

1 AN ACT relating to towed vehicles.

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

3 ➔Section 1. KRS 186A.190 is amended to read as follows:

- 4 (1) Except as provided in subsection (6) of this section and in KRS 355.9-311(4), the  
5 perfection of a security interest in any property for which has been issued a  
6 Kentucky certificate of title shall be by notation on the certificate of title which shall  
7 be deemed to have occurred when the provisions of subsection (3) of this section  
8 have been complied with. Discharge of a security interest shall be by notation on the  
9 certificate of title. Notation shall be made by the entry of information required by  
10 subsection (9) of this section into the Automated Vehicle Information System. The  
11 notation of the security interest on the certificate of title shall be in accordance with  
12 this chapter and shall remain effective from the date on which the security interest is  
13 noted on the certificate of title for a period of ten (10) years, or, in the case of a  
14 manufactured home, for a period of thirty (30) years, or until discharged under this  
15 chapter and KRS Chapter 186. The filing of a continuation statement within the six  
16 (6) months preceding the expiration of the initial period of a notation's effectiveness  
17 extends the expiration date for five (5) additional years, commencing on the day the  
18 notation would have expired in the absence of the filing. Succeeding continuation  
19 statements may be filed in the same manner to continue the effectiveness of the  
20 initial notation.
- 21 (2) A motor vehicle dealer, a secured party or its representative, an assignee of a retail  
22 installment contract lender, or a county clerk shall rely on a county of residence  
23 designated by the debtor on any approved, notarized state form utilized in lien  
24 titling or the title transfer process signed by the debtor. Reliance on the foregoing by  
25 the motor vehicle dealer, secured parties, and county clerk shall relieve those  
26 persons from liability to any third party claiming failure to comply with this section.
- 27 (3) Except as provided in subsection (6) of this section, the notation of security interests

1 relating to property required to be titled under this chapter in Kentucky through the  
2 county clerk shall be done in the office of the county clerk of the county in which  
3 the debtor resides as determined by subsections (2) and (4) of this section. The  
4 security interest shall be deemed to be noted on the certificate of title and perfected,  
5 or deemed perfected at the time the security interest attaches as provided in KRS  
6 355.9-203, if in compliance with KRS 186A.195(5), when a title lien statement:

- 7 (a) Is received by the county clerk in the county in which residence of the debtor  
8 resides as determined under the provisions of this section together with the  
9 required fees, as designated by the debtor in the sworn statement;
- 10 (b) Describes the titled vehicle, or vehicle to be titled, by year, model, make, and  
11 vehicle identification number;
- 12 (c) Provides the name of the secured party, or a representative of the secured  
13 party, together with the additional information about the secured party  
14 required by subsection (9) of this section with reasonable particularity; and
- 15 (d) Includes the date and time-stamped entry of the notation of the security  
16 interest by the county clerk of the required information in the Automated  
17 Vehicle Information System (AVIS), or its successor title processing system  
18 maintained by the Division of Motor Vehicle Licensing of the Transportation  
19 Cabinet.
- 20 (4) Except as provided in subsection (6) of this section, if the debtor is other than a  
21 natural person, the following provisions govern the determination of the county of  
22 the debtor's residence:
- 23 (a) A partnership shall be deemed a resident of the county in which its principal  
24 place of business in this state is located. If the debtor does not have a place of  
25 business in this state, then the debtor shall be deemed a nonresident for  
26 purposes of filing in this state;
- 27 (b) A limited partnership organized under KRS Chapter 362 or as defined in KRS

- 1           362.2-102(14) shall be deemed a resident of the county in which its principal  
2           place of business is located, as set forth in its certificate of limited partnership  
3           or most recent amendment thereto filed pursuant to KRS Chapter 362 or  
4           362.2-202. If such office is not located in this state, the debtor shall be  
5           deemed a nonresident for purposes of filing in this state;
- 6           (c) A limited partnership not organized under the laws of this state and authorized  
7           to do business in this state shall be deemed a resident of the county in which  
8           the office of its process agent is located, as set forth in the designation or most  
9           recent amendment thereto filed with the Secretary of State of the  
10          Commonwealth of Kentucky;
- 11          (d) A corporation organized under KRS Chapter 271B, 273, or 274 or a limited  
12          liability company organized under KRS Chapter 275 shall be deemed a  
13          resident of the county in which its registered office is located, as set forth in  
14          its most recent corporate filing with the Secretary of State which officially  
15          designates its current registered office;
- 16          (e) A corporation not organized under the laws of this state, but authorized to  
17          transact or do business in this state under KRS Chapter 271B, 273, or 274, or  
18          a limited liability company not organized under the laws of this state, but  
19          authorized to transact business in this state under KRS Chapter 275, shall be  
20          deemed a resident of the county in which its registered office is located, as set  
21          forth in its most recent filing with the Secretary of State which officially  
22          designates its current registered office;
- 23          (f) A cooperative corporation or association organized under KRS Chapter 272  
24          shall be deemed a resident of the county in which its principal business is  
25          transacted, as set forth in its articles of incorporation or most recent  
26          amendment thereto filed with the Secretary of State of the Commonwealth of  
27          Kentucky;

- 1 (g) A cooperative corporation organized under KRS Chapter 279 shall be deemed  
2 a resident of the county in which its principal office is located, as set forth in  
3 its articles of incorporation or most recent amendment thereto filed with the  
4 Secretary of State of the Commonwealth of Kentucky;
- 5 (h) A business trust organized under KRS Chapter 386 shall be deemed a resident  
6 of the county in which its principal place of business is located, as evidenced  
7 by the recordation of its declaration of trust in that county pursuant to KRS  
8 Chapter 386;
- 9 (i) A credit union organized under Subtitle 6 of KRS Chapter 286 shall be  
10 deemed a resident of the county in which its principal place of business is  
11 located, as set forth in its articles of incorporation or most recent amendment  
12 thereto filed with the Secretary of State of the Commonwealth of Kentucky;  
13 and
- 14 (j) Any other organization defined in KRS 355.1-201 shall be deemed a resident  
15 of the county in which its principal place of business in this state is located,  
16 except that any limited liability company, limited liability partnership, limited  
17 partnership, or corporation not organized under the laws of this state and not  
18 authorized to transact or do business in this state shall be deemed a  
19 nonresident for purposes of filing in this state. If the organization does not  
20 have a place of business in this state, then it shall be deemed a nonresident for  
21 purposes of filing in this state.

22 If the debtor does not reside in the Commonwealth, the notation of the security  
23 interest shall be done in the office of the county clerk in which the property is  
24 principally situated or operated. Notwithstanding the existence of any filed  
25 financing statement under the provisions of KRS Chapter 355 relating to any  
26 property registered or titled in Kentucky, the sole means of perfecting and  
27 discharging a security interest in property for which a certificate of title is required

1 by this chapter is by notation on the property's certificate of title under the  
2 provisions of this chapter or in accordance with the provisions of KRS 186.045(3).  
3 In other respects the security interest is governed by the provisions of KRS Chapter  
4 355.

5 (5) Except as provided in subsection (6) of this section, before ownership of property  
6 subject to a lien evidenced by notation on the certificate of title may be transferred,  
7 the transferor shall obtain the release of the prior liens in his name against the  
8 property being transferred. Once a security interest has been noted on the owner's  
9 title, a subsequent title shall not be issued by any county clerk free of the notation  
10 unless the owner's title is presented to the clerk and it has been noted thereon that  
11 the security interest has been discharged. If this requirement is met, information  
12 relating to any security interest shown on the title as having been discharged may be  
13 omitted from the title to be issued by the clerk. If information relating to the  
14 discharge of a security interest is presented to a clerk under the provisions of KRS  
15 186.045(3), the clerk shall discharge the security interest and remove the lien  
16 information from AVIS.

17 (6) Notwithstanding subsections (1) to (5) of this section, a county clerk shall,  
18 following inspection of the vehicle by the sheriff, to determine that the vehicle has  
19 not been stolen, issue a new ownership document to a vehicle, clear of all prior  
20 liens, to a person after he or she provides to the county clerk an affidavit devised by  
21 the Transportation Cabinet and completed by the person. The ownership document  
22 presented as a result of this affidavit shall be in accordance with subsection (7) of  
23 this section. In the affidavit, the affiant shall attest that:

24 (a) The affiant or the agent of the affiant possesses the vehicle;

25 (b) Before he or she provided the notices required by paragraphs (c) and (d) of  
26 this subsection:

27 1. A debt on the vehicle has been owed him or her for more than thirty (30)

- 1 days;
- 2 2. Within thirty (30) days of payment of damages by an insurance company
- 3 and receipt by the current owner of the motor vehicle or lienholder of
- 4 damages pursuant to a claim settlement which required transfer of the
- 5 vehicle to the insurance company, the insurance company has been
- 6 unable to obtain:
  - 7 a. A properly endorsed certificate of title on the vehicle from the
  - 8 current owner; and
  - 9 b. If applicable, any lien satisfactions; or
- 10 3. ~~[a.]~~ The vehicle was:
  - 11 a. Voluntarily towed or transported pursuant to a request of the
  - 12 current owner or an insurance company that a motor vehicle
  - 13 dealer, licensed as a used motor vehicle dealer and motor vehicle
  - 14 auction dealer, take possession of and store the motor vehicle in
  - 15 the regular course of business; or
  - 16 **b. Involuntarily towed or transported under the provisions of KRS**
  - 17 **376.275;** and
  - 18 **c.**~~[b.]~~ Within forty-five (45) days of taking possession of the motor
  - 19 vehicle, the motor vehicle dealer, **or the towing or storage**
  - 20 **company,** has not been paid storage fees by the current owner or
  - 21 lienholder and has not been provided both a properly endorsed
  - 22 certificate of title and if applicable, any lien satisfactions;
  - 23 (c) More than thirty (30) days before presenting the affidavit to the county clerk,
  - 24 the affiant attempted to notify the owner of the vehicle and all known
  - 25 lienholders, including those noted on the title, by certified mail, return receipt
  - 26 requested, or by a nationally recognized courier service, of his or her name,
  - 27 address, and telephone number as well as his or her intention to obtain a new

1 title or salvage title, as applicable, clear of all prior liens, unless the owner or a  
2 lienholder objects in writing;

3 (d) More than fourteen (14) days before presenting the affidavit to the county  
4 clerk, the affiant had published a legal notice stating his or her intention to  
5 obtain title to the vehicle. The legal notice appeared at least twice in a seven  
6 (7) day period in a newspaper with circulation in the county. The legal notice  
7 stated:

- 8 1. The affiant's name, address, and telephone number;
- 9 2. The owner's name;
- 10 3. The names of all known lienholders, including those noted on the title;
- 11 4. The vehicle's make, model, and year; and
- 12 5. The affiant's intention to obtain title to the vehicle unless the owner or a  
13 lienholder objects in writing within fourteen (14) days after the last  
14 publication of the legal notice; and

15 (e) Neither the owner nor a lienholder has objected in writing to the affiant's right  
16 to obtain title to the vehicle.

17 (7) (a) If subsection (6)(b)1. of this section applies, the new ownership document  
18 shall be a title.

19 (b) If subsection (6)(b)2. or 3. of this section applies, the new ownership  
20 document shall be a salvage title if the vehicle meets the requirements for a  
21 salvage title as stated in KRS 186A.520(1)(a).

22 (c) If subsection (6)(b)2. or 3. of this section applies and the vehicle does not  
23 meet the requirements for a salvage title as stated in KRS 186A.520(1)(a), the  
24 new ownership document shall be a title.

25 (8) No more than two (2) active security interests may be noted upon a certificate of  
26 title.

27 (9) In noting a security interest upon a certificate of title, the county clerk shall ensure

- 1           that the certificate of title bears the lienholder's name, mailing address and zip code,  
2           the date the lien was noted, the notation number, and the county in which the  
3           security interest was noted. The clerk shall obtain the information required by this  
4           subsection for notation upon the certificate of title from the title lien statement  
5           described in KRS 186A.195 to be provided to the county clerk by the secured party.
- 6   (10) For all the costs incurred in the notation and discharge of a security interest on the  
7       certificate of title, the county clerk shall receive the fee prescribed by KRS 64.012.  
8       The fee prescribed by this subsection shall be paid at the time of submittal of the  
9       title lien statement described in KRS 186A.195.
- 10   (11) A copy of the application, certified by the county clerk, indicating the lien will be  
11       noted on the certificate of title shall be forwarded to the lienholder.