

386.601 Definitions for KRS 386.601 to 386.619.

As used in KRS 386.601 to 386.619, unless the context otherwise requires:

- (1) "Claim" means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured;
- (2) "Creditor" means, with respect to a transferor, a person who has a claim;
- (3) "Debt" means liability on a claim;
- (4) "Disposition":
 - (a) Means a transfer, conveyance, or assignment of property, including a change in the legal ownership of property occurring upon the substitution of one (1) trustee for another or the addition of one (1) or more new trustees; and
 - (b) Includes the exercise of a power so as to cause a transfer of property to a trustee or trustees, but shall not include the release or relinquishment of an interest in property that, until the release or relinquishment, was the subject of a qualified disposition;
- (5) "Investment advisor" means a person given authority by the terms of a qualified trust to direct, consent to, or disapprove a transferor's actual or proposed investment decisions, distribution decisions, or other decisions of the transferor;
- (6) "Investment decision" means the retention, purchase, sale, exchange, tender, or other transaction affecting the ownership of or rights in investments;
- (7) "Person" has the same meaning as in KRS 386B.1-010;
- (8) "Property" means anything that may be the subject of ownership, including real property, personal property, and interests in real or personal property, but does not include any property that is encumbered by a valid lien;
- (9) "Qualified affidavit" means a sworn affidavit signed by the transferor before a disposition of assets to a qualified trust that meets the requirements of KRS 386.603. In the event of a disposition by a transferor who is a trustee, the affidavit shall be signed by the transferor who made the original disposition to the trustee or a predecessor trustee in a form that meets the requirements of subsection (11)(b) and (c) of this section and shall state facts as of the time of the original disposition;
- (10) "Qualified disposition" means a disposition by or from a transferor with or without consideration to a qualified trust after the transferor executes a qualified affidavit;
- (11) "Qualified trust" means an instrument appointing a qualified trustee or qualified trustees for property that is the subject of a disposition, which instrument:
 - (a) Expressly incorporates the law of this Commonwealth to govern the validity, construction, and administration of the trust;
 - (b) Is irrevocable; and
 - (c) Provides that the interest of the transferor or other beneficiary in trust property or income from trust property may not be transferred, assigned, pledged, or mortgaged, whether voluntarily or involuntarily, before the qualified trustee or qualified trustees actually distribute property or income from the trust to the beneficiary;

- (12) "Qualified trustee" means a person who:
- (a) In the case of a natural person, is a resident of this Commonwealth, or in all other cases, is authorized by the law of this Commonwealth to act as a trustee and whose activities are subject to supervision by the Kentucky Department of Financial Institutions, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, or any successor to those entities;
 - (b) Maintains or arranges for custody in this Commonwealth of some or all of the property that is the subject of the qualified disposition, maintains records for the qualified trust on an exclusive or nonexclusive basis, prepares or arranges for the preparation of required income tax returns for the qualified trust, or otherwise materially participates in the administration of the qualified trust; and
 - (c) Is not the transferor;
- (13) "Spouse or former spouse" means only persons to whom the transferor was legally married at or before the time the qualified disposition is made;
- (14) "Transferor" means a person who, directly or indirectly, makes a disposition or causes a disposition to be made in the person's capacity:
- (a) As an owner of property;
 - (b) As a holder of a power of appointment that authorizes the holder to appoint in favor of the holder, the holder's creditors, the holder's estate, or the creditors of the holder's estate; or
 - (c) As a trustee; and
- (15) "Trustee" means an original, additional, and successor trustee, and a cotrustee, whether singular or plural, who is a fiduciary relative to any power or duty held by that person that could otherwise be held by a trustee.

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