

1 AN ACT relating to heirs property.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO
4 READ AS FOLLOWS:

5 *Sections 1 to 13 of this Act may be cited as the Uniform Partition of Heirs Property Act.*

6 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO
7 READ AS FOLLOWS:

8 *As used in Sections 1 to 13 of this Act:*

9 *(1) "Ascendant" means an individual who precedes another individual in lineage, in*
10 *the direct line of ascent from the other individual;*

11 *(2) "Collateral" means an individual who is related to another individual under the*
12 *laws of intestate succession of this Commonwealth but who is not the other*
13 *individual's ascendant or descendant;*

14 *(3) "Descendant" means an individual who follows another individual in lineage, in*
15 *the direct line of descent from the other individual;*

16 *(4) "Determination of value" means a court order determining the fair market value*
17 *of heirs property under Section 6 or 10 of this Act or adopting the valuation of*
18 *the property agreed to by all cotenants;*

19 *(5) "Heirs property" means real property held in tenancy in common which satisfies*
20 *all the following requirements of the filing of a partition action:*

21 *(a) There is no agreement in a record binding all the cotenants which governs*
22 *the partition of the property;*

23 *(b) One (1) or more of the cotenants acquired title from a relative, whether*
24 *living or deceased; and*

25 *(c) Any of the following applies:*

26 *1. Twenty percent (20%) or more of the interests are held by cotenants*
27 *who are relatives;*

1 2. Twenty percent (20%) or more of the interests are held by an
2 individual who acquired title from a relative, whether living or
3 deceased; or

4 3. Twenty percent (20%) or more of the cotenants are relatives;

5 (6) "Partition by sale" means a court-ordered sale of the entire heirs property,
6 whether by auction, sealed bids, or open-market sale conducted under Section 10
7 of this Act;

8 (7) "Partition in kind" means the division of heirs property into physically distinct
9 and separately titled parcels;

10 (8) "Record" means information that is inscribed on a tangible medium or that is
11 stored in an electronic or other medium and is retrievable in perceivable form;
12 and

13 (9) "Relative" means ascendant, descendant, or collateral, or an individual
14 otherwise related to another individual by blood, marriage, adoption, or law of
15 this Commonwealth other than Sections 1 to 13 of this Act.

16 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO
17 READ AS FOLLOWS:

18 (1) Sections 1 to 13 of this Act apply to partition actions filed on or after the effective
19 date of this Act.

20 (2) In an action to partition real property under this chapter, the court shall
21 determine whether the property is heirs property. If the court determines that the
22 property is heirs property, the property shall be partitioned under Sections 1 to 13
23 of this Act unless all of the cotenants otherwise agree in a record.

24 (3) Sections 1 to 13 of this Act supplement other provisions of this chapter and, if an
25 action is governed by Sections 1 to 13 of this Act, shall replace provisions that are
26 inconsistent with Sections 1 to 13 of this Act.

27 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) Sections 1 to 13 of this Act do not limit or affect the method by which service of a
3 complaint in a partition action may be made.

4 (2) If the plaintiff in a partition action seeks an order of notice by publication and
5 the court determines that the property may be heirs property, the plaintiff, not
6 later than ten (10) days after the court's determination, shall post and maintain
7 while the action is pending a conspicuous sign on the property that is the subject
8 of the action. The sign shall state that the action has commenced and identify the
9 name and address of the court and the common designation by which the
10 property is known. The court may require the plaintiff to publish on the sign the
11 name of the plaintiff and the known defendants.

12 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO
13 READ AS FOLLOWS:

14 If the court appoints commissioners under Section 17 of this Act, each commissioner,
15 in addition to the requirements and disqualifications applicable to commissioners
16 under this chapter, shall be disinterested and impartial and not a party to or a
17 participant in the action.

18 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO
19 READ AS FOLLOWS:

20 (1) Except as otherwise provided in subsections (2) and (3) of this section, if the court
21 determines that the property that is the subject of a partition action is heirs
22 property, the court shall determine the fair market value of the property by
23 ordering an appraisal pursuant to subsection (4) of this section.

24 (2) If all cotenants have agreed to the value of the property or to another method of
25 valuation, the court shall adopt that value or the value produced by the agreed
26 method of valuation.

27 (3) If the court determines that the evidentiary value of an appraisal is outweighed by

1 the cost of the appraisal, the court, after an evidentiary hearing, shall determine
2 the fair market value of the property and send notice to the parties of the value.

3 (4) If the court orders an appraisal, the court shall appoint a disinterested real estate
4 appraiser licensed in this Commonwealth to determine the fair market value of
5 the property assuming sole ownership of the fee simple estate. On completion of
6 the appraisal, the appraiser shall file a sworn or verified appraisal with the court.

7 (5) If an appraisal is conducted pursuant to subsection (4) of this section, not later
8 than ten (10) days after the appraisal is filed, the court shall send notice to each
9 party with a known address, stating:

10 (a) The appraised fair market value of the property;

11 (b) That the appraisal is available at the county property valuation
12 administrator's office; and

13 (c) That a party may file with the court an objection to the appraisal not later
14 than thirty (30) days after the notice is sent, stating the grounds for the
15 objection.

16 (6) If an appraisal is filed with the court pursuant to subsection (4) of this section,
17 the court shall conduct a hearing to determine the fair market value of the
18 property not sooner than thirty (30) days after a copy of the notice of the
19 appraisal is sent to each party under subsection (5) of this section, whether or not
20 an objection to the appraisal is filed under subsection (5)(c) of this section. In
21 addition to the court-ordered appraisal, the court may consider any other
22 evidence of value offered by a party.

23 (7) After a hearing under subsection (6) of this section, but before considering the
24 merits of the partition action, the court shall determine the fair market value of
25 the property and send notice to the parties of the value.

26 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO
27 READ AS FOLLOWS:

- 1 (1) If any cotenant requests partition by sale, after the determination of value under
2 Section 6 of this Act, the court shall send notice to the parties that any cotenant
3 except a cotenant that requested partition by sale may buy all the interests of the
4 cotenants that requested partition by sale.
- 5 (2) Not later than forty-five (45) days after the notice is sent under subsection (1) of
6 this section, any cotenant except a cotenant that requested partition by sale may
7 give notice to the court that it elects to buy all the interests of the cotenants that
8 requested partition by sale.
- 9 (3) The purchase price for each of the interests of a cotenant that requested partition
10 by sale is the value of the entire parcel determined under Section 6 of this Act
11 multiplied by the cotenant's fractional ownership of the entire parcel.
- 12 (4) After expiration of the period in subsection (2) of this section, the following rules
13 apply:
- 14 (a) If only one (1) cotenant elects to buy all the interests of the cotenants that
15 requested partition by sale, the court shall notify all the parties of that fact;
- 16 (b) If more than one (1) cotenant elects to buy all the interests of the cotenants
17 that requested partition by sale, the court shall allocate the right to buy
18 those interests among the electing cotenants based on each electing
19 cotenant's existing fractional ownership of the entire parcel divided by the
20 total existing fractional ownership of all cotenants electing to buy and send
21 notice to all the parties of that fact and of the price to be paid by each
22 electing cotenant; and
- 23 (c) If no cotenant elects to buy all the interests of the cotenants that requested
24 partition by sale, the court shall send notice to all the parties of that fact and
25 resolve the partition action under subsections (1) and (2) of Section 8 of this
26 Act.
- 27 (5) If the court sends notice to the parties under subsection (4)(a) or (b) of this

1 section, the court shall set a date, not sooner than sixty (60) days after the date
2 the notice was sent, by which electing cotenants shall pay their apportioned price
3 into court. After this date, the following rules apply:

4 (a) If all electing cotenants timely pay their apportioned price into court, the
5 court shall issue an order reallocating all the interests of the cotenants and
6 disburse the amounts held by the court to the persons entitled to them;

7 (b) If no electing cotenant timely pays its apportioned price, the court shall
8 resolve the partition action under subsections (1) and (2) of Section 8 of this
9 Act as if the interests of the cotenants that requested partition by sale were
10 not purchased; and

11 (c) If one (1) or more but not all of the electing cotenants fail to pay their
12 apportioned price on time, the court, on motion, shall give notice to the
13 electing cotenants that paid their apportioned price of the interest
14 remaining and the price for all that interest.

15 (6) Not later than twenty (20) days after the court gives notice pursuant to subsection
16 (5)(c) of this section, any cotenant that paid may elect to purchase all of the
17 remaining interest by paying the entire price into court. After the twenty (20) day
18 period, the following rules apply:

19 (a) If only one (1) cotenant pays the entire price for the remaining interest, the
20 court shall issue an order reallocating the remaining interest to that
21 cotenant. The court shall issue promptly an order reallocating the interests
22 of all of the cotenants and disburse the amounts held by it to the persons
23 entitled to them;

24 (b) If no cotenant pays the entire price for the remaining interest, the court
25 shall resolve the partition action under subsections (1) and (2) of Section 8
26 of this Act as if the interests of the cotenants that requested partition by sale
27 were not purchased; and

1 (c) If more than one (1) cotenant pays the entire price for the remaining
2 interest, the court shall reapportion the remaining interest among those
3 paying cotenants, based on each paying cotenant's original fractional
4 ownership of the entire parcel divided by the total original fractional
5 ownership of all cotenants that paid the entire price for the remaining
6 interest. The court shall issue promptly an order reallocating all of the
7 cotenants' interests, disburse the amounts held by it to the persons entitled
8 to them, and promptly refund any excess payment held by the court.

9 (7) Not later than forty-five (45) days after the court sends notice to the parties
10 pursuant to subsection (1) of this section, any cotenant entitled to buy an interest
11 under this section may request the court to authorize the sale as part of the
12 pending action of the interests of the cotenants named as defendants and served
13 with the complaint but that did not appear in the action.

14 (8) If the court receives a timely request under subsection (7) of this section, the
15 court, after hearing, may deny the request or authorize the requested additional
16 sale on such terms as the court determines are fair and reasonable, subject to the
17 following limitations:

18 (a) A sale authorized under this subsection may occur only after the purchase
19 prices for all interests subject to sale under subsections (1) to (6) of this
20 section have been paid into court and those interests have been reallocated
21 among the cotenants as provided in those subsections; and

22 (b) The purchase price for the interest of a nonappearing cotenant is based on
23 the court's determination of value under Section 6 of this Act.

24 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO
25 READ AS FOLLOWS:

26 (1) If all the interests of all cotenants that requested partition by sale are not
27 purchased by other cotenants pursuant to Section 7 of this Act, or if at the

1 conclusion of the buyout under Section 7 of this Act a cotenant remains that has
2 requested partition in kind, the court shall order partition in kind unless the
3 court, after consideration of the factors listed in Section 9 of this Act, finds that
4 partition in kind will result in manifest prejudice to the cotenants as a group. In
5 considering whether to order partition in kind, the court shall approve a request
6 by two (2) or more parties to have their individual interests aggregated.

7 (2) If the court does not partition in kind under subsection (1) of this section, the
8 court shall order partition by sale pursuant to Section 10 of this Act or, if no
9 cotenant requested partition by sale, the court shall dismiss the action.

10 (3) If the court orders partition in kind pursuant to subsection (1) of this section, the
11 court may require that one (1) or more cotenants pay one (1) or more other
12 cotenant amounts so that the payments, taken together with the value of the in-
13 kind distributions to the cotenants, will make the partition in kind just and
14 proportionate in value to the fractional interests held.

15 (4) If the court orders partition in kind, the court shall allocate to the cotenants that
16 are unknown, unable to be located, or the subject of a default judgment, if their
17 interests were not bought out pursuant to Section 7 of this Act, a part of the
18 property representing the combined interests of these cotenants as determined by
19 the court, and this part of the property shall remain undivided.

20 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO
21 READ AS FOLLOWS:

22 (1) In determining under subsection (1) of Section 8 of this Act whether the partition
23 in kind would result in manifest prejudice to the cotenants as a group, the court
24 shall consider the following:

25 (a) Whether the heirs property practicably can be divided among the cotenants;

26 (b) Whether partition in kind would apportion the property in such a way that
27 the aggregate fair market value of the parcels resulting from the division

1 would be materially less than the value of the property if it were sold as a
2 whole, taking into account the conditions under which a court-ordered sale
3 likely would occur;

4 (c) Evidence of the collective duration of ownership or possession of the
5 property by a cotenant and one (1) or more predecessors in title or
6 predecessors in possession to the cotenant who are or were relatives of the
7 cotenant or each other;

8 (d) A cotenant's sentimental attachment to the property, including any
9 attachment arising because the property has ancestral or other unique or
10 special value to the cotenant;

11 (e) The lawful use being made of the property by a cotenant and the degree to
12 which the cotenant would be harmed if the cotenant could not continue the
13 same use of the property;

14 (f) The degree to which the cotenants have contributed their pro rata share of
15 the property taxes, insurance, and other expenses associated with
16 maintaining ownership of the property or have contributed to the physical
17 improvement, maintenance, or upkeep of the property; and

18 (g) Any other relevant factor.

19 (2) The court may not consider any one (1) factor in subsection (1) of this section to
20 be dispositive without weighing the totality of all relevant factors and
21 circumstances.

22 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO
23 READ AS FOLLOWS:

24 (1) If the court orders a sale of heirs property, the sale shall be an open-market sale
25 unless the court finds that a sale by sealed bids or an auction would be more
26 economically advantageous and in the best interest of the cotenants as a group.

27 (2) If the court orders an open-market sale and the parties, not later than ten (10)

- 1 days after the entry of the order, agree on a real estate broker licensed in this
2 Commonwealth to offer the property for sale, the court shall appoint the broker
3 and establish a reasonable commission. If the parties do not agree on a broker,
4 the court shall appoint a disinterested real estate broker licensed in this
5 Commonwealth to offer the property for sale and shall establish a reasonable
6 commission. The broker shall offer the property for sale in a commercially
7 reasonable manner at a price no lower than the determination of value and on
8 the terms and conditions established by the court.
- 9 (3) If the broker appointed under subsection (2) of this section obtains an offer to
10 purchase the property for at least the determination of value within one hundred
11 (100) days or within a reasonable time as determined by the court:
12 (a) The broker shall comply with the reporting requirements in Section 11 of
13 this Act; and
14 (b) The sale may be completed in accordance with the laws of this
15 Commonwealth that are not in conflict with Sections 1 to 13 of this Act.
- 16 (4) If the broker appointed under subsection (2) of this section does not obtain an
17 offer to purchase the property for at least the determination of value within one
18 hundred (100) days or a reasonable time as determined by the court, the court
19 may, after a hearing:
20 (a) Approve the highest outstanding offer, if any;
21 (b) Redetermine the value of the property and order that the property continue
22 to be offered for an additional time; or
23 (c) Order that the property be sold by sealed bids or at an auction.
- 24 (5) If the court orders a sale by sealed bids or an auction, the court shall set terms
25 and conditions of the sale. If the court orders an auction, the auction shall be
26 conducted under Section 18 of this Act.
- 27 (6) If a purchaser is entitled to a share of the proceeds of the sale, the purchaser

1 shall be entitled to a credit against the price in an amount equal to the
2 purchaser's share of the proceeds.

3 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) Unless required to do so within a shorter time by this chapter, a broker appointed
6 under subsection (2) of Section 10 of this Act to offer heirs property for open-
7 market sale shall file a report with the court not later than seven (7) days after
8 receiving an offer to purchase the property for at least the value determined
9 under Section 6 or 10 of this Act.

10 (2) The report required by subsection (1) of this section shall contain the following
11 information:

12 (a) A description of the property to be sold to each buyer;

13 (b) The name of each buyer;

14 (c) The proposed purchase price;

15 (d) The terms and conditions of the proposed sale, including the terms of any
16 owner financing;

17 (e) The amounts to be paid to lienholders;

18 (f) A statement of contractual or other arrangements or conditions of the
19 broker's commission; and

20 (g) Other material facts relevant to the sale.

21 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO
22 READ AS FOLLOWS:

23 In applying and construing the Uniform Partition of Heirs Property Act, Sections 1 to
24 13 of this Act, consideration shall be given to the need to promote uniformity of the law
25 with respect to its subject matter among states that enact it.

26 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO
27 READ AS FOLLOWS:

The Uniform Partition of Heirs Property Act, Sections 1 to 13 of this Act, modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. sec. 7003(b).

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

(1) The heirs property research fund is created in the State Treasury as a restricted fund. The restricted fund shall consist of moneys deposited pursuant to Section 15 of this Act. The Kentucky Real Estate Authority created in Section 16 of this Act shall administer the fund.

(2) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year to be used for the purposes set forth in subsection (3) of this section.

(3) The funds deposited into the heirs property research fund shall be made available to residents of Kentucky, upon application, in the form of a one (1) time grant of up to two thousand dollars (\$2,000). Grant funds shall be used to assist applicants in conducting research into their family history, specifically relating to identification, evaluation, preservation, partition, or sale of heirs property. Grant funds shall only be used to:

(a) Conduct genealogical research;

(b) Conduct a property title search;

(c) Order a property appraisal;

(d) Order a property survey;

(e) Consult a real estate attorney; or

(f) Engage any other professional service or resource reasonably related to identifying, evaluating, preserving, partitioning, or selling heirs property.

1 (4) The Kentucky Real Estate Authority shall prescribe, through administrative
2 regulations promulgated in accordance with KRS Chapter 13A, and make
3 available on its website, an application process and eligibility criteria for grants.
4 Applications for grants shall be approved based on a showing of financial need.

5 ➔Section 15. KRS 64.012 is amended to read as follows:

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

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

- 8 a. Deed of trust or assignment for the benefit of creditors;
- 9 b. Deed;
- 10 c. Deed of assignment;
- 11 d. File-stamped copy of documents under~~[set forth in]~~ KRS 14A.2-
- 12 040(1) or (2) that have been filed first with the Secretary of State;
- 13 e. Real estate option;
- 14 f. Power of attorney;
- 15 g. Revocation of power of attorney;
- 16 h. Lease which is recordable by law;
- 17 i. Deed of release of a mortgage or lien under KRS 382.360;
- 18 j. United States lien;
- 19 k. Release of a United States lien;
- 20 l. Release of any recorded encumbrance other than state liens;
- 21 m. Lis pendens notice concerning proceedings in bankruptcy;
- 22 n. Lis pendens notice;
- 23 o. Mechanic's and artisan's lien under KRS Chapter 376;
- 24 p. Assumed name;
- 25 q. Notice of lien issued by the Internal Revenue Service;
- 26 r. Notice of lien discharge issued by the Internal Revenue Service;
- 27 s. Original, assignment, amendment, or continuation financing

- 1 statement;
- 2 t. Making a record for the establishment of a city, recording the plan
- 3 or plat thereof, and all other service incident;
- 4 u. Survey of a city, or any part thereof, or any addition to or
- 5 extensions of the boundary of a city;
- 6 v. Recording with statutory authority for which no specific fee is set,
- 7 except a military discharge;
- 8 w. Will or other probate document pursuant to KRS Chapter 392 or
- 9 394;
- 10 x. Court-~~[-]~~ordered name change pursuant to KRS Chapter 401;
- 11 y. Land use restriction according to KRS 100.3681; and
- 12 z. Filing with statutory authority for which no specific fee is set.

13 For all items in this subsection if the entire thereof does not exceed

14 five (5) pages\$34.00~~[\$33.00]~~

15 And, for all items in this subsection exceeding five (5) pages,

16 for each additional page\$3.00

17 And, for all items in this subsection for each additional reference

18 relating to same instrument\$4.00

19 2. The thirty-four~~[thirty-three]~~ dollar (\$34)~~[((\$33)]~~ fee imposed by this

20 subsection shall be divided as follows:

21 a. Twenty-seven dollars (\$27) shall be retained by the county clerk;~~;~~

22 ~~and]~~

23 b. Six dollars (\$6) shall be paid to the affordable housing trust fund

24 established in KRS 198A.710 and shall be remitted by the county

25 clerk within ten (10) days following the end of the quarter in

26 which the fee was received. Each remittance to the affordable

27 housing trust fund shall be accompanied by a summary report on a

form prescribed by the Kentucky Housing Corporation; and
c. One dollar (\$1) shall be paid to the heirs property research fund
established in Section 14 of this Act and shall be remitted by the
county clerk within ten (10) days following the end of the quarter
in which the fee was received. Each remittance to the heirs
property research fund shall be accompanied by a summary
report on a form prescribed by the Kentucky Real Estate
Authority.

- (b) For noting a security interest on a certificate of title pursuant to
 KRS Chapter 186A\$12.00
- (c) For filing the release of collateral under a financing statement
 and noting same upon the face of the title pursuant to KRS Chapter
 186 or 186A\$5.00
- (d) Filing or recording state tax or other state liens\$5.00
- (e) Filing release of a state tax or other state lien\$5.00
- (f) Acknowledging or notarizing any deed, mortgage, power of attorney,
 or other written instrument required by law for recording and certifying
 same\$5.00
- (g) Recording plats, maps, and surveys, not exceeding 24 inches by
 36 inches, per page\$40.00
- (h) Recording a bond, for each bond\$10.00
- (i) Each bond required to be taken or prepared by the clerk\$4.00
- (j) Copy of any bond when ordered\$3.00
- (k) Administering an oath and certificate thereof\$5.00
- (l) Issuing a license for which no other fee is fixed by law\$8.00
- (m) Issuing a solicitor's license\$15.00
- (n) Marriage license, indexing, recording, and issuing certificate thereof\$26.50

- 1 (o) Every order concerning the establishment, changing, closing, or
2 discontinuing of roads, to be paid out of the county levy when
3 the road is established, changed, closed, or discontinued, and by
4 the applicant when it is not\$3.00
- 5 (p) Registration of licenses for professional persons required to register
6 with the county clerk\$10.00
- 7 (q) Certified copy of any record\$5.00
8 Plus fifty cents (\$.50) per page after three (3) pages
- 9 (r) Filing certification required by KRS 65.070(2)(a)\$5.00
- 10 (s) Filing notification and declaration and petition of candidates
11 for Commonwealth's attorney.....\$200.00
- 12 (t) Filing notification and declaration and petition of candidates for county
13 and independent boards of education\$20.00
- 14 (u) Filing notification and declaration and petition of candidates for
15 boards of soil and water conservation districts\$20.00
- 16 (v) Filing notification and declaration and petition of candidates for
17 other office\$50.00
- 18 (w) Filing declaration of intent to be a write-in candidate for office.....\$50.00
- 19 (x) Filing petitions for elections, other than nominating petitions\$50.00
- 20 (y) Notarizing any signature, per signature\$2.00
- 21 (z) Filing bond for receiving bodies under KRS 311.310\$10.00
- 22 (aa) Noting the assignment of a certificate of delinquency and recording
23 and indexing the encumbrance under KRS 134.126 or 134.127\$27.00
- 24 (ab) Filing a going-out-of-business permit under KRS 365.445\$50.00
- 25 (ac) Filing a renewal of a going-out-of-business permit under KRS 365.445 \$50.00
- 26 (ad) Filing and processing a transient merchant permit under KRS 365.680 ..\$25.00
- 27 (ae) Recording and indexing a real estate mortgage:

- 1 1. For a mortgage that does not exceed thirty (30) pages.....\$63.00
- 2 2. And, for a mortgage that exceeds thirty (30) pages, for each additional
- 3 page\$3.00
- 4 (af) Filing or recording a lien or release of lien by a consolidated local
- 5 government, urban-county government, unified local government, or city of
- 6 any class\$20.00
- 7 (2) The sixty-three dollar (\$63) fee imposed by subsection (1)(ae) of this section shall
- 8 be divided as follows:
- 9 (a) Fifty-seven dollars (\$57) shall be retained by the county clerk; and
- 10 (b) Six dollars (\$6) shall be paid to the affordable housing trust fund established
- 11 in KRS 198A.710 and shall be remitted by the county clerk within ten (10)
- 12 days following the end of the quarter in which the fee was received. Each
- 13 remittance to the affordable housing trust fund shall be accompanied by a
- 14 summary report on a form prescribed by the Kentucky Housing Corporation.
- 15 (3) (a) For services related to the permanent storage of records listed in paragraphs
- 16 (a), (g), (n), and (ae) of subsection (1) of this section, the clerk shall be
- 17 entitled to receive a reimbursement of ten dollars (\$10).
- 18 (b) In counties or a county containing an urban-county government, charter
- 19 county government, or unified local government:
- 20 1. This fee shall:
- 21 a. Not be paid annually to the fiscal court under KRS 64.152;
- 22 b. Not be paid to the Finance and Administration Cabinet under KRS
- 23 64.345;
- 24 c. Be accumulated and transferred to the fiscal court or the legislative
- 25 body of an urban-county government on a monthly basis within
- 26 ten (10) days following the end of the month;
- 27 d. Be maintained by the fiscal court or the legislative body of an

- 1 urban-county government in a separate bank account and
2 accounted for in a separate fund; and
- 3 e. Not lapse to the general fund of the county or urban-county
4 government.
- 5 2. The moneys accumulated from this fee shall be held in perpetuity by the
6 fiscal court or the legislative body of an urban-county government for
7 the county clerk's exclusive use for:
- 8 a. Equipment related to the permanent storage of and access to
9 records, including deed books, binders, shelves, microfilm
10 equipment, and fireproof equipment;
- 11 b. Hardware for the permanent storage of and access to records,
12 including computers, servers, and scanners;
- 13 c. Software for the permanent storage of and access to records,
14 including vendor services and consumer subscription fees;
- 15 d. Personnel costs for the permanent storage of and access to records,
16 including overtime costs for personnel involved in the digitization
17 of records; and
- 18 e. Cloud storage and cybersecurity services for the permanent storage
19 of and access to records.
- 20 3. Notwithstanding KRS 68.275, claims by a county clerk that are for the
21 approved expenditures in subparagraph 2. of this paragraph shall be paid
22 by the county judge/executive or the chief executive officer of an urban-
23 county government by a warrant drawn on the fund and co-signed by the
24 treasurer of the county or urban-county government.
- 25 4. No later than July 1 of each year, each county fiscal court or legislative
26 body of an urban-county government shall submit a report to the
27 Legislative Research Commission detailing the receipts, expenditures,

1 and any amounts remaining in the fund.

2 (c) In a county containing a consolidated local government:

3 1. The fee shall not:

4 a. Be paid to the Finance and Administration Cabinet under KRS
5 64.345; or

6 b. Lapse to the general fund of the consolidated local government.

7 2. The moneys accumulated from this fee shall be held in perpetuity by the
8 county clerk in a separate fund to be used exclusively for:

9 a. Equipment related to the permanent storage of and access to
10 records, including deed books, binders, shelves, microfilm
11 equipment, and fireproof equipment;

12 b. Hardware for the permanent storage of and access to records,
13 including computers, servers, and scanners;

14 c. Software for the permanent storage of and access to records,
15 including vendor services and consumer subscription fees;

16 d. Personnel costs for the permanent storage of and access to records,
17 including overtime costs for personnel involved in the digitization
18 of records; and

19 e. Cloud storage and cybersecurity services for the permanent storage
20 of and access to records.

21 3. No later than July 1 of each year, the county clerk shall submit a report
22 to the consolidated local government and the Legislative Research
23 Commission detailing the receipts, expenditures, and any amounts
24 remaining in the fund.

25 ➔Section 16. KRS 324B.050 is amended to read as follows:

26 (1) The Kentucky Real Estate Authority is hereby created within the Department of
27 Professional Licensing.

- 1 (2) The authority shall be managed by an executive director, who shall be appointed by
2 the secretary of the Public Protection Cabinet with prior written approval from the
3 Governor. The executive director shall be exempted from the classified service.
- 4 (3) The authority shall have the power and authority to:
- 5 (a) Provide appropriate attorneys, personnel staffing, and administrative support
6 to the Kentucky Real Estate Commission;
- 7 (b) Establish and maintain an office, meeting space, office supplies, furniture,
8 storage space, and any other supplies that are necessary to carry out the duties
9 of the authority and the Kentucky Real Estate Commission;
- 10 (c) Make available for public inspection all decisions, opinions, and
11 interpretations formulated or used by the authority and the Kentucky Real
12 Estate Commission in discharging its functions;
- 13 (d) Publicize the functions and purposes of the authority and the Kentucky Real
14 Estate Commission;
- 15 (e) Employ an administrative coordinator who shall carry out the administrative
16 functions and day-to-day operations of the Kentucky Real Estate Commission.
17 The administrative coordinator shall be exempted from the classified service~~;~~
18 ~~and~~
- 19 (f) Enter into agreements with any state agency, political subdivision of the state,
20 postsecondary education institution, or other person or entity to assist with
21 implementation of the duties and responsibilities of the authority or, upon
22 request, the Kentucky Real Estate Commission; and
- 23 (g) Promulgate administrative regulations to:
- 24 1. Prescribe forms for the submission of each remittance by a county
25 clerk to the heirs property research fund; and
- 26 2. Create and administer an application process for grants from the heirs
27 property research fund and issue grants from the fund;

1 *as required under Section 14 of this Act.*

2 ➔Section 17. KRS 381.135 is amended to read as follows:

3 (1) (a) As used in this subsection:

4 1. "Ownership interest in a closely held farm corporation or partnership"
5 means any interest in a farm with one (1) or more of the shareholders or
6 partners owning twenty percent (20%) or more of the corporation or
7 partnership.

8 2. "Farm" means a tract of at least five (5) contiguous acres used for the
9 production of agricultural or horticultural crops including, but not
10 limited to, livestock, livestock products, poultry, poultry products, grain,
11 hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables,
12 flowers, or ornamental plants, including provision for dwellings for
13 persons and their families who are engaged in the above agricultural use
14 on the tract, but not including residential building development for sale
15 or lease to the public.

16 (b) A person desiring a division of land held jointly with others, a person desiring
17 an allotment of dower or curtesy, or a person with an ownership interest of
18 twenty percent (20%) or more in a closely held farm corporation or
19 partnership may file in the Circuit Court of the county in which the land or the
20 greater part thereof lies a petition containing a description of the land, a
21 statement of the names of those having an interest in it, and the amount of
22 such interest, with a prayer for the division or allotment; and, thereupon, all
23 persons interested in the property who have not united in the petition shall be
24 summoned to answer not more than twenty (20) days after service of the
25 summons. The written evidences of the title to the land, or copies thereof, if
26 there be any, must be filed with the petition.

27 (2) The statutory guardian of an infant or guardian or conservator of a person adjudged

1 mentally disabled may file or unite in the petition, in the names of, and in
2 conjunction with such infant or mentally disabled person; and, if the petition be
3 against an infant or mentally disabled person the guardian or conservator may
4 appear and defend for them; if they fail to do so, the court shall appoint a discreet
5 person for that purpose.

6 (3) Upon such a petition by all interested in the property, or upon the expiration of
7 twenty (20) days after the service of a summons on all who have an interest in the
8 property and have not united in the petition, the court may order the division, or
9 allotment of dower or curtesy, according to the rights of the parties, except that if
10 the court determines that the property is heirs property under the Uniform
11 Partition of Heirs Property Act, then the partition or sale shall comply with
12 Sections 1 to 13 of this Act.

13 (4) The court shall appoint three (3) competent persons as commissioners to determine
14 the division or allotment of land, having a due regard for the rights of all parties
15 interested. Before proceeding to act, the commissioners shall take an oath to
16 discharge their duty impartially.

17 (5) The order of appointment shall fix a time and place for the meeting of the
18 commissioners who shall meet accordingly; but, if prevented from meeting at the
19 time and place so fixed, they may meet as soon thereafter as convenient, and may
20 adjourn to such other time and place as they may agree upon, until their duty shall
21 be performed.

22 (6) The commissioners shall equitably determine the allotment to the parties of their
23 respective interests in the land. A registered land surveyor shall perform the actual
24 survey of the land in accordance with the determination made by the
25 commissioners, and prepare the descriptions of the land, including all related maps,
26 plats, and documents, and he or she shall affix thereto his or her personal seal and
27 signature, unless such actual survey and the resultant description, maps, plats, and

1 documents pertaining to this land are already in existence. The commissioners shall
2 make report thereof to the court, which may either confirm, set aside, or remand the
3 report to the commissioners for correction.

4 (7) If the report be confirmed, a commissioner to be appointed for the purpose shall, by
5 deed, convey to each party the land allotted to him or her.

6 (8) If the report be confirmed by the Circuit Court, it, together with said surveyor's
7 descriptions, survey and all related documents, and the applicable deeds shall be
8 certified by the clerk of that court to the county clerk, for record.

9 (9) Two (2) of the commissioners may act, if one (1) refuses or fails to do so.

10 (10) A party summoned may, by answer, controvert the allegations of the petition or
11 contest the rights claimed therein; and, thereupon, the case shall be tried and
12 decided as an ordinary action, but without the intervention of a jury.

13 (11) The costs of the action shall be apportioned among the parties in the ratio of their
14 interests, except that the costs arising from a contest of fact or law shall be adjudged
15 against the unsuccessful party.

16 (12) No verification of the pleadings shall be required.

17 (13) The commissioners and the land surveyor shall be paid a reasonable compensation,
18 to be taxed as costs.

19 (14) This section shall not affect the jurisdiction of courts of equity to make partition or
20 allot dower or curtesy.

21 ➔Section 18. KRS 389A.030 is amended to read as follows:

22 (1) (a) When two (2) or more persons other than tenants by the entirety in residential
23 property actually occupied by them as a principal residence share title to real
24 estate in such manner that a conveyance by them jointly would pass a fee
25 simple title, any one (1) or more of them may bring an action for the sale or
26 division thereof in the Circuit Court of the county in which the land, or the
27 greater part thereof, lies, making parties defendant those owners who have not

1 joined as plaintiffs. A fiduciary possessing a power of sale may institute such
2 an action against owners of interests not represented by him or her. Defendant
3 owners shall be brought before the court in the manner provided by the civil
4 rules whether or not a fiduciary possesses a power of sale of the defendant's
5 interest, but any fiduciary possessing such a power shall also be made a
6 defendant. The case shall be tried without a jury.

7 **(b) This subsection shall not apply to property that the court determines is heirs**
8 **property under the Uniform Partition of Heirs Property Act. If the property**
9 **is heirs property, then the partition or sale shall comply with Sections 1 to**
10 **13 of this Act.**

11 (2) A defendant who is under disability and for whom no fiduciary is acting shall be
12 represented in the action by a guardian ad litem, but in the event of sale of such
13 defendant's interest the court shall retain control of the proceeds of such interest
14 until a duly appointed and adequately bonded fiduciary or custodian pursuant to a
15 court order makes claim to the funds.

16 (3) In all such actions indivisibility of the real estate shall be presumed unless an issue
17 in respect thereto is raised by the pleading of any party, and if the court is satisfied
18 from the evidence that the property is divisible, without materially impairing the
19 value of any interest therein, division thereof pursuant to KRS 381.135 shall be
20 ordered.

21 (4) If a sale of all or any part of the real estate shall be ordered, the court shall refer the
22 matter to the master commissioner or appoint a commissioner to conduct a public
23 sale and convey the property upon terms of sale and disposition of the net proceeds
24 as may have been determined by the court.

25 (5) The death of any party pending the action and prior to distribution of the proceeds
26 of sale or setting apart a divisible share shall not affect the action but the court may
27 direct distribution or apportionment to the successors in interest of the decedent

1 upon application therefor.

2 (6) If the interest of any party be one for life, or other term, in any portion of the real
3 estate, the court shall determine the value of such interest and direct that such party
4 receive a portion of the net sale proceeds or portion of the property if divisible, in
5 fee in satisfaction of such interest, but if any party to the action objects to such
6 procedure, and if the court finds that such procedure would defeat the objects and
7 purpose of a person not a party to the action, such as a testator, grantor or settlor,
8 but that sale or division is nevertheless desirable, the court shall order that the
9 interest of the life or term tenant shall continue as to his or her portion of the real
10 estate or the net proceeds of the sale thereof, in the latter case by directing that the
11 funds derived from the sale of that portion of the real estate in which the life or term
12 interest existed be paid to a trustee, appointed by and accountable to the District
13 Court, for reinvestment and distribution of income and principal in a manner
14 consistent with the instrument under which the life or term estate was created.