

392.020 Surviving spouse's interest in property of deceased spouse -- "Dower" and "curtesy" defined -- Surplus personalty and surplus real estate.

- (1)
 - (a) After the death of the husband or wife intestate, the survivor shall have, in addition to his or her share under KRS 391.010, 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 the interest has been barred, forfeited, or relinquished.
 - (b) 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.
- (2) Except as otherwise provided in subsection (4) of this section, surplus personalty includes personal property owned by the decedent at death that is:
 - (a) Payable pursuant to a:
 1. Beneficiary designation;
 2. Transfer on death designation; or
 3. Payable on death designation, including retirement accounts whether designated as an individual retirement account or otherwise; or
 - (b) Jointly owned with right of survivorship to another person.
- (3) The surviving spouse's share of the decedent's surplus personalty shall be credited with any property described in subsection (2) of this section received by the surviving spouse at the decedent's death, less the amount of payment made for the decedent's funeral and burial expenses as confirmed by receipt of payment, or by contract or other written document of obligation for payment.
- (4)
 - (a) Surplus personalty shall not include the death benefit payable on any life insurance policy insuring the life of the decedent;
 - (b) Life insurance proceeds payable to the surviving spouse shall be credited against the surviving spouse's share of the decedent's surplus personalty; and
 - (c) Life insurance proceeds payable to a trust of which the surviving spouse is a beneficiary shall be credited against the surviving spouse's share of the decedent's surplus personalty in an amount determined under subsection (7) of this section.
- (5) Surplus real estate and surplus personalty include all property held by or payable at the decedent's death:
 - (a) To a trust over which the decedent held at the time of death a power of revocation; and
 - (b) Over which the decedent held at the time of death a general power of appointment as defined in KRS 390.020.
- (6) Property of any kind transferred by the decedent to a person or trust, other than a trust for the benefit of the surviving spouse, the decedent, or a qualified charitable organization two (2) years or more prior to death, is not surplus personalty and is not surplus real estate. Property of any kind transferred by the decedent to a person

or trust less than two (2) years prior to death is surplus personalty or surplus real estate.

- (7) Property of any kind transferred prior to the decedent's death and held at the decedent's death by a trust created by the decedent and of which the surviving spouse is a beneficiary shall be:
 - (a) Deemed surplus personalty or surplus real estate as applicable; and
 - (b) Credited against the surviving spouse's share of the decedent's surplus real estate and surplus personalty, in an amount computed under 26 U.S.C. sec. 7520.
- (8) The surviving spouse may bring an action against any person receiving property that is part of the surplus real estate or surplus personalty as necessary to satisfy the dower or curtesy claim of the surviving spouse with respect to that property.

Effective: July 15, 2026

History: Amended 2026 Ky. Acts ch. 134, sec. 2, effective July 15, 2026. -- Amended 1956 Ky. Acts ch. 117, sec. 2, effective July 1, 1956. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2132.