

1 AN ACT relating to business entities.

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

3 ➔SECTION 1. A NEW SECTION OF SUBCHAPTER 4 OF KRS CHAPTER  
4 14A IS CREATED TO READ AS FOLLOWS:

5 *Excepting the actions provided in KRS 452.400, 452.405, 452.410, 452.415, 452.420,*  
6 *452.430, 452.440, 452.445, 452.465, and 452.475, an action against an entity or foreign*  
7 *entity that maintains a registered office may be brought in the county in which the*  
8 *office is situated.*

9 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO  
10 READ AS FOLLOWS:

11 *(1) On application by the limited liability company, a person is expelled as a member*  
12 *by judicial order:*

13 *(a) If the person has engaged or is engaging in wrongful conduct that has*  
14 *adversely and materially affected, or will adversely and materially affect, the*  
15 *company's activities;*

16 *(b) If the person has willfully or persistently committed, or is willfully and*  
17 *persistently committing, a material breach of the operating agreement or*  
18 *the person's duties or obligations under KRS 275.170;*

19 *(c) If the person has engaged or is engaging in conduct relating to the*  
20 *company's activities which makes it not reasonably practicable to carry on*  
21 *the activities with the person as a member; or*

22 *(d) For such other reasons as are set forth in a written agreement.*

23 *(2) Upon the effective date of the expulsion, the expelled member shall be dissociated*  
24 *from and cease to be a member of the company and with respect to the expelled*  
25 *member's limited liability company interest shall be an assignee.*

26 *(3) Except as set forth in a written operating agreement, the dissociation of a*  
27 *member in accordance with this section does not entitle the former member or*

1        **any assignee to any distribution.**

2        ➔Section 3. KRS 14A.1-070 is amended to read as follows:

3        As used in this chapter, unless the context otherwise requires:

- 4        (1) "Business" includes every trade, occupation, and profession;
- 5        (2) "Corporation" means a business corporation governed as to its internal affairs by  
6        KRS Chapter 271B, a cooperative or association governed as to its internal affairs  
7        by KRS Chapter 272, a nonprofit corporation governed as to its internal affairs by  
8        KRS Chapter 273, and a rural electric or rural telephone cooperative corporation  
9        governed as to its internal affairs by KRS Chapter 279;
- 10       (3) "Business trust" means a business trust governed as to its internal affairs by KRS  
11       Chapter 386 or a statutory trust governed as to its internal affairs by KRS Chapter  
12       386A;
- 13       (4) "Debtor in bankruptcy" means a person who is the subject of:
- 14       (a) An order for relief under Title 11 of the United States Code or a comparable  
15       order under a successor statute of general application; or
- 16       (b) A comparable order under federal, state, or foreign law governing insolvency;
- 17       (5) "Deliver" or "delivery" means any method of delivery used in conventional  
18       commercial practice, including delivery by hand, mail, commercial delivery, and  
19       electronic transmission;
- 20       (6) "Electronic transmission" or "electronically transmitted" means any process of  
21       communication not directly involving the physical transfer of paper that is suitable  
22       for the retention, retrieval, and reproduction of information by the recipient;
- 23       (7) "Entity" means a corporation, business **or statutory** trust, partnership, limited  
24       partnership,~~[-or]~~ limited liability company, **limited cooperative association, or**  
25       **unincorporated nonprofit association,** governed as to its internal affairs by the  
26       laws of the Commonwealth of Kentucky;
- 27       (8) "Foreign business trust" means a business or statutory trust not governed as to its

- 1 internal affairs by KRS Chapter 386 or 386A;
- 2 (9) "Foreign corporation" means a corporation as defined in subsection (2) of this  
3 section that is not:
- 4 (a) Organized pursuant to the laws of the Commonwealth of Kentucky; or  
5 (b) As to its internal affairs, governed by the laws of the Commonwealth of  
6 Kentucky;
- 7 (10) "Foreign entity" means a corporation, not-for-profit corporation, cooperative,  
8 **limited cooperative association**, association, business or statutory trust, partnership,  
9 limited partnership,~~[-or]~~ limited liability company, **or unincorporated nonprofit**  
10 **association** not:
- 11 (a) Organized pursuant to the laws of the Commonwealth of Kentucky; or  
12 (b) As to its internal affairs, governed by the laws of the Commonwealth of  
13 Kentucky;
- 14 (11) "Foreign limited cooperative association" means a limited cooperative association  
15 that is not:
- 16 (a) Organized pursuant to the laws of the Commonwealth of Kentucky; or  
17 (b) As to its internal affairs, governed by the laws of the Commonwealth of  
18 Kentucky;
- 19 (12) "Foreign limited liability partnership" means a partnership that:
- 20 (a) Is formed under laws other than the laws of this Commonwealth; and  
21 (b) Has the status of a limited liability partnership under those laws;
- 22 (13) "Foreign professional service corporation" has the same meaning as in KRS  
23 274.005;
- 24 (14) "Foreign rural electric cooperative" means a rural electric cooperative organized  
25 otherwise than under KRS 279.010 to 279.210;
- 26 (15) "Foreign rural telephone cooperative" means a rural telephone cooperative  
27 organized otherwise than under KRS 279.310 to 279.990 excepting 279.570;

- 1 (16) "Foreign unincorporated nonprofit association" means an unincorporated  
 2 nonprofit association that is not:  
 3 (a) Organized in accordance with the laws of the Commonwealth of Kentucky;  
 4 or  
 5 (b) As to its internal affairs, governed by the laws of the Commonwealth of  
 6 Kentucky;
- 7 (17) "Good standing" means that all annual reports which are required to be received  
 8 from an entity or foreign entity have been delivered to and filed by the Secretary of  
 9 State, that all other lawfully required statutory documentation has been received and  
 10 filed, and that all fees, costs, and expenses, including penalties incurred in  
 11 connection therewith, have been paid;
- 12 (18)~~(17)~~ "Limited cooperative association" means a limited cooperative association  
 13 governed as to its internal affairs by KRS Chapter 272A;
- 14 (19)~~(18)~~ "Limited liability company" has the same meaning as in KRS 275.015;
- 15 (20)~~(19)~~ "Limited liability partnership" means a partnership that has filed a statement  
 16 of qualification under KRS 362.1-931 or a registration as a registered limited  
 17 liability partnership under KRS 362.555 and does not have a similar statement  
 18 or~~of~~ registration in effect in any other jurisdiction;
- 19 (21)~~(20)~~ "Name of record with the Secretary of State" means any real, fictitious,  
 20 reserved, registered, or assumed name of an entity or foreign entity;
- 21 (22)~~(21)~~ "Nonprofit corporation," other than in the term "foreign nonprofit  
 22 corporation," means a nonprofit corporation incorporated pursuant to and governed  
 23 as to its internal affairs by KRS Chapter 273 or predecessor law;
- 24 (23)~~(22)~~ "Organic act" means the law of a state or other jurisdiction governing the  
 25 organization and internal affairs of an entity or foreign entity;
- 26 (24)~~(23)~~ "Organized" means organized, incorporated, or formed;
- 27 (25)~~(24)~~ "Organizational filing" means a filing made with the Secretary of State as a

1 precondition to the formation, organization, or incorporation of an entity, including  
2 articles of incorporation, articles of organization, articles of association, certificates  
3 of trust, and certificates of limited partnership. A statement of qualification filed  
4 pursuant to KRS 362.1-931 or a registration as a limited liability partnership filed  
5 pursuant to KRS 362.555 is not an organizational filing;

6 ~~(26)~~~~(25)~~ "Partnership" means an association of two (2) or more persons to carry on as  
7 co-owners a business for profit formed under KRS 362.1-202, predecessor law, or  
8 comparable law of another jurisdiction;

9 ~~(27)~~~~(26)~~ "Partnership agreement" means the agreement, whether written, oral, or  
10 implied, among the partners concerning the partnership, including amendments to  
11 the partnership agreement;

12 ~~(28)~~~~(27)~~ "Person" means an individual, an entity, a foreign entity, or any other legal or  
13 commercial entity;

14 ~~(29)~~~~(28)~~ "Principal office" means the address required by this chapter or the organic act  
15 to be of record with the Secretary of State as the principal office, the principal place  
16 of business address, the designated office of a limited partnership, or the chief  
17 executive office of a limited liability partnership;

18 ~~(30)~~~~(29)~~ "Professional service corporation" has the same meaning as in KRS 274.005;

19 ~~(31)~~~~(30)~~ "Professional services" means the personal services rendered by physicians,  
20 osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists,  
21 psychologists, occupational therapists, veterinarians, engineers, architects,  
22 landscape architects, certified public accountants, public accountants, physical  
23 therapists, and attorneys;

24 ~~(32)~~~~(31)~~ "Property" means all property, real, personal, or mixed, tangible or intangible,  
25 or any interest therein;

26 ~~(33)~~~~(32)~~ "Qualified person" has the same meaning as in KRS 274.005;

27 ~~(34)~~~~(33)~~ "Registered agent" means a registered agent appointed in accordance with

1 KRS 14A.4-010 or predecessor law, and is synonymous with agent for service of  
2 process;

3 **(35) "Registered office" means the registered office identified in accordance with and**  
4 **satisfying the requirements of KRS 14A.4-010(1)(b). The registered office address**  
5 **must be a street address;**

6 **(36)**~~(34)~~ "Regulatory board" means the agency that is charged by law with the licensing  
7 and regulation of the practice of the profession which the **entity**~~professional~~  
8 ~~partnership~~ is organized to provide;

9 **(37)**~~(35)~~ "Rural electric cooperative" means a rural electric cooperative governed as to  
10 its internal affairs by KRS 279.010 to 279.210;

11 **(38)**~~(36)~~ "Rural telephone cooperative" means a rural telephone cooperative governed  
12 as to its internal affairs by KRS 279.310 to 279.990 excepting KRS 279.570;

13 **(39)**~~(37)~~ "Series entity" means an entity or a foreign entity authorized and enabled by  
14 its organic act and organizational filing to create series having separate rights,  
15 powers, or duties with respect to specific property or obligations of the series entity,  
16 or the profits and losses associated with specific property or obligations;

17 **(40)**~~(38)~~ "Sign" or "signature" includes any manual, facsimile, conformed, or electronic  
18 signature;

19 **(41)**~~(39)~~ "State" means a state of the United States, the District of Columbia, the  
20 Commonwealth of Puerto Rico, or any territory or insular possession subject to the  
21 jurisdiction of the United States;~~and~~

22 **(42)**~~(40)~~ "Statutory trust" means a trust governed as to its internal affairs by KRS  
23 Chapter 386A; **and**

24 **(43) "Unincorporated nonprofit association" means an unincorporated nonprofit**  
25 **association governed as to its internal affairs by KRS Chapter 273A.**

26 ➔Section 4. KRS 14A.2-060 is amended to read as follows:

27 (1) The Secretary of State shall collect the following fees when the documents

- 1 described in this subsection are delivered for filing:
- 2 (a) Application for use of indistinguishable name .....\$ 20
- 3 (b) Application or renewal of application for reserved name .....\$ 15
- 4 (c) Cancellation of application for reserved name .....\$ 10
- 5 (d) Notice of transfer of reserved name .....\$ 15
- 6 (e) Application for registered name .....\$ 36
- 7 (f) Application for renewal of registered name .....\$ 36
- 8 (g) Statement of change of registered office or registered agent, or both .....\$ 10
- 9 (h) Statement of change of principal office address .....\$ 10
- 10 (i) Agent's statement of change of registered office for each affected
- 11 entity or foreign entity .....\$ 10
- 12 not to exceed a total of .....\$2,000
- 13 (j) Reinstatement penalty following administrative dissolution .....\$ 100
- 14 (k) Application for certificate of authority .....\$ 90
- 15 (l) Application for amended certificate of authority .....\$ 40
- 16 (m) Certificate of withdrawal .....\$ 40
- 17 (n) Certificate of existence .....\$ 10
- 18 (o) Certificate of authorization.....\$ 10
- 19 (p) Any other document required or permitted to be filed by this chapter .....\$ 15
- 20 (q) Agent's statement of resignation ..... No fee
- 21 (r) Certificate of administrative dissolution ..... No fee
- 22 (s) Certificate of reinstatement ..... No fee
- 23 (t) Certificate of revocation of authority to transact business ..... No fee
- 24 **(u) Certificate of association.....\$ 15**
- 25 (2) The Secretary of State shall collect a fee of fifteen dollars (\$15) with respect to each
- 26 annual report or amendment thereto.
- 27 (3) The Secretary of State shall collect a fee of ten dollars (\$10) each time process is

1 served on him or her under this chapter. The party to a proceeding causing service  
2 of process shall be entitled to recover this fee as costs if he prevails in the  
3 proceeding.

4 (4) The Secretary of State shall collect the following fees for copying and certifying the  
5 copy of any filed document relating to a domestic or foreign entity:

6 (a) Five dollars (\$5) per request for the first five (5) pages and fifty cents (\$0.50)  
7 a page for each page thereafter; and

8 (b) Five dollars (\$5) for the certificate.

9 ➔Section 5. KRS 14A.6-010 is amended to read as follows:

10 (1) Each entity and each foreign entity authorized to transact business in this  
11 Commonwealth shall deliver to the Secretary of State for filing an annual report that  
12 sets forth:

13 (a) The name of the entity or foreign entity and the state or country under whose  
14 law it is organized;

15 (b) The address of its registered office and the name of its registered agent at that  
16 office in this Commonwealth;

17 (c) The address of its principal office; and

18 (d) With respect to each:

19 1. Corporation, not-for-profit corporation, cooperative, association, or  
20 limited cooperative association, whether domestic or foreign:

21 a. The name and business address of the secretary or other officer  
22 with responsibility for authenticating the records of the entity;

23 b. The name and business address of each other principal officer; and

24 c. The name and business address of each director;

25 2. Manager-managed limited liability company, whether domestic or  
26 foreign, the name and business address of each manager;

27 3. Limited partnership, whether domestic or foreign, the name and business



1 address of each general partner;

2 4. Business trust, whether domestic or foreign, the name and business  
3 address of each trustee;~~and~~

4 5. Professional service corporation, domestic or foreign, a statement that  
5 each of the shareholders, not less than one-half (1/2) of the directors, and  
6 each of the officers other than secretary and treasurer is a qualified  
7 person; and

8 **6. Unincorporated nonprofit association, the name and business address**  
9 **of each manager.**

10 (2) Information in the annual report shall be current as of the date the annual report is  
11 executed on behalf of the entity or foreign entity.

12 (3) The first annual report shall be delivered to the Secretary of State between January 1  
13 and June 30 of the year following the calendar year in which an entity was  
14 organized or a foreign entity was authorized to transact business in this state.  
15 Subsequent annual reports shall be delivered to the Secretary of State between  
16 January 1 and June 30 of each following calendar year.

17 (4) If an annual report does not contain the information required by this section, the  
18 Secretary of State shall promptly notify the entity or foreign entity in writing and  
19 return the report to it for correction, which notification may be accomplished  
20 electronically. For purposes of KRS 14A.2-130 or 14A.2-140, an annual report  
21 returned for correction shall not be deemed to have been delivered until it is  
22 returned and accepted by the Secretary of State.

23 (5) An entity or foreign entity may amend the information in its last filed annual report  
24 by delivery of an amendment to the annual report to the Secretary of State for filing  
25 on such form as is provided by the Secretary of State.

26 (6) An unincorporated nonprofit association that has filed a certificate of association is  
27 subject to this section.

- 1 (7) The requirement to file an annual report shall not apply to:
- 2 (a) A limited partnership governed as to its internal affairs by the Kentucky
- 3 Uniform Limited Partnership Act as it existed prior to its repeal by 1988 Ky.
- 4 Acts ch. 284, sec. 65;
- 5 (b) A partnership other than a limited liability partnership that has filed a
- 6 statement of qualification pursuant to KRS 362.1-951 or a foreign limited
- 7 liability partnership;
- 8 (c) A foreign rural electric cooperative or foreign rural telephone cooperative not
- 9 required to qualify to transact business by a filing with the Secretary of State;
- 10 or
- 11 (d) An unincorporated nonprofit association that has not filed a certificate of
- 12 association.

13 ➔Section 6. KRS 271B.8-530 is amended to read as follows:

- 14 (1) A corporation may pay for or reimburse the reasonable expenses incurred by a
- 15 director who is a party to a proceeding in advance of final disposition of the
- 16 proceeding if:
- 17 (a) ~~The director furnishes the corporation a written affirmation of his good faith~~
- 18 ~~belief that he has met the standard of conduct described in KRS 271B.8-510;~~
- 19 ~~(b)}~~ The director furnishes the corporation a written undertaking, executed
- 20 personally or on his behalf, to repay the advance if it is ultimately determined
- 21 that he did not meet the standard of conduct; and
- 22 ~~(b)}~~(b) A determination is made that the facts then known to those making the
- 23 determination would not preclude indemnification under KRS 271B.8-500 to
- 24 271B.8-580.
- 25 (2) The undertaking required by subsection (1)~~(a)}~~(a) of this section shall be an
- 26 unlimited general obligation of the director but shall not be required to be secured
- 27 and may be accepted without reference to financial ability to make repayment.

1 (3) Determinations and authorizations of payments under this section shall be made in  
2 the manner specified in KRS 271B.8-550.

3 ➔Section 7. KRS 271B.8-550 is amended to read as follows:

4 (1) A corporation shall not indemnify a director under KRS 271B.8-510 unless  
5 authorized in the specific case after a determination has been made that  
6 indemnification of the director is permissible in the circumstances because he has  
7 met the standard of conduct set forth in KRS 271B.8-510.

8 (2) The determination shall be made:

9 (a) By the board of directors by majority vote of a quorum consisting of directors  
10 not at the time parties to the proceeding;

11 (b) If a quorum cannot be obtained under subsection (2)(a) of this section, by  
12 majority vote of a committee duly designated by the board of directors (in  
13 which designation directors who are parties may participate), consisting solely  
14 of two (2) or more directors not at the time parties to the proceeding;

15 (c) By special legal counsel:

16 1. Selected by the board of directors or its committee in the manner  
17 prescribed in subsection (2)(a) and (b) of this section; or

18 2. If a quorum of the board of directors cannot be obtained under  
19 subsection (2)(a) of this section and a committee cannot be designated  
20 under subsection (2)(b) of this section, selected by majority vote of the  
21 full board of directors (in which selection directors who are parties may  
22 participate); or

23 (d) By the shareholders, but shares owned by or voted under the control of  
24 directors or shareholders who are at the time parties to the proceeding shall  
25 not be voted on the determination.

26 (3) Authorization of indemnification and evaluation as to reasonableness of expenses  
27 shall be made in the same manner as the determination that indemnification is

1 permissible, except that if the determination is made by special legal counsel,  
2 authorization of indemnification and evaluation as to reasonableness of expenses  
3 shall be made by those entitled under subsection (2)(c) of this section to select  
4 counsel.

5 ➔Section 8. KRS 271B.10-200 is amended to read as follows:

- 6 (1) A corporation's board of directors may amend or repeal the corporation's bylaws  
7 unless:
- 8 (a) The articles of incorporation or this chapter reserve this power exclusively to  
9 the shareholders in whole or part; or
- 10 (b) The shareholders in amending or repealing a particular bylaw provide  
11 expressly that the board of directors may not amend or repeal that bylaw.
- 12 (2) A corporation's shareholders may amend or repeal the corporation's bylaws even  
13 though the bylaws may also be amended or repealed by its board of directors.
- 14 **(3) A shareholder of the corporation shall not have a vested property right resulting**  
15 **from any provision in the bylaws.**

16 ➔Section 9. KRS 272A.6-050 is amended to read as follows:

- 17 (1) This section provides the exclusive remedy by which the judgment creditor of a  
18 member or the assignee of a member may satisfy a judgment out of the judgment  
19 debtor's limited financial rights in a limited cooperative association.
- 20 (2) On application to a court of competent jurisdiction by a judgment creditor of a  
21 member or a member's assignee, a court may charge the judgment debtor's financial  
22 rights in the association with payment of the unsatisfied amount of the judgment. To  
23 the extent so charged, the judgment creditor has only the rights of a transferee and  
24 shall have no right to participate in the management or to cause the dissolution of  
25 the association. The court may appoint a receiver of the share of the distributions  
26 due or to become due to the judgment debtor in respect of the financial rights and  
27 make all other orders, directions, accounts, and inquiries the judgment debtor might

1 have made or which the circumstances of the case may require to give effect to the  
2 charging order.

3 (3) A charging order constitutes a lien on and the right to receive distributions made  
4 with respect to the judgment debtor's financial rights. A charging order does not of  
5 itself constitute an assignment of the financial rights.

6 (4) The court may order a foreclosure upon the financial rights subject to the charging  
7 order at any time. The purchaser of the financial rights at the foreclosure sale has  
8 the rights of a transferee. At any time before foreclosure, the charged financial  
9 rights may be redeemed:

10 (a) By the judgment debtor;

11 (b) With property other than property of the association, by one (1) or more of the  
12 other members; and

13 (c) With association property, by the association with the consent of all members  
14 whose financial rights are not so charged.

15 (5) This section does not deprive a member or a member's assignee of the benefit of any  
16 exemption laws applicable to the member's or assignee's financial rights.

17 (6) The association is not a necessary part to an application for a charging order.  
18 Service of the charging order on an association may be made by the court granting  
19 the charging order or as the court should otherwise direct.

20 **(7) This section does not apply to the enforcement of a judgment by a limited**  
21 **cooperative association against a member of that association.**

22 **(8) This section shall apply to the issuance of a charging order against the interest of**  
23 **a member or assignee of a member of a foreign limited cooperative association.**

24 ➔Section 10. KRS 273A.040 is amended to read as follows:

25 (1) A judgment or order against an unincorporated nonprofit association is not by itself  
26 a judgment or order against a member or manager.

27 (2) Pursuant to this chapter, a judgment creditor of an unincorporated nonprofit

1 association shall not levy execution against the assets of a member to satisfy a  
2 judgment based on a claim against the association unless:

3 (a) A judgment based on the same claim has been obtained against the association  
4 and a writ of execution on the judgment has been returned unsatisfied in  
5 whole or in part;

6 (b) The association is a debtor in bankruptcy;

7 (c) The member has agreed that the creditor need not exhaust association assets;  
8 or

9 (d) Liability is imposed on the member by law or contract independent of the  
10 existence of the association.

11 **(3) Subsection (2) of this section shall not apply to any judgment or order for which**  
12 **the members are not liable in accordance with KRS 273A.030(1).**

13 ➔Section 11. KRS 275.015 is amended to read as follows:

14 As used in this chapter, unless the context otherwise requires:

15 (1) "Articles of organization" means the articles filed in conformity with the provisions  
16 of KRS 275.020 and 275.025, and those articles as amended or restated;

17 (2) "Business entity" means a domestic or foreign limited liability company,  
18 corporation, partnership, limited partnership, business or statutory trust, and not-for-  
19 profit unincorporated association;

20 (3) "Corporation" means a profit or nonprofit corporation formed under the laws of any  
21 state or a foreign country;

22 (4) "Court" means every court having jurisdiction in the case;

23 (5) "Deliver" or "delivery" means any method of delivery used in conventional  
24 commercial practice, including delivery by hand, mail, commercial delivery, and  
25 electronic transmission;

26 (6) "Dissent" means a right to object to a proposed action or transaction and, in  
27 connection therewith, to demand a redemption of a limited liability company

- 1 interest;
- 2 (7) "Electronic transmission" or "electronically transmitted" means any process of  
3 communication not directly involving the physical transfer of paper that is suitable  
4 for the retention, retrieval, and reproduction of information by the recipient;
- 5 (8) "Event of disassociation" means an event that causes a person to cease to be a  
6 member as provided in KRS 275.280;
- 7 (9) "Foreign limited liability company" means an organization that is:
- 8 (a) An unincorporated association;
- 9 (b) Organized under laws of a state other than the laws of this Commonwealth, or  
10 under the laws of any foreign country; and
- 11 (c) Organized under a statute pursuant to which an association may be formed  
12 that affords to each of its members limited liability with respect to the  
13 liabilities of the entity;
- 14 (10) "Foreign nonprofit corporation" means a corporation incorporated for a nonprofit  
15 purpose under the laws of a state other than the Commonwealth or under the laws of  
16 a foreign country;
- 17 (11) "Knowledge" means actual knowledge of a fact;
- 18 (12) "Limited liability company" or "domestic limited liability company" means a  
19 limited liability company formed under this chapter and, except with respect to a  
20 nonprofit limited liability company, having one (1) or more members;
- 21 (13) "Limited liability company interest" or "interest in the limited liability company"  
22 means the interest that may be issued in accordance with KRS 275.195;
- 23 (14) "Limited partnership" means a limited partnership formed under the laws of the  
24 Commonwealth or any other state or a foreign country;
- 25 (15) "Majority-in-interest of the members" means those members entitled to cast a  
26 majority of the votes to be cast by the members on any matter under the terms of the  
27 operating agreement described in KRS 275.175(3);

- 1 (16) "Manager" or "managers" means, with respect to a limited liability company that  
2 has set forth in its articles of organization that it is to be managed by managers, the  
3 person or persons designated in accordance with KRS 275.165;
- 4 (17) "Member" or "members" means a person or persons who have been admitted to  
5 membership in a limited liability company as provided in KRS 275.275 and who  
6 have not ceased to be members as provided in KRS 275.280 **or Section 2 of this**  
7 **Act**;
- 8 (18) "Name of record with the Secretary of State" means any real, fictitious, reserved,  
9 registered, or assumed name of a business entity;
- 10 (19) "Nonprofit limited liability company" means a limited liability company formed for  
11 a nonprofit purpose having one (1) or more or no members **that has elected in its**  
12 **articles of organization to be treated as a nonprofit limited liability company in**  
13 **accordance with KRS 275.025(6)**;
- 14 (20) "Nonprofit purpose" includes any purpose authorized under KRS 273.167;
- 15 (21) "Operating agreement" means any agreement, written or oral, among all of the  
16 members, as to the conduct of the business and affairs of a limited liability  
17 company. If a limited liability company has only one (1) member, an operating  
18 agreement shall be deemed to include:
- 19 (a) A writing executed by the member that relates to the affairs of the limited  
20 liability company and the conduct of its business regardless of whether the  
21 writing constitutes an agreement; or
- 22 (b) If the limited liability company is managed by a manager, any other agreement  
23 between the member and the limited liability company as it relates to the  
24 limited liability company and the conduct of its business, regardless of  
25 whether the agreement is in writing;
- 26 (22) "Person" means an individual, a partnership, a domestic or foreign limited liability  
27 company, a trust, an estate, an association, a corporation, or any other legal entity;



- 1 (23) "Principal office" means the office, in or out of the Commonwealth, so designated  
2 in writing with the Secretary of State where the principal executive offices of a  
3 domestic or foreign limited liability company are located;
- 4 (24) "Proceeding" means civil suit and criminal, administrative, and investigative action;
- 5 (25) "Professional limited liability company" means a limited liability company  
6 organized under this chapter or the laws of another state or foreign country for  
7 purposes that include, but are not limited to, the providing of one (1) or more  
8 professional services. Except as otherwise expressly provided in this chapter, all  
9 provisions of this chapter governing limited liability companies shall be applicable  
10 to professional limited liability companies;
- 11 (26) "Professional services" mean the personal services rendered by physicians,  
12 osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists,  
13 psychologists, occupational therapists, veterinarians, engineers, architects,  
14 landscape architects, certified public accountants, public accountants, physical  
15 therapists, and attorneys;
- 16 (27) "Real name" shall have the meaning set forth in KRS 365.015;
- 17 (28) "Regulating board" means the governmental agency which is charged by law with  
18 the licensing and regulation of the practice of the profession which the professional  
19 limited liability company is organized to provide; and
- 20 (29) "State" means a state, territory, or possession of the United States, the District of  
21 Columbia, or the Commonwealth of Puerto Rico.
- 22 ➔Section 12. KRS 275.175 is amended to read as follows:
- 23 (1) Unless otherwise provided in the articles of organization, a written operating  
24 agreement, or this chapter, the affirmative vote, approval, or consent of a majority-  
25 in-interest of the members or a simple majority of the managers, each having a  
26 single vote, shall be required to decide any matter connected with the business  
27 affairs of the limited liability company.

- 1 (2) Unless otherwise provided in a written operating agreement, irrespective of whether  
2 management of the limited liability company is vested in a manager or managers,  
3 the affirmative vote, approval, or consent of the members shall be required to:
- 4 (a) Amend a written operating agreement;
  - 5 (b) Authorize a manager or member to do any act on behalf of the limited liability  
6 company that contravenes an operating agreement, including any written  
7 provision thereof which expressly limits the purpose, business, or affairs of  
8 the limited liability company or the conduct thereof;
  - 9 (c) Amend the articles of organization;
  - 10 (d) Merge or convert the limited liability company or approve a sale of all or  
11 substantially all of its assets;
  - 12 (e) Admit a new member, including the assignee of a member, as a member;
  - 13 (f) Remove a member after the assignment of all assignable interest in the limited  
14 liability company;
  - 15 (g) Waive an agreement to contribute to the limited liability company;
  - 16 (h) Approve the voluntary dissolution of the limited liability company;
  - 17 (i) Approve any acting contravention of a written operating agreement; or
  - 18 (j) Allow the voluntary resignation of a member from a manager-managed  
19 limited liability company.
- 20 (3) Unless otherwise provided in the articles of organization, a written operating  
21 agreement, or this chapter, for all purposes of this chapter, the members of a limited  
22 liability company shall vote, approve, or consent in proportion to their  
23 contributions, based upon the agreed value as stated in the records of the limited  
24 liability company as required by KRS 275.185, made by each member to the extent  
25 they have been received by the limited liability company and have not been  
26 returned.
- 27 (4) In a nonprofit limited liability company that does not have members, the capacity

1 and authority to manage the business and affairs of the company shall be set forth in  
2 a written operating agreement.

3 (5) Unless otherwise provided in the articles of organization or the written operating  
4 agreement, no member of a limited liability company shall have the right to dissent  
5 from an amendment to the operating agreement or the articles of organization.

6 **(6) An operating agreement may set forth provisions relating to notice of the time,**  
7 **place, or purpose of any meeting at which any matter is to be voted on by any**  
8 **members, waiver of any such notice, action by consent without a meeting, the**  
9 **establishment of a record date, quorum, and voting requirements, voting in**  
10 **person or by proxy, or any other matter with respect to the exercise of any such**  
11 **right to vote, approve, or consent.**

12 **(7) Except as otherwise provided in a written operating agreement, an action**  
13 **requiring the vote, approval, or consent of the members may be taken without a**  
14 **meeting and without prior notice if the vote, approval, or consent is set forth in a**  
15 **writing approved by not less than the necessary number, percentage, or threshold**  
16 **of members, interests, or votes.**

17 ➔Section 13. KRS 275.260 is amended to read as follows:

18 (1) This section provides the exclusive remedy by which the judgment creditor of a  
19 member or the assignee of a member may satisfy a judgment out of the judgment  
20 debtor's limited liability company interest.

21 (2) On application to a court of competent jurisdiction by a judgment creditor of a  
22 member or a member's assignee, a court may charge the judgment debtor's interest  
23 in the limited liability company with payment of the unsatisfied amount of the  
24 judgment. To the extent so charged, the judgment creditor has only the rights of an  
25 assignee and shall have no right to participate in the management or to cause the  
26 dissolution of the limited liability company. The court may appoint a receiver of the  
27 share of the distributions due or to become due to the judgment debtor in respect of

1 the limited liability company interest and make all other orders, directions,  
2 accounts, and inquiries the judgment debtor might have made or which the  
3 circumstances of the case may require to give effect to the charging order.

4 (3) A charging order constitutes a lien on and the right to receive distributions made  
5 with respect to the judgment debtor's limited liability company interest. A charging  
6 order does not of itself constitute an assignment of the limited liability company  
7 interest.

8 (4) The court may order a foreclosure upon the limited liability company interest  
9 subject to the charging order at any time. The purchaser of the limited liability  
10 company interest at the foreclosure sale has the rights of an assignee. At any time  
11 before foreclosure, the charged limited liability company interest may be redeemed:

12 (a) By the judgment debtor;

13 (b) With property other than limited liability company property, by one (1) or  
14 more of the other members; and

15 (c) With limited liability company property, by the limited liability company with  
16 the consent of all members whose interest are not so charged.

17 (5) This section does not deprive a member or a member's assignee of the benefit of any  
18 exemption laws applicable to the member's or assignee's limited liability company  
19 interest.

20 (6) The limited liability company is not a necessary party to an application for a  
21 charging order. Service of the charging order on a limited liability company may be  
22 made by the court granting the charging order or as the court should otherwise  
23 direct.

24 **(7) This section does not apply to the enforcement of a judgment by a limited liability**  
25 **company against a member of that company.**

26 **(8) This section does apply to the issuance of a charging order against the interest of**  
27 **a member or assignee of a member of a foreign limited liability company.**

1           ➔Section 14. KRS 275.280 is amended to read as follows:

- 2       (1) A person shall disassociate from and cease to be a member of a limited liability  
3       company upon the occurrence of one (1) or more of the following events:
- 4       (a) Subject to the provisions of subsection (3) of this section, the member  
5       withdraws by voluntary act from the limited liability company;
- 6       (b) The member ceases to be a member of the limited liability company as  
7       provided in KRS 275.265;
- 8       (c) The member is removed as a member:
- 9           1. In accordance with a written operating agreement;
- 10          2. Unless otherwise provided in a written operating agreement, if after an  
11          assignment there is at least one (1) other member, when the member  
12          assigns all of the member's limited liability company interest that may be  
13          unilaterally assigned, upon receipt of the written consent of a majority-  
14          in-interest of the members who have not assigned their interest; or
- 15          3. If after the assignment there are no other members, upon the effective  
16          time and date of the assignment; ~~or~~
- 17          4. ~~Upon resignation as a member;~~
- 18       (d) Unless otherwise provided in a written operating agreement or by written  
19       consent of majority-in-interest of the members, at the time the member:
- 20           1. Makes an assignment for the benefit of creditors;
- 21           2. Files a voluntary petition in bankruptcy;
- 22           3. Is adjudicated bankrupt or insolvent;
- 23           4. Files a petition or answer seeking for the member any reorganization,  
24           arrangement, composition, readjustment, liquidation, dissolution, or  
25           similar relief under any statute, law, or regulation;
- 26           5. Files an answer or other pleading admitting or failing to contest the  
27           material allegations of a petition filed against the member in any

- 1 proceeding of this nature; or
- 2 6. Seeks, consents to, or acquiesces in the appointment of a trustee,
- 3 receiver, or liquidator of the member or of all or any substantial part of
- 4 the member's property;
- 5 (e) Unless otherwise provided in a written operating agreement or by written
- 6 consent of a majority-in-interest of the members remaining at the time, if
- 7 within one hundred twenty (120) days after the commencement of any
- 8 proceeding against the member seeking reorganization, arrangement,
- 9 composition, readjustment, liquidation, dissolution, or similar relief under any
- 10 statute, law, or regulation, the proceeding has not been dismissed, or if within
- 11 one hundred twenty (120) days after the appointment without the member's
- 12 consent or acquiescence of a trustee, receiver, or liquidator of the member, or
- 13 of all or any substantial part of the member's properties, the appointment is not
- 14 vacated or stayed or within one hundred twenty (120) days after the expiration
- 15 of any stay, the appointment is not vacated;
- 16 (f) Unless otherwise provided in a written operating agreement or by written
- 17 consent of a majority-in-interest of the members remaining at the time, in the
- 18 case of a member that is an individual:
- 19 1. The member's death; or
- 20 2. The entry of an order by a court of competent jurisdiction adjudicating
- 21 the member incompetent to manage his or her person or estate;
- 22 (g) Unless otherwise provided in a written operating agreement or by written
- 23 consent of a majority-in-interest of the members remaining at the time, in the
- 24 case of a member that is a trust or is acting as a member by virtue of being a
- 25 trustee of a trust, the termination of the trust, but not merely the substitution of
- 26 a new trustee;
- 27 (h) Unless otherwise provided in a written operating agreement or by written

- 1 consent of a majority-in-interest of the members remaining at the time, in the  
2 case of a member that is a separate limited liability company, the dissolution  
3 and commencement of winding up of the separate limited liability company;
- 4 (i) Unless otherwise provided in a written operating agreement or by written  
5 consent of the majority-in-interest of the members remaining at the time, in  
6 the case of a member that is a corporation, the filing of articles of dissolution  
7 or the equivalent for the corporation or the revocation of its articles of  
8 incorporation and the lapse of ninety (90) days after notice to the corporation  
9 of revocation without a reinstatement of its articles of incorporation; or
- 10 (j) Unless otherwise provided in a written operating agreement or by written  
11 consent of a majority-in-interest of the members remaining at the time, in the  
12 case of an estate, the distribution by the fiduciary of the estate's entire interest  
13 in the limited liability company.
- 14 (2) The members may provide in a written operating agreement for other events the  
15 occurrence of which shall result in a person ceasing to be a member of the limited  
16 liability company.
- 17 (3) Unless otherwise provided in a written operating agreement:
- 18 (a) In a member-managed limited liability company a member may resign from a  
19 limited liability company upon thirty (30) days' prior written notice to the  
20 limited liability company; and
- 21 (b) In a manager-managed limited liability company, a member may not resign  
22 without the consent of all other members.
- 23 (4) Upon the effective date of the resignation, the resigning member shall be  
24 dissociated from and cease to be a member of the limited liability company and  
25 shall be with respect to the resigning member's limited liability company interest an  
26 assignee thereof.
- 27 (5) The successor-in-interest of a disassociated member shall be an assignee.

1 **(6) Except as set forth in a written operating agreement, the dissociation of a**  
2 **member does not entitle the former member or any assignee thereof to any**  
3 **distribution.**

4 ➔Section 15. KRS 275.337 is amended to read as follows:

5 (1) A member may maintain a direct action against a limited liability company, another  
6 member, or a manager to redress an injury sustained by, or to enforce a duty owed  
7 to, the member if the member can prevail without showing an injury or breach of  
8 duty to the company.

9 (2) A member may maintain a derivative action to redress an injury sustained by or  
10 enforce a duty owed to a limited liability company if:

11 (a) The member shall first make a demand on the other members and, if the  
12 company is manager-managed, the managers, requesting that they cause the  
13 company to bring an action to redress the injury or enforce the right, and they  
14 do not bring the action within a reasonable time; or

15 (b) A demand would be futile.

16 (3) A derivative action on behalf of a limited liability company shall be maintained  
17 only by a person that is a member at the time the action is commenced and who:

18 (a) Was a member when the conduct giving rise to the action occurred; or

19 (b) Acquired the status as a member by operation of law or pursuant to the terms  
20 of the operating agreement from a person that was a member at the time of the  
21 conduct giving rise to the action occurred.

22 (4) In a derivative action on behalf of the limited liability company, the complaint shall  
23 state with particularity:

24 (a) The date and content of the member's demand and the response to the  
25 demand; or

26 (b) The reason the demand should be excused as futile.

27 (5) **The derivative proceeding shall not be maintained if:**



1        (a) It appears that the person commencing the proceeding does not fairly and  
 2                    adequately represent the interests of the shareholder in enforcing the rights  
 3                    of the limited liability company; or

4        (b) The person commencing the proceeding ceases to be a member in the  
 5                    limited liability company.

6        **(6)** Except as otherwise provided in subsection ~~(9)~~~~(8)~~ of this section:

7            (a) Any proceeds or other benefits of a derivative action on behalf of a limited  
 8                    liability company, whether by judgment, compromise, or settlement, are the  
 9                    property of the company and not of the plaintiff; and

10          (b) If the plaintiff receives any proceeds or other benefits, the plaintiff shall  
 11                    immediately remit them to the company.

12        ~~(7)~~~~(6)~~ A derivative action on behalf of a limited liability company shall~~may~~ not be  
 13                    voluntarily dismissed or settled without the court's approval.

14        ~~(8)~~~~(7)~~ The proper venue for a direct action under subsection (1) of this section or a  
 15                    derivative action shall be the Circuit Court for the county in which the company  
 16                    maintains its registered office and agent.

17        ~~(9)~~~~(8)~~ On termination of the proceeding brought pursuant to this section, the court  
 18                    may:

19            (a) Require the plaintiff member to pay any defendant's reasonable expenses,  
 20                    including counsel fees, incurred in defending the proceeding to the extent it  
 21                    finds that the proceeding or any portion thereof was commenced without  
 22                    reasonable cause or for an improper purpose; and

23            (b) Require the limited liability company to pay the plaintiff member's reasonable  
 24                    expenses, including counsel fees, incurred in the proceeding to the extent it  
 25                    finds that the proceeding has resulted in a substantial benefit to the company.

26        ➔Section 16. KRS 362.285 is amended to read as follows:

27        (1) This section provides the exclusive remedy by which the judgment creditor of a

- 1 partner or the transferee of a partner may satisfy a judgment out of the judgment  
2 debtor's transferable interest.
- 3 (2) On application to a court of competent jurisdiction by a judgment creditor of a  
4 partner or a partner's transferee, a court may charge the transferable interest of the  
5 judgment debtor with payment of the unsatisfied amount of the judgment. To the  
6 extent so charged, the judgment creditor has only the rights of a transferee and shall  
7 have no right to participate in the management of or to cause the dissolution of the  
8 partnership. The court may appoint a receiver of the share of the distributions due or  
9 to become due to the judgment debtor in respect of the partnership and make all  
10 other orders, directions, accounts, and inquiries the judgment debtor might have  
11 made or which the circumstances of the case may require to give effect to the  
12 charging order.
- 13 (3) A charging order constitutes a lien on and the right to receive distributions made  
14 with respect to the judgment debtor's transferable interest in the partnership.
- 15 (4) The court may order a foreclosure of the interest subject to the charging order at any  
16 time. The purchaser at the foreclosure sale has the rights of a transferee. A charging  
17 order does not of itself constitute an assignment of the transferable interest.
- 18 (5) At any time before foreclosure, an interest charged may be redeemed:
- 19 (a) By the judgment debtor;
- 20 (b) With property other than partnership property, by one (1) or more of the other  
21 partners; or
- 22 (c) With partnership property, by one (1) or more of the other partners with the  
23 consent of all of the partners whose interests are not so charged.
- 24 (6) This section does not deprive a partner of a right under exemption laws with respect  
25 to the partner's interest in the partnership.
- 26 (7) The partnership is not a necessary party to an application for a charging order.  
27 Service of the charging order on a partnership may be made by the court granting

1 the charging order or as the court may otherwise direct.

2 **(8) This section shall not apply to the enforcement of a judgment by a partnership**  
3 **against a partner of that partnership.**

4 **(9) This section shall apply to the issuance of a charging order against the interest of**  
5 **a partner or assignee of a partner of a foreign partnership.**

6 ➔Section 17. KRS 362.481 is amended to read as follows:

7 (1) This section provides the exclusive remedy by which the judgment creditor of a  
8 partner or the transferee of a partner may satisfy a judgment out of the judgment  
9 debtor's transferable interest.

10 (2) On application to a court of competent jurisdiction by any judgment creditor of a  
11 partner or a partner's transferee, the court may charge the transferable interest of the  
12 judgment debtor with payment of the unsatisfied amount of the judgment. To the  
13 extent so charged, the judgment creditor has only the rights of a transferee, and shall  
14 have no right to participate in the management of or to cause the dissolution of the  
15 partnership. The court may appoint a receiver of the share of the distributions due or  
16 to become due to the judgment debtor in respect of the partnership and make all  
17 other orders, directions, accounts, and inquiries the judgment debtor might have  
18 made or which the circumstances of the case may require to give effect to the  
19 charging order.

20 (3) A charging order constitutes a lien on and the right to receive distributions made  
21 with respect to the judgment debtor's transferable interest. A charging order does  
22 not of itself constitute an assignment of the transferable interest.

23 (4) The court may order a foreclosure upon the transferable interest subject to the  
24 charging order at any time. The purchaser at the foreclosure sale has the rights of a  
25 transferee.

26 (5) At any time before foreclosure, an interest charged may be redeemed:

27 (a) By the judgment debtor;

1 (b) With property other than limited partnership property, by one (1) or more of  
2 the other partners; or

3 (c) With limited partnership property, by the limited partnership with the consent  
4 of all partners whose interests are not so charged.

5 (6) This section does not deprive any partner or a partner's transferee of the benefit of  
6 any exemption laws applicable to the partner's or transferee's transferable interest.

7 (7) The partnership is not a necessary party to an application for a charging order.  
8 Service of the charging order on a partnership may be made by the court granting  
9 the charging order or as the court may otherwise direct.

10 **(8) This section shall not apply to the enforcement of a judgment by a limited**  
11 **partnership against a partner of that partnership.**

12 **(9) This section shall apply to the issuance of a charging order against the interest of**  
13 **a partner or assignee of a partner of a foreign partnership.**

14 ➔Section 18. KRS 362.1-504 is amended to read as follows:

15 (1) This section provides the exclusive remedy by which the judgment creditor of a  
16 partner or the transferee of a partner may satisfy a judgment out of the judgment  
17 debtor's transferable interest.

18 (2) On application to a court of competent jurisdiction by a judgment creditor of a  
19 partner or a partner's transferee, a court may charge the transferable interest of the  
20 judgment debtor with payment of the unsatisfied amount of the judgment. To the  
21 extent so charged, the judgment creditor has only the rights of a transferee and shall  
22 have no right to participate in the management of or to cause the dissolution of the  
23 partnership. The court may appoint a receiver of the share of the distributions due or  
24 to become due to the judgment debtor in respect of the partnership and make all  
25 other orders, directions, accounts, and inquiries the judgment debtor might have  
26 made or which the circumstances of the case may require to give effect to the  
27 charging order.

- 1 (3) A charging order constitutes a lien on and the right to receive distributions made  
2 with respect to the judgment debtor's transferable interest in the partnership.
- 3 (4) The court may order a foreclosure of the interest subject to the charging order at any  
4 time. The purchaser at the foreclosure sale has the rights of a transferee. A charging  
5 order does not of itself constitute an assignment of the transferable interest.
- 6 (5) At any time before foreclosure, an interest charged may be redeemed:
- 7 (a) By the judgment debtor;
- 8 (b) With property other than partnership property, by one (1) or more of the other  
9 partners; or
- 10 (c) With partnership property, by one (1) or more of the other partners with the  
11 consent of all of the partners whose interests are not so charged.
- 12 (6) This subchapter does not deprive a partner or a partner's transferee of a right under  
13 exemption laws with respect to the partner's or transferee's interest in the  
14 partnership.
- 15 (7) The partnership is not a necessary party to an application for a charging order.  
16 Service of the charging order on a partnership may be made by the court granting  
17 the charging order or as the court may otherwise direct.
- 18 **(8) This section shall not apply to the enforcement of a judgment by a partnership**  
19 **against a partner of that partnership.**
- 20 **(9) This section shall apply to the issuance of a charging order against the interest of**  
21 **a partner or transferee of a partner of a foreign partnership.**
- 22 ➔Section 19. KRS 362.2-703 is amended to read as follows:
- 23 (1) This section provides the exclusive remedy by which the judgment creditor of a  
24 partner or the transferee of a partner may satisfy a judgment out of the judgment  
25 debtor's transferable interest.
- 26 (2) On application to a court of competent jurisdiction by any judgment creditor of a  
27 partner or a partner's transferee, the court may charge the transferable interest of the

1 judgment debtor with payment of the unsatisfied amount of the judgment. To the  
2 extent so charged, the judgment creditor has only the rights of a transferee, and shall  
3 have no right to participate in the management or to cause the dissolution of the  
4 partnership. The court may appoint a receiver of the share of the distributions due or  
5 to become due to the judgment debtor in respect of the partnership and make all  
6 other orders, directions, accounts, and inquiries the judgment debtor might have  
7 made or which the circumstances of the case may require to give effect to the  
8 charging order.

9 (3) A charging order constitutes a lien on and the right to receive distributions made  
10 with respect to the judgment debtor's transferable interest. A charging order does  
11 not of itself constitute an assignment of the transferable interest.

12 (4) The court may order a foreclosure upon the transferable interest subject to the  
13 charging order at any time. The purchaser at the foreclosure sale has the rights of a  
14 transferee.

15 (5) At any time before foreclosure, an interest charged may be redeemed:

16 (a) By the judgment debtor;

17 (b) With property other than limited partnership property, by one (1) or more of  
18 the other partners; or

19 (c) With limited partnership property, by the limited partnership with the consent  
20 of all partners whose interests are not so charged.

21 (6) This subchapter does not deprive any partner or a partner's transferee of the benefit  
22 of any exemption laws applicable to the partner's or transferee's transferable  
23 interest.

24 (7) The partnership is not a necessary party to an application for a charging order.  
25 Service of the charging order on a partnership may be made by the court granting  
26 the charging order or as the court may otherwise direct.

27 **(8) This section shall not apply to the enforcement of a judgment by a limited**

1 *partnership against a partner of that partnership.*

2 *(9) This section shall apply to the issuance of a charging order against the interest of*  
 3 *a partner or transferee of a partner of a foreign partnership.*

4 ➔Section 20. KRS 362.2-933 is amended to read as follows:

5 *(1)* A derivative action may be maintained only by a person that is a partner at the time  
 6 the action is commenced and:

7 *(a)*~~*(1)*~~ That was a partner when the conduct giving rise to action occurred; or

8 *(b)*~~*(2)*~~ Whose status as a partner devolved upon the person by operation of law  
 9 or pursuant to the terms of the partnership agreement from a person that was a  
 10 partner at the time of that conduct.

11 *(2) The derivative proceeding shall not be maintained if:*

12 *(a) It appears that the person commencing the proceeding does not fairly and*  
 13 *adequately represent the interests of the partners in enforcing the rights of*  
 14 *the limited partnership; or*

15 *(b) The person commencing the proceeding ceases to be a partner in the limited*  
 16 *partnership.*

17 ➔Section 21. KRS 386A.6-060 is amended to read as follows:

18 (1) If a beneficial interest is not freely transferable by a beneficial owner so that the  
 19 transferee has all rights of the transferor, this section provides the exclusive remedy  
 20 by which the judgment creditor of a beneficial owner or a transferee of a beneficial  
 21 owner may satisfy a judgment out of the judgment debtor's beneficial interest.

22 (2) On application to a court of competent jurisdiction by a judgment creditor of a  
 23 beneficial owner or a beneficial owner's transferee, a court may charge the judgment  
 24 debtor's beneficial interest with payment of the unsatisfied amount of the judgment.  
 25 To the extent so charged, the judgment creditor shall have no right to participate in  
 26 the management or to cause the dissolution of the statutory trust. The court may  
 27 appoint a receiver of the share of the distributions due or to become due to the

1 judgment debtor in respect of the beneficial interest and make all other orders,  
2 directions, accounts, and inquiries the judgment creditor might have made or which  
3 the circumstances of the case may require to give effect to the charging order.

4 (3) A charging order constitutes a lien on and the right to receive distributions made  
5 with respect to the judgment debtor's beneficial interest. A charging order does not  
6 of itself constitute an assignment of the beneficial interest.

7 (4) The court may order a foreclosure upon the beneficial interest subject to the  
8 charging order at any time. The purchaser of the beneficial interest at the  
9 foreclosure sale shall have no right to participate in the management or to cause the  
10 dissolution of the statutory trust. Upon foreclosure the beneficial owner shall be  
11 dissociated from and cease to be a beneficial owner of the trust. At any time before  
12 foreclosure, the charged beneficial interest may be redeemed:

13 (a) By the judgment debtor;

14 (b) With property other than statutory trust property, by one (1) or more of the  
15 other beneficial owners; and

16 (c) With statutory trust property, by the statutory trust with the consent of the  
17 trustees.

18 (5) This section does not deprive a beneficial owner or a beneficial owner's transferee  
19 of the benefit of any exemption laws applicable to the beneficial interest.

20 (6) The statutory trust is not a necessary party to an application for a charging order.  
21 Service of the charging order on a statutory trust may be made by the court granting  
22 the charging order or as the court should otherwise direct.

23 **(7) This section shall not apply to the enforcement of a judgment by a statutory trust**  
24 **against a beneficial owner of that trust.**

25 **(8) This section shall apply to the issuance of a charging order against the beneficial**  
26 **interest of a beneficial owner or assignee of a beneficial owner of a foreign**  
27 **statutory trust.**



1           ➔Section 22. KRS 382.135 is amended to read as follows:

- 2       (1) In addition to any other requirement imposed by law, a deed to real property shall  
3       contain the following:
- 4       (a) The full name of the grantor and grantee;
  - 5       (b) The mailing addresses of the grantor and grantee;
  - 6       (c) A statement of the full consideration;
  - 7       (d) A statement indicating the in-care-of address to which the property tax bill for  
8       the year in which the property is transferred may be sent; and
  - 9       (e) 1. In the case of a transfer other than by gift, or with nominal or no  
10       consideration a sworn, notarized certificate signed by the grantor or his  
11       or her agent and the grantee or his or her agent, or the parent or  
12       guardian of a person under eighteen (18) years old, that the consideration  
13       reflected in the deed is the full consideration paid for the property; or
  - 14       2. In the case of a transfer either by gift or with nominal or no  
15       consideration, a sworn, notarized certificate signed by the grantor or his  
16       or her agent and the grantee or his or her agent, or the parent or  
17       guardian of a person under eighteen (18) years old, stating that the  
18       transfer is by gift and setting forth the estimated fair cash value of the  
19       property.
- 20       (2) The deed filing requirements listed in subsection (1)(c), (d), and (e) of this section  
21       shall not apply to:
- 22       (a) Deeds which only convey utility easements;
  - 23       (b) Deeds which transfer property through a court action pursuant to a divorce  
24       proceeding;
  - 25       (c) Deeds which convey rights-of-way that involve governmental agencies;
  - 26       (d) Deeds which convey cemetery lots;
  - 27       (e) Deeds which correct errors in previous deeds conveying the same property

- 1 from the same grantor to the same grantee; or
- 2 (f) Deeds which convey real property to a local airport board.
- 3 (3) In the case of an exchange of properties, the fair cash value of the property being
- 4 exchanged shall be stated in the body of the deed.
- 5 (4) In the event of a transfer of property by will or under the laws of intestate
- 6 succession, the personal representative of the estate, prior to closing out the estate,
- 7 shall file an affidavit with the county clerk of each county in which any of the
- 8 property is located, which shall contain the following:
- 9 (a) The names and addresses of the persons receiving each property passing by
- 10 will or intestate succession; and
- 11 (b) The full or fair market value of each property as estimated or established for
- 12 any purpose in the handling of the estate, or a statement that no such values
- 13 were estimated or established.
- 14 (5) No county clerk or deputy clerk shall lodge for record, and no county clerk or
- 15 deputy shall receive and permit to be lodged for record, any deed that does not
- 16 comply with the provisions of this section.

17 **(6) For purposes of subsection (1) of this section:**

18 **(a) The full name of an individual shall be determined as provided in KRS**

19 **355.9-503(1)(d) and (e); and**

20 **(b) The full name of a business entity shall be synonymous with its real name**

21 **determined as provided in KRS 365.015(1)(b) and (c).**

22 ➔Section 23. KRS 386A.6-110 is amended to read as follows:

- 23 (1) A beneficial owner may maintain a direct action against a statutory trust or a trustee
- 24 to redress an injury sustained by, or to enforce a duty owed to, the beneficial owner
- 25 if the beneficial owner can prevail without showing an injury or breach of duty to
- 26 the trust.
- 27 (2) A beneficial owner may maintain a derivative action to redress an injury sustained

- 1 by or enforce a duty owed to a statutory trust if:
- 2 (a) The beneficial owner first makes a demand on the trustees, requesting that the  
3 trustees cause the trust to bring an action to redress the injury or enforce the  
4 right, and the trustees do not bring the action within a reasonable time; or
- 5 (b) A demand would be futile.
- 6 (3) A derivative action on behalf of a statutory trust may be maintained only by a  
7 person that is a beneficial owner at the time the action is commenced and who:
- 8 (a) Was a beneficial owner when the conduct giving rise to the action occurred; or  
9 (b) Acquired the status as a beneficial owner by operation of law or pursuant to  
10 the terms of the governing instrument from a person that was a beneficial  
11 owner at the time of the conduct giving rise to the action occurred.
- 12 (4) In a derivative action on behalf of the statutory trust, the complaint must state with  
13 particularity:
- 14 (a) The date and content of the plaintiff's demand and the trustees' response to the  
15 demand; or
- 16 (b) The reason the demand should be excused as futile.
- 17 (5) **The derivative proceeding shall not be maintained if:**
- 18 **(a) It appears that the person commencing the proceeding does not fairly and**  
19 **adequately represent the interests of the beneficial owners in enforcing the**  
20 **rights of the statutory trust; or**
- 21 **(b) The person commencing the proceeding ceases to be a beneficial owner in**  
22 **the statutory trust.**
- 23 **(6)** Except as otherwise provided in subsection **(10)**~~**(6)**~~ of this section:
- 24 (a) Any proceeds or other benefits of a derivative action on behalf of a statutory  
25 trust, whether by judgment, compromise or settlement, are the property of the  
26 trust and not of the plaintiff; and
- 27 (b) If the plaintiff receives any proceeds or other benefits, the plaintiff shall

1 immediately remit them to the trust.

2 ~~(7)~~~~(6)~~ A derivative action on behalf of a statutory trust may not be voluntarily  
3 dismissed or settled without the court's approval.

4 ~~(8)~~~~(7)~~ The proper venue for a direct action under subsection (1) of this section or a  
5 derivative action in which the action is brought solely against one (1) or more  
6 trustees shall be an appropriate court.

7 ~~(9)~~~~(8)~~ A beneficial owner associated with a series, if the series may pursuant to KRS  
8 386A.4-010(4) be sued in its own name, may bring an action pursuant to subsection  
9 (1) or (2) of this section against only that series, the trustees associated with the  
10 series, or both. If brought only against a series or the trustees associated with the  
11 series, any demand made pursuant to subsection (2)(a) of this section shall be upon  
12 the trustees associated with the series.

13 ~~(10)~~~~(9)~~ On termination of the proceeding brought pursuant to this section, the court  
14 may:

15 (a) Require the plaintiff to pay any defendant's reasonable expenses, including  
16 counsel fees, incurred in defending the proceeding to the extent it finds that  
17 the proceeding or any portion thereof was commenced without reasonable  
18 cause or for an improper purpose; and

19 (b) Require the statutory trust, or as appropriate a series thereof, to pay the  
20 plaintiff's reasonable expenses, including counsel fees, incurred in the  
21 proceeding if it finds that the proceeding has resulted in a substantial benefit  
22 to the statutory trust or to a series thereof.