

2012 Kansas Statutes

58-2802. Bond and insurance requirements; liabilities, limitations; abstracting of certain rights-of-way and easements; additional bond; certain acts prohibited. (a) No license shall be issued to any applicant until the applicant files with the board a bond and a policy of insurance as provided in this section. The bond shall be in an amount established by the board of not less than \$25,000. Such insurance shall be a policy of errors and omissions in an amount not less than \$25,000, with a deductible permitted of not to exceed 10% of the amount of the insurance coverage, as determined by the abstracters' board of examiners, and shall be issued by a company authorized to transact business in the state of Kansas.

(b) If the \$25,000 liability insurance is unavailable to any applicant, the abstracters' board of examiners may issue a license to the applicant upon (1) the applicant furnishing a bond in the amount of the total of both the insurance coverage required under subsection (a) and the amount of the bond required from the applicant by the board of examiners under subsection (a). Such bond may be furnished in lieu of filing both the insurance policy and the bond required under subsection (a). The applicant shall file a copy of such bond, certified by the chairperson of the board as true and correct, with the county clerk of the county for which the bond was given. The bond shall be executed by a surety company authorized to transact business in this state; or (2) the applicant furnishing a bond signed by a sufficient surety to be approved by the board of examiners. The bond shall be in the penal sum of not less than \$5,000 conditioned for payment by the applicant of any and all actual damages that may be sustained or may accrue to any person, firm, corporation or body politic by reason of or on account of any error, deficiency or mistake in any abstract or continuation thereof made and issued by the applicant. A cause of action for such damages shall not be deemed to have accrued until the error, deficiency or mistake giving rise to the cause of action first causes substantial injury or, if the fact of injury is not reasonably ascertainable until some time after the initial error, deficiency or mistake, the period of limitation shall not commence until the fact of injury becomes reasonably ascertainable to the injured party. In no event shall the period of limitation be extended more than 15 years beyond the time of the act giving rise to the cause of action.

(c) In cases where there is filed of record a right-of-way or other easement grant over or under lands for public utility or private or common carrier purposes if the title of the instrument or proceeding in condemnation granting or creating right-of-way or easement, together with a description of the character thereof, the names of the parties thereto, and index and date of recording, is shown on the abstract, it shall not be necessary to show on the abstract (1) any subsequent mortgages, deeds of trust or other encumbrances of the right-of-way or easement rights or of fixtures located thereon owned by the holder of the right-of-way or easement, or (2) any subsequent releases of such mortgages, deeds of trust or encumbrances, or (3) any documents showing the corporate character of such owner or of any mortgagee or trustee of such right-of-way or easement. It shall not be necessary to show on the abstract any privileged or confidential document or proceeding which is not open for inspection on file or of record in the district court and a failure to show such matters shall not be deemed incompleteness, imperfection or error on the part of those compiling the abstract. No abstracter shall be held liable for not showing such matters and, if the abstracter does show them, the abstracter shall not be permitted to charge compensation therefor unless express request to show any or all of such matters is made in writing to the abstracter.

(d) Any licensee doing business in more than one county shall furnish an additional bond for each county where the licensee does business to be executed, approved and filed as required by the board. Any license issued under the provisions of this act shall be in a form approved by the board except that such form shall recite that such bond has been filed and approved. No licensee, unless duly licensed to practice law, shall for hire examine and furnish an opinion on an abstract of title nor draw wills or other legal instruments not in connection with the licensee's own business, and for violation thereof, the license shall be revoked.

History: L. 1941, ch. 348, § 3; L. 1945, ch. 259, § 1; L. 1967, ch. 307, § 1; L. 1972, ch. 214, § 1; L. 1973, ch. 224, § 1; L. 1976, ch. 145, § 208; L. 1977, ch. 192, § 1; L. 1983, ch. 186, § 2; L. 1989, ch. 166, § 1; L. 2006, ch. 124, § 5; July 1.