AN ACT relating to motor vehicle titles.

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

➔Section 1. KRS 186A.295 is amended to read as follows:

(1) (a) ***Subject to the limitations in paragraph (c) of this subsection,*** any person or entity having a motor vehicle or trailer that has been destroyed, to the extent that its repair cannot be obtained through usual commercial repair services, at a cost less than its retail value as prescribed by a nationally accepted used car valuation guide or tool identified under KRS 304.20-110, or from which two (2) or more parts which typically bear a vehicle identification number placed thereon by the manufacturer have been removed, or which he or she removes, shall surrender the certificate of title for the vehicle for which he or she has a certificate of title in his, or her, or another name, to the county clerk of the county in which the vehicle is located. The clerk shall immediately forward the surrendered title to Frankfort with instructions for canceling the title.

(b) Any person or entity engaged in the sale of used motor vehicle or trailer parts, or the recycling or salvage of them, shall surrender the certificate of title for any vehicle in his or her possession, and for which he or she has a certificate of title, whether in his or her or another name, if the vehicle is destroyed within the meaning of paragraph (a) of this subsection, or from which two (2) or more parts which typically bear a vehicle identification number placed thereon by a manufacturer have been removed, or which he or she removes, to the county clerk of the county in which the vehicle is located. The clerk shall immediately forward the surrendered title to Frankfort with instructions for canceling the title.

(c) ***1. The calculation of the cost of repair referenced in paragraph (a) of this subsection shall not include the cost of parts and labor to make cosmetic repairs to a motor vehicle or trailer that affect the vehicle's***

appearance without impact to the safety, structural integrity, or drivability of the motor vehicle or trailer.

2. Subparagraph 1. of this paragraph shall not alter any existing obligation of an insurer to pay for the cost of parts and labor for cosmetic repairs to a motor vehicle or trailer that affects the vehicle's appearance.

(d) The surrender of the certificate of title pursuant to this section shall be made within ten (10) working days, next succeeding the day when the vehicle was received, destroyed, or next succeeding the day during which a second part was removed.

(2) Each county clerk shall receive without charge, a certificate surrendered in accordance with this section, cancel it, and remit it to the Department of Vehicle Regulation, and take any other action related to it, as required by the Department of Vehicle Regulation.

(3) If the calculation of the cost of repair in subsection (1)(c) of this section exempts a vehicle from having the certificate of title surrendered, the title shall be branded as a salvage title in accordance with Section 2 of this Act.

➔Section 2. KRS 186A.520 is amended to read as follows:

(1) Except as provided in KRS 186A.555, a salvage title shall be obtained by the owner of a motor vehicle that meets the following definition of a salvage vehicle:

(a) ***1.*** A vehicle ***that***~~[which]~~ has been wrecked, destroyed, or damaged, to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the vehicle to its preaccident condition and for legal operation on the roads or highways, not including the cost of parts and labor to reinstall a deployed airbag system, exceeds seventy-five percent (75%) of the retail value of the vehicle, as prescribed by a nationally accepted used car valuation guide or tool identified under KRS 304.20-

110.

2.~~[(b)]~~ The value of repair parts for purposes of this ***paragraph***~~[definition]~~ shall be determined by using the current published retail cost of the parts equal in kind and quality to the parts to be replaced or the actual retail cost of the repair parts used in repair.

3.~~[(c)]~~ The labor costs of repairs for purposes of this ***paragraph***~~[section]~~ shall be computed by using the hourly labor rate and time allocations which are reasonable and customary in the automobile repair industry in the community where the repairs are performed.

4.~~[(d)]~~ Airbag reinstallation costs which are excluded from the seventy-five percent (75%) computation as set forth in ***subparagraph 1.***~~[paragraph (a)]~~ of this ***paragraph***~~[subsection]~~ shall be included by an insurer in the computation of the total physical damage estimate according to the terms and conditions of individual policies, provided that the total costs payable by an insurer do not exceed the total retail value of the vehicle***; or***

(b) A vehicle that is exempt from certificate of title surrender under subsection (3) of Section 1 of this Act.

(2) The owner or an authorized agent of a motor vehicle that meets the definition of a salvage vehicle as set forth in subsection (1) of this section shall, within fifteen (15) days from the receipt of all necessary paperwork required by this chapter, submit an application to the county clerk, on a form prescribed by the Department of Vehicle Regulation, for a salvage title, accompanied by a properly endorsed certificate of title and any lien satisfactions, if any appear, as may be required.

(3) The county clerk shall retain a copy of each salvage title application received and shall forward the original and its supporting documents to the Department of Vehicle Regulation in a manner similar to that for handling of an application for a

title.

(4) The county clerk shall rely on the information provided by the owner or authorized agent, including a county of residence designation, on:

(a) Any approved, notarized state form utilized in lien titling or the title transfer process signed by the owner or authorized agent; and

(b) Any document submitted during the transfer of a salvage vehicle from an owner to an insurer.

Reliance on the foregoing by the county clerk shall relieve the office of the county clerk from liability to any third party claiming failure to comply with this section.

(5) The Department of Vehicle Regulation shall process the salvage title application in a manner similar to that used in processing a title application and the salvage title shall be delivered in a like manner of a title. Salvage titles shall be construed as proof of ownership of a vehicle in a state as to be unusable upon the highways of the Commonwealth.

(6) A vehicle shall not be issued a registration for highway use as long as a salvage title is in force. The only time a vehicle with a salvage title may be operated upon the highways of the Commonwealth is when it is in route to or from an inspection by the certified inspector prior to obtaining a certificate of title after having been rebuilt as per KRS 186.115.

(7) Notwithstanding the provisions of KRS 369.103, when a salvage vehicle is transferred from an owner to an insurer, the following shall be exempted from the requirements of notarization, including exemption from the notarization of electronic signature requirements of KRS Chapter 423:

(a) The transfer of ownership on the certificate of title;

(b) Any power of attorney required in connection with the transfer of ownership to the insurer;

(c) Any required odometer disclosure statement;

(d) The application for a salvage certificate of title; and

(e) The transfer of ownership on the salvage certificate of title issued.

(8) Subsections (2) to (5) of this section shall not apply to applications for salvage title using the electronic title application and registration system established under KRS 186A.017.

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

(1) Except as provided in subsection (6) of this section and in KRS 355.9-311(4), the perfection of a security interest in any property for which has been issued a Kentucky certificate of title shall be by notation on the certificate of title which shall be deemed to have occurred when the provisions of subsection (3) of this section have been complied with. Discharge of a security interest shall be by notation on the certificate of title. Notation shall be made by the entry of information required by subsection (9) of this section into the Automated Vehicle Information System. The notation of the security interest on the certificate of title shall be in accordance with this chapter and shall remain effective from the date on which the security interest is noted on the certificate of title for a period of ten (10) years, or, in the case of a manufactured home, for a period of thirty (30) years, or until discharged under this chapter and KRS Chapter 186. The filing of a continuation statement within the six (6) months preceding the expiration of the initial period of a notation's effectiveness extends the expiration date for five (5) additional years, commencing on the day the notation would have expired in the absence of the filing. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial notation.

(2) A motor vehicle dealer, a secured party or its representative, an assignee of a retail installment contract lender, the cabinet, or a county clerk shall rely on a county of residence designated by the debtor on any approved, notarized state form utilized in lien titling or the title transfer process signed by the debtor. Reliance on the

foregoing by the motor vehicle dealer, secured parties, cabinet, and county clerk shall relieve those persons from liability to any third party claiming failure to comply with this section.

(3) Except as provided in subsection (6) of this section, the notation of security interests relating to property required to be titled under this chapter in Kentucky through the cabinet shall be done in the office of a county clerk. The notation of a security interest shall reflect the county in which the debtor resides as determined by subsections (2) and (4) of this section. The security interest shall be deemed to be noted on the certificate of title and perfected, or deemed perfected at the time the security interest attaches as provided in KRS 355.9-203, if in compliance with KRS 186A.195(8), when a title lien statement:

(a) Is received by the county clerk, together with the required fees;

(b) Describes the titled vehicle, or vehicle to be titled, by year, model, make, and vehicle identification number;

(c) Provides the name of the secured party, or a representative of the secured party, together with the additional information about the secured party required by subsection (9) of this section with reasonable particularity; and

(d) Includes the date and time-stamped entry of the notation of the security interest by the county clerk of the required information in the Automated Vehicle Information System (AVIS), or its successor title processing system maintained by the Division of Motor Vehicle Licensing of the Transportation Cabinet.

(4) Except as provided in subsection (6) of this section, if the debtor is other than a natural person, the following provisions govern the determination of the county of the debtor's residence:

(a) A partnership shall be deemed a resident of the county in which its principal place of business in this state is located. If the debtor does not have a place of

business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;

(b) A limited partnership organized under KRS Chapter 362 or as defined in KRS 362.2-102(14) shall be deemed a resident of the county in which its principal place of business is located, as set forth in its certificate of limited partnership or most recent amendment thereto filed pursuant to KRS Chapter 362 or 362.2-202. If the office is not located in this state, the debtor shall be deemed a nonresident for purposes of filing in this state;

(c) A limited partnership not organized under the laws of this state and authorized to do business in this state shall be deemed a resident of the county in which the office of its process agent is located, as set forth in the designation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(d) A corporation organized under KRS Chapter 271B, 273, or 274 or a limited liability company organized under KRS Chapter 275 shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the Secretary of State which officially designates its current registered office;

(e) A corporation not organized under the laws of this state, but authorized to transact or do business in this state under KRS Chapter 271B, 273, or 274, or a limited liability company not organized under the laws of this state, but authorized to transact business in this state under KRS Chapter 275, shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent filing with the Secretary of State which officially designates its current registered office;

(f) A cooperative corporation or association organized under KRS Chapter 272 shall be deemed a resident of the county in which its principal business is

transacted, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(g) A cooperative corporation organized under KRS Chapter 279 shall be deemed a resident of the county in which its principal office is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(h) A business trust organized under KRS Chapter 386 shall be deemed a resident of the county in which its principal place of business is located, as evidenced by the recordation of its declaration of trust in that county pursuant to KRS Chapter 386;

(i) A credit union organized under Subtitle 6 of KRS Chapter 286 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky; and

(j) Any other organization defined in KRS 355.1-201 shall be deemed a resident of the county in which its principal place of business in this state is located, except that any limited liability company, limited liability partnership, limited partnership, or corporation not organized under the laws of this state and not authorized to transact or do business in this state shall be deemed a nonresident for purposes of filing in this state. If the organization does not have a place of business in this state, then it shall be deemed a nonresident for purposes of filing in this state.

If the debtor does not reside in the Commonwealth, the notation of the security interest shall be done in the office of the county clerk in which the property is principally situated or operated. Notwithstanding the existence of any filed

financing statement under the provisions of KRS Chapter 355 relating to any property registered or titled in Kentucky, the sole means of perfecting and discharging a security interest in property for which a certificate of title is required by this chapter is by notation on the property's certificate of title under the provisions of this chapter or in accordance with the provisions of KRS 186.045(3). In other respects the security interest is governed by the provisions of KRS Chapter 355.

(5) Except as provided in subsection (6) of this section, before ownership of property subject to a lien evidenced by notation on the certificate of title may be transferred, the transferor shall obtain the release of the prior liens in his or her name against the property being transferred. Once a security interest has been noted on the owner's title, a subsequent title shall not be issued by any county clerk free of the notation unless it has been noted in the system of record established under KRS 186A.195 that the security interest has been discharged. If this requirement is met, information relating to any security interest shown on the title as having been discharged may be omitted from the title to be issued by the clerk. If information relating to the discharge of a security interest is presented to a clerk under the provisions of KRS 186.045(3), the clerk shall discharge the security interest and remove the lien information from AVIS.

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

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

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

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

2. Within thirty (30) days of payment of damages by an insurance company and receipt by the current owner of the motor vehicle or lienholder of damages pursuant to a claim settlement which required transfer of the vehicle to the insurance company, the insurance company has been unable to obtain:

   a. A properly endorsed certificate of title on the vehicle from the current owner; and

   b. If applicable, any lien satisfactions; or

3. a. The vehicle was voluntarily towed or transported pursuant to a request of the current owner or an insurance company that a motor vehicle dealer, licensed as a used motor vehicle dealer and motor vehicle auction dealer, take possession of and store the motor vehicle in the regular course of business; and

   b. Within forty-five (45) days of taking possession of the motor vehicle, the motor vehicle dealer has not been paid storage fees by the current owner or lienholder and has not been provided both a properly endorsed certificate of title and if applicable, any lien satisfactions;

(c) More than thirty (30) days before presenting the affidavit to the county clerk, the affiant attempted to notify the owner of the vehicle and all known lienholders, including those noted on the title, by certified mail, return receipt requested, or by a nationally recognized courier service, of his or her name, address, and telephone number as well as his or her intention to obtain a new

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

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

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

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

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

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

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

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

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

that the certificate of title bears the lienholder's name, mailing address and zip code, the date the lien was noted, the notation number, and the county in which the security interest was noted. The clerk shall obtain the information required by this subsection for notation upon the certificate of title from the title lien statement described in KRS 186A.195.

(10) For all the costs incurred in the notation and discharge of a security interest on the certificate of title, the county clerk shall receive the fee prescribed by KRS 64.012. The fee prescribed by this subsection shall be paid at the time of submittal of the title lien statement described in KRS 186A.195.

(11) A copy of the application, certified by the county clerk, indicating the lien will be noted on the certificate of title shall be forwarded to the lienholder.

(12) (a) Any lien or security interest filed under this chapter may be electronically transmitted to the cabinet through the electronic title application and registration system.

(b) Notwithstanding the provisions of this section and KRS 186A.015 and 186A.074 that require a lien to be noted on the face of the title, if there are one (1) or more liens on a motor vehicle, the cabinet may electronically notify the first lienholder of any additional liens.

(c) Subsequent lien satisfactions may be electronically transmitted to the cabinet and shall include the name and address of the person satisfying the lien.

(d) When liens and lien satisfactions are electronically transmitted, a clean certificate of title shall not be issued until the last lien is satisfied.

(e) A duly certified copy of the cabinet's electronic record of the lien shall be admissible in any civil, criminal, or administrative proceedings in this state as evidence of the existence of the lien.

(13) If a security interest expires without being renewed, the cabinet shall remove the lien from the certificate of title in the AVIS system.