

OFFICE OF ATTORNEY GENERAL
Kentucky Office of Regulatory Relief
(Amended at ARRS Committee)

40 KAR 12:410. Business opportunity ~~sellers~~~~forms~~.

RELATES TO: KRS 367.805, 367.807, 367.815~~[367.816, 367.990(13)]~~

STATUTORY AUTHORITY: KRS 15.180, 367.150(4), 367.805(4)

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 recommend administrative regulations in the consumers' interest. KRS 367.805 requires business opportunity sellers to register with the Attorney General and provide certain information and documents. KRS 367.805 requires registered business opportunity sellers to renew registrations annually. KRS 367.805 and 367.815 require business opportunity sellers to submit surety bonds or cash certificates of deposit to the Attorney General. KRS 367.807 exempts certain offerors from the provisions of KRS 367.801 to 367.819. This administrative regulation establishes an online registration application process, an online renewal registration application process, a surety bond, and a cash bond/certificate of assignment for use by business opportunity sellers; and an online notice submission process for exempt offerors. ~~To provide forms which allow for the review of a prospective seller's offering of business opportunities for conformity with the business opportunity act and for the registration of the seller as such is needed.~~

Section 1. Business Opportunity Sellers Registration Application.

(1)

(a) A business opportunities seller shall not make sales to Commonwealth of Kentucky residents unless the Attorney General approves the ~~The Attorney General must approve a~~ business opportunity seller's registration application in accordance with this administrative regulation ~~before a seller may sell business opportunities to Commonwealth of Kentucky residents~~.

(b) An applicant ~~A business opportunity seller~~ shall submit an online registration application using the ~~"~~ Business Opportunity Seller registration application portal ~~"~~ available at <https://www.ag.ky.gov/Resources/Pages/Office-of-Regulatory-Relief.aspx>.

(2) To complete ~~When completing~~ an online application, an applicant shall submit:

(a) Payment of the \$150.00 registration fee;

(b) The applicant's certificate of existence, authorization certificate from the Kentucky Secretary of State's office, or other evidence of the applicant's authority to transact business in Kentucky;

(c) A completed Business Opportunity Seller Surety Bond, form A-1; a completed Business Opportunity Seller Cash Bond/Certificate of Deposit Assignment, form A-2; a completed surety bond complying with KRS 367.815; or a completed cash bond/certificate of deposit assignment complying with KRS 367.815;

(d) A copy of applicant's current audited financial statement;

(e) Copies of all materials provided by the applicant to prospective consumers or investors; and

(f) Copies of all contracts used by the applicant.

~~[(1)] [A seller of business opportunities shall register with the Attorney General pursuant to KRS 367.805 if the seller's proposed activity meets the definition of a business opportunity set out in KRS 367.801.]~~

~~[(2)] [The Attorney General shall make the business opportunity determination pursuant to subsection (1) of this section consistent with the following information which shall be provided by the seller in affidavit form:]~~

~~[(a)] [The name of the business opportunity;]~~

~~[(b)] [The complete address and telephone number of the principle office;]~~

~~[(c)] [The address and telephone number of the principal office in Kentucky;]~~

~~[(d)] [A list of trade names, assumed names and all trademarks by which the offeror or the prospective consumer or investor will be doing business;]~~

~~[(e)] [A list of all officers and directors and salesmen of the offeror along with their home addresses, home telephone numbers and Social Security numbers;]~~

~~[(f)] [A description of the product or service to be offered;]~~

~~[(g)] [A description of any sales commission or other remuneration to be paid to anyone in connection with offers and sales of the business opportunities, including a list of persons and positions to receive commissions;]~~

~~[(h)] [A list of states in which the business opportunities have been or are being offered for sale;]~~

~~[(i)] [The proposed beginning date and length of time for offering this business opportunity in Kentucky;]~~

~~[(j)] [Information relating to the definition of a business opportunity found in KRS 367.801(5);]~~

~~[(k)] [A statement of whether the registrant or any of its officers, directors, or sales representatives has been a defendant or is currently a defendant in any litigation or declares bankruptcy within the last seven (7) years.]~~

~~[(3)]~~

~~[(a)] [The information required pursuant to subsection (2) of this section shall be supplied by the seller on a "Determination of Registration for Sale of Business Opportunity Form A-1" (July 1994 edition) which is incorporated by reference.]~~

~~[(b)] [Copies of the "Determination of Registration for Sale of Business Opportunity Form A-1" may be inspected, copied, or obtained at the Office of Attorney General, Consumer Protection Division, 1024 Capital Center Drive, Frankfort, Kentucky 40602, between the hours of 8:30 a.m. and 4:30 p.m. Monday through Friday.]~~

(3) *An applicant* ~~Applicants~~ shall submit additional information or documents for their application within thirty (30) days of any request by the Attorney General. The Attorney General may deny any application if an applicant fails to timely complete the application by not paying the application fee or not submitting requested missing information or required documents.

Section 2. Business Opportunity Seller Renewal Application.

(1) An approved business opportunity seller registration *or* renewal ~~renewal~~ application shall be valid for one (1) year from *the date of* written confirmation of registration *or renewal* approval provided by the Attorney General. [If the Attorney General determines that a seller of business opportunities must register pursuant to KRS 367.805, the seller shall complete a "Business Opportunity Annual Registration Statement Form A-2" which shall contain the following information in affidavit form:]

(2) Thirty (30) days prior to the expiration of a current registration, a registrant may renew its registration . *Registration renewal shall be accomplished* ~~for another annual period~~ by submitting an online renewal application using the ~~"~~ Business Opportunity Sellers Renewal application portal ~~"~~ available at <https://www.ag.ky.gov/Resources/Pages/Office-of-Regulatory-Relief.aspx>.

(3) To complete ~~When completing~~ the online renewal application portal, a registrant shall submit:

(a) Payment of the \$50.00 renewal fee;

(b) A copy of the registrant's audited financial statement for the preceding year;

(c) A completed Business Opportunity Seller Surety Bond, form A-1; a completed Business Opportunity Seller Cash Bond/Certificate of Deposit Assignment, form A-2; a completed surety bond complying with KRS 367.815; or a completed cash ~~bond or certificate~~ ~~bond/certificate~~ of deposit complying with KRS 367.815; ~~if~~ ~~when~~ the registrant's prior filed security is not current.

(d) Copies of any new materials provided by the registrant to prospective *consumers or investors* ~~consumers/investors~~ since last application; and

(e) Copies of any new contracts used by registrant since last application.

(4) A registrant shall submit additional information or documents for its renewal application within thirty (30) days of any request by the Attorney General. The Attorney General may deny any renewal application if a registrant fails to timely complete the application by not paying the renewal application fee or not submitting requested missing information or required documents.

(5) Any registration renewal by the Attorney General shall not be construed to waive or condone any violation of law that occurred prior to any registration renewal and shall not prevent subsequent proceedings against the registrant.

~~{(2)}~~

~~{(a)} [The name of the business opportunity;]~~

~~{(b)} [The complete address and telephone number of the principle office;]~~

~~{(c)} [The address and telephone number of the principal office in Kentucky;]~~

~~{(d)} [A list of trade names, assumed names and all trademarks by which the offeror or the prospective consumer or investor will be doing business;]~~

~~{(e)} [A list of all officers and directors and salesmen of the offeror along with their home addresses, home telephone numbers and Social Security numbers;]~~

~~{(f)} [The length of time, the business opportunity has been offered for sale;]~~

~~{(g)} [A statement of whether the registrant or company or any of its officers, directors, or sales representatives have been involved in or is currently involved in any legal proceeding as set forth in KRS 367.805(1)(d);]~~

~~{(h)} [A statement of whether the registrant or any of its officers, directors, or sales representatives has been a defendant or is currently a defendant in any litigation or declares bankruptcy within the last seven (7) years;]~~

~~{(i)} [A statement of whether the registrant or the company offering the business opportunity or its officers, directors, or sales representatives has been a party to any legal cause of action brought by a consumer/investor of the business opportunity within the last seven (7) years and, if so, the name and address of individual bringing such action;]~~

~~{(j)} [The names and addresses, and telephone numbers for people buying a business opportunity from offeror during the past two (2) years;]~~

~~{(k)} [The names and addresses of individuals requesting a return of money from the purchase of a business opportunity during the past three (3) years;]~~

~~{(l)} [A complete description of the training to be provided to the consumer investor;]~~

~~{(m)} [A complete description of the actual services the offeror of the business opportunity will provide for the consumer investor.]~~

~~{(3)}~~

~~{(a)} [The information required pursuant to subsection (1) of this section shall be supplied by the seller on a "Business Opportunity Annual Registration Statement Form A-2" (September 1994 edition) which is incorporated by reference.]~~

~~[(b)] [Copies of the "Business Opportunity Annual Registration Statement Form A-2" (September 1994 edition) may be inspected, copied, or obtained at the Office of Attorney General, Consumer Protection Division, 1024 Capital Center Drive, Frankfort, Kentucky 40602, between the hours of 8:30 a.m. and 4:30 p.m. Monday through Friday.]~~

Section 3. Exempt Offerors.

(1) A business claiming a KRS 367.807 exemption from the provisions of KRS 367801 to 367.819 shall submit a notice of exemption using the ~~f=~~ Franchise Exemption Notice portal ~~f=~~ available at <https://www.ag.ky.gov/Resources/Pages/Office-of-Regulatory-Relief.aspx>.

(2) ~~To complete~~ ~~When completing~~ the online exemption notice portal, the offeror shall submit:

(a) The offeror's certificate of existence; authorization certificate from the Kentucky Secretary of State's office, or other evidence of the applicant's authority to transact business in Kentucky; and

(b) A copy of the offeror's Federal Trade Commission (FTC) Franchise Disclosure Document (FDD) ~~if~~ ~~when~~ the KRS 367.807(1)(a) franchise exemption is claimed.

Section 4. Written notification of material changes. A registered business opportunity seller and offeror submitting an exemption notice shall notify the Attorney General, in writing, within fourteen (14) days of any material change to information provided in the registrant's original application, any renewal application, or application attachments.

Section 5. Record Requests. A business opportunity seller or offeror submitting an exemption notice shall make ~~business~~ ~~requested~~ records, documents, and information ~~related to an investigation or inquiry~~ readily available to the Attorney General for inspection and copying upon request.

Section 6. Incorporation by Reference.

(1) The following materials are incorporated by reference:

(a) "Business Opportunity Seller Surety Bond", Form A-1, Dec. 2025;

(b) "Business Opportunity Seller Cash Bond/CD Assignment", Form A-2, Dec. 2025;

(c) "Business Opportunity Seller Registration application portal," Dec. 2025 ; ~~f=~~

(d) "Business Opportunity Sellers Renewal application portal," Dec. 2025 ; ~~and~~ ~~f=~~

(e) "Franchise Exemption Notice portal," Dec. 2025.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Attorney General, Capital Complex East, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40602, Monday through Friday, between the hours of 8:00 a.m. and 4:30 p.m. This material is also available on the Office's website, <https://ag.ky.gov/Pages/default.aspx>.

FILED WITH LRC: March 9, 2026

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