

AN ACT relating to the transfer of property on death.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 13 of this Act, unless the context otherwise requires:

- (1) "Beneficiary" means a person who receives property in a transfer on death deed;*
- (2) "Designated beneficiary" means a person designated to receive property in a transfer on death deed;*
- (3) "Joint owner" means an individual who owns property concurrently with one (1) or more other individuals with a right of survivorship and includes joint tenants and tenants by the entirety. "Joint owner" does not include a tenant in common or owner of community property without a right of survivorship;*
- (4) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;*
- (5) "Property" means an interest in real property located in this state that is transferable on the death of the owner;*
- (6) "Proof of death" means a death certificate or a record or report that is prima facie proof or evidence of an individual's death;*
- (7) "Transfer on death deed" means a deed authorized under Sections 1 to 13 of this Act; and*
- (8) "Transferor" means an individual who makes a transfer on death deed.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO READ AS FOLLOWS:

- (1) An individual may transfer property to one (1) or more beneficiaries effective at the transferor's death by a transfer on death deed.*

- (2) A transfer on death deed shall be revocable as provided under Section 3 of this Act even if the deed or another instrument contains a contrary provision.
- (3) A transfer on death deed shall be nontestamentary.
- (4) The capacity to make or revoke a transfer on death deed shall be the same as the capacity required to make a will.
- (5) A transfer on death deed or an instrument revoking a transfer on death deed shall be void if it is obtained by fraud, duress, or undue influence.
- (6) A proceeding shall be commenced within twelve (12) months after the transferor's death to:
- (a) Contest the capacity of the transferor; or
 - (b) Determine whether a transfer on death deed or an instrument revoking a transfer on death deed is void because it was obtained by fraud, duress, or undue influence.
- (7) A transfer on death deed shall:
- (a) Except as otherwise provided in this subsection, contain the required elements and formalities of a properly recordable inter vivos deed;
 - (b) Designate one (1) or more persons, identified by name, as a designated beneficiary. A transfer on death deed that uses a beneficiary designation that only identifies beneficiaries as members of a class is void;
 - (c) If the transferor is married, contain a sworn statement by the transferor's spouse that the spouse's dower or curtesy rights are subordinate to the vesting of title to the property or interest in the property to the designated beneficiary at the time of transfer;
 - (d) State that the transfer to the designated beneficiary is to occur at the transferor's death; and
 - (e) Be recorded before the transferor's death in the public records in the office of the county clerk in the county where the property to be transferred is

located.

(8) A transfer on death deed shall be effective without:

- (a) Notice or delivery to, or acceptance by, the designated beneficiary during the transferor's life; or
- (b) Consideration.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, an instrument shall be effective to revoke a recorded transfer on death deed in whole or in part only if the instrument is one (1) of the following:

- (a) A transfer on death deed that revokes the deed or part of the deed expressly or by inconsistency;
- (b) An instrument of revocation that expressly revokes the deed or part of the deed;
- (c) An inter vivos deed that expressly revokes the transfer on death deed or part of the deed; or
- (d) An inter vivos deed that transfers an interest in property that is the subject of a transfer on death deed;

and is acknowledged by the transferor after the acknowledgment of the deed being revoked and recorded before the transferor's death in the public records in the office of the county clerk in the county where the deed is recorded.

(2) If a transfer on death deed is made by more than one (1) transferor:

- (a) Revocation by a transferor shall not affect the deed as to the interest of another transferor; and
- (b) A deed of joint owners is revoked only if it is revoked by all of the living joint owners.

(3) After a transfer on death deed is recorded, it shall not be revoked by a will or

codicil, or by a revocatory act on the deed.

(4) If a recorded power of attorney or the transfer on death deed expressly grants a designated agent or the transferor the power to revoke a transfer on death deed, the designated agent may revoke the transfer on death deed as provided in this section.

(5) The signature, consent, agreement of, or notice to the designated beneficiary of any revocatory act shall not be required.

(6) Nothing in this section shall limit the effect of an inter vivos transfer of the property.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO READ AS FOLLOWS:

During a transferor's life, a transfer on death deed shall not:

(1) Affect an interest or right of the transferor or any other owner, including the right to transfer or encumber the property;

(2) Affect an interest or right of a transferee, even if the transferee has actual or constructive notice of the deed;

(3) Affect an interest or right of a secured or unsecured creditor or future creditor of the transferor, even if the creditor has actual or constructive notice of the deed;

(4) Affect the transferor's or designated beneficiary's eligibility for any form of public assistance;

(5) Create a legal or equitable interest in favor of the designated beneficiary; or

(6) Subject the property to claims or process of a creditor of the designated beneficiary.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in the transfer on death deed, in this section, or under Section 15 of this Act, KRS 394.092, 394.400, or 397.1002, on the death of

the transferor, the following shall apply to the property that is the subject of a transfer on death deed and owned by the transferor at death:

(a) The interest in the property is transferred to the designated beneficiary in accordance with the deed;

(b) The interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor, and the interest of a designated beneficiary that fails to survive the transferor lapses;

(c) Subject to paragraphs (d) and (e) of this subsection, concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship;

(d) If the transferor has identified two (2) or more designated beneficiaries to receive concurrent interests in the property and the transferor has not named an alternate designated beneficiary under paragraph (e) of this subsection for the share of a designated beneficiary that lapses or fails for any reason, the lapsing or failing share shall be transferred to the other remaining designated beneficiaries in proportion to the interest of each remaining beneficiary in the remaining part of the property held concurrently; and

(e) The transferor may identify one (1) or more alternate designated beneficiaries to take the share of a designated beneficiary that lapses or fails for any reason.

(2) Subject to KRS 382.010 to 382.385, a beneficiary shall take the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the property is subject at the transferor's death. For purposes of this subsection and Section 16 of this Act, the recording of the transfer on death deed to the beneficiary shall be deemed to have occurred at the transferor's death.

(3) If the transferor is a joint owner and is:

- (a) Survived by one (1) or more other joint owners, the property that is the subject of a transfer on death deed shall belong to the surviving joint owner or owners with right of survivorship; or
- (b) The last surviving joint owner, the transfer on death deed is effective.

(4) A transfer on death deed shall transfer property without covenant or warranty of title even if the deed contains a contrary provision.

(5) A beneficiary may disclaim all or part of the beneficiary's interest as provided under KRS 394.035.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO READ AS FOLLOWS:

(1) To the extent the transferor's probate estate is insufficient to satisfy an allowed claim against the estate, the costs of administration of the estate, or a statutory allowance to a surviving spouse or child, the estate may enforce the liability against property transferred at the transferor's death by a transfer on death deed.

(2) If more than one (1) property is transferred by one (1) or more transfer on death deeds, the liability under subsection (1) of this section shall be apportioned among the properties in proportion to their net values at the transferor's death.

(3) A proceeding to enforce the liability under this section must be commenced not later than twelve (12) months after the transferor's death. A proceeding to enforce the liability under subsection (1) of this section may not be commenced unless the personal representative of the transferor's estate has received a written demand by the surviving spouse, a creditor, a child of the decedent, or a person acting for a child of the decedent.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO READ AS FOLLOWS:

(1) The form in subsection (2) of this section may be used to create a transfer on

death deed. In addition, each county clerk shall offer the following form to the public, as prescribed by the Department for Libraries and Archives, to effect a transfer on death deed.

(2) The provisions of Sections 1 to 13 of this Act shall govern the effect of this or any other instrument used to create a transfer on death deed:

(front of form)

REVOCABLE TRANSFER ON DEATH DEED

NOTICE TO OWNER

You should carefully read all information on the other side of this form. You May Want to Consult a Lawyer Before Using This Form.

This form must be recorded before your death, or it will not be effective.

IDENTIFYING INFORMATION

Owner or Owners Making This Deed:

Printed name Mailing address

Printed name Mailing address

Legal description of the property:

PRIMARY BENEFICIARY

I designate the following beneficiary if the beneficiary survives me:

Printed name Mailing address, if available

ALTERNATE BENEFICIARY – Optional

If my primary beneficiary does not survive me, I designate the following alternate beneficiary if that beneficiary survives me:

Printed name _____ Mailing address, if available _____

TRANSFER ON DEATH

At my death, I transfer my interest in the described property to the beneficiaries as designated above.

Before my death, I have the right to revoke this deed.

SIGNATURE OF OWNER OR OWNERS MAKING THIS DEED

[(SEAL)]

Signature _____ Date _____

[(SEAL)]

Signature _____ Date _____

ACKNOWLEDGMENT

(insert acknowledgment for deed here)

(back of form)

COMMON QUESTIONS ABOUT THE USE OF THIS FORM

1. What does the Transfer on Death (TOD) deed do? When you die, this deed transfers the described property, subject to any liens or mortgages or other encumbrances on the property at your death. Probate is not required. The TOD deed has no effect until you die. You can revoke it at any time. You are also free to transfer the property to someone else during your lifetime. If you do not own any interest in the property when you die, this deed will have no effect.

2. How do I make a TOD deed? Complete this form. Have it acknowledged before a notary public or other individual authorized by law to take acknowledgments. Record the form in each county where any part of the property is located. The form has no effect unless it is acknowledged and recorded before your death.

3. Is the "legal description" of the property necessary? Yes.

4. How do I find the "legal description" of the property? This information may be on the deed you received when you became an owner of the property. This

information may also be available in the county clerk's office for the county where the property is located. If you are not absolutely sure, consult a lawyer.

5. Can I change my mind before I record the TOD deed? Yes. If you have not yet recorded the deed and want to change your mind, simply tear up or otherwise destroy the deed.

6. How do I "record" the TOD deed? Take the completed and acknowledged form to the county clerk's office of the county where the property is located. Follow the instructions given by the county clerk to make the form part of the official property records. If the property is in more than one county you should record the deed in each county.

7. Can I later revoke the TOD deed if I change my mind? Yes. You can revoke the TOD deed. No one, including the beneficiaries, can prevent you from revoking the deed.

8. How do I revoke the TOD deed after it is recorded? There are three ways to revoke a recorded TOD deed: (1) Complete and acknowledge a revocation form, and record it in each county where the property is located. (2) Complete and acknowledge a new TOD deed that disposes of the same property, and record it in each county where the property is located. (3) Transfer the property to someone else during your lifetime by a recorded deed that expressly revokes the TOD deed. You may not revoke the TOD deed by will.

9. I am being pressured to complete this form. What should I do? Do not complete this form under pressure. Seek help from a trusted family member, friend, or lawyer.

10. Do I need to tell the beneficiaries about the TOD deed? No, but it is recommended. Secrecy can cause later complications and might make it easier for others to commit fraud.

11. I have other questions about this form. What should I do? This form is

designed to fit some but not all situations. If you have other questions, you are encouraged to consult a lawyer.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO READ AS FOLLOWS:

(1) The following form may be used to create an instrument of revocation under Sections 1 to 13 of this Act. In addition, each county clerk shall offer the following form to the public, as prescribed by the Department for Libraries and Archives, to revoke a transfer on death deed.

(2) The provisions of Sections 1 to 13 of this Act shall govern the effect of this or any other instrument used to revoke a transfer on death deed:

(front of form)

REVOCATION OF TRANSFER ON DEATH DEED

NOTICE TO OWNER

This revocation must be recorded before you die or it will not be effective. This revocation is effective only as to the interests in the property of owners who sign this revocation.

IDENTIFYING INFORMATION

Owner or Owners of Property Making This Revocation:

Printed name Mailing address

Printed name Mailing address

Legal description of the property:

REVOCATION

I revoke all my previous transfers of this property by transfer on death deed.

SIGNATURE OF OWNER OR OWNERS MAKING THIS REVOCATION

 [(SEAL)]

Signature _____ Date _____

 [(SEAL)]

Signature _____ Date _____

ACKNOWLEDGMENT

(insert acknowledgment here)

(back of form)

1. How do I use this form to revoke a Transfer on Death (TOD) deed? Complete this form. Have it acknowledged before a notary public or other individual authorized to take acknowledgments. Record the form in the public records in the county clerk's office of each county where the property is located. The form must be acknowledged and recorded before your death or it has no effect.

2. How do I find the "legal description" of the property? This information may be on the TOD deed. It may also be available in the county clerk's office for the county where the property is located. If you are not absolutely sure, consult a lawyer.

3. How do I "record" the form? Take the completed and acknowledged form to the county clerk's office of the county where the property is located. Follow the instructions given by the county clerk to make the form part of the official property records. If the property is located in more than one county, you should record the form in each of those counties.

4. I am being pressured to complete this form. What should I do? Do not complete this form under pressure. Seek help from a trusted family member, friend, or lawyer.

5. I have other questions about this form. What should I do? This form is designed to fit some but not all situations. If you have other questions, consult a lawyer.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO

READ AS FOLLOWS:

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO
READ AS FOLLOWS:

The provisions of Sections 1 to 13 of this Act modify, limit, and supersede the Federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. secs. 7001 et seq., but do not modify, limit, or supersede Section 101(c) of that Act, 15 U.S.C. sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 U.S.C. sec. 7003(b).

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO
READ AS FOLLOWS:

Sections 1 to 13 of this Act shall not affect any method of transferring property otherwise permitted under the laws of this state.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO
READ AS FOLLOWS:

Sections 1 to 13 of this Act shall apply to a transfer on death deed made before, on, or after the effective date of this Act by a transferor dying on or after the effective date of this Act.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO
READ AS FOLLOWS:

Sections 1 to 13 of this Act may be cited as the Uniform Real Property Transfer on Death Act.

➔Section 14. KRS 64.012 is amended to read as follows:

(1) The county clerk shall receive for the following services the following fees:

(a) 1. Recording and indexing of a:

- a. Deed of trust or assignment for the benefit of creditors;
- b. Deed;
- c. Deed of assignment;
- d. File-stamped copy of documents set forth in KRS 14A.2-040(1) or (2) that have been filed first with the Secretary of State;
- e. Real estate option;
- f. Power of attorney;
- g. Revocation of power of attorney;
- h. Lease which is recordable by law;
- i. Deed of release of a mortgage or lien under KRS 382.360;
- j. United States lien;
- k. Release of a United States lien;
- l. Release of any recorded encumbrance other than state liens;
- m. Lis pendens notice concerning proceedings in bankruptcy;
- n. Lis pendens notice;
- o. Mechanic's and artisan's lien under KRS Chapter 376;
- p. Assumed name;
- q. Notice of lien issued by the Internal Revenue Service;
- r. Notice of lien discharge issued by the Internal Revenue Service;
- s. Original, assignment, amendment, or continuation financing statement;
- t. Making a record for the establishment of a city, recording the plan or plat thereof, and all other service incident;
- u. Survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city;
- v. Recording with statutory authority for which no specific fee is set, except a military discharge;

- w. Will or other probate document pursuant to KRS Chapter 392 or 394;
- x. Court ordered name change pursuant to KRS Chapter 401;
- y. Land use restriction according to KRS 100.3681;~~and~~
- z. **Transfer on death deed;**

aa. Revocation of a transfer on death deed; and

ab. Filing with statutory authority for which no specific fee is set;~~and~~

For all items in this **paragraph**~~[subsection]~~ if the entire thereof does not exceed

five (5) pages\$33.00

And, for all items in this **paragraph**~~[subsection]~~ exceeding five (5) pages,

for each additional page\$3.00

And, for all items in this **paragraph**~~[subsection]~~ for each additional reference

relating to same instrument\$4.00

2. The thirty-three dollar (\$33) fee imposed by this **paragraph**~~[subsection]~~ shall be divided as follows:

- a. Twenty-seven dollars (\$27) shall be retained by the county clerk; and
- b. Six dollars (\$6) shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk within ten (10) days following the end of the quarter in which the fee was received. Each remittance to the affordable housing trust fund shall be accompanied by a summary report on a form prescribed by the Kentucky Housing Corporation.

- (b) For noting a security interest on a certificate of title pursuant to

KRS Chapter 186A	\$12.00
(c) For filing the release of collateral under a financing statement and noting same upon the face of the title pursuant to KRS Chapter 186 or 186A	\$5.00
(d) Filing or recording state tax or other state liens	\$5.00
(e) Filing release of a state tax or other state lien	\$5.00
(f) Acknowledging or notarizing any deed, mortgage, power of attorney, or other written instrument required by law for recording and certifying same	\$5.00
(g) Recording plats, maps, and surveys, not exceeding 24 inches by 36 inches, per page	\$40.00
(h) Recording a bond, for each bond	\$10.00
(i) Each bond required to be taken or prepared by the clerk	\$4.00
(j) Copy of any bond when ordered	\$3.00
(k) Administering an oath and certificate thereof	\$5.00
(l) Issuing a license for which no other fee is fixed by law	\$8.00
(m) Issuing a solicitor's license	\$15.00
(n) Marriage license, indexing, recording, and issuing certificate thereof	\$26.50
(o) Every order concerning the establishment, changing, closing, or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not	\$3.00
(p) Registration of licenses for professional persons required to register with the county clerk	\$10.00
(q) Certified copy of any record	\$5.00
Plus fifty cents (\$.50) per page after three (3) pages	
(r) Filing certification required by KRS 65.070(2)(a)	\$5.00

- (s) Filing notification and declaration and petition of candidates
for Commonwealth's attorney.....\$200.00
- (t) Filing notification and declaration and petition of candidates for county
and independent boards of education\$20.00
- (u) Filing notification and declaration and petition of candidates for
boards of soil and water conservation districts\$20.00
- (v) Filing notification and declaration and petition of candidates for
other office\$50.00
- (w) Filing declaration of intent to be a write-in candidate for office.....\$50.00
- (x) Filing petitions for elections, other than nominating petitions\$50.00
- (y) Notarizing any signature, per signature\$2.00
- (z) Filing bond for receiving bodies under KRS 311.310\$10.00
- (aa) Noting the assignment of a certificate of delinquency and recording
and indexing the encumbrance under KRS 134.126 or 134.127\$27.00
- (ab) Filing a going-out-of-business permit under KRS 365.445\$50.00
- (ac) Filing a renewal of a going-out-of-business permit under KRS 365.445 \$50.00
- (ad) Filing and processing a transient merchant permit under KRS 365.680 ..\$25.00
- (ae) Recording and indexing a real estate mortgage:
 - 1. For a mortgage that does not exceed thirty (30) pages.....\$63.00
 - 2. And, for a mortgage that exceeds thirty (30) pages, for each additional
page\$3.00
- (af) Filing or recording a lien or release of lien by a consolidated local
government, urban-county government, unified local government, or city of
any class\$20.00
- (2) The sixty-three dollar (\$63) fee imposed by subsection (1)(ae) of this section shall
be divided as follows:
 - (a) Fifty-seven dollars (\$57) shall be retained by the county clerk; and

- (b) Six dollars (\$6) shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk within ten (10) days following the end of the quarter in which the fee was received. Each remittance to the affordable housing trust fund shall be accompanied by a summary report on a form prescribed by the Kentucky Housing Corporation.
- (3) (a) For services related to the permanent storage of records listed in paragraphs (a), (g), (n), and (ae) of subsection (1) of this section, the clerk shall be entitled to receive a reimbursement of ten dollars (\$10).
- (b) In counties or a county containing an urban-county government, charter county government, or unified local government:
 - 1. This fee shall:
 - a. Not be paid annually to the fiscal court under KRS 64.152;
 - b. Not be paid to the Finance and Administration Cabinet under KRS 64.345;
 - c. Be accumulated and transferred to the fiscal court or the legislative body of an urban-county government on a monthly basis within ten (10) days following the end of the month;
 - d. Be maintained by the fiscal court or the legislative body of an urban-county government in a separate bank account and accounted for in a separate fund; and
 - e. Not lapse to the general fund of the county or urban-county government.
 - 2. The moneys accumulated from this fee shall be held in perpetuity by the fiscal court or the legislative body of an urban-county government for the county clerk's exclusive use for:
 - a. Equipment related to the permanent storage of and access to records, including deed books, binders, shelves, microfilm

- equipment, and fireproof equipment;
 - b. Hardware for the permanent storage of and access to records, including computers, servers, and scanners;
 - c. Software for the permanent storage of and access to records, including vendor services and consumer subscription fees;
 - d. Personnel costs for the permanent storage of and access to records, including overtime costs for personnel involved in the digitization of records; and
 - e. Cloud storage and cybersecurity services for the permanent storage of and access to records.
- 3. Notwithstanding KRS 68.275, claims by a county clerk that are for the approved expenditures in subparagraph 2. of this paragraph shall be paid by the county judge/executive or the chief executive officer of an urban-county government by a warrant drawn on the fund and co-signed by the treasurer of the county or urban-county government.
 - 4. No later than July 1 of each year, each county fiscal court or legislative body of an urban-county government shall submit a report to the Legislative Research Commission detailing the receipts, expenditures, and any amounts remaining in the fund.
- (c) In a county containing a consolidated local government:
- 1. The fee shall not:
 - a. Be paid to the Finance and Administration Cabinet under KRS 64.345; or
 - b. Lapse to the general fund of the consolidated local government.
 - 2. The moneys accumulated from this fee shall be held in perpetuity by the county clerk in a separate fund to be used exclusively for:
 - a. Equipment related to the permanent storage of and access to

- records, including deed books, binders, shelves, microfilm equipment, and fireproof equipment;
- b. Hardware for the permanent storage of and access to records, including computers, servers, and scanners;
 - c. Software for the permanent storage of and access to records, including vendor services and consumer subscription fees;
 - d. Personnel costs for the permanent storage of and access to records, including overtime costs for personnel involved in the digitization of records; and
 - e. Cloud storage and cybersecurity services for the permanent storage of and access to records.
3. No later than July 1 of each year, the county clerk shall submit a report to the consolidated local government and the Legislative Research Commission detailing the receipts, expenditures, and any amounts remaining in the fund.

➔Section 15. KRS 381.280 is amended to read as follows:

- (1) If the husband, wife, heir-at-law, beneficiary under a will, joint tenant with the right of survivorship, *beneficiary under a transfer on death deed*, or the beneficiary under any insurance policy takes the life of the decedent or victimizes the decedent by the commission of any felony under KRS Chapter 209 and in either circumstance is convicted therefor, the person so convicted forfeits all interest in and to the property of the decedent, including any interest he or she would receive as surviving joint tenant, and the property interest or insurable interest so forfeited descends to the decedent's other heirs-at-law, beneficiaries, or joint tenants, unless otherwise disposed of by the decedent. A judge sentencing a person for an^[a] offense that triggers a forfeiture under this section shall inform the defendant of the provisions of this section at sentencing.

- (2) A forfeiture under subsection (1) of this section:
- (a) Shall not apply in cases involving the commission of any felony under KRS Chapter 209 where the will, deed, or insurance policy was executed prior to January 1, 2012;
 - (b) Shall not apply in cases where the decedent, with knowledge of the person's disqualification, reaffirmed the right of the husband, wife, heir-at-law, beneficiary under a will, joint tenant with the right of survivorship, transfer on death deed beneficiary, or insurance policy beneficiary to receive the property by executing a new or modified will or codicil, insurance policy or policy modification, transfer on death deed, or deed; and
 - (c) Shall not apply in cases of a felony under KRS Chapter 209 committed prior to January 1, 2012.
- (3) If, after the provisions of this section are applied, there are no other heirs-at-law, beneficiaries, or joint tenants of the decedent as to all or part of the interest forfeited, the forfeited interest shall escheat to the state under KRS Chapter 393. The Department of the Treasury shall, after liquidation of the interest, pay the proceeds into the elder and vulnerable adult victims trust fund established in KRS 41.305.

➔Section 16. KRS 382.110 is amended to read as follows:

- (1) All deeds, mortgages, transfer on death deeds, and other instruments required by law to be recorded to be effectual against purchasers without notice, or creditors, shall be recorded in the county clerk's office of the county in which the property conveyed, or the greater part thereof, is located.
- (2) No county clerk or deputy county clerk shall admit to record any deed of conveyance of any interest in real property equal to or greater than a life estate, unless the deed plainly specifies and refers to the immediate source from which the grantor derived title to the property or the interest conveyed therein.

- (3) An authentic photocopy of any original record may be certified, as a true, complete, unaltered copy of the original record on file by the official public custodian of the record. A certified copy of a document certified by the official public custodian of that document may be submitted for filing in any other filing officer's jurisdiction as though it were the original record. However, no county clerk or deputy county clerk shall accept for filing any original document or certified copy of any document unless the original document and its certified copy conforms to all statutory requirements for filing the document under KRS Chapter 382. The provisions of this subsection shall apply only to a record generated and filed in Kentucky, and only if the certified copy thereof is to be utilized in Kentucky. If the record is a foreign record or a Kentucky record to be filed or utilized in a foreign jurisdiction, then this subsection shall not apply and applicable federal, Kentucky, or foreign law shall apply.
- (4) If the source of title is a deed or other recorded writing, the deed offered for record shall refer to the former deed or writing, and give the office, book and page where recorded, and the date thereof. If the property or interest therein is obtained by inheritance or in any other way than by recorded instrument of writing, the deed offered for record shall state clearly and accurately how and from whom the title thereto was obtained by the grantor.
- (5) If the title to the property or interest conveyed is obtained from two (2) or more sources, the deed offered for record shall plainly specify and refer to each of the sources in the manner provided in subsections (2) and (4), and shall show which part of the property, or interest therein, was obtained from each of the sources.
- (6) No grantor shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.
- (7) No clerk or deputy clerk shall be liable to the fine imposed by subsection (1) of

KRS 382.990 because of any erroneous or false references in any such deed, nor because of the omission of a reference required by law where it does not appear on the face of such deed that the title to the property or interest conveyed was obtained from more than one (1) source.

- (8) This section does not apply to deeds made by any court commissioner, sheriff or by any officer of court in pursuance of his or her duty as such officer, nor to any deed or instrument made and acknowledged before March 20, 1928. No deed shall be invalid because it is lodged contrary to the provisions of this section.
- (9) A mortgage holder shall file a deed in lieu of foreclosure in the county clerk's office of the county in which the property conveyed, or the greater part thereof, is located, no later than forty-five (45) days after the date the deed in lieu of foreclosure is executed.
- (10) A deed filed pursuant to KRS 426.577 shall be filed by the grantee within five (5) business days of receipt of the deed from the commissioner appointed by a court to convey the property.

➔Section 17. KRS 382.135 is amended to read as follows:

- (1) In addition to any other requirement imposed by law, a deed to real property shall contain the following:
 - (a) The full name of the grantor and grantee;
 - (b) The mailing addresses of the grantor and grantee;
 - (c) A statement of the full consideration;
 - (d) A statement indicating the in-care-of address to which the property tax bill for the year in which the property is transferred may be sent; and
 - (e) 1. In the case of a transfer other than by gift, or with nominal or no consideration a sworn, notarized certificate signed by the grantor or his or her agent and the grantee or his or her agent, or the parent or guardian of a person under eighteen (18) years old, that the consideration

- reflected in the deed is the full consideration paid for the property; or
2. In the case of a transfer either by gift or with nominal or no consideration, a sworn, notarized certificate signed by the grantor or his or her agent and the grantee or his or her agent, or the parent or guardian of a person under eighteen (18) years old, stating that the transfer is by gift and setting forth the estimated fair cash value of the property.
- (2) The deed filing requirements listed in subsection (1)(c), (d), and (e) of this section shall not apply to:
- (a) Deeds which only convey utility easements;
 - (b) Deeds which transfer property through a court action pursuant to a divorce proceeding;
 - (c) Deeds which convey rights-of-way that involve governmental agencies;
 - (d) Deeds which convey cemetery lots;
 - (e) Deeds which correct errors in previous deeds conveying the same property from the same grantor to the same grantee;~~{or}~~
 - (f) Deeds which convey real property to a local airport board; or
 - (g) Transfer on death deeds.
- (3) In the case of an exchange of properties, the fair cash value of the property being exchanged shall be stated in the body of the deed.
- (4) In the event of a transfer of property by will or under the laws of intestate succession, the personal representative of the estate, prior to closing out the estate, shall file an affidavit with the county clerk of each county in which any of the property is located, which shall contain the following:
- (a) The names and addresses of the persons receiving each property passing by will or intestate succession; and
 - (b) The full or fair market value of each property as estimated or established for any purpose in the handling of the estate, or a statement that no such values

were estimated or established.

- (5) No county clerk or deputy clerk shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.
- (6) For purposes of subsection (1)(a) of this section, the full name of the grantor and grantee shall be determined as follows:
 - (a) As provided in KRS 355.9-503(1); or
 - (b) For a business entity, it shall be synonymous with its real name determined as provided in KRS 365.015(1)(b) and (c); or
 - (c) For an individual, his or her surname and his or her first personal name or initial, middle personal name or names, or initial or initials, or any combination thereof that includes the individual's surname.
- (7) The receipt for record and recording of any instrument by the county clerk not in compliance with this section shall not prevent the record of filing of the instrument from becoming notice as otherwise provided by law, nor impair the admissibility of the record as evidence.

➔Section 18. KRS 391.360 is amended to read as follows:

- (1) A written provision for a nonprobate transfer on death in an insurance policy, contract of employment, bond, mortgage, promissory note, certified or uncertified security account agreement, custodial agreement, deposit agreement, compensation plan, pension plan, individual retirement plan, employee benefit plan, trust, conveyance, deed of gift, marital property agreement, transfer on death deed, or other written instrument of a similar nature is nontestamentary. These written provisions shall include, but not be limited to, written provisions which provide that:
 - (a) Money or other benefits due to, controlled, or owned by a decedent before death shall be paid after the decedent's death to a person whom the decedent

designates either in the instrument or in a separate writing, including a will, executed before, at the same time, or after the instrument is executed;

- (b) Money due or to become due under the instrument shall cease to be payable in the event of the death of the promisee or the promisor before payment or demand; or
- (c) Any property, controlled by or owned by the decedent before death, which is the subject of the instrument shall pass to a person the decedent designates either in the instrument or in a separate writing, including a will, executed before, at the same time, or after the instrument is executed.

(2) This section shall not limit the rights of creditors under other laws of this state.

➔Section 19. KRS 392.020 is amended to read as follows:

Except as provided in Section 2 of this Act, after the death of the husband or wife intestate, the survivor shall have an estate in fee of one-half (1/2) of the surplus real estate of which the other spouse or anyone for the use of the other spouse, was seized of an estate in fee simple at the time of death, and shall have an estate for his or her life in one-third (1/3) of any real estate of which the other spouse or anyone for the use of the other spouse, was seized of an estate in fee simple during the coverture but not at the time of death, unless the survivor's right to such interest has been barred, forfeited or relinquished. The survivor shall also have an absolute estate in one-half (1/2) of the surplus personalty left by the decedent. Unless the context otherwise requires, any reference in the statutes of this state to "dower" or "curtesy" shall be deemed to refer to the surviving spouse's interest created by this section.

➔Section 20. KRS 392.070 is amended to read as follows:

When a surviving spouse recovers dower or curtesy against the heir or devisee or purchaser from the decedent, **or from a beneficiary under Sections 1 to 13 of this Act,** the dower or curtesy shall be according to the value of the estate when received by the heir, devisee, **beneficiary,** or purchaser, and shall not include, in the estimated value, any

permanent improvements which the heir, devisee, beneficiary, or purchaser has made on the land. Against the heir, ~~or~~ devisee, beneficiary, or his or her alienee the surviving spouse's claim for rent shall not exceed rent for five (5) years before the action, and against a purchaser from the decedent the surviving spouse's claim shall be only from the commencement of the action. In either case it shall continue up to final recovery. If, after action has been brought, the surviving spouse or tenant dies before recovery, the rent may be recovered by the surviving spouse's representative or against the tenant's heirs, devisees, and representatives.

➔Section 21. KRS 403.190 is amended to read as follows:

- (1) In a proceeding for dissolution of the marriage or for legal separation, or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall assign each spouse's property to him. It also shall divide the marital property without regard to marital misconduct in just proportions considering all relevant factors including:
 - (a) Contribution of each spouse to acquisition of the marital property, including contribution of a spouse as homemaker;
 - (b) Value of the property set apart to each spouse;
 - (c) Duration of the marriage; and
 - (d) Economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse having custody of any children.
- (2) For the purpose of this chapter, "marital property" means all property acquired by either spouse subsequent to the marriage except:
 - (a) Property acquired by gift, bequest, devise, or descent during the marriage and the income derived therefrom unless there are significant activities of either

- spouse which contributed to the increase in value of said property and the income earned therefrom;
- (b) Property acquired in exchange for property acquired before the marriage or in exchange for property acquired by gift, bequest, devise, or descent;
 - (c) Property acquired by a spouse after a decree of legal separation;
 - (d) Property excluded by valid agreement of the parties; and
 - (e) The increase in value of property acquired before the marriage to the extent that such increase did not result from the efforts of the parties during marriage.
- (3) All property acquired by either spouse after the marriage and before a decree of legal separation is presumed to be marital property, regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, and community property. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection (2) of this section.
- (4) If the retirement benefits of one (1) spouse are excepted from classification as marital property, or not considered as an economic circumstance during the division of marital property, then the retirement benefits of the other spouse shall also be excepted, or not considered, as the case may be. However, the level of exception provided to the spouse with the greater retirement benefit shall not exceed the level of exception provided to the other spouse. Retirement benefits, for the purposes of this subsection shall include retirement or disability allowances, accumulated contributions, or any other benefit of a retirement system or plan regulated by the Employees Retirement Income Security Act of 1974, or of a public retirement system administered by an agency of a state or local government, including deferred compensation plans created pursuant to KRS 18A.230 to 18A.275 or defined contribution or money purchase plans qualified under Section 401(a) of the

Internal Revenue Code of 1954, as amended.

(5) For purposes of this section, property exempted under subsection (2)(a) of this section shall include property transferred to either spouse pursuant to a transfer on death deed.

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Beneficiary" means a person designated to receive title to a vehicle upon the death of the preceding owner or joint owners;

(b) "Beneficiary designation form" means a form that contains the intention of a present owner or joint owners of a vehicle to transfer ownership of the vehicle to a named beneficiary upon the death of the owner or last surviving joint owner of the vehicle;

(c) "Joint owner" means an individual who owns a vehicle with one (1) or more other individuals as joint tenants with rights of survivorship. "Joint owner" does not include an individual who owns a vehicle with one (1) or more other individuals as tenants in common;

(d) "Owner" means an individual who owns a vehicle; and

(e) "Vehicle" includes any motor vehicle, motorcycle, motor home, trailer, or other item for which a certificate of title is issued by the cabinet.

(2) The cabinet shall provide a beneficiary designation form that allows the owner or joint owners of a vehicle to provide for the transfer of the vehicle's title to a named beneficiary upon the death of the owner or upon the death of all joint owners of the vehicle. The form shall include but not be limited to fields for the following information:

(a) The manufacturer, model, year, and vehicle identification number of the vehicle;

- (b) The name of the owner or every joint owner of the vehicle;
 - (c) The words "transfer on death to," or the abbreviation "TOD," followed by the name of the beneficiary; and
 - (d) The signature of the owner of the vehicle or of each joint owner of the vehicle.
- (3) The cabinet shall make beneficiary forms available:
 - (a) In each county clerk's office; and
 - (b) On the cabinet's public website.
- (4) Upon the death of the owner, or the last surviving joint owner, of a vehicle for which a beneficiary designation form has been properly executed under subsection (2) of this section, the beneficiary shall present the form to the county clerk and request a new title of ownership of the vehicle in the beneficiary's name. The form shall be accompanied by:
 - (a) Proof of the death of the vehicle's owner or proof of death of the last surviving joint owner of the vehicle including but not limited to a death certificate, record, or report that constitutes prima facie evidence of death;
 - (b) Proof of payment of ad valorem taxes on the vehicle for the current year. If the taxes have not been paid, the beneficiary may elect to pay the taxes to facilitate the transfer; and
 - (c) The fee for the certificate of title transfer.
- (5) Upon presentation of a properly executed beneficiary designation form and accompanying documents as required under subsection (4) of this section, the county clerk, subject to any security interest in the vehicle, shall issue a new certificate of title to the beneficiary.
- (6) During the lifetime of the owner of the vehicle for which a beneficiary designation form has been properly executed or before the death of the last surviving joint owner of the vehicle:

- (a) The signature or consent of the beneficiary shall not be required for any transaction relating to the vehicle; and
- (b) The owner or surviving joint owners of the vehicle may revoke the beneficiary designation form or change the beneficiary on the beneficiary designation form at any time by:
1. Selling the vehicle with proper transfer and delivery of the certificate of title to another person; or
 2. Properly executing a subsequent beneficiary designation form that designates a new beneficiary.
- (7) Upon the death of the owner or the last surviving joint owner of a vehicle for which a beneficiary designation form has been properly executed, the interest of the beneficiary in the vehicle shall be subject to any contract of sale, assignment, or ownership or security interest to which the owner or joint owners of the vehicle were subject during their lifetime.
- (8) Except as provided in subsection (6)(b) of this section, the designation of a beneficiary in a beneficiary designation form shall not be changed or revoked by will or by other instrument.
- (9) The transfer on death of a vehicle under this section shall be a nontestamentary transfer.

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 140 IS CREATED TO READ AS FOLLOWS:

The taxes under this chapter shall only apply to deaths occurring prior to July 1, 2024.

➔Section 24. The following KRS sections are repealed:

140.130 Levy of estate tax -- Computation -- Payment -- Administration.

140.140 Payment of estate tax under protest -- Action to recover -- Refund.