

386B.12-040 Exceptions to application of subchapter. (Effective July 15, 2026)

- (1) As used in this section, "power of appointment" means a power that enables a person acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over trust property.
- (2) The provisions of KRS 386B.12-010 to 386B.12-170 shall not apply to a:
 - (a) Power of appointment;
 - (b) Power to appoint or remove a trustee or trust director;
 - (c) Power of a settlor over a trust to the extent the settlor has a power to revoke the trust;
 - (d) Power of a beneficiary over a trust to the extent the exercise or nonexercise of the power affects the beneficial interest of:
 1. The beneficiary; or
 2. Another beneficiary represented by the beneficiary under KRS 386B.3-010 to 386B.3-050 with respect to the exercise or nonexercise of the power; or
 - (e) Power over a trust if:
 1. The terms of the trust provide that the power is held in a nonfiduciary capacity; and
 2. The power must be held in a nonfiduciary capacity to achieve the settlor's tax objectives under the United States Internal Revenue Code of 1986, as amended, and regulations issued thereunder, as amended.
- (3) Unless the terms of a trust provide otherwise, a power granted to a person to designate a recipient of an ownership interest in or power of appointment over trust property which is exercisable while the person is not serving as a trustee is a power of appointment and not a power of direction.

Effective: July 15, 2026

History: Created 2026 Ky. Acts ch. 134, sec. 73, effective July 15, 2026.