

1 AN ACT relating to the surviving spouse exemption.

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

3 ➔Section 1. KRS 391.030 is amended to read as follows:

- 4 (1) Except as otherwise provided in this chapter, where any person dies intestate as to
5 his or her personal estate, or any part thereof, the surplus, after payment of funeral
6 expenses, charges of administration, and debts, shall pass and be distributed among
7 the same persons, and in the proportions, to whom and in which real estate is
8 directed to descend, except as follows:
- 9 (a) The personal estate of an infant shall be distributed as if he or she had died
10 after full age;
- 11 (b) An alien may be distributee as though he or she were a citizen; and
- 12 (c) Personal property or money on hand or in a bank or other depository to the
13 amount of ***thirty thousand dollars (\$30,000)***~~fifteen thousand dollars~~
14 ~~(\$15,000)~~ shall be exempt from distribution and sale and shall be set apart by
15 the District Court having jurisdiction over the estate on application to the
16 surviving spouse, or, if there is no surviving spouse, to the surviving children.
- 17 (2) The surviving spouse may, at any time before the property or money is set apart by
18 the court, procure on petition from the Judge of the District Court having
19 jurisdiction over the estate, an order authorizing the surviving spouse to withdraw
20 from any bank or other depository not exceeding two thousand five hundred dollars
21 (\$2,500) belonging to the estate. Upon presentation of the order, the bank or
22 depository shall permit the surviving spouse to withdraw the sum and shall lodge
23 the order, endorsing thereon the amount withdrawn, with the circuit clerk who shall
24 retain it in the clerk's files to be considered in connection with further proceedings
25 in the estate and the withdrawal shall be treated as a charge against the property of
26 the estate exempt from distribution.
- 27 (3) In the application for the setting apart of property or money under subsection (1) of

1 this section, the surviving spouse or, if there is no surviving spouse, the surviving
2 children may make their selection out of the personal property of the estate to the
3 extent that the value of the property selected does not exceed the amount of **thirty**
4 **thousand dollars (\$30,000)**~~[fifteen thousand dollars (\$15,000)]~~.

- 5 (4) Where any person dies testate:
- 6 (a) Personal property or money on hand or in a bank or other depository to the
7 amount of **thirty thousand dollars**~~[fifteen thousand dollars (\$15,000)]~~ shall be
8 exempt from distribution and sale and shall be set apart by the District Court
9 having jurisdiction over the estate on application of the surviving spouse;
- 10 (b) If there is no surviving spouse, personal property or money on hand or in a
11 bank or other depository bequeathed to surviving children to the amount of
12 **thirty thousand dollars (\$30,000)**~~[fifteen thousand dollars (\$15,000)]~~ shall be
13 exempt from distribution and sale and shall be set apart by the District Court
14 having jurisdiction over the estate on application by the surviving children;
- 15 (c) The exemption of the surviving spouse under paragraph (a) of this subsection
16 is not conditioned upon the surviving spouse renouncing the will, and, in the
17 event of renunciation, the surviving spouse shall be entitled to the exemption
18 in addition and prior to determining the statutory share of the surviving spouse
19 under KRS 392.080; and
- 20 (d) Subsection (3) of this section shall apply with respect to the surviving spouse
21 provided that the surviving spouse shall first select from among the personal
22 property of the residuary estate, then to the extent necessary from among the
23 money on hand or on deposit specifically bequeathed under the will, and then
24 to the extent necessary from among any other personal property specifically
25 bequeathed under the will. Where the selection of the surviving spouse is
26 made up, in whole or in part, from personal property or money on hand or on
27 deposit specifically bequeathed to a beneficiary, such beneficiary shall have a

1 right of contribution on the principles of KRS 394.420 to 394.490 unless the
2 will otherwise directs, or it is necessarily to be inferred therefrom that the
3 testator intended the same to fall on such beneficiary except that there shall be
4 no right of contribution from the surviving spouse.