

1 AN ACT relating to the transfer of property on death.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO  
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 13 of this Act, unless the context otherwise requires:*

6 *(1) "Beneficiary" means a person who receives property in a transfer on death deed;*

7 *(2) "Designated beneficiary" means a person designated to receive property in a*  
8 *transfer on death deed;*

9 *(3) "Joint owner" means an individual who owns property concurrently with one or*  
10 *more other individuals with a right of survivorship and includes joint tenants and*  
11 *tenants by the entirety. "Joint owner" does not include a tenant in common or*  
12 *owner of community property without a right of survivorship;*

13 *(4) "Person" means an individual, corporation, business trust, estate, trust,*  
14 *partnership, limited liability company, association, joint venture, public*  
15 *corporation, government or governmental subdivision, agency, or*  
16 *instrumentality, or any other legal or commercial entity;*

17 *(5) "Property" means an interest in real property located in this state that is*  
18 *transferable on the death of the owner;*

19 *(6) "Proof of death" means a death certificate or a record or report that is prima*  
20 *facie proof or evidence of an individual's death;*

21 *(7) "Transfer on death deed" means a deed authorized under Sections 1 to 13 of this*  
22 *Act; and*

23 *(8) "Transferor" means an individual who makes a transfer on death deed.*

24 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO  
25 READ AS FOLLOWS:

26 *(1) An individual may transfer property to one (1) or more beneficiaries effective at*  
27 *the transferor's death by a transfer on death deed.*

- 1 (2) A transfer on death deed shall be revocable as provided under Section 3 of this  
2 Act even if the deed or another instrument contains a contrary provision.
- 3 (3) A transfer on death deed shall be nontestamentary.
- 4 (4) The capacity to make or revoke a transfer on death deed shall be the same as the  
5 capacity required to make a will.
- 6 (5) A transfer on death deed or an instrument revoking a transfer on death deed  
7 shall be void if it is obtained by fraud, duress, or undue influence.
- 8 (6) A proceeding shall be commenced within twelve (12) months after the  
9 transferor's death to:
- 10 (a) Contest the capacity of the transferor; or  
11 (b) Determine whether a transfer on death deed or an instrument revoking a  
12 transfer on death deed is void because it was obtained by fraud, duress, or  
13 undue influence.
- 14 (7) A transfer on death deed shall:
- 15 (a) Except as otherwise provided in this subsection, contain the required  
16 elements and formalities of a properly recordable inter vivos deed;
- 17 (b) Designate one or more persons, identified by name, as a designated  
18 beneficiary. A transfer on death deed that uses a beneficiary designation  
19 that only identifies beneficiaries as members of a class is void;
- 20 (c) If the transferor is married, contain a sworn statement by the transferor's  
21 spouse that the spouse's dower or curtesy rights are subordinate to the  
22 vesting of title to the property or interest in the property to the designated  
23 beneficiary at the time of transfer;
- 24 (d) State that the transfer to the designated beneficiary is to occur at the  
25 transferor's death; and
- 26 (e) Be recorded before the transferor's death in the public records in the office  
27 of the county clerk in the county where the property to be transferred is

1 located.

2 (8) A transfer on death deed shall be effective without:

3 (a) Notice or delivery to, or acceptance by, the designated beneficiary during  
 4 the transferor's life; or

5 (b) Consideration.

6 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO  
 7 READ AS FOLLOWS:

8 (1) Except as provided in subsection (2) of this section, an instrument shall be  
 9 effective to revoke a recorded transfer on death deed in whole or in part only if  
 10 the instrument is one (1) of the following:

11 (a) A transfer on death deed that revokes the deed or part of the deed expressly  
 12 or by inconsistency;

13 (b) An instrument of revocation that expressly revokes the deed or part of the  
 14 deed;

15 (c) An inter vivos deed that expressly revokes the transfer on death deed or part  
 16 of the deed; or

17 (d) An inter vivos deed that transfers an interest in property that is the subject  
 18 of a transfer on death deed;

19 and is acknowledged by the transferor after the acknowledgement of the deed  
 20 being revoked and recorded before the transferor's death in the public records in  
 21 the office of the county clerk in the county where the deed is recorded.

22 (2) If a transfer on death deed is made by more than one (1) transferor:

23 (a) Revocation by a transferor shall not affect the deed as to the interest of  
 24 another transferor; and

25 (b) A deed of joint owners is revoked only if it is revoked by all of the living  
 26 joint owners.

27 (3) After a transfer on death deed is recorded, it shall not be revoked by a will or

1 codicil, or by a revocatory act on the deed.

2 (4) If a recorded power of attorney or the transfer on death deed expressly grants a  
3 designated agent or the transferor the power to revoke a transfer on death deed,  
4 the designated agent may revoke the transfer on death deed as provided in this  
5 section.

6 (5) The signature, consent, agreement of, or notice to the designated beneficiary of  
7 any revocatory act shall not be required.

8 (6) Nothing in this section shall limit the effect of an inter vivos transfer of the  
9 property.

10 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO  
11 READ AS FOLLOWS:

12 During a transferor's life, a transfer on death deed shall not:

13 (1) Affect an interest or right of the transferor or any other owner, including the  
14 right to transfer or encumber the property;

15 (2) Affect an interest or right of a transferee, even if the transferee has actual or  
16 constructive notice of the deed;

17 (3) Affect an interest or right of a secured or unsecured creditor or future creditor of  
18 the transferor, even if the creditor has actual or constructive notice of the deed;

19 (4) Affect the transferor's or designated beneficiary's eligibility for any form of  
20 public assistance;

21 (5) Create a legal or equitable interest in favor of the designated beneficiary; or

22 (6) Subject the property to claims or process of a creditor of the designated  
23 beneficiary.

24 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO  
25 READ AS FOLLOWS:

26 (1) Except as otherwise provided in the transfer on death deed, in this section, or  
27 under KRS 381.280, 394.092, 394.400, or 397.1002, on the death of the

1 transferor, the following shall apply to the property that is the subject of a  
2 transfer on death deed and owned by the transferor at death:

3 (a) The interest in the property is transferred to the designated beneficiary in  
4 accordance with the deed;

5 (b) The interest of a designated beneficiary is contingent on the designated  
6 beneficiary surviving the transferor, and the interest of a designated  
7 beneficiary that fails to survive the transferor lapses;

8 (c) Subject to paragraphs (d) and (e) of this subsection, concurrent interests are  
9 transferred to the beneficiaries in equal and undivided shares with no right  
10 of survivorship;

11 (d) If the transferor has identified two (2) or more designated beneficiaries to  
12 receive concurrent interests in the property and the transferor has not  
13 named an alternate designated beneficiary under paragraph (e) of this  
14 subsection for the share of a designated beneficiary that lapses or fails for  
15 any reason, the lapsing or failing share shall be transferred to the other  
16 remaining designated beneficiaries in proportion to the interest of each  
17 remaining beneficiary in the remaining part of the property held  
18 concurrently; and

19 (e) The transferor may identify one (1) or more alternate designated  
20 beneficiaries to take the share of a designated beneficiary that lapses or  
21 fails for any reason.

22 (2) Subject to KRS 382.010 to 382.385, a beneficiary shall take the property subject  
23 to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and  
24 other interests to which the property is subject at the transferor's death. For  
25 purposes of this subsection and Section 16 of this Act, the recording of the  
26 transfer on death deed to the beneficiary shall be deemed to have occurred at the  
27 transferor's death.

1 (3) If the transferor is a joint owner and is:

2 (a) Survived by one (1) or more other joint owners, the property that is the  
 3 subject of a transfer on death deed shall belong to the surviving joint owner  
 4 or owners with right of survivorship; or

5 (b) The last surviving joint owner, the transfer on death deed is effective.

6 (4) A transfer on death deed shall transfer property without covenant or warranty of  
 7 title even if the deed contains a contrary provision.

8 (5) A beneficiary may disclaim all or part of the beneficiary's interest as provided  
 9 under KRS 394.035.

10 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO  
 11 READ AS FOLLOWS:

12 (1) To the extent the transferor's probate estate is insufficient to satisfy an allowed  
 13 claim against the estate, the costs of administration of the estate, or a statutory  
 14 allowance to a surviving spouse or child, the estate may enforce the liability  
 15 against property transferred at the transferor's death by a transfer on death deed.

16 (2) If more than one (1) property is transferred by one (1) or more transfer on death  
 17 deeds, the liability under subsection (1) of this section shall be apportioned  
 18 among the properties in proportion to their net values at the transferor's death.

19 (3) A proceeding to enforce the liability under this section must be commenced not  
 20 later than twelve (12) months after the transferor's death. A proceeding to  
 21 enforce the liability under subsection (1) of this section may not be commenced  
 22 unless the personal representative of the transferor's estate has received a written  
 23 demand by the surviving spouse, a creditor, a child of the decedent, or a person  
 24 acting for a child of the decedent.

25 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO  
 26 READ AS FOLLOWS:

27 (1) The form in subsection (2) of this section may be used to create a transfer on

1 death deed. In addition, each county clerk shall offer the following form to the  
2 public, as prescribed by the Department for Libraries and Archives, to effect a  
3 transfer on death deed.

4 (2) The provisions of Sections 1 to 13 of this Act shall govern the effect of this or any  
5 other instrument used to create a transfer on death deed:

6 (front of form)

7 REVOCABLE TRANSFER ON DEATH DEED

8 NOTICE TO OWNER

9 You should carefully read all information on the other side of this form. You May  
10 Want to Consult a Lawyer Before Using This Form.

11 This form must be recorded before your death, or it will not be effective.

12 IDENTIFYING INFORMATION

13 Owner or Owners Making This Deed:

14 \_\_\_\_\_

15 Printed name \_\_\_\_\_ Mailing address

16 \_\_\_\_\_

17 Printed name \_\_\_\_\_ Mailing address

18 Legal description of the property:

19 \_\_\_\_\_

20 PRIMARY BENEFICIARY

21 I designate the following beneficiary if the beneficiary survives me:

22 \_\_\_\_\_

23 Printed name \_\_\_\_\_ Mailing address, if available

24 ALTERNATE BENEFICIARY – Optional

25 If my primary beneficiary does not survive me, I designate the following alternate  
26 beneficiary if that beneficiary survives me:

27 \_\_\_\_\_

1        Printed name                      Mailing address, if available

2        **TRANSFER ON DEATH**

3        At my death, I transfer my interest in the described property to the beneficiaries  
4        as designated above.

5        Before my death, I have the right to revoke this deed.

6        **SIGNATURE OF OWNER OR OWNERS MAKING THIS DEED**

7        \_\_\_\_\_ [(SEAL)]

8        Signature                                      Date

9        \_\_\_\_\_ [(SEAL)]

10       Signature                                      Date

11       **ACKNOWLEDGMENT**

12       (insert acknowledgment for deed here)

13    (back of form)

14    **COMMON QUESTIONS ABOUT THE USE OF THIS FORM**

15        1. What does the Transfer on Death (TOD) deed do? When you die, this deed  
16        transfers the described property, subject to any liens or mortgages or other  
17        encumbrances on the property at your death. Probate is not required. The TOD deed  
18        has no effect until you die. You can revoke it at any time. You are also free to transfer  
19        the property to someone else during your lifetime. If you do not own any interest in the  
20        property when you die, this deed will have no effect.

21        2. How do I make a TOD deed? Complete this form. Have it acknowledged  
22        before a notary public or other individual authorized by law to take acknowledgments.  
23        Record the form in each county where any part of the property is located. The form has  
24        no effect unless it is acknowledged and recorded before your death.

25        3. Is the "legal description" of the property necessary? Yes.

26        4. How do I find the "legal description" of the property? This information  
27        may be on the deed you received when you became an owner of the property. This



1 information may also be available in the county clerk's office for the county where the  
2 property is located. If you are not absolutely sure, consult a lawyer.

3 5. Can I change my mind before I record the TOD deed? Yes. If you have not  
4 yet recorded the deed and want to change your mind, simply tear up or otherwise  
5 destroy the deed.

6 6. How do I "record" the TOD deed? Take the completed and acknowledged  
7 form to the county clerk's office of the county where the property is located. Follow the  
8 instructions given by the county clerk to make the form part of the official property  
9 records. If the property is in more than one county you should record the deed in each  
10 county.

11 7. Can I later revoke the TOD deed if I change my mind? Yes. You can revoke  
12 the TOD deed. No one, including the beneficiaries, can prevent you from revoking the  
13 deed.

14 8. How do I revoke the TOD deed after it is recorded? There are three ways to  
15 revoke a recorded TOD deed: (1) Complete and acknowledge a revocation form, and  
16 record it in each county where the property is located. (2) Complete and acknowledge a  
17 new TOD deed that disposes of the same property, and record it in each county where  
18 the property is located. (3) Transfer the property to someone else during your lifetime  
19 by a recorded deed that expressly revokes the TOD deed. You may not revoke the TOD  
20 deed by will.

21 9. I am being pressured to complete this form. What should I do? Do not  
22 complete this form under pressure. Seek help from a trusted family member, friend, or  
23 lawyer.

24 10. Do I need to tell the beneficiaries about the TOD deed? No, but it is  
25 recommended. Secrecy can cause later complications and might make it easier for  
26 others to commit fraud.

27 11. I have other questions about this form. What should I do? This form is





1 READ AS FOLLOWS:

2 *In applying and construing this uniform act, consideration shall be given to the need to*  
3 *promote uniformity of the law with respect to its subject matter among the states that*  
4 *enact it.*

5 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO  
6 READ AS FOLLOWS:

7 *The provisions of Sections 1 to 13 of this Act modify, limit, and supersede the Federal*  
8 *Electronic Signatures in Global and National Commerce Act, 15 U.S.C. secs. 7001 et*  
9 *seq., but do not modify, limit, or supersede Section 101(c) of that Act, 15 U.S.C. sec.*  
10 *7001(c), or authorize electronic delivery of any of the notices described in Section*  
11 *103(b) of that Act, 15 U.S.C. sec. 7003(b).*

12 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO  
13 READ AS FOLLOWS:

14 *Sections 1 to 13 of this Act shall not affect any method of transferring property*  
15 *otherwise permitted under the laws of this state.*

16 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO  
17 READ AS FOLLOWS:

18 *Sections 1 to 13 of this Act shall apply to a transfer on death deed made before, on, or*  
19 *after the effective date of this Act by a transferor dying on or after the effective date of*  
20 *this Act.*

21 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO  
22 READ AS FOLLOWS:

23 *Sections 1 to 13 of this Act may be cited as the Uniform Real Property Transfer*  
24 *on Death Act.*

25 ➔Section 14. KRS 64.012 is amended to read as follows:

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

27 (a) 1. Recording and indexing of a:

- 1 a. Deed of trust or assignment for the benefit of creditors;
- 2 b. Deed;
- 3 c. Deed of assignment;
- 4 d. File-stamped copy of documents set forth in KRS 14A.2-040(1) or
- 5 (2) that have been filed first with the Secretary of State;
- 6 e. Real estate option;
- 7 f. Power of attorney;
- 8 g. Revocation of power of attorney;
- 9 h. Lease which is recordable by law;
- 10 i. Deed of release of a mortgage or lien under KRS 382.360;
- 11 j. United States lien;
- 12 k. Release of a United States lien;
- 13 l. Release of any recorded encumbrance other than state liens;
- 14 m. Lis pendens notice concerning proceedings in bankruptcy;
- 15 n. Lis pendens notice;
- 16 o. Mechanic's and artisan's lien under KRS Chapter 376;
- 17 p. Assumed name;
- 18 q. Notice of lien issued by the Internal Revenue Service;
- 19 r. Notice of lien discharge issued by the Internal Revenue Service;
- 20 s. Original, assignment, amendment, or continuation financing
- 21 statement;
- 22 t. Making a record for the establishment of a city, recording the plan
- 23 or plat thereof, and all other service incident;
- 24 u. Survey of a city, or any part thereof, or any addition to or
- 25 extensions of the boundary of a city;
- 26 v. Recording with statutory authority for which no specific fee is set,
- 27 except a military discharge;

- 1 w. Will or other probate document pursuant to KRS Chapter 392 or
- 2 394;
- 3 x. Court ordered name change pursuant to KRS Chapter 401;
- 4 y. Land use restriction according to KRS 100.3681;~~and~~
- 5 z. Filing with statutory authority for which no specific fee is set;

6 **aa. Transfer on death deed; and**

7 **ab. Revocation of a transfer on death deed.**

8 For all items in this subsection if the entire thereof does not exceed  
 9 five (5) pages .....\$33.00  
 10 And, for all items in this subsection exceeding five (5) pages,  
 11 for each additional page .....\$3.00  
 12 And, for all items in this subsection for each additional reference  
 13 relating to same instrument .....\$4.00

14 2. The thirty-three dollar (\$33) fee imposed by this subsection shall be  
 15 divided as follows:

- 16 a. Twenty-seven dollars (\$27) shall be retained by the county clerk;
- 17 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
- 20 clerk within ten (10) days following the end of the quarter in
- 21 which the fee was received. Each remittance to the affordable
- 22 housing trust fund shall be accompanied by a summary report on a
- 23 form prescribed by the Kentucky Housing Corporation.

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

26 (c) For filing the release of collateral under a financing statement  
 27 and noting same upon the face of the title pursuant to KRS Chapter

1           186 or 186A .....\$5.00

2           (d) Filing or recording state tax or other state liens .....\$5.00

3           (e) Filing release of a state tax or other state lien .....\$5.00

4           (f) Acknowledging or notarizing any deed, mortgage, power of attorney,  
5           or other written instrument required by law for recording and certifying  
6           same .....\$5.00

7           (g) Recording plats, maps, and surveys, not exceeding 24 inches by  
8           36 inches, per page .....\$40.00

9           (h) Recording a bond, for each bond .....\$10.00

10          (i) Each bond required to be taken or prepared by the clerk .....\$4.00

11          (j) Copy of any bond when ordered .....\$3.00

12          (k) Administering an oath and certificate thereof .....\$5.00

13          (l) Issuing a license for which no other fee is fixed by law .....\$8.00

14          (m) Issuing a solicitor's license .....\$15.00

15          (n) Marriage license, indexing, recording, and issuing certificate thereof ....\$26.50

16          (o) Every order concerning the establishment, changing, closing, or  
17                discontinuing of roads, to be paid out of the county levy when  
18                the road is established, changed, closed, or discontinued, and by  
19                the applicant when it is not .....\$3.00

20          (p) Registration of licenses for professional persons required to register  
21                with the county clerk .....\$10.00

22          (q) Certified copy of any record .....\$5.00

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

24          (r) Filing certification required by KRS 65.070(2)(a) .....\$5.00

25          (s) Filing notification and declaration and petition of candidates  
26                for Commonwealth's attorney.....\$200.00

27          (t) Filing notification and declaration and petition of candidates for county

- 1                   and independent boards of education .....\$20.00
- 2       (u)   Filing notification and declaration and petition of candidates for
- 3                   boards of soil and water conservation districts .....\$20.00
- 4       (v)   Filing notification and declaration and petition of candidates for
- 5                   other office .....\$50.00
- 6       (w)   Filing declaration of intent to be a write-in candidate for office .....\$50.00
- 7       (x)   Filing petitions for elections, other than nominating petitions .....\$50.00
- 8       (y)   Notarizing any signature, per signature .....\$2.00
- 9       (z)   Filing bond for receiving bodies under KRS 311.310 .....\$10.00
- 10      (aa)   Noting the assignment of a certificate of delinquency and recording
- 11                   and indexing the encumbrance under KRS 134.126 or 134.127 .....\$27.00
- 12      (ab)   Filing a going-out-of-business permit under KRS 365.445 .....\$50.00
- 13      (ac)   Filing a renewal of a going-out-of-business permit under KRS 365.445 \$50.00
- 14      (ad)   Filing and processing a transient merchant permit under KRS 365.680 . \$25.00
- 15      (ae)   Recording and indexing a real estate mortgage:
- 16            1.   For a mortgage that does not exceed thirty (30) pages.....\$63.00
- 17            2.   And, for a mortgage that exceeds thirty (30) pages, for each additional
- 18                   page .....\$3.00
- 19      (af)   Filing or recording a lien or release of lien by a consolidated local
- 20                   government, urban-county government, unified local government, or city of
- 21                   any class .....\$20.00
- 22   (2)   The sixty-three dollar (\$63) fee imposed by subsection (1)(ae) of this section shall
- 23           be divided as follows:
- 24           (a)   Fifty-seven dollars (\$57) shall be retained by the county clerk; and
- 25           (b)   Six dollars (\$6) shall be paid to the affordable housing trust fund established
- 26                   in KRS 198A.710 and shall be remitted by the county clerk within ten (10)
- 27                   days following the end of the quarter in which the fee was received. Each



1 remittance to the affordable housing trust fund shall be accompanied by a  
2 summary report on a form prescribed by the Kentucky Housing Corporation.

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

6 (b) This fee shall:

- 7 1. Not be paid annually to the fiscal court under KRS 64.152;
- 8 2. Not be paid to the Finance and Administration Cabinet under KRS  
9 64.345;
- 10 3. Be accumulated and transferred to the fiscal court or the legislative body  
11 of a consolidated local government or an urban-county government on a  
12 monthly basis within ten (10) days following the end of the month;
- 13 4. Be maintained by the fiscal court or the legislative body of a  
14 consolidated local government or an urban-county government in a  
15 separate bank account and accounted for in a separate fund; and
- 16 5. Not lapse to the general fund of the county, consolidated local  
17 government, or urban-county government.

18 (c) The moneys accumulated from this fee shall be held in perpetuity by the fiscal  
19 court or the legislative body of a consolidated local government or an urban-  
20 county government for the county clerk's exclusive use for:

- 21 1. Equipment related to the permanent storage of and access to records,  
22 including deed books, binders, shelves, microfilm equipment, and  
23 fireproof equipment;
- 24 2. Hardware for the permanent storage of and access to records, including  
25 computers, servers, and scanners;
- 26 3. Software for the permanent storage of and access to records, including  
27 vendor services and consumer subscription fees;

- 1           4. Personnel costs for the permanent storage of and access to records,  
2           including overtime costs for personnel involved in the digitization of  
3           records; and
- 4           5. Cloud storage and cybersecurity services for the permanent storage of  
5           and access to records.
- 6           (d) Notwithstanding KRS 68.275, claims by a county clerk that are for the  
7           approved expenditures in paragraph (c) of this subsection shall be paid by the  
8           county judge/executive or the chief executive officer of a consolidated local  
9           government or an urban-county government by a warrant drawn on the fund  
10          and co-signed by the treasurer of the county, consolidated local government,  
11          or urban-county government.
- 12          (e) No later than July 1 of each year, each county fiscal court or legislative body  
13          of a consolidated local government or an urban-county government shall  
14          submit a report to the Legislative Research Commission detailing the receipts,  
15          expenditures, and any amounts remaining in the fund.
- 16          ➔Section 15. KRS 381.280 is amended to read as follows:
- 17          (1) If the husband, wife, heir-at-law, beneficiary under a will, joint tenant with the right  
18          of survivorship, beneficiary under a transfer on death deed, or the beneficiary  
19          under any insurance policy takes the life of the decedent or victimizes the decedent  
20          by the commission of any felony under KRS Chapter 209 and in either  
21          circumstance is convicted therefor, the person so convicted forfeits all interest in  
22          and to the property of the decedent, including any interest he or she would receive  
23          as surviving joint tenant, and the property interest or insurable interest so forfeited  
24          descends to the decedent's other heirs-at-law, beneficiaries, or joint tenants, unless  
25          otherwise disposed of by the decedent. A judge sentencing a person for an[a]  
26          offense that triggers a forfeiture under this section shall inform the defendant of the  
27          provisions of this section at sentencing.

- 1 (2) A forfeiture under subsection (1) of this section:
- 2 (a) Shall not apply in cases involving the commission of any felony under KRS  
3 Chapter 209 where the will, deed, or insurance policy was executed prior to  
4 January 1, 2012;
- 5 (b) Shall not apply in cases where the decedent, with knowledge of the person's  
6 disqualification, reaffirmed the right of the husband, wife, heir-at-law,  
7 beneficiary under a will, joint tenant with the right of survivorship, transfer  
8 on death deed beneficiary, or insurance policy beneficiary to receive the  
9 property by executing a new or modified will or codicil, insurance policy or  
10 policy modification, transfer on death deed, or deed; and
- 11 (c) Shall not apply in cases of a felony under KRS Chapter 209 committed prior  
12 to January 1, 2012.
- 13 (3) If, after the provisions of this section are applied, there are no other heirs-at-law,  
14 beneficiaries, or joint tenants of the decedent as to all or part of the interest  
15 forfeited, the forfeited interest shall escheat to the state under KRS Chapter 393.  
16 The Department of the Treasury shall, after liquidation of the interest, pay the  
17 proceeds into the elder and vulnerable adult victims trust fund established in KRS  
18 41.305.
- 19 ➔Section 16. KRS 382.110 is amended to read as follows:
- 20 (1) All deeds, mortgages, transfer on death deeds, and other instruments required by  
21 law to be recorded to be effectual against purchasers without notice, or creditors,  
22 shall be recorded in the county clerk's office of the county in which the property  
23 conveyed, or the greater part thereof, is located.
- 24 (2) No county clerk or deputy county clerk shall admit to record any deed of  
25 conveyance of any interest in real property equal to or greater than a life estate,  
26 unless the deed plainly specifies and refers to the immediate source from which the  
27 grantor derived title to the property or the interest conveyed therein.

- 1 (3) An authentic photocopy of any original record may be certified, as a true, complete,  
2 unaltered copy of the original record on file by the official public custodian of the  
3 record. A certified copy of a document certified by the official public custodian of  
4 that document may be submitted for filing in any other filing officer's jurisdiction as  
5 though it were the original record. However, no county clerk or deputy county clerk  
6 shall accept for filing any original document or certified copy of any document  
7 unless the original document and its certified copy conforms to all statutory  
8 requirements for filing the document under KRS Chapter 382. The provisions of  
9 this subsection shall apply only to a record generated and filed in Kentucky, and  
10 only if the certified copy thereof is to be utilized in Kentucky. If the record is a  
11 foreign record or a Kentucky record to be filed or utilized in a foreign jurisdiction,  
12 then this subsection shall not apply and applicable federal, Kentucky, or foreign law  
13 shall apply.
- 14 (4) If the source of title is a deed or other recorded writing, the deed offered for record  
15 shall refer to the former deed or writing, and give the office, book and page where  
16 recorded, and the date thereof. If the property or interest therein is obtained by  
17 inheritance or in any other way than by recorded instrument of writing, the deed  
18 offered for record shall state clearly and accurately how and from whom the title  
19 thereto was obtained by the grantor.
- 20 (5) If the title to the property or interest conveyed is obtained from two (2) or more  
21 sources, the deed offered for record shall plainly specify and refer to each of the  
22 sources in the manner provided in subsections (2) and (4), and shall show which  
23 part of the property, or interest therein, was obtained from each of the sources.
- 24 (6) No grantor shall lodge for record, and no county clerk or deputy shall receive and  
25 permit to be lodged for record, any deed that does not comply with the provisions of  
26 this section.
- 27 (7) No clerk or deputy clerk shall be liable to the fine imposed by subsection (1) of

1           KRS 382.990 because of any erroneous or false references in any such deed, nor  
 2           because of the omission of a reference required by law where it does not appear on  
 3           the face of such deed that the title to the property or interest conveyed was obtained  
 4           from more than one (1) source.

5       (8) This section does not apply to deeds made by any court commissioner, sheriff or by  
 6           any officer of court in pursuance of his duty as such officer, nor to any deed or  
 7           instrument made and acknowledged before March 20, 1928. No deed shall be  
 8           invalid because it is lodged contrary to the provisions of this section.

9       (9) A mortgage holder shall file a deed in lieu of foreclosure in the county clerk's office  
 10           of the county in which the property conveyed, or the greater part thereof, is located,  
 11           no later than forty-five (45) days after the date the deed in lieu of foreclosure is  
 12           executed.

13       (10) A deed filed pursuant to KRS 426.577 shall be filed by the grantee within five (5)  
 14           business days of receipt of the deed from the commissioner appointed by a court to  
 15           convey the property.

16       ➔Section 17. KRS 382.135 is amended to read as follows:

17       (1) In addition to any other requirement imposed by law, a deed to real property shall  
 18           contain the following:

- 19           (a) The full name of the grantor and grantee;
- 20           (b) The mailing addresses of the grantor and grantee;
- 21           (c) A statement of the full consideration;
- 22           (d) A statement indicating the in-care-of address to which the property tax bill for  
 23           the year in which the property is transferred may be sent; and
- 24           (e) 1. In the case of a transfer other than by gift, or with nominal or no  
 25           consideration a sworn, notarized certificate signed by the grantor or his  
 26           or her agent and the grantee or his or her agent, or the parent or guardian  
 27           of a person under eighteen (18) years old, that the consideration

- 1 reflected in the deed is the full consideration paid for the property; or
- 2 2. In the case of a transfer either by gift or with nominal or no
- 3 consideration, a sworn, notarized certificate signed by the grantor or his
- 4 or her agent and the grantee or his or her agent, or the parent or guardian
- 5 of a person under eighteen (18) years old, stating that the transfer is by
- 6 gift and setting forth the estimated fair cash value of the property.
- 7 (2) The deed filing requirements listed in subsection (1)(c), (d), and (e) of this section
- 8 shall not apply to:
- 9 (a) Deeds which only convey utility easements;
- 10 (b) Deeds which transfer property through a court action pursuant to a divorce
- 11 proceeding;
- 12 (c) Deeds which convey rights-of-way that involve governmental agencies;
- 13 (d) Deeds which convey cemetery lots;
- 14 (e) Deeds which correct errors in previous deeds conveying the same property
- 15 from the same grantor to the same grantee;~~[-or]~~
- 16 (f) Deeds which convey real property to a local airport board; **or**
- 17 **(g) Transfer on death deeds.**
- 18 (3) In the case of an exchange of properties, the fair cash value of the property being
- 19 exchanged shall be stated in the body of the deed.
- 20 (4) In the event of a transfer of property by will or under the laws of intestate
- 21 succession, the personal representative of the estate, prior to closing out the estate,
- 22 shall file an affidavit with the county clerk of each county in which any of the
- 23 property is located, which shall contain the following:
- 24 (a) The names and addresses of the persons receiving each property passing by
- 25 will or intestate succession; and
- 26 (b) The full or fair market value of each property as estimated or established for
- 27 any purpose in the handling of the estate, or a statement that no such values

1           were estimated or established.

2 (5) No county clerk or deputy clerk shall lodge for record, and no county clerk or  
3 deputy shall receive and permit to be lodged for record, any deed that does not  
4 comply with the provisions of this section.

5 (6) For purposes of subsection (1)(a) of this section, the full name of the grantor and  
6 grantee shall be determined as follows:

7 (a) As provided in KRS 355.9-503(1); or

8 (b) For a business entity, it shall be synonymous with its real name determined as  
9 provided in KRS 365.015(1)(b) and (c); or

10 (c) For an individual, his or her surname and his or her first personal name or  
11 initial, middle personal name or names, or initial or initials, or any  
12 combination thereof that includes the individual's surname.

13 (7) The receipt for record and recording of any instrument by the county clerk not in  
14 compliance with this section shall not prevent the record of filing of the instrument  
15 from becoming notice as otherwise provided by law, nor impair the admissibility of  
16 the record as evidence.

17 ➔Section 18. KRS 391.360 is amended to read as follows:

18 (1) A written provision for a nonprobate transfer on death in an insurance policy,  
19 contract of employment, bond, mortgage, promissory note, certified or uncertified  
20 security account agreement, custodial agreement, deposit agreement, compensation  
21 plan, pension plan, individual retirement plan, employee benefit plan, trust,  
22 conveyance, deed of gift, marital property agreement, transfer on death deed, or  
23 other written instrument of a similar nature is nontestamentary. These written  
24 provisions shall include, but not be limited to, written provisions which provide  
25 that:

26 (a) Money or other benefits due to, controlled, or owned by a decedent before  
27 death shall be paid after the decedent's death to a person whom the decedent

1           designates either in the instrument or in a separate writing, including a will,  
2           executed before, at the same time, or after the instrument is executed;

3           (b) Money due or to become due under the instrument shall cease to be payable in  
4           the event of the death of the promisee or the promisor before payment or  
5           demand; or

6           (c) Any property, controlled by or owned by the decedent before death, which is  
7           the subject of the instrument shall pass to a person the decedent designates  
8           either in the instrument or in a separate writing, including a will, executed  
9           before, at the same time, or after the instrument is executed.

10       (2) This section shall not limit the rights of creditors under other laws of this state.

11       ➔Section 19. KRS 392.020 is amended to read as follows:

12       *Except as provided in Section 2 of this Act,* after the death of the husband or wife  
13       intestate, the survivor shall have an estate in fee of one-half (1/2) of the surplus real estate  
14       of which the other spouse or anyone for the use of the other spouse, was seized of an  
15       estate in fee simple at the time of death, and shall have an estate for his or her life in one-  
16       third (1/3) of any real estate of which the other spouse or anyone for the use of the other  
17       spouse, was seized of an estate in fee simple during the coverture but not at the time of  
18       death, unless the survivor's right to such interest has been barred, forfeited or  
19       relinquished. The survivor shall also have an absolute estate in one-half (1/2) of the  
20       surplus personalty left by the decedent. Unless the context otherwise requires, any  
21       reference in the statutes of this state to "dower" or "curtesy" shall be deemed to refer to  
22       the surviving spouse's interest created by this section.

23       ➔Section 20. KRS 392.070 is amended to read as follows:

24       When a surviving spouse recovers dower or curtesy against the heir or devisee or  
25       purchaser from the decedent, *or from a beneficiary under Sections 1 to 13 of this Act,*  
26       the dower or curtesy shall be according to the value of the estate when received by the  
27       heir, devisee, *beneficiary,* or purchaser, and shall not include, in the estimated value, any



1 permanent improvements which the heir, devisee, beneficiary, or purchaser has made on  
2 the land. Against the heir, ~~or~~ devisee, beneficiary, or his or her alienee the surviving  
3 spouse's claim for rent shall not exceed rent for five (5) years before the action, and  
4 against a purchaser from the decedent the surviving spouse's claim shall be only from the  
5 commencement of the action. In either case it shall continue up to final recovery. If, after  
6 action has been brought, the surviving spouse or tenant dies before recovery, the rent may  
7 be recovered by the surviving spouse's representative or against the tenant's heirs,  
8 devisees, and representatives.

9 →Section 21. KRS 403.190 is amended to read as follows:

10 (1) In a proceeding for dissolution of the marriage or for legal separation, or in a  
11 proceeding for disposition of property following dissolution of the marriage by a  
12 court which lacked personal jurisdiction over the absent spouse or lacked  
13 jurisdiction to dispose of the property, the court shall assign each spouse's property  
14 to him. It also shall divide the marital property without regard to marital misconduct  
15 in just proportions considering all relevant factors including:

- 16 (a) Contribution of each spouse to acquisition of the marital property, including  
17 contribution of a spouse as homemaker;
- 18 (b) Value of the property set apart to each spouse;
- 19 (c) Duration of the marriage; and
- 20 (d) Economic circumstances of each spouse when the division of property is to  
21 become effective, including the desirability of awarding the family home or  
22 the right to live therein for reasonable periods to the spouse having custody of  
23 any children.

24 (2) For the purpose of this chapter, "marital property" means all property acquired by  
25 either spouse subsequent to the marriage except:

- 26 (a) Property acquired by gift, bequest, devise, or descent during the marriage and  
27 the income derived therefrom unless there are significant activities of either

- 1 spouse which contributed to the increase in value of said property and the  
2 income earned therefrom;
- 3 (b) Property acquired in exchange for property acquired before the marriage or in  
4 exchange for property acquired by gift, bequest, devise, or descent;
- 5 (c) Property acquired by a spouse after a decree of legal separation;
- 6 (d) Property excluded by valid agreement of the parties; and
- 7 (e) The increase in value of property acquired before the marriage to the extent  
8 that such increase did not result from the efforts of the parties during  
9 marriage.
- 10 (3) All property acquired by either spouse after the marriage and before a decree of  
11 legal separation is presumed to be marital property, regardless of whether title is  
12 held individually or by the spouses in some form of co-ownership such as joint  
13 tenancy, tenancy in common, tenancy by the entirety, and community property. The  
14 presumption of marital property is overcome by a showing that the property was  
15 acquired by a method listed in subsection (2) of this section.
- 16 (4) If the retirement benefits of one spouse are excepted from classification as marital  
17 property, or not considered as an economic circumstance during the division of  
18 marital property, then the retirement benefits of the other spouse shall also be  
19 excepted, or not considered, as the case may be. However, the level of exception  
20 provided to the spouse with the greater retirement benefit shall not exceed the level  
21 of exception provided to the other spouse. Retirement benefits, for the purposes of  
22 this subsection shall include retirement or disability allowances, accumulated  
23 contributions, or any other benefit of a retirement system or plan regulated by the  
24 Employees Retirement Income Security Act of 1974, or of a public retirement  
25 system administered by an agency of a state or local government, including  
26 deferred compensation plans created pursuant to KRS 18A.230 to 18A.275 or  
27 defined contribution or money purchase plans qualified under Section 401(a) of the

1 Internal Revenue Code of 1954, as amended.

2 (5) For purposes of this section, property exempted under subsection (2)(a) of this  
3 section shall include property transferred to either spouse pursuant to a transfer  
4 on death deed.

5 ➔SECTION 22. A NEW SECTION OF KRS CHAPTER 186A IS CREATED  
6 TO READ AS FOLLOWS:

7 (1) As used in this section:

8 (a) "Beneficiary" means a person designated to receive title to a vehicle upon  
9 the death of the preceding owner or joint owners;

10 (b) "Beneficiary designation form" means a form that contains the intention of  
11 a present owner or joint owners of a vehicle to transfer ownership of the  
12 vehicle to a named beneficiary upon the death of the owner or last surviving  
13 joint owner of the vehicle;

14 (c) "Cabinet" means the Transportation Cabinet;

15 (d) "Joint owner" means an individual who owns a vehicle with one or more  
16 other individuals as joint tenants with rights of survivorship. "Joint owner"  
17 does not include an individual who owns a vehicle with one or more other  
18 individuals as tenants in common;

19 (e) "Owner" means an individual who owns a vehicle; and

20 (f) "Vehicle" includes any motor vehicle, motorcycle, motor home, trailer, or  
21 other item for which a certificate of title is issued by the cabinet.

22 (2) The cabinet shall provide a beneficiary designation form that allows the owner or  
23 joint owners of a vehicle to provide for the transfer of the vehicle's title to a  
24 named beneficiary upon the death of the owner or upon the death of all joint  
25 owners of the vehicle. The form shall include but not be limited to fields for the  
26 following information:

27 (a) The manufacturer, model, year, and vehicle identification number of the

1           vehicle;

2           (b) The name of the owner or every joint owner of the vehicle;

3           (c) The words "transfer on death to," or the abbreviation "TOD," followed by  
4           the name of the beneficiary; and

5           (d) The signature of the owner of the vehicle or of each joint owner of the  
6           vehicle.

7           (3) The cabinet shall make beneficiary forms available:

8           (a) In each county clerk's office; and

9           (b) On the cabinet's public website.

10          (4) Upon the death of the owner, or the last surviving joint owner, of a vehicle for  
11          which a beneficiary designation form has been properly executed under  
12          subsection (2) of this section, the beneficiary shall present the form to the county  
13          clerk and request a new title of ownership of the vehicle in the beneficiary's  
14          name. The form shall be accompanied by:

15          (a) Proof of the death of the vehicle's owner or proof of death of the last  
16          surviving joint owner of the vehicle including but not limited to a death  
17          certificate, record, or report that constitutes prima facie evidence of death;

18          (b) Proof of payment of ad valorem taxes on the vehicle for the current year. If  
19          the taxes have not been paid, the beneficiary may elect to pay the taxes to  
20          facilitate the transfer; and

21          (c) The fee for the certificate of title transfer.

22          (5) Upon presentation of a properly executed beneficiary designation form and  
23          accompanying documents as required under subsection (4) of this section, the  
24          county clerk, subject to any security interest in the vehicle, shall issue a new  
25          certificate of title to the beneficiary.

26          (6) During the lifetime of the owner of the vehicle for which a beneficiary  
27          designation form has been properly executed or before the death of the last

- 1 surviving joint owner of the vehicle:
- 2 (a) The signature or consent of the beneficiary shall not be required for any
- 3 transaction relating to the vehicle; and
- 4 (b) The owner or surviving joint owners of the vehicle may revoke the
- 5 beneficiary designation form or change the beneficiary on the beneficiary
- 6 designation form at any time by:
- 7 1. Selling the vehicle with proper transfer and delivery of the certificate
- 8 of title to another person; or
- 9 2. Properly executing a subsequent beneficiary designation form that
- 10 designates a new beneficiary.
- 11 (7) Upon the death of the owner or the last surviving joint owner of a vehicle for
- 12 which a beneficiary designation form has been properly executed, the interest of
- 13 the beneficiary in the vehicle shall be subject to any contract of sale, assignment,
- 14 or ownership or security interest to which the owner or joint owners of the vehicle
- 15 were subject during their lifetime.
- 16 (8) Except as provided in subsection (6)(b) of this section, the designation of a
- 17 beneficiary in a beneficiary designation form shall not be changed or revoked by
- 18 will or by other instrument.
- 19 (9) The transfer on death of a vehicle under this section shall be a nontestamentary
- 20 transfer.