

CHAPTER 177

(HB 83)

AN ACT relating to interests in property.

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

➔Section 1. KRS 426.720 is amended to read as follows:

- (1) A final judgment for the recovery of money or costs in the courts of record in this Commonwealth, whether state or federal, shall act as a lien upon all real estate in which the judgment debtor has any ownership interest, in any county in which the following first shall be done:
- (a) The judgment creditor, or *the judgment creditor's*~~[his]~~ counsel, shall file with the county clerk of any county a notice of judgment lien containing:
 1. The court of record entering the *final* judgment;~~;~~
 2. The civil action number of the suit in which the *final* judgment was entered;~~;~~
 3. *The date the final judgment was entered by the court of record;* and
 4. The amount of the *final* judgment, including principal, interest rate, court costs, and any attorney fees;
 - (b) ~~[The county clerk shall enter the notice in the lis pendens records in that office, and shall so note the entry upon the original of the notice;~~
 - (e) ~~[~~The judgment creditor, or *the judgment creditor's*~~[his]~~ counsel, shall send to the last known address of the judgment debtor or the judgment debtor's attorney of record, by regular first class mail, postage prepaid, or shall deliver to the *judgment* debtor personally, a copy of the notice of judgment lien, which notice shall include:
 1. The text of KRS 427.060; and~~[also]~~
 2. The following notice, or language substantially similar:

"Notice to Judgment Debtor. You may be entitled to an exemption under KRS 427.060, reprinted below. If you believe you are entitled to assert an exemption, seek legal advice."; and
 - (c)~~(d)~~ ~~[~~The judgment creditor, or *the judgment creditor's*~~[his]~~ counsel, shall certify on the notice of judgment lien that a copy thereof has been mailed to the judgment debtor in compliance with paragraph (b)~~(c)~~ of this subsection.
- (2) *Except as provided in subsection (3) of this section, a judgment lien created under this section:*
- (a) *Before the effective date of this Act, shall expire upon the earlier of:*
 1. *The expiration of the limitations period for the underlying final judgment under KRS 413.090; or*
 2. *Ten (10) years after the effective date of this Act; and*
 - (b) *On or after the effective date of this Act, shall expire ten (10) years after the date the final judgment was entered by the court of record.*
- (3) *The expiration of a judgment lien under subsection (2) of this section shall be postponed only if:*
- (a) 1. *At any time prior to the date of expiration:*
 - a. *A proceeding is filed in a court of record in this Commonwealth, whether state or federal, to enforce the judgment lien; and*
 - b. *The judgment creditor, or the judgment creditor's counsel, files a notice of the judgment lien enforcement proceeding in the county where the notice of judgment lien is lodged for record. The notice required under this subparagraph shall contain the following information:*

- i. *The court of record in which the proceeding was filed;*
 - ii. *The type of proceeding filed;*
 - iii. *The case number of the proceeding;*
 - iv. *The date the proceeding was filed; and*
 - v. *A certification by the person filing the notice that he or she will comply with subparagraph 3. of this paragraph.*
 - 2. *A judgment lien whose expiration has been postponed under this paragraph shall expire on the following date:*
 - a. *The date a final judgment is entered in the proceeding to enforce the judgment lien; or*
 - b. *The date the proceeding to enforce the judgment lien is dismissed.*
 - 3. *Within ten (10) days of the date of expiration under subparagraph 2. of this paragraph, the judgment creditor, or the judgment creditor's counsel, shall file a notice in the county where the notice of judgment lien is lodged for record. The notice shall contain:*
 - a. *The information about the judgment lien enforcement proceeding contained in the notice filed under subparagraph 1. of this paragraph; and*
 - b. *The judgment lien expiration date, as determined under subparagraph 2. of this paragraph; or*
 - (b) 1. *Not less than one hundred twenty (120) days prior to the date of expiration:*
 - a. *A notice of judgment lien renewal is filed by the judgment creditor or the judgment creditor's counsel in the county where the notice of judgment lien is lodged for record. The notice of renewal of the judgment lien shall contain:*
 - i. *All of the information required under subsection (1)(a) of this section; and*
 - ii. *The amount of the judgment lien that remains unsatisfied; and*
 - b. *The judgment creditor or the judgment creditor's counsel sends a copy of the notice of the judgment lien renewal filed under this paragraph to the last known address of the judgment debtor or the judgment debtor's attorney of record, by regular first class mail, postage prepaid, or by personal delivery to the judgment debtor.*
 - 2. *A judgment lien may be extended one (1) time in the manner provided under this paragraph for a period not to exceed five (5) years from the date of the expiration established under subsection (2) of this section.*
 - (4) *A county clerk shall enter the notices filed under this section in the lis pendens records of the clerk's office and shall so note the entry upon the original of the notices.*
 - (5) *In any action involving real property which is subject to a judgment lien, service may be had upon the judgment creditor by serving the judgment creditor or the judgment creditor's ~~counsel~~~~attorney~~ as shown in the notice of judgment lien.*
- ➔Section 2. KRS 65.032 is amended to read as follows:
- (1) As used in this section:
 - (a) "Recorded instrument" means any document relating to real property, personal property, and any property for which a Kentucky certificate of title has been issued, including but not limited to deeds and mortgages; and
 - (b) "Portal" means a ~~website~~~~Web site~~ or online database that:
 - 1. Is readily accessible by the public to provide remote online access to recorded instruments;
 - 2. Has a network security device that monitors incoming and outgoing network traffic and determines whether to allow or block specific traffic based on a defined set of security rules; and
 - 3. Has a system which provides for backup copies of recorded instruments to be securely stored.

- (2) By **January 1, 2024**~~[June 30, 2023]~~, all county clerks shall provide and maintain the portal that allows a person to electronically file any recorded instrument.
- (3) (a) By June 30, 2024, each county clerk shall provide and maintain a portal that contains the following recorded instruments:
1. Filed on or after June 30, 1994:
 - a. Deeds;
 - b. Mortgages;
 - c. Fixture filings under the Uniform Commercial Code;
 - d. Plats of subdivided property;
 - e. All covenants, conditions, and restrictions that relate to real property;
 - f. Easements;
 - g. Leases or memorandum of leases;
 - h. Powers of attorney;
 - i. Land contracts;
 - j. Wills; and
 - k. Affidavits that affect or clarify the title to property;
 2. Filed on or after June 30, 2004, child support liens;
 3. Filed on or after June 30, 2009:
 - a. Judgment liens;
 - b. Recoupment and unemployment liens; and
 - c. Lis pendens notices;
 4. Filed on or after June 30, 2014:
 - a. Federal and state tax liens; and
 - b. Civil penalty liens; and
 5. Filed on or after June 30, 2019:
 - a. Homeowner's association or condominium liens; and
 - b. Bail bonds.
- (b) By June 30, 2026, each county clerk shall provide and maintain a portal that contains the following recorded instruments filed on or after June 30, 1966, but before June 30, 1994:
1. Deeds;
 2. Mortgages;
 3. Fixture filings under the Uniform Commercial Code;
 4. Plats of subdivided property;
 5. All covenants, conditions, and restrictions that relate to real property;
 6. Easements;
 7. Leases or memorandum of leases;
 8. Powers of attorney;
 9. Land contracts;
 10. Wills; and

11. Affidavits that affect or clarify the title to property.
- (4) (a) Any fee charged by the county clerk for access to electronic copies of recorded instruments shall not exceed the actual cost of providing and maintaining the portal.
- (b) If a county clerk contracts with an outside vendor to provide and maintain a portal required under this section, actual costs may include:
1. Development and maintenance of a portal that provides access to recorded instruments;
 2. Personnel costs for companies that employ staff to support county clerks;
 3. Maintenance of cybersecurity credentials; and
 4. Insurance premiums.
- (5) A county clerk may redact Social Security numbers from electronic copies of recorded instruments and other personal information from recorded instruments upon request from a law enforcement agency or judicial officer.

➔Section 3. KRS 389A.010 is amended to read as follows:

- (1) Notwithstanding any other statutory limitation of the jurisdiction of the District Court:
- (a) Any trustee, guardian, conservator, or personal representative (hereinafter "fiduciary"), not otherwise possessing a power of sale, may move the District Court of the county in which the fiduciary has qualified for an order granting the fiduciary the power to sell or mortgage any real estate or any interest ***in the real estate***~~therein~~ possessed by his ***or her*** ward, decedent, or trust; and
- (b) The District Court may enter an order granting the fiduciary the power to sell or mortgage any real estate or any interest ***in the real estate***~~therein~~ possessed by the ward, decedent, or trust.
- (2) The motion shall include an adequate description of the property, a summary of the grounds for the motion, and a request that the bond of the fiduciary be increased in an adequate amount in accordance with KRS 395.130.
- (3) (a) Unless waived in writing, written notice of the hearing with a copy of the motion shall be served in a manner authorized by the Rules of Civil Procedure for the initiation of a civil action upon all persons who have a vested or contingent interest in the property interest sought to be sold.
- (b) Where the property interest sought to be sold belongs to a person under legal disability, service of notice and defense shall be governed by Civil Rules 4.04(3) and 17.03.
- (c)~~(a)~~ In the case where the subject of the action is the property interest of a person under legal disability, unless waived in writing, written notice ***shall be given*** by certified mail, return receipt requested,~~shall be given~~ to all known adult next of kin ***and shall include***~~of~~:
1. The nature and pendency of the action; and
 2. ***The time, date, and location of the hearing.***
- The notice required under this paragraph shall be given no later***~~Not less~~ than thirty (30) ***days prior to the date***~~days' notice of the time, date, and location~~ of the hearing on the motion.
- (d) At or before the hearing, the fiduciary or his ***or her*** attorney shall file an affidavit on personal knowledge showing compliance with ***paragraphs (a) to (c) of this subsection with the following attachments:***
1. ~~[this paragraph and attaching]~~A copy of the notice given; and
 2. The original of all receipts returned.
- (e)~~(b)~~ All~~such~~ persons ***under this subsection*** shall have standing to present evidence and to be heard at the hearing.
- (4) ~~Any~~~~An aggrieved~~ party ***aggrieved by any order affecting the right of the fiduciary to sell or mortgage any property or property interest under this section*** may, no later than thirty (30) days from the date of the order, institute an adversary proceeding in Circuit Court pursuant to KRS 24A.120(2)~~in respect to any order affecting the right of the fiduciary to sell or mortgage~~. Pending the entry of a final order and expiration of the

time for an appeal therefrom, neither the fiduciary nor the owner of any vested interest shall make any conveyance or mortgage of the real estate and any attempt to do so shall be *voidable by the court until*:

- (a) *The time for an appeal of any final order entered following the hearing under subsection (3) of this section has expired pursuant to the Rules of Civil Procedure; or*
- (b) *Any adversary proceeding instituted under this subsection has been finally adjudicated and the time for an appeal from the final adjudication order has expired pursuant to the Rules of Civil Procedure*~~[null and void]~~.

The provisions of this subsection shall be retroactive and shall apply to conveyances made prior to the effective date of this Act.

- (5) No proceedings under this section shall be conducted by or before a commissioner of the District Court.

➔Section 4. KRS 376.010 is amended to read as follows:

- (1) (a) Any person who performs labor or furnishes materials~~[,]~~ for the erection, altering, or repairing of a house or other structure or for any fixture or machinery therein, for the excavation of cellars, cisterns, vaults, wells, or for the improvement in any manner of real property including the furnishing of agricultural lime, fertilizer, concrete pipe or drainage tile, crushed rock, gravel for roads or driveways, and materials used in the construction or maintenance of fences, by contract with, or by the written consent of, the owner, *lessee*, contractor, subcontractor, architect, or authorized agent, shall have a lien thereon, and upon the land upon which the improvements were made, or on any interest the owner *or lessee* has therein, to secure the amount thereof with interest as provided in KRS 360.040, and costs.
- (b) *When improvements to property are made pursuant to an agreement or contract with a lessee, the lessee shall not be deemed the authorized agent of the owner unless the owner has designated the lessee, in writing, as the owner's agent for purposes of entering into the agreement or contract.*
- (c) The lien on the land or improvements shall be superior to any mortgage or encumbrance created subsequent to the beginning of the labor or the furnishing of the materials, and the lien, if asserted as hereinafter provided, shall relate back and take effect from the time of the commencement of the labor or the furnishing of the materials.
- (d) The lien shall not be for a greater amount in the aggregate than the contract price of the original contractor, and should the aggregate amount of the liens exceed the price agreed upon between the original contractor and the owner there shall be a pro rata distribution of the original contract price among the lienholders.
- (2) (a) The lien shall not take precedence over a mortgage or other contract lien or bona fide conveyance for value without notice, duly recorded or lodged for record according to law, unless the person claiming the prior lien shall, before the recording of the mortgage or other contract lien or conveyance, file in the office of the county clerk of the county ~~where~~~~wherein~~ he *or she* has furnished or expects to furnish labor or materials, a statement showing that he *or she* has furnished or expects to furnish labor or materials, and the amount *of the labor or materials* in full~~[thereof]~~.
- (b) The lien shall not, as against the holder of a mortgage or other contract lien or conveyance, exceed the amount of the lien claimed or expected to be claimed as set forth in the statement.
- (c) The statement shall, in other respects, be in the form prescribed by KRS 376.080.
- (3) (a) *Any lien under this section shall only extend to the right, title, and interest of the person who contracts for the improvements as the right, title, and interest exist at the commencement of the improvements or as thereafter acquired in the real property. When improvements to property are made by a lessee in accordance with an agreement between the lessee and his or her lessor, the lien shall also extend to the interest of the lessor.*
- (b) *When a lease agreement expressly provides that the interest of the lessor shall not be subject to liens for improvements made by the lessee, the lessee shall notify the contractor making any improvements of the provisions in the lease, and the knowing or willing failure of the lessee to provide this notice to the contractor shall render the contract between the lessee and the contractor voidable at the option of the contractor.*

- (4) (a) A ~~No~~ person who has not contracted directly with the owner, *the owner's* ~~or his~~ agent, *or the lessee, if applicable*, shall *not* acquire a lien under this section unless he *or she* notifies, in writing, the owner of the property to be held liable, *the owner's* ~~or his~~ authorized agent, *or the lessee, if applicable*, within seventy-five (75) days on claims amounting to less than *one thousand dollars* (\$1,000) and one hundred twenty (120) days on claims in excess of *one thousand dollars* (\$1,000) after the last item of material or labor is furnished, of his *or her* intention to hold the property liable and the amount for which he *or she* will claim a lien; ~~and~~ ~~;~~
- (b) It shall be sufficient to prove that the notice was mailed to the last known address of the owner of the property upon which the lien is claimed, or to *the owner's* ~~his~~ duly authorized agent within the county in which the property to be held liable is located.
- (5) (a) ~~(4)~~ A ~~No~~ person who has not contracted directly with the owner or *the owner's* ~~his~~ authorized agent shall *not* acquire a lien under this section on an owner-occupied single or double family dwelling, the appurtenances or additions thereto, or upon other improvements for agricultural or personal use to the real property or real property contiguous thereto and held by the same owner, upon which the owner-occupant's dwelling is located, unless he *or she* notifies in writing the owner of the property to be held liable or *the owner's* ~~his~~ authorized agent not more than seventy-five (75) days after the last item of material or labor is furnished, of the delivery of the material or performance of labor and of his *or her* intention to hold the property liable and the amount for which he *or she* will claim a lien.
- (b) It shall be sufficient to prove that the notice was mailed to the last known address of the owner of the property upon which the lien is claimed, or to *the owner's* ~~his~~ duly authorized agent.
- (c) ~~The~~ ~~this~~ notice *under this subsection* is in lieu of the notice provided for in subsection (4) of this section ~~(3)~~.
- (d) Notwithstanding the foregoing provisions of this subsection, the lien provided for under this section shall not be applicable to the extent that an owner-occupant of a single or double family dwelling, or owner of other property as described in this subsection has, prior to receipt of the notice provided for in this subsection, paid the contractor, subcontractor, architect, or authorized agent for work performed or materials furnished prior to such payment.
- (e) The contractor or subcontractor cannot be the authorized agent under this subsection.
- (f) This subsection shall apply to the construction of single or double family homes constructed pursuant to a construction contract with a property owner and intended for use as the property owner's dwelling.
- (6) ~~(5)~~ For purposes of this section, "labor" includes but is not limited to all supplies and work done by teams, trucks, machinery, and mechanical equipment, whether the owner furnishes a driver or operator or not.
- (7) ~~(6)~~ *As used in this section:*
- (a) "Supplies" includes small tools and equipment reasonably necessary in performing the work required to be done, including picks, shovels, sledge hammers, axes, pulleys, wire cables, ropes, and other similar items costing not more than fifty dollars (\$50) per item, and tires and tubes furnished for use on vehicles engaged in the performance of the work; ~~and~~ ~~;~~
- (b) "Supplies" also includes the cost of labor, materials, and repair parts supplied or furnished for keeping all machinery and equipment used in the performance of the work in good operating condition; and shall include the agreed or reasonable rental price of equipment and machinery used in performing the work to be done:
1. The lien for rental equipment or machinery shall not be more than the aggregate sum of six (6) months' rental, and the aggregate amount of such rental shall not exceed sixty percent (60%) of the agreed value of the machinery or equipment; and
 2. The liens for supplies as defined in this subsection are subordinate to the liens for labor, material, and supplies as defined in this section.

➔Section 5. KRS 371.325 is amended to read as follows:

No waiver of defense clause in any retail installment contract shall operate to cut off any defense that an owner-occupant of a single or double family dwelling or the appurtenances or additions thereto may have acquired by virtue of a third party materialmen's lien under KRS 376.010~~(4)~~.

➔Section 6. The provisions of subsection (3) of Section 4 of this Act shall not apply to any lease or agreement entered into prior to the effective date of this Act.

Signed by Governor April 6, 2023.