

## CHAPTER 155

## (HB 264)

AN ACT relating to financial institutions.

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

➔Section 1. KRS 160.570 is amended to read as follows:

- (1) Each board of education shall appoint a bank, trust company, or savings and loan association to serve as its depository, and if its annual receipts from all sources exceed one hundred thousand dollars (\$100,000), it may designate three (3) depositories, except boards of education of school districts in counties containing cities of the first class may designate up to six (6) depositories. The depository may be designated for a period not to exceed two (2) years, and before entering upon its duties shall agree with the board as to the rate of interest to be paid on average daily or monthly balances.
  - (2) The depository selected shall, before entering upon its duties, ***provide collateral in accordance with KRS 41.240***~~execute bond for the faithful performance of its duties~~, to be approved by the local board of education in accordance with Kentucky Board of Education administrative regulations, and to be approved by the commissioner of education.~~The bond shall be guaranteed by at least five (5) solvent personal sureties whose solvency must exceed the amount of the bond, or by a surety company authorized to do business in this state, or through the execution of a collateral bond consistent with the general banking laws of the state and the bonding laws applying to the safeguarding of state funds. The penal sum of the depository bond shall be determined by the board of education in accordance with the administrative regulations promulgated by the Kentucky Board of Education.~~ A board of education may enter into an agreement with its depository whereby the premium on ***collateral***~~a bond~~ guaranteed by a surety company may be paid either by the board or by the depository. If the board pays the premium, the depository shall allow the board not less than two percent (2%) interest on its average daily or average monthly balances.~~All depository bond forms shall be prepared by the chief state school officer and approved by the Kentucky Board of Education.~~
  - (3) The depository shall hold for the board all funds deposited by the treasurer of the board or its tax collector or duly authorized agent, subject to withdrawal by the board at any time, and shall pay all funds so deposited to such person and in such manner as the board directs. The depository shall keep full and complete accounts of all of the board's funds, and make reports to the board or its authorized agents upon request. The depository shall keep all records relating to the transactions and duties of the office and turn them over to the successor of its office along with all school funds in hand. The board of education may at any time require a due and proper audit of the depository's records of the funds of the board by a competent outside agent.
- ~~[(4) A board of education may designate as its depository the authorized and bonded depository of the governing authority of the territory which the school district embraces. In such cases, the bond of the depository shall be made to cover specifically the safekeeping of the school board's funds, and all conditions set out in this section shall be carried out.]~~

➔Section 2. KRS 382.270 is amended to read as follows:

No deed or deed of trust or mortgage conveying a legal or equitable title to real property shall be lodged for record and, thus, valid against a purchaser for a valuable consideration, without notice thereof, or against creditors, until such deed or mortgage is acknowledged or proved according to law. However, if a deed or deed of trust or mortgage conveying a legal or equitable title to real property is not so acknowledged or proved according to law, but is or has been~~, prior to July 12, 2006,~~ otherwise lodged for record, such deed or deed of trust or mortgage conveying a legal or equitable title to real property or creating a mortgage lien on real property shall be deemed to be validly lodged for record for purposes of KRS Chapter 382, and all interested parties shall be on constructive notice of the contents thereof. As used in this section "creditors" includes all creditors irrespective of whether or not they have acquired a lien by legal or equitable proceedings or by voluntary conveyance.

➔Section 3. KRS 382.430 is amended to read as follows:

- (1) No mortgage, conveyance or other instrument or writing constituting a lien or other security for any note or other evidence of indebtedness shall be received for record by any county clerk unless such mortgage, conveyance or other writing gives the ~~county and state of the residence and the post office~~ address of the person or, ***the address of the principal place of business of a*** corporation owning or holding the note or other evidence of indebtedness, or liable for the payment of taxes thereon.

- (2) Should there be an assignment of such note or other evidence of indebtedness, of record in the clerk's office, the assignment shall state the ~~county and state of the residence and post office~~ address of the assignee. Unless any assignment is made of record, the original holder or owner shall be liable for taxes as though no assignment had been made.
- (3) ***For the purposes of this chapter, a mortgage that has been recorded with any county clerk shall not be deemed invalid or ineffective as constructive notice for failure to include the county of residence in the mortgagee's address.***

➔Section 4. KRS 425.126 is amended to read as follows:

- (1) If any claim be made by attachment, garnishment or other judicial order to a security ***or security entitlement, as defined in KRS 355.8-102(1)***~~[which is transferable in the manner set forth in KRS 355.8-320]~~, such order shall not be valid as against any ***securities intermediary, as defined in KRS 355.8-102(1) or any issuer as defined in KRS 355.8-201,***~~[clearing corporation as defined in KRS 355.8-102(3), custodian bank as defined in KRS 355.8-102(4)]~~ or nominee or agent of either having any interest in, custody of or control over such security ***or security entitlement, unless such order specifies the following:***~~[identifies the security by setting forth]~~
- (a) ***For a security,*** the name of the issuer, the class or series of the security, or both, the number of shares or other units of interest represented by the security, the name of the debtor and the name of the person, ***if different from the debtor,*** having an account on the books of the ***securities intermediary or issuer***~~[clearing corporation (as defined in KRS 355.8-102(3))]~~ in which such security is shown;
- (b) ***For an option or right to acquire a security,*** the name of the issuer the class or series of the security in which the option or right to acquire exists, the name of the debtor and the name of the person, ***if different from the debtor,*** having an account on the books of the ***securities intermediary or issuer*** in which such option or right is shown; or
- (c) ***For a security entitlement, other than a security or an option or right to acquire a security,*** the name of the debtor and the name of the person, ***if different from the debtor,*** having an account on the books of the ***securities intermediary or issuer*** in which such security entitlement is shown.
- (2) An attachment, garnishment or other judicial order of the kind described in subsection (1) ***of this section***~~[hereof]~~ which does not set forth all the elements of identification ***required by subsection (1) of this section***~~[of the security as specified therein]~~ shall in no manner bind or give notice of such claim to any ***securities intermediary, as defined in KRS 355.8-102(1) or any issuer as defined in KRS 355.8-201,***~~[clearing corporation as defined in KRS 355.8-102(3), custodian bank as defined in KRS 355.8-102(4)]~~ or nominee or agent of either having an interest in, custody of or control over such security, ***or option or right to acquire such security, or security entitlement,*** and such ***securities intermediary, issuer, nominee, or agent***~~[person, clearing corporation, custodian bank or nominee]~~ may transfer, pledge or in any manner deal with such security ***or option, or right to acquire such security or security entitlement*** in disregard of such order or claim without liability to the claimant.
- (3) It shall be the duty of every person mentioned in subsections (1) and (2) ***of this section*** to whom ***any plaintiff or any judgment creditor***~~[the sheriff]~~ shall apply therefor, ***in good faith and for a proper purpose stated in the request,*** to furnish him or her a written statement setting forth any reasonably requested information in such person's possession, custody, or control that concerns the ownership of or records concerning ownership of a security, an option or right to acquire a security, or a security entitlement concerning a specifically identified person. ***The statement shall be provided within ten (10) days of receipt of the written request***~~[a certificate of the number of shares of the defendant in the stock of the corporation or a description of the property held by such corporation or person for the benefit of the defendant, or belonging to him, or the amount of the debt owing to the defendant, by such corporation or person, whether due or not;]~~ and a failure to perform this duty may be punished by the court as a contempt.

➔Section 5. KRS 427.150 is amended to read as follows:

- (1) To the extent reasonably necessary for the support of an individual and his dependents in addition to property totally exempt under subsection (2) of this section, that individual shall be entitled to exemption of money or property received and rights to receive money or property for alimony, support, or separate maintenance.
- (2) An individual shall be entitled to exemption of the following property:
- (a) An award under a crime victim's reparation law;

- (b) A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;
- (c) A payment, not to exceed seven thousand five hundred dollars (\$7,500), on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent;
- (d) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;
- (e) Assets held, payments made and amounts payable under pensions exempt pursuant to KRS 61.690, 161.700, 427.120 and 427.125; or
- (f) The right or interest of a person in an individual retirement account or annuity, deferred compensation account, tax sheltered annuity, simplified employee pension, pension, profit-sharing, stock bonus, or other retirement plan described in the Internal Revenue Code of 1986, or Section 408 or 408A of the Internal Revenue Code, as amended which qualifies for the deferral of income tax until the date benefits are distributed. This exemption shall also apply to the operation of the Federal Bankruptcy Code, **for the purpose of applying the provisions of 11 U.S.C. sec. 522(b)(3) in a federal bankruptcy proceeding and only to the extent otherwise allowed by applicable federal law**~~[as permitted by 11 U.S.C. sec. 522].~~ This exemption shall not apply to any amounts contributed to an individual retirement account or annuity, deferred compensation account, a pension, profit-sharing, stock bonus, or other qualified retirement plan or annuity if the contribution occurs within one hundred twenty (120) days:
  - 1. Before the debtor files for bankruptcy **if this exemption is being applied in a federal bankruptcy proceeding; or**
  - 2. **Before the earlier of the entry of the judgment or other ruling against the debtor or the issuance of the levy, attachment, garnishment, or other execution, or order against which this exemption is being applied, if this exemption is being applied in other than a federal bankruptcy proceeding.** This exemption shall not apply to the right or interest of a person in an individual retirement account or annuity, deferred compensation account, pension, profit-sharing, stock bonus, or other retirement plan to the extent that that right or interest is subject to any of the following:
    - a.~~{1}~~ An order of a court for payment of maintenance;
    - b.~~{2}~~ An order of a court for payment of child support.

➔Section 6. KRS 427.160 is amended to read as follows:

**Solely for the purpose of applying the provisions of 11 U.S.C. sec. 522(b)(3)(A) in a federal bankruptcy proceeding**, in addition to other exemptions provided in this chapter **and only to the extent otherwise allowed by applicable federal law**, every debtor shall have a general exemption not to exceed one thousand dollars (\$1,000) in value to be applied toward any property, real or personal, tangible or intangible in his estate when he **or she** has filed for bankruptcy under the provisions of The Bankruptcy Code of 1978, 92 Stat. 2549 (1978), Public Law 95-598, **as amended**.

➔Section 7. KRS 427.170 is amended to read as follows:

**Solely for the purpose of applying the provisions of 11 U.S.C. sec. 522(b)(2) in a federal bankruptcy proceeding and only to the extent otherwise allowed by applicable federal law** an individual debtor domiciled in this state is authorized to exempt from property of said debtor's **bankruptcy** estate the property specified under 11 U.S.C. sec. 522(d).

➔Section 8. KRS 355.9-518 is amended to read as follows:

- (1) A person may file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.
- (2) A correction statement **shall**~~must~~:

- (a) Identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;
  - (b) Indicate that it is a correction statement; and
  - (c) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.
- (3) ***Except as provided in subsection (4) of this section***, the filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed record.
- (4) ***A correction statement that is filed by a bank, or subsidiary or affiliate thereof, shall affect the effectiveness of the record to which it relates if:***
- (a) ***The correction statement includes a written statement of an officer of the entity filing the correction statement, which provides the information specified in subsection (2) of this section;***
  - (b) ***The officer's written statement provides the officer's title and information identifying how the filer qualifies as a bank, or subsidiary or affiliate thereof;***
  - (c) ***The officer's written statement has been duly acknowledged before a notary public; and***
  - (d) ***The record to which the correction statement relates was originally filed by or refers to a record filed by the entity filing the correction statement.***

➔Section 9. KRS 355.9-510 is amended to read as follows:

- (1) A filed record is effective only to the extent that it was filed by a person that may file it under KRS 355.9-509 ***or subsection (4) of Section 8 of this Act.***
- (2) A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.
- (3) A continuation statement that is not filed within the six (6) month period prescribed by KRS 355.9-515(4) is ineffective.

**Signed by Governor April 13, 2010.**