief ("Attorney General") is the promulgating agency. The administrative regulation amendment does not affect any other state agencies. (b) Estimate the following for each affected state unit, part, or division in (3)(a):

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:There are no expenditures to administer this administrative regulation amendment for the first year.

For subsequent years:There will be no expenditures to administer the administrative regulation amendment in subsequent years.

2. Revenues:

For the first year:It is estimated that the administrative regulation amendment will generate no revenues to the Attorney General for the first year.

For subsequent years:It is estimated that the administrative regulation amendment will generate no revenues to the Attorney General in subsequent years.

3. Cost Savings:

For the first year:In the first year, the administrative regulation amendment will cause the Attorney General to receive cost savings from efficient and quicker processing of the online applications, which are difficult to estimate at this time, but estimated to be de minimis.

For subsequent years:In subsequent years, the administrative regulation amendment will cause the Attorney General to receive cost savings from efficient and quicker processing of the online applications, which are difficult to estimate at this time, but estimated to be de minimis.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):

The administrative regulation amendment will affect all county clerks. The administrative regulation amendment does not affect any other local entities.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:This administrative regulation amendment will not cause expenditures by county clerks for the first year.

For subsequent years:This administrative regulation amendment will not cause expenditures by county clerks in subsequent years.

2. Revenues:

For the first year:County clerks will receive no revenues from this administrative regulation for the first year.

For subsequent years:County clerks will receive no revenues from this administrative regulation in subsequent years.

3. Cost Savings:

For the first year:The administrative regulation amendment is intended to cause county clerks to receive cost savings from efficient and quicker Attorney General prior approval of excess sales online applications, which are difficult to estimate at this time, but estimated to be de minimis, for the first year.

For subsequent years:The administrative regulation amendment is intended to cause county clerks to receive cost savings from efficient and quicker Attorney General prior approval of excess sales online applications, which are difficult to estimate at this time, but estimated to be de minimis, in subsequent years.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):

Applicants seeking prior approval to obtain an excess going out of business sale license will be affected by this administrative regulation amendment.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year:This administrative regulation amendment will cause an applicant to have an additional expenditure of \$50 for the first year.

For subsequent years:This administrative regulation amendment will cause an applicant to have an additional expenditure of \$50 in subsequent years.

2. Revenues:

For the first year:Applicants will not receive any revenues directly from this administrative regulation amendment for the first year.

For subsequent years:Applicants will not receive any revenues directly from this administrative regulation amendment in subsequent years.

3. Cost Savings:

For the first year:The administrative regulation amendment is intended to cause applicants to receive cost savings from quicker processing of online prior approval applications, which are difficult to estimate at this time, but estimated to be de minimis, for the first year

For subsequent years:The administrative regulation amendment is intended to cause applicants to receive cost savings from quicker processing of online prior approval applications, which are difficult to estimate at this time, but estimated to be de minimis, in subsequent years.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:

This administrative regulation amendment will have no fiscal impact. The amendment merely creates an online prior approval application for an applicant seeking prior approval to obtain an excess going out of business sale license from a county clerk. The amendment does not affect any other governmental agencies or local governments. The amendment only increases the initial investigation fee by fifty dollars (\$50). For these reasons, the regulation is not expected to have any significant fiscal impact.

(b) Methodology and resources used to reach this conclusion:

The Attorney General used a quantitative methodology analysis based on history of administrative agencies which license or register businesses in a specific subject area and the resulting facts from this regulation. The Attorney General used staff resources in determining the fiscal impact.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13): There is not an expected "major economic impact" from this regulation for the Attorney General, any local entities, or affected regulated entities.

(b) The methodology and resources used to reach this conclusion:

The Attorney General used a quantitative methodology analysis based on history of administrative agencies which license or register businesses in a specific subject area and resulting facts from this regulation. The Attorney General used staff resources in reaching the conclusion that no overall negative or adverse major economic impact results from this administrative regulation amendment.