

1 AN ACT relating to motor vehicle titles.

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

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

- 4 (1) (a) **Subject to the limitations in paragraph (c) of this subsection,** any person or  
5 entity having a motor vehicle or trailer that has been destroyed, to the extent  
6 that its repair cannot be obtained through usual commercial repair services, at  
7 a cost less than its retail value as prescribed by a nationally accepted used car  
8 valuation guide or tool identified under KRS 304.20-110, or from which two  
9 (2) or more parts which typically bear a vehicle identification number placed  
10 thereon by the manufacturer have been removed, or which he or she removes,  
11 shall surrender the certificate of title for the vehicle for which he or she has a  
12 certificate of title in his, or her, or another name, to the county clerk of the  
13 county in which the vehicle is located. The clerk shall immediately forward  
14 the surrendered title to Frankfort with instructions for canceling the title.
- 15 (b) Any person or entity engaged in the sale of used motor vehicle or trailer parts,  
16 or the recycling or salvage of them, shall surrender the certificate of title for  
17 any vehicle in his or her possession, and for which he or she has a certificate  
18 of title, whether in his or her or another name, if the vehicle is destroyed  
19 within the meaning of paragraph (a) of this subsection, or from which two (2)  
20 or more parts which typically bear a vehicle identification number placed  
21 thereon by a manufacturer have been removed, or which he or she removes, to  
22 the county clerk of the county in which the vehicle is located. The clerk shall  
23 immediately forward the surrendered title to Frankfort with instructions for  
24 canceling the title.
- 25 (c) **1. The calculation of the cost of repair referenced in paragraph (a) of**  
26 **this subsection shall only include labor and parts for actual damage to**  
27 **the suspension, motor, transmission, frame or unibody, and**

1 designated structural components, and shall not include cosmetic  
 2 damages.

3 2. Subparagraph 1. of this paragraph shall not alter the calculation of  
 4 the cost of repair for any existing obligation of an insurer to pay for  
 5 the cost of parts and labor for cosmetic repairs to a motor vehicle or  
 6 trailer that affects the vehicle's appearance in accordance with Section  
 7 2 of this Act.

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

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

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

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

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

22 (a) 1. A vehicle ~~that~~<sup>which</sup> has been wrecked, destroyed, or damaged, to the  
 23 extent that the total estimated or actual cost of parts and labor to rebuild  
 24 or reconstruct the vehicle to its preaccident condition and for legal  
 25 operation on the roads or highways, not including the cost of parts and  
 26 labor to reinstall a deployed airbag system, exceeds seventy-five percent  
 27 (75%) of the retail value of the vehicle, as prescribed by a nationally

1 accepted used car valuation guide or tool identified under KRS 304.20-  
2 110.

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

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

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

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

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

26 (3) The county clerk shall retain a copy of each salvage title application received and  
27 shall forward the original and its supporting documents to the Department of

1 Vehicle Regulation in a manner similar to that for handling of an application for a  
2 title.

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

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

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

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

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

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

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

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

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

- 1 (c) Any required odometer disclosure statement;
- 2 (d) The application for a salvage certificate of title; and
- 3 (e) The transfer of ownership on the salvage certificate of title issued.

4 (8) Subsections (2) to (5) of this section shall not apply to applications for salvage title  
5 using the electronic title application and registration system established under KRS  
6 186A.017.

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

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

1       lien titling or the title transfer process signed by the debtor. Reliance on the  
2       foregoing by the motor vehicle dealer, secured parties, cabinet, and county clerk  
3       shall relieve those persons from liability to any third party claiming failure to  
4       comply with this section.

5       (3) Except as provided in subsection (6) of this section, the notation of security  
6       interests relating to property required to be titled under this chapter in Kentucky  
7       through the cabinet shall be done in the office of a county clerk. The notation of a  
8       security interest shall reflect the county in which the debtor resides as determined  
9       by subsections (2) and (4) of this section. The security interest shall be deemed to  
10      be noted on the certificate of title and perfected, or deemed perfected at the time the  
11      security interest attaches as provided in KRS 355.9-203, if in compliance with KRS  
12      186A.195(8), when a title lien statement:

- 13      (a) Is received by the county clerk, together with the required fees;
- 14      (b) Describes the titled vehicle, or vehicle to be titled, by year, model, make, and  
15      vehicle identification number;
- 16      (c) Provides the name of the secured party, or a representative of the secured  
17      party, together with the additional information about the secured party  
18      required by subsection (9) of this section with reasonable particularity; and
- 19      (d) Includes the date and time-stamped entry of the notation of the security  
20      interest by the county clerk of the required information in the Automated  
21      Vehicle Information System (AVIS), or its successor title processing system  
22      maintained by the Division of Motor Vehicle Licensing of the Transportation  
23      Cabinet.

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

- 27      (a) A partnership shall be deemed a resident of the county in which its principal

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

1 shall be deemed a resident of the county in which its principal business is  
2 transacted, as set forth in its articles of incorporation or most recent  
3 amendment thereto filed with the Secretary of State of the Commonwealth of  
4 Kentucky;

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

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

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

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

26 If the debtor does not reside in the Commonwealth, the notation of the security  
27 interest shall be done in the office of the county clerk in which the property is

1 principally situated or operated. Notwithstanding the existence of any filed  
2 financing statement under the provisions of KRS Chapter 355 relating to any  
3 property registered or titled in Kentucky, the sole means of perfecting and  
4 discharging a security interest in property for which a certificate of title is required  
5 by this chapter is by notation on the property's certificate of title under the  
6 provisions of this chapter or in accordance with the provisions of KRS 186.045(3).  
7 In other respects the security interest is governed by the provisions of KRS Chapter  
8 355.

9 (5) Except as provided in subsection (6) of this section, before ownership of property  
10 subject to a lien evidenced by notation on the certificate of title may be transferred,  
11 the transferor shall obtain the release of the prior liens in his or her name against the  
12 property being transferred. Once a security interest has been noted on the owner's  
13 title, a subsequent title shall not be issued by any county clerk free of the notation  
14 unless it has been noted in the system of record established under KRS 186A.195  
15 that the security interest has been discharged. If this requirement is met, information  
16 relating to any security interest shown on the title as having been discharged may be  
17 omitted from the title to be issued by the clerk. If information relating to the  
18 discharge of a security interest is presented to a clerk under the provisions of KRS  
19 186.045(3), the clerk shall discharge the security interest and remove the lien  
20 information from AVIS.

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

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

1 address, and telephone number as well as his or her intention to obtain a new  
2 title or salvage title, as applicable, clear of all prior liens, unless the owner or  
3 a lienholder objects in writing;

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

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

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

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

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

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

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

- 1 (9) In noting a security interest upon a certificate of title, the county clerk shall ensure  
2 that the certificate of title bears the lienholder's name, mailing address and zip code,  
3 the date the lien was noted, the notation number, and the county in which the  
4 security interest was noted. The clerk shall obtain the information required by this  
5 subsection for notation upon the certificate of title from the title lien statement  
6 described in KRS 186A.195.
- 7 (10) For all the costs incurred in the notation and discharge of a security interest on the  
8 certificate of title, the county clerk shall receive the fee prescribed by KRS 64.012.  
9 The fee prescribed by this subsection shall be paid at the time of submittal of the  
10 title lien statement described in KRS 186A.195.
- 11 (11) A copy of the application, certified by the county clerk, indicating the lien will be  
12 noted on the certificate of title shall be forwarded to the lienholder.
- 13 (12) (a) Any lien or security interest filed under this chapter may be electronically  
14 transmitted to the cabinet through the electronic title application and  
15 registration system.
- 16 (b) Notwithstanding the provisions of this section and KRS 186A.015 and  
17 186A.074 that require a lien to be noted on the face of the title, if there are  
18 one (1) or more liens on a motor vehicle, the cabinet may electronically notify  
19 the first lienholder of any additional liens.
- 20 (c) Subsequent lien satisfactions may be electronically transmitted to the cabinet  
21 and shall include the name and address of the person satisfying the lien.
- 22 (d) When liens and lien satisfactions are electronically transmitted, a clean  
23 certificate of title shall not be issued until the last lien is satisfied.
- 24 (e) A duly certified copy of the cabinet's electronic record of the lien shall be  
25 admissible in any civil, criminal, or administrative proceedings in this state as  
26 evidence of the existence of the lien.
- 27 (13) If a security interest expires without being renewed, the cabinet shall remove the

1           lien from the certificate of title in the AVIS system.