

1 AN ACT relating to official documents and making an appropriation therefor.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 32 of this Act:*

6 *(1) "Acknowledgment" means a declaration by an individual before a notarial*  
7 *officer that the individual has signed a record for the purpose stated in the record*  
8 *and, if the record is signed in a representative capacity, that the individual signed*  
9 *the record with proper authority and signed it as the act of the individual or entity*  
10 *identified in the record;*

11 *(2) "Acknowledged before me" or "appears before me" means being in:*

12 *(a) The same physical location as another individual person and close enough*  
13 *to see, hear, communicate with, and exchange credentials with that person;*  
14 *or*

15 *(b) A different physical location from another person but able to see, hear, and*  
16 *communicate with that person by means of communication technology;*

17 *(3) "Communication technology" means an electronic device or process that:*

18 *(a) Allows a notary public and a remotely located individual to communicate*  
19 *with each other simultaneously by sight and sound; and*

20 *(b) When necessary and consistent with other applicable law, facilitates*  
21 *communication with a remotely located individual with a vision, hearing, or*  
22 *speech impairment;*

23 *(4) "Credential" means a non-expired record issued by a government which bears*  
24 *an individual's photo and which evidences an individual's identity;*

25 *(5) "Credential analysis" means a process or service that meets the standards*  
26 *adopted under subsection (7) of Section 12 and Section 24 of this Act by which a*  
27 *third person provides confidence as to the validity of a government-issued*

- 1        identification credential through review of public and proprietary data sources;
- 2        (6) "Dynamic knowledge-based authentication assessment" means an identity
- 3        assessment that is based on a set of questions formulated from public or private
- 4        data sources for which the signer of an electronic record has not provided a prior
- 5        answer;
- 6        (7) "Electronic" means relating to technology having electrical, digital, magnetic,
- 7        wireless, optical, electromagnetic, or similar capabilities;
- 8        (8) "Electronic notarization" means a notarial act performed with respect to an
- 9        electronic record by means of communication technology that meets the
- 10       standards adopted under subsection (7) of Section 12 and Section 24 of this Act;
- 11       (9) "Electronic signature" means an electronic symbol, sound, or process attached to
- 12       or logically associated with a record and executed or adopted by an individual
- 13       with the intent to sign the record;
- 14       (10) "Foreign state" means a jurisdiction other than the United States, a state, or a
- 15       federally recognized Indian tribe;
- 16       (11) "Identity proofing" means, in the use of communication technology, a process or
- 17       service that meets standards adopted under subsection (7) of Section 12 and
- 18       Section 24 of this Act by which a third person provides confidence as to the
- 19       identity of an individual through review of personal information from public or
- 20       proprietary data sources;
- 21       (12) "In a representative capacity" means acting as:
- 22       (a) An authorized officer, agent, partner, trustee, or other representative for a
- 23       person other than an individual;
- 24       (b) A public officer, personal representative, guardian, or other representative,
- 25       in the capacity stated in a record;
- 26       (c) An agent or attorney-in-fact for a principal; or
- 27       (d) An authorized representative of another in any other capacity;

- 1 (13) "Notarial act" means an act, whether performed with respect to a tangible or  
2 electronic record, that a notarial officer may perform under Section 3 of this Act  
3 and any other law of the Commonwealth;
- 4 (14) "Notarial officer" means a notary public or other individual authorized to  
5 perform a notarial act;
- 6 (15) "Notary public" means an individual commissioned to perform a notarial act by  
7 the Secretary of State. This term does not include other notarial officers who may  
8 perform a notarial act in this state;
- 9 (16) "Official stamp" means a physical image affixed to or embossed on a tangible  
10 record or an electronic image attached to or logically associated with an  
11 electronic record, including an official notary seal;
- 12 (17) "Online notary public" means a notary public who has registered with the  
13 Secretary of State, pursuant to any standards and rules adopted under Sections  
14 19 and 24 of this Act, to perform electronic notarizations under Sections 1 to 32  
15 of this Act;
- 16 (18) "Outside the United States" means a location outside the geographic boundaries  
17 of the United States, Puerto Rico, the United States Virgin Islands, and any  
18 territory, insular possession, or other location subject to the jurisdiction of the  
19 United States;
- 20 (19) "Person" means an individual, corporation, business trust, statutory trust, estate,  
21 trust, partnership, limited liability company, association, joint venture, public  
22 corporation, government or governmental subdivision, agency, or  
23 instrumentality, or any other legal or commercial entity;
- 24 (20) "Record" means information that is inscribed on a tangible medium or that is  
25 stored in an electronic or other medium and is retrievable in perceivable form;
- 26 (21) "Remotely located individual" means an individual who is not in the physical  
27 presence of the notary public who performs a notarial act or is appearing

1 remotely before the notary;

2 (22) "Remote presentation" means transmission to an online notary public through  
3 communication technology of an image of a government-issued identification  
4 credential that is of sufficient quality to enable the online notary public to  
5 identify the individual seeking the online notary public's services and to perform  
6 credential analysis;

7 (23) "Sign" means, with present intent to authenticate or adopt a record, to:

8 (a) Execute or adopt a tangible symbol; or

9 (b) Attach to or logically associate with the record an electronic symbol, sound,  
10 or process;

11 (24) "Signature" means a tangible symbol or an electronic signature that evidences  
12 the signing of a record;

13 (25) "Stamping device" means:

14 (a) A physical device capable of affixing to or embossing on a tangible record  
15 an official stamp; or

16 (b) An electronic device or process capable of attaching to or logically  
17 associating with an electronic record an official stamp;

18 (26) "State" means a state of the United States, the District of Columbia, Puerto Rico,  
19 the United States Virgin Islands, or any territory or insular possession subject to  
20 the jurisdiction of the United States; and

21 (27) "Verification on oath or affirmation" means a declaration, made by an  
22 individual on oath or affirmation before a notarial officer, that a statement in a  
23 record is true.

24 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
25 READ AS FOLLOWS:

26 Sections 1 to 32 of this Act apply to a notarial act performed on or after the effective  
27 date of this Act.

1           ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
2 READ AS FOLLOWS:

3 (1) A notarial officer may perform the following notarial acts:

4           (a) Take acknowledgements;

5           (b) Administer oaths and affirmations;

6           (c) Take verifications of statements on oath or affirmation;

7           (d) Certify that a copy of any document, other than a document is recorded or  
8           in the custody of any federal, state, or local governmental agency, office, or  
9           court, is a true copy;

10          (e) Certify depositions of witnesses;

11          (f) Make or note a protest of a negotiable instrument;

12          (g) Witness or attest signatures; and

13          (h) Perform any notarial act authorized by a law of the Commonwealth other  
14          than Sections 1 to 32 of this Act.

15 (2) A notary public may perform any of the notarial acts listed in subsection (1) of  
16 this section with respect to tangible records and electronic records.

17 (3) Upon registration with the Secretary of State, an online notary may perform any  
18 of the notarial acts listed in subsection (1) of this section as an electronic  
19 notarization.

20 (4) A notarial officer shall not perform a notarial act with respect to a record to  
21 which the notarial officer or the notarial officer's spouse or other member of the  
22 notarial officer's immediate family is a party, or in which any of those individuals  
23 has a direct beneficial interest. A notarial act performed in violation of this  
24 subsection is voidable.

25 (5) A notarial officer may certify that a tangible copy of an electronic record is an  
26 accurate copy of the electronic record.

27           ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO

1 READ AS FOLLOWS:

2 *A notarial officer who takes an acknowledgment of a record, takes a verification of a*  
3 *statement on oath or affirmation, or witnesses or attests to a signature, shall determine,*  
4 *from personal knowledge or satisfactory evidence of the identity of the individual, that*  
5 *the individual appearing before the notarial officer has the identity claimed and that*  
6 *the signature on the record is the signature of the individual. A notarial officer who*  
7 *makes or notes a protest of a negotiable instrument shall determine the matters as set*  
8 *forth in KRS 355.3-505(2).*

9       ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
10 READ AS FOLLOWS:

11 *If a notarial act relates to a statement made in or a signature executed on a record, the*  
12 *individual making the statement or executing the signature shall appear personally*  
13 *before the notarial officer.*

14       ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
15 READ AS FOLLOWS:

16 *(1) A notarial officer has personal knowledge of the identity of an individual*  
17 *appearing before the officer if the individual is personally known to the officer*  
18 *through dealings sufficient to provide reasonable certainty that the individual has*  
19 *the identity claimed.*

20 *(2) A notarial officer has satisfactory evidence of the identity of an individual*  
21 *appearing before the officer if the officer can identify the individual by means of*  
22 *one (1) of the following credentials:*

23 *(a) A non-expired passport, driver's license, or government-issued*  
24 *identification card;*

25 *(b) Another current form of government identification issued to an individual,*  
26 *which contains the signature and a photograph of the individual, and is*  
27 *satisfactory to the notarial officer; or*

1        (c) If the means presented in paragraphs (a) and (b) of this subsection are  
2            unavailable, verification on oath or affirmation of a credible witness  
3            personally appearing before the notarial officer and known to the notarial  
4            officer or whom the notarial officer can identify on the basis of a current  
5            passport, driver's license, or government-issued identification card.

6        (3) Notwithstanding subsection (2) of this section, in performing an electronic  
7            notarization, an online notary public has satisfactory evidence of the identity of  
8            an individual appearing before the online notary public if the online notary  
9            public can identify the individual through the use of communication technology  
10           that meets the requirements of this section and the administrative regulations  
11           promulgated by the Secretary of State under subsection (7) of Section 12 and  
12           Section 24 of this Act, and by the following:

13        (a) The online notary public's personal knowledge of the individual; or

14        (b) Each of the following:

15           1. Remote presentation by the individual of a government-issued  
16           identification credential specified in this section that contains the  
17           signature and photograph of the individual;

18           2. Credential analysis of the identification credential described by  
19           subparagraph 1. of this paragraph; and

20           3. Identity proofing of the individual, which may include a dynamic  
21           knowledge-based authentication assessment; or

22        (c) A valid public key certificate that complies with the administrative  
23           regulations promulgated by the Secretary of State pursuant to Section 24 of  
24           this Act.

25        (4) A notarial officer may require an individual to provide additional information or  
26           identification credentials necessary to assure the notarial officer of the identity of  
27           the individual.

1           ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
2 READ AS FOLLOWS:

3 (1) A notarial officer may refuse to perform a notarial act if the officer is not  
4 satisfied that:

5 (a) The individual executing the record is competent or has the capacity to  
6 execute the record; or

7 (b) The individual's signature is knowingly and voluntarily made.

8 (2) A notarial officer may refuse to perform a notarial act unless refusal is  
9 prohibited by law other than Sections 1 to 32 of this Act.

10          ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
11 READ AS FOLLOWS:

12 If an individual is physically unable to sign a record, the individual may direct another  
13 individual, other than the notarial officer, to sign the individual's name on the record  
14 by proxy, in the presence of two (2) witnesses unaffected by the record, one (1) of  
15 whom may be the individual who signs, by proxy, on behalf of the individual physically  
16 unable to sign. Both witnesses shall sign their own names beside the proxy signature,  
17 and the notarial officer shall insert "Signature affixed by (name of proxy signer) at the  
18 direction of (name of individual) and in the presence of (names and addresses of the  
19 two witnesses)" or words of similar import.

20          ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
21 READ AS FOLLOWS:

22 (1) A notarial act may be performed in this state by:

23 (a) A notary public of this state; or

24 (b) A county clerk of this state.

25 (2) The signature and title of an individual performing a notarial act in this state are  
26 prima facie evidence that the signature is genuine and that the individual holds  
27 the designated title.



1 (3) The signature and title of a notarial officer described in this section conclusively  
2 establishes the authority of the notarial officer to perform the notarial act.

3 (4) A county clerk shall have the powers of a notarial officer in the exercise of the  
4 official functions of the office of clerk within his or her county, and the official  
5 actions of the county clerk shall not require the witness or signature of a notary  
6 public.

7 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
8 READ AS FOLLOWS:

9 (1) (a) A notarial act performed in another state has the same effect under the law  
10 of this state as if performed by a notarial officer of this state, if the act  
11 performed in that state is performed by:

12 1. A notary public of that state;

13 2. A judge, clerk, or deputy clerk of a court of that state; or

14 3. Any other individual authorized by the law of that state to perform the  
15 notarial act.

16 (b) The signature and title of an individual performing a notarial act in  
17 another state are prima facie evidence that the signature is genuine and that  
18 the individual holds the designated title.

19 (c) The signature and title of a notarial officer described in paragraph (a) or  
20 (b) of this subsection conclusively establish the authority of the officer to  
21 perform the notarial act.

22 (2) (a) A notarial act performed under the authority and in the jurisdiction of a  
23 federally recognized Indian tribe has the same effect as if performed by a  
24 notarial officer of this state, if the act performed in the jurisdiction of the  
25 tribe is performed by:

26 1. A notary public of the tribe;

27 2. A judge, clerk, or deputy clerk of a court of the tribe; or

1 3. Any other individual authorized by the law of the tribe to perform the  
2 notarial act.

3 (b) The signature and title of an individual performing a notarial act under the  
4 authority and in the jurisdiction of a federally recognized Indian tribe are  
5 prima facie evidence that the signature is genuine and that the individual  
6 holds the designated title.

7 (c) The signature and title of a notarial officer described in paragraph (a) or  
8 (b) of this subsection conclusively establish the authority of the notarial  
9 officer to perform the notarial act.

10 (3) (a) A notarial act performed under the authority of federal law has the same  
11 effect under the law of this state as if performed by a notarial officer of this  
12 state, if the act performed under federal law is performed by:

13 1. A judge, clerk, or deputy clerk of a court;

14 2. An individual in military service or performing duties under the  
15 authority of military service who is authorized to perform notarial acts  
16 under federal law;

17 3. An individual designated a notarizing officer by the United States  
18 Department of State for performing notarial acts overseas; or

19 4. Any other individual authorized by federal law to perform the notarial  
20 act.

21 (b) The signature and title of an individual acting under federal authority and  
22 performing a notarial act are prima facie evidence that the signature is  
23 genuine and that the individual holds the designated title.

24 (c) The signature and title of an officer described in paragraph (a) or (b) of this  
25 subsection conclusively establish the authority of the officer to perform the  
26 notarial act.

27 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) In this section, "foreign state" means a government other than the United States,  
3 a state, or a federally recognized Indian tribe.

4 (2) If a notarial act is performed under the authority and in the jurisdiction of a  
5 foreign state or constituent unit of the foreign state or is performed under the  
6 authority of a multinational or international governmental organization, the act  
7 has the same effect under the law of this state as if performed by a notarial  
8 officer of this state.

9 (3) If the title of office and indication of authority to perform notarial acts in a  
10 foreign state appears in a digest of foreign law or in a list customarily used as a  
11 source for that information, the authority of an officer with that title to perform  
12 notarial acts is conclusively established.

13 (4) The signature and official stamp of an individual holding an office described in  
14 subsection (3) of this section are prima facie evidence that the signature is  
15 genuine and the individual holds the designated title.

16 (5) An apostille in the form prescribed by the Hague Convention of October 5, 1961,  
17 and issued by a foreign state party to the Convention conclusively establishes that  
18 the signature of the notarial officer is genuine and that the officer holds the  
19 indicated office.

20 (6) A consular authentication issued by an individual designated by the United States  
21 Department of State as a notarizing officer for performing notarial acts overseas  
22 and attached to the record with respect to which the notarial act is performed  
23 conclusively establishes that the signature of the notarial officer is genuine and  
24 that the officer holds the indicated office.

25 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
26 READ AS FOLLOWS:

27 (1) An online notary public:

1        (a) Shall be commissioned as a notary public pursuant to Sections 1 to 32 of  
2                this Act and has the powers and duties of a traditional notary public as  
3                provided by Sections 1 to 32 of this Act;

4        (b) May perform notarial acts as provided by Sections 1 to 32 of this Act in  
5                addition to performing electronic notarizations; and

6        (c) May, upon registration with the Secretary of State as an online notary  
7                public pursuant to Section 19 of this Act, perform electronic notarizations  
8                authorized under this section.

9        (2) An online notary public may perform an electronic notarization provided the  
10                online notary public is physically located in this state while performing the  
11                notarial act and if:

12        (a) The online notary public has:

13                1. Personal knowledge of the identity of the individual pursuant to  
14                Section 6 of this Act; or

15                2. Satisfactory evidence of the identity of the individual pursuant to  
16                subsection (3) of Section 6 of this Act; and

17        (b) At the time of electronic notarization:

18                1. The individual appearing before the online notary public is located  
19                within this state, or elsewhere within the geographic boundaries of a  
20                state of the United States; or

21                2. The individual is located outside the United States and:

22                a. The individual confirms to the online notary public that the  
23                record is to be filed with or relates to a matter before a court,  
24                governmental entity, public official, or other entity located in the  
25                territorial jurisdiction of the United States, or relates to property  
26                located in the United States, or relates to a transaction  
27                substantially connected to the United States; and

- 1                    b. To the online notary public's actual knowledge, the act of  
2                    making the statement or signing the record is not prohibited by  
3                    the jurisdiction in which the individual is located.
- 4                    (3) In addition to the authority of a notary public to refuse to perform a notarial act  
5                    pursuant to Section 7 of this Act, a notary public may refuse to perform a  
6                    notarial act under this section if the notary public is not satisfied that a notarial  
7                    act performed would conform with subsection (2)(b)2. of this section.
- 8                    (4) If a notarial act involves a statement made in or a signature executed on an  
9                    electronic record by an individual by means of communication technology, the  
10                    certificate of notarial act required by Section 13 of this Act shall indicate that the  
11                    individual making the statement or signing the record appeared before the online  
12                    notary public by means of communication technology.
- 13                    (5) For each electronic notarization, the online notary public shall:
- 14                    (a) Include, in addition to the journal entries required under Section 17 of this  
15                    Act, an indication of whether an individual making a statement or  
16                    executing a signature which is the subject of the notarial act appeared  
17                    before the online notary public in the notary's physical presence or by  
18                    means of communication technology;
- 19                    (b) Create a complete recording of the conference session containing the audio-  
20                    video communication between the online notary public and individual  
21                    appearing before the online notary public, in accordance with the standards  
22                    adopted under subsection (7) of this section and Section 24 of this Act; and
- 23                    (c) Maintain the recording described by paragraph (b) of this subsection for at  
24                    least ten (10) years after the date of the applicable transaction or proceeding  
25                    or for the period of retention of a notary public's journal pursuant to  
26                    Section 17 of this Act, whichever is longer.
- 27                    (6) Before an online notary public performs any electronic notarizations under this

1 section, the online notary public shall register with the Secretary of State  
2 pursuant to Section 19 of this Act.

3 (7) The Secretary of State may promulgate administrative regulations regarding the  
4 performance of electronic notarizations. The administrative regulations may:

5 (a) Prescribe the means of performing a notarial act involving communication  
6 technology;

7 (b) Establish standards for communication technology and the process of  
8 credential analysis and identity proofing;

9 (c) Establish procedures for the requirements of providers of communication  
10 technology; and

11 (d) Establish standards and requirements for the retention of a video and audio  
12 copy of the performance of a notarial act.

13 (8) Regardless of the physical location of the individual at the time of the notarial  
14 act, the validity of an electronic notarization performed by an online notary  
15 public commissioned in this state shall be determined by applying the laws of this  
16 state.

17 (9) An online notary public shall take reasonable steps to ensure that:

18 (a) Any registered device or credential used to create an electronic signature is  
19 current and has not been revoked or terminated by the device's or  
20 credential's issuing or registering authority;

21 (b) The audio-video communication used in an electronic notarization is secure  
22 from unauthorized interception or use;

23 (c) A backup exists for all information pertaining to an electronic notarization  
24 required to be kept by administrative regulations promulgated pursuant to  
25 subsection (7) of this section and Section 24 of this Act; and

26 (d) The backup described by paragraph (c) of this subsection is secure from  
27 unauthorized use.

1           ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
2 READ AS FOLLOWS:

3 (1) A notarial act shall be evidenced by a certificate. The certificate shall:

4 (a) Be executed contemporaneously with the performance of the notarial act;

5 (b) Be signed and dated by the notarial officer and, if the notarial officer is a  
6 notary public, be signed in the same manner as on file with the Secretary of  
7 State;

8 (c) Identify the jurisdiction in which the notarial act is performed;

9 (d) Contain the title of office and name of the notarial officer; and

10 (e) If the notarial officer is a notary public, indicate the commission number  
11 and date of expiration, if there is an expiration date, of the officer's  
12 commission.

13 (2) If a notarial act is performed regarding a tangible record by a notarial officer,  
14 including a notary public, the certificate shall contain the information specified  
15 in paragraphs (b), (c), and (d) of subsection (1) of this section, along with the  
16 additional information in paragraph (e) of subsection (1) of this section, if the  
17 certificate is completed by a notary public. An official stamp may be affixed to or  
18 embossed on the certificate. If a notarial act regarding an electronic record is  
19 performed by a notarial officer, the certificate shall contain the information  
20 specified in paragraphs (b), (c), and (d) of subsection (1) of this section, along  
21 with the additional information in paragraph (e) of subsection (1) of this section  
22 if the certificate is completed by a notary public. An official stamp may be  
23 attached to or logically associated with the certificate.

24 (3) A certificate of a notarial act is sufficient if it meets the requirements of  
25 subsections (1) and (2) of this section and:

26 (a) Is in a short form set forth in Section 14 of this Act;

27 (b) Is in a form otherwise permitted by the laws of this state;

1 (c) Is in a form permitted by the law applicable in the jurisdiction in which the  
2 notarial act was performed; or

3 (d) Sets forth the actions of the notarial officer and the actions are sufficient to  
4 meet the requirements of the notarial act as provided in Sections 1 to 32 of  
5 this Act or other law of this state other than Sections 1 to 32 of this Act.

6 (4) By executing a certificate of a notarial act, a notarial officer certifies that the  
7 officer has complied with the requirements and made the determinations  
8 specified in Sections 1 to 32 of this Act.

9 (5) A notarial officer may not affix the officer’s signature to, or logically associate it  
10 with, a certificate until the notarial act has been performed.

11 (6) If a notarial act is performed regarding a tangible record, a certificate shall be  
12 part of, or securely attached to, the record. If a notarial act is performed  
13 regarding an electronic record, the certificate shall be affixed to, or logically  
14 associated with, the electronic record. If the Secretary of State has established  
15 standards pursuant to Section 24 of this Act for attaching, affixing, or logically  
16 associating the certificate, the process shall conform to the standards.

17 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
18 READ AS FOLLOWS:

19 The Secretary of State shall promulgate short form certificates for notarial acts which  
20 shall contain space for the information required by subsections (1) and (2) of Section  
21 13 of this Act, and include a space to indicate the manner of notarization of the  
22 document.

23 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
24 READ AS FOLLOWS:

25 A notary public commissioned pursuant to Sections 1 to 32 of this Act is not required  
26 to use a stamp. If a notary public chooses to use a stamp, the notary public shall have  
27 an official stamp which shall:



1 (1) Include the notary public's name, title, jurisdiction, commission number, and  
2 expiration date; and

3 (2) Be capable of being copied together with the record to which it is affixed or  
4 attached or with which it is logically associated.

5 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
6 READ AS FOLLOWS:

7 (1) A notary public is responsible for the security of the notary public's stamping  
8 device and may not allow another individual to use the device to perform a  
9 notarial act. On resignation from, or the revocation or expiration of, the notary  
10 public's commission, or on the expiration of the date set forth in the stamping  
11 device, if any, the notary public shall disable the stamping device by destroying,  
12 defacing, damaging, erasing, or securing it against use in a manner that renders  
13 it unusable. On the death or adjudication of incompetency of a notary public, the  
14 notary public's personal representative or guardian or any other person  
15 knowingly in possession of the stamping device shall render it unusable by  
16 destroying, defacing, damaging, erasing, or securing it against use in a manner  
17 that renders it unusable.

18 (2) If a notary public's stamping device is lost or stolen, the notary public or the  
19 notary public's personal representative or guardian shall notify promptly the  
20 Secretary of State on discovering that the device is lost or stolen.

21 ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
22 READ AS FOLLOWS:

23 (1) An online notary public shall maintain a journal in which the online notary  
24 public chronicles all electronic notarizations that the online notary public  
25 performs. The online notary public shall retain the journal for ten (10) years  
26 after the performance of the last electronic notarization chronicled in the journal.

27 (2) The journal shall be created in an electronic format. An online notary public may

1 maintain more than one (1) journal to chronicle electronic notarizations. The  
2 journal shall be maintained in an electronic format in a permanent, tamper-  
3 evident electronic format complying with administrative regulations promulgated  
4 pursuant to Section 24 of this Act.

5 (3) An entry in a journal shall be made contemporaneously with performance of the  
6 notarial act and contain the following information:

7 (a) The date and time of the notarial act;

8 (b) A brief description of the record, if any, and type of notarial act as  
9 authorized in Section 3 of this Act;

10 (c) The full name and address of each individual for whom the notarial act is  
11 performed;

12 (d) If identity of the individual is based on personal knowledge, a statement to  
13 that effect;

14 (e) If identity of the individual is based on satisfactory evidence, a brief  
15 description of the method of identification and the identification and the  
16 means used as well as the date of issuance and expiration of any  
17 identification credential presented; and

18 (f) The fee, if any, charged by the online notary public.

19 (4) If a notarial act involves the use of communication technology, the notary public  
20 shall retain the audio-visual recording of the performance of the notarial act in  
21 compliance with both subsection (7) of Section 12 of this Act and the  
22 administrative regulations promulgated pursuant to Section 24 of this Act.

23 (5) If a notary public's journal is lost or stolen, the notary public promptly shall  
24 notify the Secretary of State on discovering that the journal is lost or stolen.

25 (6) On resignation from, or the revocation or suspension of, a notary public's  
26 commission, the notary public shall retain the notary public's journal in  
27 accordance with subsection (1) of this section.

1 (7) On the death or adjudication of incompetency of a current or former notary  
2 public, the notary public's personal representative or guardian or any other  
3 person knowingly in possession of the journal shall transmit it to the Secretary of  
4 State or otherwise as directed in administrative regulations promulgated by the  
5 Secretary of State pursuant to Section 24 of this Act.

6 (8) A notary public may designate a custodian to do any of the following:

7 (a) Maintain the journal required under subsection (1) of this section; or

8 (b) Retain an audio or visual recording of a notarial act required under  
9 subsection (4) of this section.

10 ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
11 READ AS FOLLOWS:

12 (1) A notary public shall register with the Secretary of State pursuant to Section 19  
13 of this Act if the notary public intends to perform notarial acts:

14 (a) With respect to electronic records where the individual will appear before  
15 the notary in the notary's physical presence; or

16 (b) As an online notary public to perform electronic notarizations by means of  
17 communication technology.

18 (2) A notary public may select one (1) or more tamper-evident technologies to  
19 perform notarial acts in the physical presence of the individual signer with  
20 respect to electronic records, or to perform electronic notarizations. A person may  
21 not require a notary public to perform any notarial act with a technology that the  
22 notary public has not selected.

23 (3) If the Secretary of State has established standards respecting technology to  
24 perform notarial acts in the physical presence of the individual signer with  
25 respect to electronic records, or to perform electronic notarizations, the  
26 technology chosen by the notary public shall conform to those standards.

27 (4) A tangible copy of an electronic record containing a notarial certificate may be

1 accepted as satisfying any requirement that a record accepted for recording be an  
2 original, if the notarial officer executing the notarial certificate certifies that the  
3 tangible copy is an accurate copy of the electronic record.

4 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
5 READ AS FOLLOWS:

6 (1) An individual qualified under subsection (2) of this section may apply to the  
7 Secretary of State for a commission as a notary public. The applicant shall  
8 comply with and provide the information required by administrative regulations  
9 promulgated by the Secretary of State and be accompanied by payment of the  
10 specified fee.

11 (2) An applicant for a commission as a notary public shall:

12 (a) Be at least eighteen (18) years of age;

13 (b) Be a citizen or permanent legal resident of the United States;

14 (c) Be a resident of or have a place of employment or practice in the county  
15 within this Commonwealth where the application is made;

16 (d) Be able to read and write English;

17 (e) Not be disqualified to receive a commission under Section 20 of this Act;

18 (f) Submit to the Secretary of State any application forms, information,  
19 disclosures, and verifications as are required by administrative regulations  
20 promulgated by the Secretary of State;

21 (g) Submit to the Secretary of State proof of having obtained the requisite  
22 surety bond required under subsection (4) of this section;

23 (h) Take an oath of office as set forth in in subsection (4) of this section; and

24 (i) Submit a fee payment, as specified in Section 27 of this Act, made payable  
25 to the State Treasurer.

26 (3) On compliance with this section, the Secretary of State shall issue a commission  
27 as a notary public to an applicant for a term of four (4) years. The Secretary of

1       State shall assign a unique commission number to each notary public, which  
2       same commission number shall continue to be assigned to the notary public in  
3       the event of the renewal or later issuance of another commission to the same  
4       individual notary public.

5       (4) Within thirty (30) days of receiving a notary public commission from the  
6       Secretary of State, the applicant shall appear in person to take an oath of office,  
7       submit an assurance in the form of a surety bond, and file the commission, all of  
8       which shall take place before the county clerk listed in the commission  
9       application. The applicant shall pay fees to the county clerk for filing the  
10       assurance and administering the oath as set forth in KRS 64.012.

11       (5) The assurance required by this section shall be in the amount of one thousand  
12       dollars (\$1,000) and shall be issued by a surety or other entity licensed or  
13       authorized to do business in this state. The assurance shall cover acts performed  
14       during the term of the notary public's commission and shall be in the form  
15       prescribed by the Secretary of State. If a notary public violates the law with  
16       respect to notaries public in this state, the surety or issuing entity is liable under  
17       the assurance. The surety or issuing entity shall give thirty (30) days' notice to the  
18       Secretary of State before canceling the assurance or of the assurance's expiration  
19       if such expiration is prior to the date of expiration of the notary's commission. A  
20       notary public may perform notarial acts in this state only during the period that a  
21       valid assurance is on file with the county clerk.

22       (6) A notarial officer may perform a notarial act in any county of the  
23       Commonwealth after filing the commission and assurance and taking the oath  
24       required by this section, and for so long as the notary public's commission and  
25       surety bond are valid and in effect.

26       (7) If, at any time during his or her period of commission under this section, or  
27       period of registration under subsection (10) of this section, a notary public

1 changes his or her mail or electronic mail address, county of residence, name,  
2 signature, electronic signature, or the technology or device used to perform  
3 notarial acts or to maintain his or her journal or to render electronic documents  
4 tamper-evident, the notary public shall, within ten (10) days after making the  
5 change, submit to the Secretary of State the changed information upon the form  
6 and containing all information required by the Secretary of State, along with a  
7 fee payment, as specified in Section 27 of this Act, payable to the State Treasurer.

8 (8) (a) Prior to the expiration of his or her commission period, a notary public may  
9 apply to the Secretary of State to renew his or her commission, and shall  
10 comply with the qualifications, renewal application filings, and other  
11 requirements then applicable to obtaining an original commission from the  
12 Secretary of State. The application for commission renewal shall be  
13 accompanied by a fee payment, as specified in Section 27 of this Act, made  
14 payable to the State Treasurer.

15 (b) If approved, the Secretary of State shall issue a renewed commission to the  
16 notary public for an additional four (4) year term, using the same  
17 commission number as the notary public's original commission and  
18 indicating the new commission expiration date.

19 (c) Pursuant to the procedures set forth in subsections (4) and (5) of this  
20 section, the commission along with the required assurance shall be filed  
21 with the county clerk listed in the renewal application, and a new oath of  
22 office administered by the county clerk and new fees paid by the notary  
23 public to the county clerk, as determined by KRS 64.012.

24 (d) A renewed commission shall be valid and effective only upon compliance  
25 with this subsection. A notary public shall have no authority to perform  
26 notarial acts during any period between the expiration of his or her current  
27 commission and the effective date of any renewal commission.

- 1 (9) A commission to act as a notary public shall authorize the notary public to  
2 perform notarial acts. The commission shall not provide the notary public with  
3 any immunity or benefit conferred by the law of this state on public officials or  
4 employees.
- 5 (10) Before performing an initial notarial act with respect to electronic records, or  
6 before performing an initial online notarial act, a notary public shall first register  
7 with the Secretary of State. The notary public shall:
- 8 (a) At the time of registration, be a commissioned notary public in this  
9 Commonwealth who has complied with the requirements set forth in  
10 subsections (1) to (8) of this section, and who has complied with all  
11 applicable notarial requirements set forth in this chapter;
- 12 (b) Register with the Secretary of State by submitting an electronic registration  
13 pursuant to this subsection;
- 14 (c) Pay to the Secretary of State a registration fee payment, as specified in  
15 Section 27 of this Act, which is in addition to the commission application  
16 fee required to be a notarial officer in this state and any fees required to be  
17 paid to the county clerk to file a commission and assurance and to take an  
18 oath pursuant to KRS 62.010;
- 19 (d) Submit to the Secretary of State any registration forms, information,  
20 disclosures, and verifications required by administrative regulations  
21 promulgated by the Secretary of State; and
- 22 (e) Submit to the Secretary of State with the registration proof satisfactory to  
23 the Secretary of State that the registrant has satisfied the requirement to  
24 post an assurance as a notary public, as set forth in subsections (4) and (5)  
25 of this section.
- 26 (11) The Secretary of State shall promulgate administrative regulations to establish  
27 forms and procedures applicable to the registrations governed by subsection (10)

1 of this section, and shall obtain at least the following information in connection  
2 with each registration:

3 (a) The registrant's commission number and full legal name as it appears on  
4 the registrant's commission, and the name to be used for registration, if  
5 different;

6 (b) The county in this state in which the registrant resides or has his or her  
7 place of employment or practice;

8 (c) The electronic mail and resident address of the registrant;

9 (d) Whether the registrant is registering to perform one (1) or both of the  
10 following:

11 1. Notarial acts with respect to electronic records in which the individual  
12 will appear before the notary in the notary's physical presence; or

13 2. As an online notary public to perform electronic notarizations;

14 (e) A description of the technologies or devices that the registrant intends to use  
15 to perform notarial acts with respect to electronic records or electronic  
16 notarizations, to maintain the journal required by Section 17 of this Act,  
17 and to render electronic records tamper-evident after a notarial act is  
18 completed, each of which technologies or devices shall comply with any  
19 standards established by the Secretary of State;

20 (f) The digital certification of the registrant; and

21 (g) Any other information, evidence, disclosures, or declarations required or  
22 deemed beneficial by the Secretary of State pursuant to any administrative  
23 regulations promulgated by the Secretary of State.

24 (12) The Secretary of State may reject a registration if the applicant fails to comply  
25 with any provision of Sections 1 to 32 of this Act.

26 (13) Thirty (30) days after compliance with all registration requirements and payment  
27 of the required registration fee, a notary public will be registered with the



1 Secretary of State to perform notarial acts in the physical presence of an  
 2 individual signer with respect to electronic records, or to perform electronic  
 3 notarizations as an online notary public, or as both.

4 (14) The Secretary of State may at any time cancel the registration of a notary public  
 5 to perform notarial acts with respect to electronic records, or as an online notary  
 6 public to perform electronic notarizations, if the notary public fails to comply  
 7 with any of the requirements of Sections 1 to 32 of this Act or based upon any of  
 8 the grounds for revocation or suspension of a notary public's commission.

9 (15) Registration of a notary public under this section is suspended by operation of  
 10 law when the notary public is no longer commissioned as a notary public in this  
 11 state. If the commission of a notary public has expired or been revoked or  
 12 suspended, the Secretary of State shall immediately notify the notary public in  
 13 writing that his or her registration under this section will be suspended by  
 14 operation of law until he or she is appointed as a notary public in this  
 15 Commonwealth.

16 ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 17 READ AS FOLLOWS:

18 (1) The Secretary of State may deny, refuse to renew, revoke, suspend, or impose a  
 19 condition on a commission as notary public for any act or omission that  
 20 demonstrates the individual lacks the honesty, integrity, competence, or reliability  
 21 to act as a notary public, including:

22 (a) Failure to comply with Sections 1 to 32 of this Act;

23 (b) A fraudulent, dishonest, or deceitful misstatement or omission in the  
 24 application for a commission as a notary public submitted to the Secretary  
 25 of State;

26 (c) A conviction of the applicant or notary public of any felony or a crime  
 27 involving fraud, dishonesty, or deceit;

1 (d) A finding against, or admission of liability by, the applicant or notary public  
 2 in any legal proceeding or disciplinary action based on the applicant's or  
 3 notary public's fraud, dishonesty, or deceit;

4 (e) Failure by the notary public to discharge any duty required of a notary  
 5 public, whether by Sections 1 to 32 of this Act, administrative regulations  
 6 promulgated by the Secretary of State, or any federal or state law;

7 (f) Use of false or misleading advertising or representation by the notary public  
 8 representing that the notary has a duty, right, or privilege that the notary  
 9 does not have;

10 (g) Violation by the notary public of an administrative regulation of the  
 11 Secretary of State regarding a notary public;

12 (h) Denial, refusal to renew, revocation, or suspension of a notary public  
 13 commission in another state; or

14 (i) Failure of the notary public to maintain an assurance.

15 (2) The authority of the Secretary of State to deny, refuse to renew, suspend, revoke,  
 16 or impose conditions on a commission as a notary public does not prevent a  
 17 person from seeking and obtaining other criminal or civil remedies provided by  
 18 law.

19 ➔SECTION 21. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 20 READ AS FOLLOWS:

21 (1) The Secretary of State shall maintain an electronic database of notaries public:

22 (a) Through which a person may verify the authority of a notary public to  
 23 perform notarial acts; and

24 (b) Which indicates whether a notary public has registered with the Secretary  
 25 of State in order to perform notarial acts on electronic records or to act as  
 26 an online notary public.

27 (2) Each county clerk who files a notary public's assurance and administers the oath

1 of office to a notary public shall promptly record the fact and date in the database  
2 described in subsection (1) of this section.

3 ➔SECTION 22. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
4 READ AS FOLLOWS:

5 (1) A commission as a notary public does not authorize an individual to engage in  
6 the practice of law.

7 (2) A notary public shall not engage in false or deceptive advertising.

8 (3) A notary public, other than an attorney licensed to practice law in this state, shall  
9 not advertise or represent that the notary public may assist persons in drafting  
10 legal records, give legal advice, or otherwise engage in the unauthorized practice  
11 of law as defined by rule of the Supreme Court.

12 (4) Except as otherwise allowed by law, a notary public shall not withhold access to  
13 or possession of an original record provided by a person that seeks performance  
14 of a notarial act by the notary public.

15 ➔SECTION 23. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
16 READ AS FOLLOWS:

17 Except as otherwise provided in subsection (4) of Section 3 of this Act, the failure of a  
18 notarial officer to perform a duty or meet a requirement specified in Sections 1 to 32 of  
19 this Act does not invalidate a notarial act performed by the notarial officer. The validity  
20 of a notarial act does not prevent an aggrieved person from seeking to invalidate the  
21 record or transaction that is the subject of the notarial act or from seeking other  
22 remedies based on other laws of this state. This section does not validate a purported  
23 notarial act performed by an individual who does not have the authority to perform  
24 notarial acts.

25 ➔SECTION 24. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
26 READ AS FOLLOWS:

27 The Secretary of State may promulgate administrative regulations to implement

1 Sections 1 to 32 of this Act. Promulgated administrative regulations regarding the  
 2 performance of notarial acts with respect to electronic records or electronic  
 3 notarizations shall not require, or accord greater legal status or effect to, the  
 4 implementation or application of a specific technology or technical specification. The  
 5 administrative regulations may:

6 (1) Prescribe the manner of performing notarial acts regarding tangible and  
 7 electronic records;

8 (2) Establish requirements for notarial training or education as a condition of  
 9 obtaining or renewing a commission or before registering to perform notarial  
 10 acts with respect to electronic records or to perform electronic notarizations;

11 (3) Include provisions to ensure that any change to or tampering with a record  
 12 bearing a certificate of a notarial act is self-evident;

13 (4) Include provisions to ensure integrity in the creation, transmittal, storage, or  
 14 authentication of electronic records or signatures;

15 (5) Prescribe the process of granting, renewing, conditioning, denying, suspending,  
 16 or revoking a notary public commission and assuring the trustworthiness of an  
 17 individual holding a commission as notary public;

18 (6) Include provisions to prevent fraud or mistake in the performance of notarial  
 19 acts; and

20 (7) Establish the process for approving and accepting surety bonds and other forms  
 21 of assurance under Section 19 of this Act.

22 ➔SECTION 25. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 23 READ AS FOLLOWS:

24 (1) A commission as a notary public in effect on the effective date of this Act shall  
 25 continue until its date of expiration. A notary public who applies to renew a  
 26 commission as a notary public on or after the effective date of this Act shall be  
 27 subject to and comply with Sections 1 to 32 of this Act. A notary public, in

1 performing notarial acts after the effective date of this Act, shall comply with  
2 Sections 1 to 32 of this Act.

3 (2) An existing commission as a notary public does not constitute authority to act as  
4 an online notary public. Registration pursuant to Section 19 of this Act, and  
5 compliance with Sections 1 to 32 of this Act, is required before a notary public  
6 with an existing commission may act as an online notary public.

7 ➔SECTION 26. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
8 READ AS FOLLOWS:

9 Sections 1 to 32 of this Act does not affect the validity or effect of a notarial act  
10 performed before the effective date of this Act.

11 ➔SECTION 27. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
12 READ AS FOLLOWS:

13 (1) For a notarial act relating to a tangible or electronic record, or for an electronic  
14 notarization, a notary public may charge a fee:

15 (a) In compliance with KRS 64.300; and

16 (b) Which has been clearly disclosed to the person requesting the service in  
17 advance.

18 (2) Compensation for services provided by a notary public which do not constitute  
19 notarial acts is not governed by this section.

20 (3) The Secretary of State may charge the following fees in relation to notaries  
21 public:

22 (a) Application for a commission or renewal as a notary public.....\$10

23 (b) Issuance of a replacement commission upon loss or destruction of the  
24 original.....\$10

25 (c) Update to commission or registration information upon a change of name  
26 or address or other specified information.....\$10

27 (d) Issuance of an electronic certificate of authority or

1 Apostille.....\$5 per document.

2 (4) In accordance with KRS 64.012, county clerks may assess fees for services  
3 required to fulfill obligations set forth in Sections 1 to 32 of this Act.

4 ➔SECTION 28. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
5 READ AS FOLLOWS:

6 (1) If an electronic record or paper printout of an electronic record relating to real  
7 property located in this state contains an acknowledgement performed by  
8 electronic means, notwithstanding any omission or error in the certificate of  
9 acknowledgement or failure of the record to show an acknowledgement in  
10 compliance with applicable law, upon the record being recorded with the county  
11 clerk of the county in which the real property is located or filed with the Secretary  
12 of State:

13 (a) The electronic record or paper printout of an electronic record shall be  
14 deemed to be lawfully recorded or filed; and

15 (b) All persons, including without limitation any creditor, encumbrancer,  
16 mortgagee, subsequent purchaser for valuable consideration, or any other  
17 subsequent transferee thereof or of any interest therein, are deemed to have  
18 notice of its contents.

19 (2) For the purposes of this section, a record is deemed to comply with all applicable  
20 requirements upon the recording by the county clerk of the county in which the  
21 real property is located or the filing of the record with the Secretary of State, as  
22 required by law.

23 ➔SECTION 29. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
24 READ AS FOLLOWS:

25 (1) A writing or record that appears on its face to have been properly notarized in  
26 accordance with Sections 1 to 32 of this Act shall be presumed to have been  
27 notarized properly and may be recorded by the clerk.

1 (2) A writing or record notarized outside this state by a notary public or other person  
2 referenced in Section 10 or 11 of this Act that appears on its face to be properly  
3 notarized shall be presumed to have been notarized properly in accordance with  
4 the laws and regulations of the jurisdiction in which the document was notarized.

5 (3) The county clerk shall be immune from suit arising from any acts or omissions  
6 relating to recording records that have been notarized by electronic means as set  
7 forth in Sections 1 to 32 of this Act unless the clerk was grossly negligent or  
8 engaged in willful misconduct.

9 ➔SECTION 30. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
10 READ AS FOLLOWS:

11 (1) Sections 1 to 32 of this Act are to be construed and applied in a manner  
12 consistent with KRS 369.101 to 369.120. In accordance with KRS 369.105,  
13 nothing in Sections 1 to 32 of this Act shall affirmatively require any person to  
14 create, generate, send, communicate, receive, store, or otherwise process or use  
15 electronic records or complete a transaction using electronic means, and in  
16 accordance with KRS 369.118, nothing shall require any governmental agency to  
17 send and accept electronic records and electronic signatures to and from other  
18 persons, or to otherwise create, generate, communicate, store, process, use, and  
19 rely upon electronic records and electronic signatures, except as may be  
20 otherwise required by law.

21 (2) A requirement that a record or a signature associated with a record be notarized,  
22 acknowledged, verified, witnessed, or made under oath is satisfied by a paper  
23 printout of an electronic record bearing an electronic signature of the person  
24 authorized to perform that act and all other information required to be included  
25 pursuant to KRS 369.111.

26 (3) In accordance with KRS 369.118, a governmental agency that accepts paper  
27 printouts of electronic records may establish rules, procedures, or requirements

1 governing this acceptance.

2 ➔SECTION 31. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
3 READ AS FOLLOWS:

4 (1) With respect only to notarial acts performed in relation to tangible records, the  
5 county clerk of a county in whose office any notary public has so filed his or her  
6 signature and surety bond shall when requested subjoin to any certificate of proof  
7 or acknowledgement signed by the notary a certificate under his or her hand and  
8 seal stating that such notary public's written signature is on file in the clerk's  
9 office, and was at the time of taking such proof or acknowledgement duly  
10 authorized to take the same, that the clerk is well acquainted with the  
11 handwriting of the notary public, and believes that the signature to the proof or  
12 acknowledgement is genuine.

13 (2) For all notarial acts performed in relation to electronic records that are  
14 transmitted to another state or nation, electronic evidence of the authenticity of  
15 the official signature and seal of a notary public of this state, if required, shall be  
16 attached to, or logically associated with, the record and shall be in the form of an  
17 electronic certificate of authority signed by the Office of the Secretary of State in  
18 conformance with any current and pertinent international treaties, agreements,  
19 and conventions subscribed to by the United States.

20 (3) An electronic certificate of authority evidences the authenticity of the official  
21 signature and seal of an online notary public of this state and shall contain  
22 substantially the following:

23 "Certificate of Authority for a Notarial Act

24 I, (name), Secretary of State of the Commonwealth of Kentucky, certify that  
25 (name of electronic notary), the person named as a Notary Public in the attached or  
26 associated electronic document, was indeed commissioned as a Notary Public for the  
27 Commonwealth of Kentucky and authorized to act as such at the time of the



1 document's electronic notarization.

2 To verify this Certificate of Authority for a Notarial Act, I have included herewith  
 3 my electronic signature this \_\_\_\_\_ day of \_\_\_\_\_, (year).

4 (Electronic signature and seal of the Kentucky Secretary of State)"

5 ➔SECTION 32. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 6 READ AS FOLLOWS:

7 (1) A remotely located individual may comply with Section 5 of this Act by appearing  
 8 before a notary public by means of communication technology.

9 (2) A notary public located in this state may perform a notarial act facilitated by  
 10 communication technology for a remotely located individual if:

11 (a) The notary public:

12 1. Has personal knowledge pursuant to subsection (1) of Section 6 of this  
 13 Act of the identity of the individual;

14 2. Has satisfactory evidence of the identity of the remotely located  
 15 individual by oath or affirmation from a credible witness appearing  
 16 before the notary public under subsection (2) of Section 6 of this Act;

17 or

18 3. Reasonably can identify the individual by at least two (2) different  
 19 types of identity-proofing processes or services;

20 (b) The notary public is able reasonably to identify a record before the notary  
 21 public as the same record in which the remotely located individual made a  
 22 statement or on which the remotely located individual executed a signature;

23 (c) The notary public, or a person acting on behalf of the notary public, creates  
 24 an audio-visual recording of the performance of the notarial act; and

25 (d) For a remotely located individual who is located outside the United States:

26 1. The record:

27 a. Is to be filed with or relates to a matter before a court,

- 1                   governmental entity, public official, or other entity subject to the  
2                   jurisdiction of the United States; or
- 3                   b. Involves property located in the territorial jurisdiction of the  
4                   United States or a transaction substantially connected with the  
5                   United States; and
- 6                   2. The act of making the statement or signing the record is not  
7                   prohibited by the foreign state in which the remotely located individual  
8                   is located.
- 9                   (3) If a notarial act is performed pursuant to this section, the certificate of notarial  
10                   act required by Section 13 of this Act and the short-form certificate provided in  
11                   Section 14 of this Act shall indicate that the notarial act was performed by means  
12                   of communication technology.
- 13                   (4) A short-form certificate provided in Section 14 of this Act for a notarial act  
14                   subject to this section is sufficient if it:
- 15                   (a) Complies with administrative regulations promulgated pursuant to  
16                   subsection (7)(a) of this section; or
- 17                   (b) Is in the form provided by Section 14 of this Act and contains a statement  
18                   substantially as follows: "This notarial act involved the use of  
19                   communication technology."
- 20                   (5) A notary public, a guardian, a conservator, or agent of a notary public, or a  
21                   personal representative of a deceased notary public shall retain the audio-visual  
22                   recording created under subsection (2)(c) of this section or cause the recording to  
23                   be retained by a repository designated by or on behalf of the person required to  
24                   retain the recording. Unless a different period is required by administrative  
25                   regulations promulgated under subsection (7)(d) of this section, the recording  
26                   shall be retained for no less than ten (10) years after the recording is made.
- 27                   (6) Before a notary public performs the notary public's initial notarial act under this

1 section, the notary public shall notify the Secretary of State that the notary public  
2 will be performing notarial acts facilitated by communication technology and  
3 identify the technology. If the Secretary of State has established standards for  
4 approval of communication technology or identity proofing under Section 27 of  
5 this Act, the communication technology and identity proofing shall conform to  
6 those standards.

7 (7) In addition to promulgating administrative regulations under Section 27 of this  
8 Act, the Secretary of State may promulgate administrative regulations regarding  
9 performance of a notarial act. The administrative regulations may:

10 (a) Prescribe the means of performing a notarial act involving a remotely  
11 located individual using communication technology;

12 (b) Establish standards for communication technology and identity proofing;

13 (c) Establish requirements or procedures to approve providers of  
14 communication technology and the process of identity proofing; and

15 (d) Establish standards and a period of the retention of an audio-visual  
16 recording created under subsection (2)(c) of this section.

17 (8) Before promulgating administrative regulations governing performance of a  
18 notarial act with respect to a remotely located individual, the Secretary of State  
19 shall consider:

20 (a) The most recent standards regarding the performance of a notarial act with  
21 respect to a remotely located individual promulgated by national standard-  
22 setting organizations and the National Association of Secretaries of State;

23 (b) Standards, practices, and customs of other jurisdictions that have laws  
24 substantially similar to this section; and

25 (c) The views of governmental officials and entities and other interested  
26 persons.

27 (9) By allowing its communication technology or identity proofing technology to

1 facilitate a notarial act for a remotely located individual or by providing storage  
2 of the audio-visual recording created under subsection (2)(c) of this section, the  
3 provider of the technology appoints the Secretary of State as the provider's agent  
4 for service of process in any civil action in this state related to the notarial act.

5 ➔SECTION 33. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO  
6 READ AS FOLLOWS:

7 (1) If a law requires, as a condition for recording by the county clerk upon the  
8 records relating to real property, that a document be an original, be on paper or  
9 another tangible medium, or be in writing, the requirement shall be satisfied by  
10 an electronic document that complies with the requirements of Sections 1 to 32 of  
11 this Act or this section.

12 (2) If a law requires, as a condition for recording, that a document be signed, the  
13 requirement is satisfied by an electronic signature.

14 (3) A requirement that a document or a signature associated with a document be  
15 notarized, acknowledged, verified, witnessed, or made under oath is satisfied if  
16 the electronic signature of the person authorized to perform that act, and all  
17 other information required to be included, is attached to or logically associated  
18 with the document or signature. A physical or electronic image of a stamp,  
19 impression, or seal need not accompany an electronic signature.

20 (4) As used in this section, "paper document" means a document that is received by  
21 the clerk in a form that is not electronic. A clerk:

22 (a) May receive, index, store, archive, and transmit electronic documents;

23 (b) May provide for access to, and search and retrieval of, documents and  
24 information by electronic means;

25 (c) Who accepts electronic documents for recording shall continue to accept  
26 paper documents as authorized by state law and shall place entries for both  
27 types of documents in the same index;

- 1        (d) May convert paper documents accepted for recording into electronic form;  
2        (e) May convert into electronic form information recorded before the clerk  
3                began to record electronic documents;  
4        (f) May accept electronically any fee, levy, or tax that the clerk is authorized to  
5                collect; and  
6        (g) May agree with other officials of a state or a political subdivision of that  
7                state, or of the United States, on procedures or processes to facilitate the  
8                electronic satisfaction of prior approvals and conditions precedent to  
9                recording and the electronic payment of fees, levies, and taxes that the clerk  
10                is authorized to accept.

11        (5) This section shall be known and may be cited as the "Uniform Real Property  
12                Electronic Recording Act." In applying and construing this section,  
13                consideration shall be given to the need to promote uniformity of the law with  
14                respect to its subject matter among the states that enact it.

15        ➔SECTION 34. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO  
16 READ AS FOLLOWS:

17        (1) If a law requires that an instrument relating to real property within the  
18                Commonwealth to be admitted to the public record and recorded, to be an  
19                original, to be on paper or another tangible medium, to be in writing, or to be  
20                signed, the requirement shall be satisfied by a paper copy of an electronic record,  
21                including an electronic record bearing an electronic signature, that a notary  
22                public has certified, pursuant to subsection (3) of this section, to be a true and  
23                correct copy of the record that was originally in electronic form and bearing an  
24                electronic signature.

25        (2) A requirement that a document or a signature associated with a document be  
26                notarized, acknowledged, verified, witnessed, or made under oath is satisfied by a  
27                paper copy of an electronic document bearing an electronic signature of the

1 person authorized to perform that act, and all other information required to be  
 2 included, that a notary public has certified, pursuant to subsection (3) of this  
 3 section, to be a true and correct copy of a document that was originally in  
 4 electronic form and bearing an electronic signature of the person. A physical or  
 5 electronic image of a stamp, impression, or seal need not accompany an  
 6 electronic signature.

7 (3) A county clerk shall record a paper copy of a document that was originally in  
 8 electronic form and that is otherwise entitled to be recorded under the laws of this  
 9 state, if the paper copy has been certified to be a true and correct copy of the  
 10 electronic record by a notary public as evidenced by a certificate attached to or  
 11 made a part of the record. The certificate:

12 (a) Shall:

- 13 1. Be signed and dated by the notary public;
- 14 2. Identify the jurisdiction in which the certification is performed;
- 15 3. Contain the title of the notary public; and
- 16 4. Indicate the number and date of expiration, if any, of the notary  
 17 public's commission; and

18 (b) May include an official stamp of the notary public affixed to or embossed  
 19 on the certificate.

20 (4) The following form of certificate is sufficient for the purposes of this section, if  
 21 completed with the information required by subsection (3) of this section:

22 State of \_\_\_\_\_  
 23 [County] of \_\_\_\_\_  
 24 I certify that the foregoing and annexed document entitled \_\_\_\_\_  
 25 [document title], dated \_\_\_\_\_ [document date, if applicable],  
 26 and containing \_\_\_\_\_ pages is a true and correct copy of an electronic  
 27 document bearing one (1) or more electronic signatures.

1           Executed this \_\_\_\_\_ [date].

2           \_\_\_\_\_

3           [Signature of notary public]

4           Stamp

5           [\_\_\_\_\_]

6           Notary Public

7           [My commission expires: \_\_\_\_\_]

8           [My notary registration number is: \_\_\_\_\_]

9           (5) A notary public duly commissioned under the laws of this Commonwealth or of  
10           another state within the United States has the authority to make the certification  
11           provided in this section.

12           (6) A notary public making the certification provided in this section shall:

13           (a) Personally print or supervise the printing of the electronic document onto  
14           paper;

15           (b) Not make any changes or modifications to the electronic document other  
16           than the certification described in subsection (3) of this section; and

17           (c) Confirm that the electronic document has been rendered tamper-evident.

18           (7) If a certificate is completed with the information required by subsection (3) of  
19           this section and is attached to or made a part of a paper record, the certificate  
20           shall be considered conclusive evidence that the requirements of this section have  
21           been satisfied with respect to the record.

22           (8) A record purporting to convey or encumber real property or any interest therein  
23           that has been recorded by a clerk for the jurisdiction in which the real property is  
24           located, although the record may not have been certified in accordance with the  
25           provisions of this section, shall import the same notice to third persons from the  
26           time of recording as if the record had been certified in accordance with the  
27           provisions of this section.

1 **(9) This section shall not apply to a plat, map, or survey of real property if under**  
 2 **another law of this state, or under a rule, regulation, or ordinance applicable to a**  
 3 **clerk if:**

4 **(a) There are requirements of format or medium for the execution, creation, or**  
 5 **recording of the plat, map, or survey beyond the requirements applicable to**  
 6 **a deed to real property; or**

7 **(b) The plat, map, or survey must be recorded in a different location than a**  
 8 **deed to real property.**

9 ➔SECTION 35. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 10 READ AS FOLLOWS:

11 **Sections 1 to 32 and Sections 33 and 34 of this Act modify, limit, and supersede the**  
 12 **Electronic Signatures in Global and National Commerce Act, 15 U.S.C. secs. 7001 et**  
 13 **seq., but do not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. sec.**  
 14 **7001(c), or authorize electronic delivery of any of the notices described in Section**  
 15 **103(b) of that act, 15 U.S.C. sec. 7003(b).**

16 ➔SECTION 36. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO  
 17 READ AS FOLLOWS:

18 **In the event of a conflict between the provisions of this chapter and any other law in**  
 19 **this state, the provisions of this chapter shall control.**

20 ➔Section 37. KRS 423.200 is amended to read as follows:

21 Notwithstanding any other provision of law, any certificate of an acknowledgment given  
 22 and certified as provided by **Sections 1 to 32 of this Act**~~[KRS 423.110 to 423.190]~~ or as  
 23 provided by those sections and other provisions of law, together with the instrument  
 24 acknowledged, may be admitted to the public record provided for the type of instrument  
 25 so acknowledged, and any instrument required to be sworn to or affirmed in order to be  
 26 recorded may be admitted to record upon a jurat recognized under the provisions of  
 27 **Sections 1 to 32 of this Act**~~[KRS 423.110 to 423.190]~~.



1           ➔Section 38. KRS 369.103 is amended to read as follows:

2       (1) Except as otherwise provided in subsection (2) of this section, KRS 369.101 to  
3       369.120 applies to electronic records and electronic signatures relating to a  
4       transaction.

5       (2) KRS 369.101 to 369.120 does not apply to a transaction to the extent it is governed  
6       by:

7       (a) A law governing the creation and execution of wills, codicils, or testamentary  
8       trusts;

9       (b) KRS Chapter 355 other than KRS 355.1-107 and 355.1-206, and Articles 2  
10       and 2A of KRS Chapter 355;

11       **and**

12       (c) ~~[A law governing the conveyance of any interest in real property; and~~

13       ~~(d)]~~A law governing the creation or transfer of any negotiable instrument or any  
14       instrument establishing title or an interest in title **to a motor vehicle and**  
15       **governed by KRS Chapter 186 or 186A.**

16       (3) KRS 369.101 to 369.120 applies to an electronic record or electronic signature  
17       otherwise excluded from the application of KRS 369.101 to 369.120 under  
18       subsection (2) of this section to the extent it is governed by a law other than those  
19       specified in subsection (2) of this section.

20       (4) A transaction subject to KRS 369.101 to 369.120 is also subject to other applicable  
21       substantive law.

22           ➔Section 39. KRS 382.230 is amended to read as follows:

23       (1) No conveyance of real property shall be void or invalid because of a failure by the  
24       county clerk to incorporate in his certificate to such conveyance an endorsement of  
25       acknowledgment made by his deputy thereon.

26       (2) When acknowledgments to conveyances of real property have been taken by a  
27       deputy clerk, and a note or memorandum thereof endorsed by him on the

1 conveyance, and a certificate of such acknowledgment has been afterward written  
2 out by the principal clerk and signed by him as having been done by such deputy or  
3 as if the acknowledgment had been before such principal clerk, such conveyance  
4 and certificate, and the recording thereof, shall be valid although the note or  
5 memorandum made by the deputy was not copied into the certificate.

6 (3) No conveyance of real property certified, proven or lodged for record prior to June  
7 17, 1924, shall be void or invalid because it was not certified, proven, or lodged for  
8 record as required by the law in force at the time, if it was certified or proven in the  
9 manner prescribed by the Act of 1910 c 82, or by KRS 382.130~~[, 382.140]~~ or  
10 382.150.

11 ➔SECTION 40. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO  
12 READ AS FOLLOWS:

13 *Documents physically presented to a county clerk for recording during regular*  
14 *business hours shall be considered for immediate recording if requested by the party*  
15 *presenting the documents, except that the county clerk may refuse unreasonable*  
16 *requests. Documents delivered by all other methods shall be processed as they are*  
17 *received, with priority assigned by the date the documents are received. All documents*  
18 *received on a given date shall have equal priority, and the county clerk shall have*  
19 *discretion to decide in what order documents are processed. A county clerk shall be*  
20 *held harmless for any disputes that arise regarding the timing of a recorded document.*

21 ➔Section 41. KRS 382.200 is amended to read as follows:

22 (1) Except as provided in subsection (2) of this section *and Section 40 of this Act*, each  
23 county clerk shall make and keep an alphabetical cross-index of all conveyances  
24 recorded in his office, and when a mortgage or deed of trust, or any other  
25 conveyance, lease, or contract is lodged in his office for record, he shall, at once and  
26 before attending to any other business, place the names of the parties to the  
27 instrument upon the cross-index in his office, and shall within six (6) days thereafter

1 record the instrument.

2 (2) Chattel mortgages, financing statements or security agreements shall be filed and  
3 recorded in the manner set out in KRS 355.9-519.

4 ➔Section 42. KRS 382.280 is amended to read as follows:

5 **Except as provided in Section 40 of this Act,** all bona fide deeds of trust or mortgages  
6 shall take effect in the order that they are legally acknowledged or proved and lodged for  
7 record.

8 ➔Section 43. KRS 64.012 is amended to read as follows:

9 **(1)** The county clerk shall receive for the following services the following fees:

10 **(a)** ~~1. (1)(a)~~ Recording and indexing of a:

11 ~~a. (1) Deed of trust or assignment for the benefit of creditors;~~

12 ~~b. (2) Deed;~~

13 ~~c. (3) Real estate mortgage;~~

14 ~~4. — Deed of assignment;~~

15 ~~**d. File-stamped copy of documents set forth in KRS 14A.2-040(1)**~~

16 ~~**or (2) that have been filed first with the Secretary of State;**~~

17 ~~e. (5) Real estate option;~~

18 ~~f. (6) Power of attorney;~~

19 ~~g. (7) Revocation of power of attorney;~~

20 ~~h. (8) Lease which is recordable by law;~~

21 ~~i. (9) Deed of release of a mortgage or lien under KRS 382.360;~~

22 ~~j. (10) United States lien;~~

23 ~~k. (11) Release of a United States lien;~~

24 ~~l. (12) Release of any recorded encumbrance other than state liens;~~

25 ~~m. (13) Lis pendens notice concerning proceedings in bankruptcy;~~

26 ~~n. (14) Lis pendens notice;~~

27 ~~o. (15) Mechanic's and artisan's lien under KRS Chapter 376;~~

- 1                    p.~~[16.]~~      Assumed name;
- 2                    q.~~[17.]~~      Notice of lien issued by the Internal Revenue Service;
- 3                    r.~~[18.]~~      Notice of lien discharge issued by the Internal Revenue
- 4    Service;
- 5                    s.~~[19.]~~      Original, assignment, amendment, or continuation financing
- 6    statement;
- 7                    t.~~[20.]~~      Making a record for the establishment of a city, recording the
- 8    plan or plat thereof, and all other service incident;
- 9                    u.~~[21.]~~      Survey of a city, or any part thereof, or any addition to or
- 10    extensions of the boundary of a city;
- 11                    v.~~[22.]~~      Recording with statutory authority for which no specific fee
- 12    is set, except a military discharge;
- 13                    w.      *Will or other probate document pursuant to KRS Chapter 392 or*
- 14    *394;*
- 15                    x.      *Court ordered name change pursuant to KRS Chapter 401;*
- 16                    y.      *Land use restriction according to KRS 100.3681;* and
- 17                    z.~~[23.]~~      Filing with statutory authority for which no specific fee is
- 18    set.
- 19    For all items in this subsection if the entire thereof does not exceed
- 20    *five (5)*~~[three (3)]~~ pages ..... *\$33.00*~~[\$12.00]~~
- 21    And, for all items in this subsection exceeding *five (5)*~~[three (3)]~~
- 22    pages,
- 23    for each additional page .....\$3.00
- 24    And, for all items in this subsection for each additional reference
- 25    relating to same instrument .....\$4.00
- 26                    2.~~[(b)]~~      The *thirty-three dollar (\$33)*~~[twelve dollar (\$12)]~~ fee imposed by
- 27    ~~[paragraph (a) of ]~~this subsection shall be divided as follows:

1 a.~~[1.]~~ Twenty-seven dollars (\$27)~~[Six dollars (\$6)]~~ shall be retained by  
2 the county clerk; and

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

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

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

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

13 ~~(3) — Recording wills or other probate documents pursuant to KRS~~  
14 ~~— Chapter 392 or 394 .....\$ 8.00~~

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

16 ~~(5) — ]For noting a security interest on a certificate of title pursuant to~~  
17 ~~KRS Chapter 186A .....\$12.00~~

18 (c)~~[(6)]~~ For filing the release of collateral under a financing statement  
19 and noting same upon the face of the title pursuant to KRS Chapter  
20 186 or 186A .....\$5.00

21 (d)~~[(7)]~~ Filing or recording state tax or other state liens .....\$5.00

22 (e)~~[(8)]~~ Filing release of a state tax or other state lien .....\$5.00

23 ~~[(9) — Marginal release, noting release of any lien, mortgage, or redemption~~  
24 ~~— other than a deed of release .....\$8.00]~~

25 (f)~~[(10)]~~ Acknowledging or notarizing any deed, mortgage, power of attorney,  
26 or other written instrument required by law for recording and certifying  
27 same .....\$5.00~~[\$4.00]~~

1	<del>(g)</del> [(11)]	<del>Recording a land use restriction according to KRS 100.3681</del> .....	<del>\$15.00</del>
2	<del>(12)</del> ]	Recording plats, maps, and surveys, not exceeding 24 inches by	
3		36 inches, per page .....	<del>\$20.00</del> <b>\$40.00</b>
4	<del>(h)</del> [(13)]	Recording a bond, for each bond .....	\$10.00
5	<del>(i)</del> [(14)]	Each bond required to be taken or prepared by the clerk .....	\$4.00
6	<del>(j)</del> [(15)]	Copy of any bond when ordered .....	\$3.00
7	<del>(k)</del> [(16)]	Administering an oath and certificate thereof .....	\$5.00
8	<del>(l)</del> [(17)]	Issuing a license for which no other fee is fixed by law .....	\$8.00
9	<del>(m)</del> [(18)]	Issuing a solicitor's license .....	\$15.00
10	<del>(n)</del> [(19)]	Marriage license, indexing, recording, and issuing certificate thereof	<del>\$24.00</del> <b>\$26.50</b>
11	<del>(o)</del> [(20)]	Every order concerning the establishment, changing, closing, or	
12		discontinuing of roads, to be paid out of the county levy when	
13		the road is established, changed, closed, or discontinued, and by	
14		the applicant when it is not .....	\$3.00
15	<del>(p)</del> [(21)]	Registration of licenses for professional persons required to register	
16		with the county clerk .....	\$10.00
17	<del>(q)</del> [(22)]	Certified copy of any record .....	\$5.00
18		Plus fifty cents (\$.50) per page after three (3) pages	
19	<del>(r)</del> [(23)]	Filing certification required by KRS 65.070(2)(a) .....	\$5.00
20	<del>(s)</del> [(24)]	Filing notification and declaration and petition of candidates	
21		for Commonwealth's attorney .....	\$200.00
22	<del>(t)</del> [(25)]	Filing notification and declaration and petition of candidates for county	
23		and independent boards of education .....	\$20.00
24	<del>(u)</del> [(26)]	Filing notification and declaration and petition of candidates for	
25		boards of soil and water conservation districts .....	\$20.00
26	<del>(v)</del> [(27)]	Filing notification and declaration and petition of candidates for	
27		other office .....	\$50.00

- 1        ~~(w)~~~~(28)~~ Filing declaration of intent to be a write-in candidate for office .....\$50.00
- 2        ~~(x)~~~~(29)~~ Filing petitions for elections, other than nominating petitions .....\$50.00
- 3        ~~(y)~~~~(30)~~ Notarizing any signature, per signature .....\$2.00
- 4        ~~(z)~~~~(31)~~ Filing bond for receiving bodies under KRS 311.310 .....\$10.00
- 5        ~~(aa)~~~~(32)~~ Noting the assignment of a certificate of delinquency and recording
- 6                    and indexing the encumbrance under KRS 134.126 or 134.127 .....\$27.00
- 7        ~~(ab)~~~~(33)~~ Filing a going-out-of-business permit under KRS 365.445 .....\$50.00
- 8        ~~(ac)~~~~(34)~~ Filing a renewal of a going-out-of-business permit under KRS 365.445 \$50.00
- 9        ~~(ad)~~~~(35)~~ Filing a grain warehouseman's license under KRS 359.050 .....\$10.00
- 10       ~~(ae)~~~~(36)~~ Filing and processing a transient merchant permit under KRS 365.680 \$25.00
- 11       **(af) Recording and indexing a real estate mortgage:**

- 12                    **1. For a mortgage that does not exceed thirty (30) pages .....\$63.00**
- 13                    **2. And, for a mortgage that exceeds thirty (30) pages, for each additional**
- 14                    **page .....\$3.00**

15       **(2) The sixty-three dollar (\$63) fee imposed by subsection (1)(af) of this section shall**  
 16       **be divided as follows:**

- 17       **(a) Fifty-seven dollars (\$57) shall be retained by the county clerk; and**
- 18       **(b) Six dollars (\$6) shall be paid to the affordable housing trust fund**  
 19                    **established in KRS 198A.710 and shall be remitted by the county clerk**  
 20                    **within ten (10) days following the end of the quarter in which the fee was**  
 21                    **received. Each remittance to the affordable housing trust fund shall be**  
 22                    **accompanied by a summary report on a form prescribed by the Kentucky**  
 23                    **Housing Corporation.**

24       **(3) For services related to the permanent storage of records listed in paragraphs (a),**  
 25                    **(g), (n), and (af) of subsection (1) of this section, the clerk shall be entitled to**  
 26                    **receive a reimbursement of ten dollars (\$10).**

27       ➔Section 44. KRS 382.240 is amended to read as follows:

1 Each instrument that is recorded shall be delivered to the party entitled thereto. The  
 2 county clerk shall require prepayment of postage **and a three dollar (\$3) reimbursement**  
 3 for delivery of said instruments at the time they are left for record in his office. If the  
 4 county clerk is unable to locate the parties entitled thereto, he shall retain the instruments  
 5 for at least **one (1) year**~~[two (2) years]~~. The clerk may then destroy the instruments  
 6 ~~[provided that he shall first make the following announcement by public notice in the~~  
 7 ~~newspaper of the largest circulation in the county: "Legal instruments which have been~~  
 8 ~~filed for record in the (name of county) county clerk's office and which have been in the~~  
 9 ~~custody of the clerk for over two (2) years must be claimed by the persons entitled thereto~~  
 10 ~~within thirty (30) days, or they shall be destroyed." The date of the notice and the name of~~  
 11 ~~the clerk shall be appended to the notice. Thirty (30) days after the appearance of the~~  
 12 ~~public notice, the county clerk may destroy the instruments]~~.

13       ➔Section 45. KRS 382.360 is amended to read as follows:

14 (1) Liens by deed or mortgage may be discharged by an entry acknowledging their  
 15 satisfaction on the margin of the record thereof, or in the alternative, at the option of  
 16 the county clerk, in a marginal entry record, signed by the person entitled thereto, or  
 17 his or her personal representative or agent, and attested by the clerk, or may be  
 18 discharged by a separate deed of release, which shall recite the date of the  
 19 instrument and deed book and the page wherein it is recorded. Such release in the  
 20 case of a mortgage or deed of trust shall have the effect to reinstate the title in the  
 21 mortgagor or grantor or person entitled thereto. Each entry in the marginal entry  
 22 record shall be linked to its respective referenced instrument in the indexing system  
 23 for the referenced instruments.

24 (2) If a lien or mortgage is released by a deed of release, the clerk shall immediately, at  
 25 the option of the clerk, either link the release and its filing location to its respective  
 26 referenced instrument in the indexing system for the referenced instrument, or  
 27 endorse on the margin of the record wherein the lien is retained "Released by deed



1 of release (stating whether in whole or in part) lodged for record (giving date, deed  
2 book and page wherein such deed of release may be found)" and the clerk shall also  
3 attest such certificate. ~~[- The clerk shall cause the original deed of release to be  
4 delivered to the mortgagor or grantor or person entitled thereto.]~~

5 (3) When a mortgage is assigned to another person, the assignee shall file the  
6 assignment for recording with the county clerk within thirty (30) days of the  
7 assignment and the county clerk shall attest the assignment and shall note the  
8 assignment in the blank space, or in a marginal entry record, beside a listing of the  
9 book and page of the document being assigned. Provided, however, that an assignee  
10 that reassigns the note prior to the thirtieth day after first acquiring the assignment  
11 may request that the subsequent assignee file the unfiled assignment with the new  
12 reassignment.

13 (4) Delivering an assignment to the assignee or a lien release to the mortgagor shall not  
14 substitute for filing the assignment or release with the county clerk, as required by  
15 this section.

16 (5) Notwithstanding the provisions of this section, nothing in this chapter shall require  
17 the legal holder of any note secured by lien in any deed or mortgage to file a release  
18 of any mortgage when the mortgage securing such paid note also secures a note or  
19 other obligation which remains unpaid.

20 (6) Failure of an assignee to record a mortgage assignment shall not affect the validity  
21 or perfection, or invalidity or lack of perfection, of a mortgage lien under applicable  
22 law.

23 ➔Section 46. (1) The Legislative Research Commission shall create a task  
24 force on issues regarding the implementation of electronic recording, fees or functions of  
25 the county clerk involved in the recording of documents, issues concerning notaries  
26 public or notarial officers, or any further legislation relating to this Act.

27 (2) The task force shall comprehensively investigate the electronic recording process in

1 the Commonwealth to identify policy options to streamline the process of recording  
2 and notarizing documents, increasing efficiency, reducing costs, and decreasing  
3 paperwork and redundancy.

4 (3) The task force shall review studies and legislative action by other states and by the  
5 federal government on notarizing and recording public documents.

6 (4) The task force shall be composed of the following members, with final membership  
7 subject to the consideration and approval of the Legislative Research Commission:

8 (a) One member of the House of Representatives, appointed by the Speaker of the  
9 House of Representatives, who shall be designated to serve as co-chair;

10 (b) One member of the Senate, appointed by the President of the Senate, who  
11 shall be designated to serve as co-chair;

12 (c) Four county clerks, one who is the current chair of the recording committee of  
13 the Kentucky County Clerks Association and three clerks designated by the  
14 President of the County Clerk's Association;

15 (d) Two attorneys selected from a list of three attorneys of the Real Estate Section  
16 of the Kentucky Bar Association submitted by the Kentucky Bar Association,  
17 one to be appointed by the Speaker of the House of Representatives and one to  
18 be appointed by the President of the Senate;

19 (e) Two representatives of the banking industry selected from a list of three  
20 individuals submitted by the Kentucky Bankers Association, one to be  
21 appointed by the Speaker of the House of Representatives and one to be  
22 appointed by the President of the Senate;

23 (f) Two representatives of the mortgage banking industry from a list of three  
24 individuals submitted by the Kentucky Mortgage Bankers Association, one to  
25 be appointed by the Speaker of the House of Representatives and one to be  
26 appointed by the President of the Senate;

27 (g) Two representatives of the land title industry selected from a list of three

1 individuals submitted by the Kentucky Land Title Association, one to be  
2 appointed by the Speaker of the House of Representatives and one to be  
3 appointed by the President of the Senate;;

4 (h) One representative from the Secretary of State's office submitted by the  
5 Secretary of State; and

6 (i) Two representatives from either e-recording or e-notary companies doing  
7 business in Kentucky nominated by the Secretary of State, one to be appointed  
8 by the Speaker of the House of Representatives and one to be appointed by the  
9 President of the Senate.

10 ➔Section 47. The task force shall meet at least four times during both the 2019  
11 and the 2020 legislative interims, and shall submit its findings and recommendations to  
12 the Legislative Research Commission no later than December 1, 2020.

13 ➔Section 48. Provisions of this section to the contrary notwithstanding, the  
14 Legislative Research Commission shall have the authority to alternatively assign the  
15 issues identified herein to an interim joint committee or subcommittee thereof, and to  
16 designate a study completion date.

17 ➔Section 49. Sections 46 and 47 of this Act shall have the same legal status as a  
18 Senate Concurrent Resolution.

19 ➔Section 50. The following KRS sections are repealed:

20 382.140 Recording of deeds executed out of state.

21 382.190 Unrecorded deeds to be advertised by clerk.

22 423.010 Appointment, term, and qualifications of notaries -- County clerk has powers of  
23 notary when acting in capacity as clerk.

24 423.020 Notary may act in any county -- Certification of notary's authority.

25 423.030 Protests to be recorded -- Copies as evidence.

26 423.040 Notice of dishonor -- To whom sent.

27 423.050 Records of notary to be delivered to county clerk, when.

- 1 423.060 Foreign notary -- When protest by is evidence.
- 2 423.070 Commissioners of foreign deeds -- Appointment, term.
- 3 423.080 Powers of commissioners.
- 4 423.990 Penalties.
- 5       ➔Section 51. This Act shall take effect January 1, 2020.