386B.12-040 Exceptions to application of subchapter.

(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.