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

40 KAR 12:510. Prior approval to obtain excess going out of business sale license.

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 the Attorney General to promulgate administrative regulations to establishapplication procedures and investigation charges for persons seeking prior approval to conduct more than two (2) going out of business sales during a four (4) year period. This administrative regulation establishes the online approval application, application processes and criteria for investigation and the investigation fees for the online approval application.

Section 1. Online Application for Prior Approval to Obtain Excess Going out of Business Sale License.

(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) To complete an online prior approval application, the applicant shall submit:

(a) The initial seventy-five (75) dollar investigation fee;

(b) 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

(c) A completed Going out of Business, Fire, Removal, or Other KRS 365.415 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 the 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..

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 if there is a legitimate business reason 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.

(2) The Attorney General shall deny or approve an online prior approval application within thirty (30) days of receiving a completed application.

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

(a) Insolvency of the business, owner or owners;

(b) Unprofitability or inadequate profitability of the business;

(c) Retirement of the owner or owners;

(d) Intent of the owner or owners 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 or owners, and the representatives of the estate or estates, or their heirs, distributees, devisees, legatees, or their successors and assigns seek to terminate the business; and

(g) If 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;

2. The premises upon which it is being conducted has to 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 that shall not be considered legitimate for conducting more than two (2) going out of business sales within a four (4) year period shall include, for example:

(a) Opening the business with intent to conduct a going out of business sale with inventory brought in for that purpose, whether the inventory is owned by the business owner or owners or not, more than ninety (90) days prior to the application for the permit; and

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

Section 4. In order to obtain a license authorizing the excess sale, once the Attorney General approves an applicant's online prior approval application, the applicant shall, in accordance with 40 KAR 12:500, file with the county clerk:

(1) The completed Going out of Business, Fire, Removal, or Other KRS 365.415 Sale License Application, form GOB-1, incorporated by reference in 40 KAR 12:500;

(2) A copy of the Attorney General's letter of approval; and

(3) A surety bond.

Section 5. Application Investigation Costs. The Attorney General may charge the applicant for the actual costs of the prior approval application investigation if costs exceed the initial investigation fee, however the maximum total charge shall not exceed $500.

Section 6. An 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. The hearing process shall be pursuant to KRS Chapter 13B.

Section 7. Incorporation by Reference.

(1) "Prior Approval to Obtain Excess Going Out of Business Sale License Application," 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.

(040 KAR 002:220. 21 Ky.R. 704, 1463, 1720; eff. 11-17-1994; Crt eff. 2-21-2020; Recodified as 040 KAR 012:510; eff. 7-18-2025; 52 Ky.R. 1726; 53 Ky.R. 12; eff. 9-29-2026.)

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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.