

CHAPTER 117**(SB 139)**

AN ACT relating to ownership documents for property.

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

➔Section 1. KRS 382.135 is amended to read as follows:

- (1) In addition to any other requirement imposed by law, a deed to real property shall contain the following:
 - (a) The full name of the grantor and grantee;
 - (b) The mailing addresses of the grantor and grantee;
 - (c) A statement of the full consideration;
 - (d) A statement indicating the in-care-of address to which the property tax bill for the year in which the property is transferred may be sent; and
 - (e)
 1. In the case of a transfer other than by gift, or with nominal or no consideration a sworn, notarized certificate signed by the grantor or his or her agent and the grantee or his or her agent, or the parent or guardian of a person under eighteen (18) years old, that the consideration reflected in the deed is the full consideration paid for the property; or
 2. In the case of a transfer either by gift or with nominal or no consideration, a sworn, notarized certificate signed by the grantor or his or her agent and the grantee or his or her agent, or the parent or guardian of a person under eighteen (18) years old, stating that the transfer is by gift and setting forth the estimated fair cash value of the property.
- (2) The deed filing requirements listed in subsection (1)(c), (d), and (e) of this section shall not apply to:
 - (a) Deeds which only convey utility easements;
 - (b) Deeds which transfer property through a court action pursuant to a divorce proceeding;
 - (c) Deeds which convey rights-of-way that involve governmental agencies;
 - (d) Deeds which convey cemetery lots;
 - (e) Deeds which correct errors in previous deeds conveying the same property from the same grantor to the same grantee; or
 - (f) Deeds which convey real property to a local airport board.
- (3) In the case of an exchange of properties, the fair cash value of the property being exchanged shall be stated in the body of the deed.
- (4) In the event of a transfer of property by will or under the laws of intestate succession, the personal representative of the estate, prior to closing out the estate, shall file an affidavit with the county clerk of each county in which any of the property is located, which shall contain the following:
 - (a) The names and addresses of the persons receiving each property passing by will or intestate succession; and
 - (b) The full or fair market value of each property as estimated or established for any purpose in the handling of the estate, or a statement that no such values were estimated or established.
- (5) No county clerk or deputy clerk shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.
- (6) For purposes of subsection (1)(a) of this section, ***the full name of the grantor and grantee shall be determined as follows:***
 - (a) ~~{The full name of an individual shall be determined }~~As provided in KRS 355.9-503(1){(d) and (e)}; ~~or{and}~~

- (b) ~~For the full name of~~ a business entity, *it* shall be synonymous with its real name determined as provided in KRS 365.015(1)(b) and (c); *or*
- (c) *For an individual, his or her surname and his or her first personal name or initial, middle personal name or names, or initial or initials, or any combination thereof that includes the individual's surname.*
- (7) *The receipt for record and recording of any instrument by the county clerk not in compliance with the provisions of this section shall not prevent the record of filing of the instrument from becoming notice as otherwise provided by law, nor impair the admissibility of the record as evidence.*

➔Section 2. KRS 186A.190 is amended to read as follows:

- (1) Except as provided in subsection (4) of this section and in KRS 355.9-311(4), the perfection and discharge of a security interest in any property for which has been issued a Kentucky certificate of title shall be by notation on the certificate of title. Notation shall be made by the entry of information required by subsection (7) of this section into the Automated Vehicle Information System, and shall be deemed to have occurred upon the entry. The notation of the security interest on the certificate of title shall be in accordance with this chapter and shall remain effective from the date on which the security interest is noted on the certificate of title for a period of ten (10) years, or, in the case of a manufactured home, for a period of thirty (30) years, or until discharged under this chapter and KRS Chapter 186. The filing of a continuation statement within the six (6) months preceding the expiration of the initial period of a notation's effectiveness extends the expiration date for five (5) additional years, commencing on the day the notation would have expired in the absence of the filing. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial notation.
- (2) Except as provided in subsection (4) of this section, the notation of security interests relating to property required to be titled in Kentucky through the county clerk shall be done in the office of the county clerk of the county in which the debtor resides. If the debtor is other than a natural person, the following provisions govern the determination of the county of the debtor's residence:
- (a) A partnership shall be deemed a resident of the county in which its principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;
- (b) A limited partnership organized under KRS Chapter 362 or as defined in KRS 362.2-102(14) shall be deemed a resident of the county in which its principal place of business is located, as set forth in its certificate of limited partnership or most recent amendment thereto filed pursuant to KRS Chapter 362 or 362.2-202. If such office is not located in this state, the debtor shall be deemed a nonresident for purposes of filing in this state;
- (c) A limited partnership not organized under the laws of this state and authorized to do business in this state shall be deemed a resident of the county in which the office of its process agent is located, as set forth in the designation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
- (d) A corporation organized under KRS Chapter 271B, 273, or 274 or a limited liability company organized under KRS Chapter 275 shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the Secretary of State which officially designates its current registered office;
- (e) A corporation not organized under the laws of this state, but authorized to transact or do business in this state under KRS Chapter 271B, 273, or 274, or a limited liability company not organized under the laws of this state, but authorized to transact business in this state under KRS Chapter 275, shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent filing with the Secretary of State which officially designates its current registered office;
- (f) A cooperative corporation or association organized under KRS Chapter 272 shall be deemed a resident of the county in which its principal business is transacted, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
- (g) A cooperative corporation organized under KRS Chapter 279 shall be deemed a resident of the county in which its principal office is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

- (h) A business trust organized under KRS Chapter 386 shall be deemed a resident of the county in which its principal place of business is located, as evidenced by the recordation of its declaration of trust in that county pursuant to KRS Chapter 386;
- (i) A credit union organized under Subtitle 6 of KRS Chapter 286 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky; and
- (j) Any other organization (defined in KRS 355.1-201) shall be deemed a resident of the county in which its principal place of business in this state is located, except that any limited liability company, limited liability partnership, limited partnership, or corporation not organized under the laws of this state and not authorized to transact or do business in this state shall be deemed a nonresident for purposes of filing in this state. If the organization does not have a place of business in this state, then it shall be deemed a nonresident for purposes of filing in this state.

If the debtor does not reside in the Commonwealth, the notation of the security interest shall be done in the office of the county clerk in which the property is principally situated or operated. Notwithstanding the existence of any filed financing statement under the provisions of KRS Chapter 355 relating to any property registered or titled in Kentucky, the sole means of perfecting and discharging a security interest in property for which a certificate of title is required by this chapter is by notation on the property's certificate of title under the provisions of this chapter or in accordance with the provisions of KRS 186.045(3). In other respects the security interest is governed by the provisions of KRS Chapter 355.

- (3) Except as provided in subsection (4) of this section, before ownership of property subject to a lien evidenced by notation on the certificate of title may be transferred, the transferor shall obtain the release of the prior liens in his name against the property being transferred. Once a security interest has been noted on the owner's title, a subsequent title shall not be issued by any county clerk free of the notation unless the owner's title is presented to the clerk and it has been noted thereon that the security interest has been discharged. If this requirement is met, information relating to any security interest shown on the title as having been discharged may be omitted from the title to be issued by the clerk. If information relating to the discharge of a security interest is presented to a clerk under the provisions of KRS 186.045(3), the clerk shall discharge the security interest and remove the lien information from AVIS.
- (4) Notwithstanding subsections (1), (2), and (3) of this section, a county clerk shall, following inspection of the vehicle by the sheriff, to determine that the vehicle has not been stolen, issue a new ownership document to a vehicle, clear of all prior liens, to a person after he or she provides to the county clerk an affidavit devised by the Transportation Cabinet and completed by the person. The ownership document presented as a result of this affidavit shall be in accordance with subsection (5) of this section. In the affidavit, the affiant shall attest that:
 - (a) The affiant or the agent of the affiant possesses the vehicle;
 - (b) Before he or she provided the notices required by paragraphs (c) and (d) of this subsection:
 - 1. A debt on the vehicle has been owed him or her for more than thirty (30) days;
 - 2. Within thirty (30) days of payment of damages by an insurance company and receipt by the current owner of the motor vehicle or lienholder of damages pursuant to a claim settlement which required transfer of the vehicle to the insurance company, the insurance company has been unable to obtain:
 - a. A properly endorsed certificate of title on the vehicle from the current owner; and
 - b. If applicable, any lien satisfactions; or
 - 3. a. The vehicle was voluntarily towed or transported pursuant to a request of the current owner or an insurance company that a motor vehicle dealer, licensed as a used motor vehicle dealer and motor vehicle auction dealer, take possession of and store the motor vehicle in the regular course of business; and
 - b. Within forty-five (45) days of taking possession of the motor vehicle, the motor vehicle dealer has not been paid storage fees by the current owner or lienholder and has not been provided both a properly endorsed certificate of title and if applicable, any lien satisfactions;

- (c) More than thirty (30) days before presenting the affidavit to the county clerk, the affiant attempted to notify the owner of the vehicle and all known lienholders, including those noted on the title, by certified mail, return receipt requested, or by a nationally recognized courier service, of his or her name, address, and telephone number as well as his or her intention to obtain a new title or salvage title, as applicable, clear of all prior liens, unless the owner or a lienholder objects in writing;
 - (d) More than fourteen (14) days before presenting the affidavit to the county clerk, the affiant had published a legal notice stating his or her intention to obtain title to the vehicle. The legal notice appeared at least twice in a seven (7) day period in a newspaper ~~published, and~~ with ~~a statewide~~ circulation~~;~~ in *the county* ~~Kentucky~~. The legal notice stated:
 - 1. The affiant's name, address, and telephone number;
 - 2. The owner's name;
 - 3. The names of all known lienholders, including those noted on the title;
 - 4. The vehicle's make, model, and year; and
 - 5. The affiant's intention to obtain title to the vehicle unless the owner or a lienholder objects in writing within fourteen (14) days after the last publication of the legal notice; and
 - (e) Neither the owner nor a lienholder has objected in writing to the affiant's right to obtain title to the vehicle.
- (5) (a) If subsection (4)(b)1. of this section applies, the new ownership document shall be a title.
 - (b) If subsection (4)(b)2. or 3. of this section applies, the new ownership document shall be a salvage title if the vehicle meets the requirements for a salvage title as stated in KRS 186A.520(1)(a).
 - (c) If subsection (4)(b)2. or 3. of this section applies and the vehicle does not meet the requirements for a salvage title as stated in KRS 186A.520(1)(a), the new ownership document shall be a title.
- (6) No more than two (2) active security interests may be noted upon a certificate of title.
 - (7) In noting a security interest upon a certificate of title, the county clerk shall ensure that the certificate of title bears the lienholder's name, mailing address and zip code, the date the lien was noted, the notation number, and the county in which the security interest was noted. The clerk shall obtain the information required by this subsection for notation upon the certificate of title from the title lien statement described in KRS 186A.195 to be provided to the county clerk by the secured party.
 - (8) For all the costs incurred in the notation and discharge of a security interest on the certificate of title, the county clerk shall receive the fee prescribed by KRS 64.012. The fee prescribed by this subsection shall be paid at the time of submittal of the title lien statement described in KRS 186A.195.
 - (9) A copy of the application, certified by the county clerk, indicating the lien will be noted on the certificate of title shall be forwarded to the lienholder.

Signed by Governor April 10, 2018.