

AN ACT related to marriage and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) *Marriage licenses and certificates under KRS Chapter 402 shall be issued and recorded by the state registrar of vital statistics.*

(2) (a) *The cabinet shall prescribe by administrative regulation a fee of thirty-five dollars and fifty cents (\$35.50) for the issuance and recording of marriage licenses and certificates.*

(b) *One dollar (\$1) from each fee collected for the issuance of marriage licenses shall be placed in an agency fund in the Department of Libraries and Archives to be used exclusively for the purpose of preserving and retaining public records by continuing the local records grant program active in the Department for Libraries and Archives.*

(3) *Within thirty (30) days of the effective date of this Act, county clerks shall submit all existing marriage records, licenses, certificates, registers, and indexes to the state registrar.*

➔Section 2. KRS 344.130 is amended to read as follows:

As used in this chapter, unless the context requires otherwise, "place of public accommodation, resort, or amusement" includes any place, store, or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds, except that:

- (1) A private club is not a "place of public accommodation, resort, or amusement" if its policies are determined by its members and its facilities or services are available only to its members and their bona fide guests;
- (2) "Place of public accommodation, resort, or amusement" does not include a rooming

or boarding house containing not more than one (1) room for rent or hire and which is within a building occupied by the proprietor as his residence; and

(3) "Place of public accommodation, resort, or amusement" does not include a religious organization and its activities and facilities if the application of KRS 344.120 would not be consistent with the religious tenets of the organization, subject to paragraphs (a), (b), ~~and (c)~~, **and (d)** of this subsection.

(a) Any organization that teaches or advocates hatred based on race, color, or national origin shall not be considered a religious organization for the purposes of this subsection.

(b) A religious organization that sponsors nonreligious activities that are operated and governed by the organization, and that are offered to the general public, shall not deny participation by an individual in those activities on the ground of disability, race, color, religion, or national origin.

(c) A religious organization shall not, under any circumstances, discriminate in its activities or use of its facilities on the ground of disability, race, color, or national origin.

(d) The secular aspects of marriage solemnization and licensing shall not be construed to make marriage solemnization and its celebration a nonreligious activity under this subsection.

➔Section 3. KRS 402.050 is amended to read as follows:

(1) Marriage shall be solemnized only by:

(a) Ministers of the gospel or priests of any denomination in regular communion with any religious society;

(b) Justices and judges of the Court of Justice, retired justices and judges of the Court of Justice except those removed for cause or convicted of a felony, county judges/executive, and such justices of the peace and fiscal court commissioners as the Governor or the county judge/executive authorizes; or

(c) A religious society that has no officiating minister or priest and whose usage is to solemnize marriage at the usual place of worship and by consent given in the presence of the society, if either party belongs to the society.

(2) **Nothing in this section or the law of the Commonwealth shall be construed to compel a person to solemnize a marriage to which the person holds a sincere religious objection or which is contrary to the person's faith tradition due to the marriage being between persons of the same sex as biologically identified and recorded at birth.**

(3) At least two (2) persons, in addition to the parties and the person solemnizing the marriage, shall be present at every marriage.

➔Section 4. KRS 446.350 is amended to read as follows:

(1) Government shall not substantially burden a person's freedom of religion. The right to act or refuse to act in a manner motivated by a sincerely held religious belief may not be substantially burdened unless the government proves by clear and convincing evidence that it has a compelling governmental interest in infringing the specific act or refusal to act and has used the least restrictive means to further that interest. A "burden" shall include indirect burdens such as withholding benefits, assessing penalties, or an exclusion from programs or access to facilities.

(2) **Solemnizing a marriage to which a person holds a sincere religious objection or which is contrary to that person's faith tradition due to the marriage being between persons of the same sex as biologically identified and recorded at birth shall be considered a substantial burden for which there is no compelling government interest and that person shall additionally be immune from any civil or criminal liability for declining to solemnize such a marriage.**

➔Section 5. KRS 47.110 is amended to read as follows:

Twelve and one-half percent (12.5%) of the revenue received from the taxes imposed by ~~[paragraphs (a) and (b) of subsection (1) of]~~KRS 142.010(1)(a), shall be returned to the

county in which the tax was paid and be credited to the general fund of the county.

→Section 6. KRS 64.012 is amended to read as follows:

The county clerk shall receive for the following services the following fees:

- (1) (a) Recording and indexing of a:
 1. Deed of trust or assignment for the benefit of creditors;
 2. Deed;
 3. Real estate mortgage;
 4. Deed of assignment;
 5. Real estate option;
 6. Power of attorney;
 7. Revocation of power of attorney;
 8. Lease which is recordable by law;
 9. Deed of release of a mortgage or lien under KRS 382.360;
 10. United States lien;
 11. Release of a United States lien;
 12. Release of any recorded encumbrance other than state liens;
 13. Lis pendens notice concerning proceedings in bankruptcy;
 14. Lis pendens notice;
 15. Mechanic's and artisan's lien under KRS Chapter 376;
 16. Assumed name;
 17. Notice of lien issued by the Internal Revenue Service;
 18. Notice of lien discharge issued by the Internal Revenue Service;
 19. Original, assignment, amendment, or continuation financing statement;
 20. Making a record for the establishment of a city, recording the plan or plat thereof, and all other service incident;
 21. Survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city;

22. Recording with statutory authority for which no specific fee is set, except a military discharge; and

23. Filing with statutory authority for which no specific fee is set.

For all items in this subsection if the entire thereof does not exceed three (3) pages\$12.00

And, for all items in this subsection exceeding three (3) pages, for each additional page\$3.00

And, for all items in this subsection for each additional reference relating to same instrument\$4.00

(b) The twelve dollar (\$12) fee imposed by paragraph (a) of this subsection shall be divided as follows:

- 1. Six dollars (\$6) shall be retained by the county clerk; and
- 2. Six dollars (\$6) shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk within ten (10) days following the end of the quarter in which the fee was received. Each remittance to the affordable housing trust fund shall be accompanied by a summary report on a form prescribed by the Kentucky Housing Corporation.

(2) Recording and indexing a file-stamped copy of documents set forth in KRS 14A.2-040(1) or (2) that have been filed first with the Secretary of State:

(a) The entire record thereof does not exceed three (3) pages\$10.00

(b) And, exceeding three (3) pages, for each additional page\$3.00

(3) Recording wills or other probate documents pursuant to KRS Chapter 392 or 394\$ 8.00

(4) Recording court ordered name changes pursuant to KRS Chapter 401\$ 8.00

(5) For noting a security interest on a certificate of title pursuant to KRS Chapter 186A\$12.00

(6) For filing the release of collateral under a financing statement and noting same upon the face of the title pursuant to KRS Chapter 186 or 186A	\$5.00
(7) Filing or recording state tax or other state liens	\$5.00
(8) Filing release of a state tax or other state lien	\$5.00
(9) Marginal release, noting release of any lien, mortgage, or redemption other than a deed of release	\$8.00
(10) Acknowledging or notarizing any deed, mortgage, power of attorney, or other written instrument required by law for recording and certifying same	\$4.00
(11) Recording a land use restriction according to KRS 100.3681	\$15.00
(12) Recording plats, maps, and surveys, not exceeding 24 inches by 36 inches, per page	\$20.00
(13) Recording a bond, for each bond	\$10.00
(14) Each bond required to be taken or prepared by the clerk	\$4.00
(15) Copy of any bond when ordered	\$3.00
(16) Administering an oath and certificate thereof	\$5.00
(17) Issuing a license for which no other fee is fixed by law	\$8.00
(18) Issuing a solicitor's license	\$15.00
(19) Marriage license, indexing, recording, and issuing certificate thereof	\$24.00
(20) Every order concerning the establishment, changing, closing, or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not	\$3.00
<u>(20)</u> (21) Registration of licenses for professional persons required to register with the county clerk	\$10.00
<u>(21)</u> (22) Certified copy of any record	\$5.00

Plus fifty cents (\$.50) per page after three (3) pages

(22) (23) Filing certification required by KRS 65.070(2)(a)	\$5.00
(23) (24) Filing notification and declaration and petition of candidates for Commonwealth's attorney	\$200.00
(24) (25) Filing notification and declaration and petition of candidates for county and independent boards of education	\$20.00
(25) (26) Filing notification and declaration and petition of candidates for boards of soil and water conservation districts	\$20.00
(26) (27) Filing notification and declaration and petition of candidates for other office	\$50.00
(27) (28) Filing declaration of intent to be a write-in candidate for office	\$50.00
(28) (29) Filing petitions for elections, other than nominating petitions	\$50.00
(29) (30) Notarizing any signature, per signature	\$2.00
(30) (31) Filing bond for receiving bodies under KRS 311.310	\$10.00
(31) (32) Noting the assignment of a certificate of delinquency and recording and indexing the encumbrance under KRS 134.126 or 134.127	\$27.00
(32) (33) Filing a going-out-of-business permit under KRS 365.445	\$50.00
(33) (34) Filing a renewal of a going-out-of-business permit under KRS 365.445	\$50.00
(34) (35) Filing a grain warehouseman's license under KRS 359.050	\$10.00
(35) (36) Filing and processing a transient merchant permit under KRS 365.680	\$25.00

➔Section 7. KRS 142.010 is amended to read as follows:

- (1) The following taxes shall be paid:
 - (a) ~~[A tax of four dollars and fifty cents (\$4.50) on each marriage license;~~
 - ~~(b)~~—]A tax of four dollars (\$4) on each power of attorney to convey real or personal property;
 - ~~(b)~~~~(c)~~ A tax of four dollars (\$4) on each mortgage, financing statement, or security agreement and on each notation of a security interest on a certificate

of title under KRS 186A.190;

~~(c)~~~~(d)~~ A tax of four dollars (\$4) on each conveyance of real property; and

~~(d)~~~~(e)~~ A tax of four dollars (\$4) on each lien or conveyance of coal, oil, gas, or other mineral right or privilege.

- (2) The tax imposed by this section shall be collected by each county clerk as a prerequisite to the ~~issuance of a marriage license or the~~ original filing of an instrument subject to the tax. Subsequent assignment of the original instrument shall not be cause for additional taxation under this section. This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.
- (3) Taxes imposed under this section shall be reported and paid to the Department of Revenue by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed ~~or marriage licenses issued~~. Each remittance shall be accompanied by a summary report on a form prescribed by the department.
- (4) Any county clerk who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180. In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.
- (5) One dollar (\$1) of the amount collected under each paragraph of subsection (1) of this section shall be placed in an agency fund in the Department for Libraries and Archives to be used exclusively for the purpose of preserving and retaining public records by continuing the local records grant program active in the Department for Libraries and Archives. The budgeted amount of funds allocated to the grant program in the fiscal year 2005-2006 departmental budget shall not be reduced in future years, and shall be increased annually by this additional revenue to be used exclusively for the grants program.

➔Section 8. KRS 209.160 is amended to read as follows:

- (1) There is hereby created a trust and agency account in the State Treasury to be known as the domestic violence shelter fund. *The state registrar of vital statistics*~~[Each county clerk]~~ shall remit to the fund, by the tenth of the month, ten dollars (\$10) from each *twenty-five dollars (\$25)*~~[twenty four dollars (\$24)]~~ collected during the previous month from the issuance of marriage licenses. The fund shall be administered by the Department of Revenue. The Cabinet for Health and Family Services shall use the funds for the purpose of providing protective shelter services for domestic violence victims.
- (2) The Cabinet for Health and Family Services shall designate one (1) nonprofit corporation in each area development district to serve as the primary service provider and regional planning authority for domestic violence shelter, crisis, and advocacy services in the district in which the designated provider is located.

➔Section 9. KRS 213.116 is amended to read as follows:

- (1) The cabinet shall perform the collection, indexing, tabulation, and registration of data relating to marriages, divorces, and annulments. The secretary shall adopt administrative regulations to carry out the provisions of this section.
- (2) ~~[Each county clerk shall on or before the tenth day of each month furnish to the state registrar, from the marriage licenses issued and the marriage certificates returned to the clerk during the previous month, the information required by the Cabinet for Health and Family Services upon forms prescribed and furnished by the cabinet. The county clerk shall collect from the applicants for a marriage license at the time the license is issued one dollar (\$1), which shall constitute the clerk's fee for forwarding the required information to the state registrar.~~
- (3) ~~A marriage record not filed within the time prescribed by this section may be registered in accordance with administrative regulations adopted by the cabinet.~~
- (4) ~~]In all actions for dissolution of marriage, the petitioner, or the petitioner's attorney~~

or legal representative, shall file, concurrently with the petition, the information requested on forms prescribed and furnished by the Cabinet for Health and Family Services. By January 1, 2013, these forms shall be available on the cabinet's Web site as a downloadable document that can be completed electronically and printed. The provisions of the information shall be prerequisite to the issuance of a final decree in the matter by the court.

~~(3)~~~~(5)~~ Each Circuit Court clerk shall, within forty-five (45) days after entry of a final judgment of divorce, absolute or limited, or annulment of marriage, complete the form prescribed and furnished by the Cabinet for Health and Family Services and forward it to the state registrar.

➔Section 10. KRS 402.080 is amended to read as follows:

No marriage shall be solemnized without a license therefor. The license shall be issued by the state registrar of vital statistics designated under KRS 213.026~~[clerk of the county in which the female resides at the time, unless the female is eighteen (18) years of age or over or a widow, and the license is issued on her application in person or by writing signed by her, in which case it may be issued by any county clerk].~~

➔Section 11. KRS 402.100 is amended to read as follows:

The state registrar of vital statistics shall create a form which allows~~[Each county clerk shall use the form prescribed by the Department for Libraries and Archives when issuing a marriage license. This form shall provide]~~ for the entering of all of the information required in this section, and may also provide for the entering of additional information~~[prescribed by the Department for Libraries and Archives]~~. The form shall consist of:

- (1) A marriage license which provides for the entering of:
 - (a) An authorization statement of the state registrar of vital statistics~~[county clerk issuing the license]~~ for any person or religious society authorized to perform marriage ceremonies to unite in marriage the persons named;
 - (b) Vital information for each party, including the full name, date of birth, place

of birth, race, condition (single, widowed, or divorced), number of previous marriages, occupation, current residence, relationship to the other party, and full names of parents; and

- (c) The date ~~and place~~ the license is issued, and the signature of the state registrar of vital statistics~~county clerk or deputy clerk issuing the license~~.

(2) A marriage certificate which provides for the entering of:

- (a) A statement by the person performing the marriage ceremony or the clerk of the religious society authorized to solemnize the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony or the name of the religious society solemnizing the marriage, the names of persons married, the date and place of the marriage, and the names of two (2) witnesses;
- (b) A statement by the person performing the marriage ceremony of his legal qualification under this chapter to perform the ceremony, such statement to include the name of the county or city where his license to perform marriage ceremonies was issued or, in the case of religious societies authorized by KRS 402.050(1)(c) to solemnize marriages, the name of the city or county where the religious society is incorporated. The provisions of this paragraph shall not be construed to require the clerk of a religious society to be present at the marriage so long as the witnesses of the society are present; and
- (c) A dated signature of the person performing the ceremony~~; and~~
- ~~(d) A signed statement by the county clerk or a deputy county clerk of the county in which the marriage license was issued that the marriage certificate was recorded. The statement shall indicate the name of the county and the date the marriage certificate was recorded.~~

(3) A certificate to be delivered by the person performing the marriage ceremony or the clerk of the religious society performing the marriage ceremony to the parties

married. This certificate shall provide for the entering of:

- (a) A statement by the person performing the marriage ceremony or the clerk of the religious society performing the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony, or the name of the religious society performing the ceremony, the names of persons married, the date and place of the marriage, the names of two (2) witnesses, and the following information as recorded on the license authorizing the marriage: the date the license was issued, ***and*** the name of the ***state registrar of vital statistics***~~[county clerk]~~ under whose authority the license was issued~~], and the county in which the license was issued]~~; and
 - (b) A dated signature of the person performing the ceremony or the clerk of the religious society performing the ceremony.
- (4) A Social Security number shall be requested as a means of identification of each party but shall not be recorded on the marriage license or certificate. Other means of identification may also be requested if a party does not have a Social Security number. The Social Security number shall be forwarded to the appropriate agency within the Cabinet for Health and Family Services that is responsible for enforcing child support, and the number shall be stored by that agency with a nonidentifying numeric. The Social Security number shall not be available for public release.

➔Section 12. KRS 402.110 is amended to read as follows:

The form of marriage license prescribed in KRS 402.100 shall be uniform throughout this state, and every license blank shall contain the identical words and figures provided in the form prescribed by that section. In issuing the license the ***state registrar of vital statistics***~~[clerk]~~ shall deliver it in its entirety to the licensee. The ***state registrar of vital statistics***~~[clerk]~~ shall see to it that every blank space required to be filled by the applicants is so filled before delivering it to the licensee.

➔Section 13. KRS 402.210 is amended to read as follows:

- (1) If either of the parties is under eighteen (18) but over sixteen (16) years of age and not before married, no license shall issue without the consent required by KRS 402.020(1)(f), personally given or certified in writing to the state registrar of vital statistics~~clerk~~ over the signature of the person consenting in accordance with KRS 402.020(1)(f), attested by two (2) subscribing witnesses and proved by the oath of one (1) of the witnesses~~, administered by the clerk. If the parties are personally unknown to the clerk, a license shall not issue until bond, with good surety, in the penalty of one hundred dollars (\$100) is given to the Commonwealth, with condition that there is no lawful cause to obstruct the marriage.~~
- (2) If either of the parties is under sixteen (16) years of age, no license shall issue without the permission of a District Judge, as required by KRS 402.020(1)(f)3., in the form of a certified copy of a written court order.

➔Section 14. KRS 402.220 is amended to read as follows:

The person solemnizing the marriage or the clerk of the religious society before which it was solemnized shall within one (1) month return the license to the state registrar of vital statistics~~county clerk of the county in which it was issued~~, with a certificate of the marriage over his signature, giving the date and place of celebration and the names of at least two (2) of the persons present.

➔Section 15. KRS 402.230 is amended to read as follows:

The certificate shall be filed in the ~~county clerk's~~ office of the state registrar of vital statistics. The state registrar~~county clerk~~ shall keep in a record~~book~~ a fair register of the parties' names, the person by whom, or the religious society by which, the marriage was solemnized, the date when the marriage was solemnized, and shall keep an index to ~~the book in which~~ the register~~is made~~.

➔Section 16. KRS 402.990 is amended to read as follows:

- (1) Any party to a marriage prohibited by KRS 402.010 shall be guilty of a Class B

misdemeanor. If the parties continue after conviction to cohabit as man and wife, either or both of them shall be guilty of a Class A misdemeanor.

- (2) Any person who aids or abets the marriage of any person who has been adjudged mentally disabled, or attempts to marry, or aids or abets any attempted marriage with any such person shall be guilty of a Class B misdemeanor.
- (3) Any authorized person who knowingly solemnizes a marriage prohibited by this chapter shall be guilty of a Class A misdemeanor.
- (4) Any unauthorized person who solemnizes a marriage under pretense of having authority, and any person who falsely personates the father, mother, or guardian of an applicant in obtaining a license shall be guilty of a Class D felony.
- (5) Any person who falsely and fraudulently represents or personates another, and in such assumed character marries that person, shall be guilty of a Class D felony. Indictment under this subsection shall be found only upon complaint of the injured party and within two (2) years after the commission of the offense.†
- ~~(6) Any clerk who knowingly issues a marriage license to any persons prohibited by this chapter from marrying shall be guilty of a Class A misdemeanor and removed from office by the judgment of the court in which he is convicted.~~
- ~~(7) Any clerk who knowingly issues a marriage license in violation of his duty under this chapter shall be guilty of a Class A misdemeanor.~~
- ~~(8) If any deputy clerk or any person other than a county clerk knowingly issues a marriage license in violation of this chapter, but not for a prohibited marriage, he shall be guilty of a Class A misdemeanor, and if he knowingly issues a license for a marriage prohibited by this chapter, he shall be guilty of a Class A misdemeanor.]~~
- (6)~~(9)~~ Any person who violates any of the provisions of KRS 402.090 shall be guilty of a violation.
- (7)~~(10)~~ Any county clerk who violates any of the provisions of KRS~~[402.110 or]~~ 402.230 shall be guilty of a violation.

~~(8)~~~~(11)~~ Any person failing to make the return required of him by KRS 402.220 shall be guilty of a violation.

→Section 17. The following KRS sections are repealed:

402.240 County judge/executive to issue license in absence of clerk.

402.270 Marriage manual -- Preparation by Human Resources Coordinating Commission for distribution to marriage applicants.

→Section 18. Sections 2 to 4 of this Act may be cited as the Pastors' Protection Act.

→Section 19. This Act takes effect January 1, 2017.