

1 AN ACT relating to the transfer of property upon 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 14 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 has a titled ownership interest in*  
10 *property concurrently with one (1) or more other individuals with a right of*  
11 *survivorship and includes joint tenants and tenants by the entirety. "Joint owner"*  
12 *does not include a tenant in common or owner of community property without a*  
13 *right of survivorship;*

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

18 *(5) "Proof of death" means a death certificate;*

19 *(6) "Property" means real property located in this state that is transferable on the*  
20 *death of the owner;*

21 *(7) "Transfer on death deed" means a deed authorized under Sections 1 to 14 of this*  
22 *Act; and*

23 *(8) "Transferor" means an individual who has a titled ownership interest in property*  
24 *and makes a transfer on death deed.*

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

27 *(1) An individual may transfer his or her titled ownership interest in property to one*

- 1       (1) or more beneficiaries effective at the transferor's death by a transfer on death  
2       deed.
- 3       (2) A transfer on death deed shall be revocable as provided under Section 3 of this  
4       Act even if the deed or another instrument contains a contrary provision.
- 5       (3) A transfer on death deed shall be nontestamentary and notwithstanding any other  
6       law to the contrary shall not be subject to the levy of any inheritance tax in this  
7       state.
- 8       (4) The capacity to make or revoke a transfer on death deed shall be the same as the  
9       capacity required to make a will.
- 10       (5) A transfer on death deed or an instrument revoking a transfer on death deed  
11       shall be void if it is obtained by fraud, duress, or undue influence.
- 12       (6) A transfer on death deed shall:
- 13               (a) Except as otherwise provided in this subsection, contain the required  
14               elements and formalities of a properly recordable deed under KRS 382.110;
- 15               (b) Designate one (1) or more persons, identified by name, as a designated  
16               beneficiary. A transfer on death deed that uses a beneficiary designation  
17               that only identifies beneficiaries as members of a class is void;
- 18               (c) If the transferor is married, contain a sworn statement by the transferor's  
19               spouse that the spouse's dower or curtesy rights are subordinate to the  
20               vesting of title to the real property or interest in the real property to the  
21               designated beneficiary at the time of transfer;
- 22               (d) Contain a sworn statement that the designated beneficiary or beneficiaries,  
23               and alternate beneficiaries, if any, have been given notice of the intent of  
24               the transferor to record the transfer on death deed;
- 25               (e) State that the transfer to the designated beneficiary is to occur at the  
26               transferor's death; and
- 27               (f) Shall be recorded in the record of deeds, and indexed in the general index

1           of deeds before the transferor's death in the name of the transferor as  
 2           grantor and in the name of each of the designated beneficiaries as grantees  
 3           in the office of the county clerk in the county where the property to be  
 4           transferred is located. A transfer on death deed that is not recorded before  
 5           the transferor's death is void.

6           (7) A transfer on death deed shall be effective without:

7           (a) Delivery to, or acceptance by, the designated beneficiary during the  
 8           transferor's life; or

9           (b) Consideration.

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

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

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

17           (b) A written instrument of revocation that expressly revokes the transfer on  
 18           death deed or part of the transfer on death deed;

19           (c) A deed that expressly revokes the transfer on death deed or part of the deed;  
 20           or

21           (d) Any deed that transfers an interest in property that is the subject of a  
 22           transfer on death deed;

23           and is acknowledged by the transferor after the acknowledgment of the deed  
 24           being revoked, and recorded before the transferor's death in the record of deeds  
 25           in the office of the county clerk in the county where the deed is recorded.

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

27           (a) Revocation by one (1) transferor shall not affect the deed as to the interest

1                   of another transferor; and  
 2                   (b) A deed of joint owners is revoked only if it is revoked by all of the living  
 3                   joint owners.

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

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

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

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

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

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

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

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

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

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

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

24 (1) Except as otherwise provided in the transfer on death deed in this section, Section  
 25 17 of this Act, or KRS 394.092, on the death of the transferor, the following shall  
 26 apply to the property that is the subject of a transfer on death deed and owned by  
 27 the transferor at death:

- 1        (a) The interest in the property is transferred to the designated beneficiary in  
2        accordance with the deed;
- 3        (b) The interest of a designated beneficiary is contingent on the designated  
4        beneficiary surviving the transferor in accordance with KRS 397.1002, and  
5        the interest of a designated beneficiary that fails to survive the transferor  
6        lapses;
- 7        (c) Subject to paragraphs (d) and (e) of this subsection, concurrent interests are  
8        transferred to the beneficiaries in equal and undivided shares with no right  
9        of survivorship;
- 10       (d) If the transferor has identified two (2) or more designated beneficiaries to  
11       receive concurrent interests in the property and the transferor has not  
12       named an alternate designated beneficiary under paragraph (e) of this  
13       subsection for the share of a designated beneficiary that lapses or fails for  
14       any reason, the lapsing or failing share shall be transferred to the other  
15       remaining designated beneficiaries in proportion to the interest of each  
16       remaining beneficiary in the remaining part of the property held  
17       concurrently; and
- 18       (e) The transferor may identify one (1) or more alternate designated  
19       beneficiaries by name to take the share of a designated beneficiary that  
20       lapses or fails for any reason.
- 21       (2) Subject to KRS 382.110, a beneficiary shall take the property subject to all  
22       conveyances, encumbrances, assignments, contracts, mortgages, liens, unpaid  
23       property taxes, and other interests to which the property is subject at the  
24       transferor's death. For purposes of this subsection and KRS 382.110, the  
25       recording of the transfer on death deed to the beneficiary shall be deemed to have  
26       occurred at the transferor's death.
- 27       (3) If the transferor is a joint owner and is:

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

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

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

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

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

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

15 (2) A proceeding to enforce the liability under this section shall be commenced not  
 16 later than the time established under KRS 396.011. A proceeding to enforce the  
 17 liability under subsection (1) of this section shall not be commenced unless the  
 18 personal representative of the transferor's estate has received a written demand  
 19 by the surviving spouse, a creditor, a child of the decedent, or a person acting for  
 20 a child of the decedent.

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

23 (1) The following form may be used to create a transfer on death deed under  
 24 Sections 1 to 14 of this Act. The Department of Revenue shall prescribe this form  
 25 and make the form available on its website. Each county clerk shall provide a link  
 26 on its website to the form on the website of the Department of Revenue to effect a  
 27 transfer on death deed.

1 (2) Sections 1 to 14 of this Act shall govern the effect of this or any other instrument  
2 used to create a transfer on death deed:

3 (front of form)

4 REVOCABLE TRANSFER ON DEATH DEED

5 NOTICE TO OWNER

6 You should carefully read all information on the other side of this form. You may  
7 want to consult a lawyer before using this form.

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

9 IDENTIFYING INFORMATION

10 Owner or Owners Making This Deed:

11 \_\_\_\_\_

12 Printed name \_\_\_\_\_ Mailing address

13 \_\_\_\_\_

14 Printed name \_\_\_\_\_ Mailing address

15 \_\_\_\_\_

16 Legal description, including parcel number, and source of title of the property,  
17 and any additional requirements of KRS 382.335:

18 \_\_\_\_\_

19 \_\_\_\_\_

20 PRIMARY BENEFICIARY

21 I designate the following beneficiary or beneficiaries if the beneficiary survives  
22 me:

23 \_\_\_\_\_

24 \_\_\_\_\_

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

26 \_\_\_\_\_

27 \_\_\_\_\_

1 **ALTERNATE BENEFICIARY – Optional**

2 **If my primary beneficiary does not survive me, I designate the following alternate**  
3 **beneficiary or beneficiaries if that beneficiary survives me:**

4 \_\_\_\_\_

5 **Printed name** \_\_\_\_\_ **Mailing address, if available**

6 \_\_\_\_\_

7 **TRANSFER ON DEATH**

8 **At my death, I transfer my interest in the described property to the beneficiaries**  
9 **as designated above.**

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

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

12 \_\_\_\_\_

13 **Signature** \_\_\_\_\_ **Date**

14 \_\_\_\_\_

15 **Signature** \_\_\_\_\_ **Date**

16 **ACKNOWLEDGMENT**

17 **State of:** \_\_\_\_\_

18 **County of:** \_\_\_\_\_

19 **The foregoing Transfer of Death Deed was acknowledged before me this** \_\_\_\_\_ **day of**  
20 **, 20** \_\_\_\_\_ **, by** \_\_\_\_\_ **.**

21 \_\_\_\_\_

22 **NAME OF OFFICER**

23 \_\_\_\_\_

24 **TITLE**

25 **(back of form)**

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

27 **1. What does the Transfer on Death (TOD) deed do? When you die, this deed**

1 transfers the described property, subject to any liens or mortgages or other  
2 encumbrances on the property at your death. Probate is not required. The TOD deed  
3 has no effect until you die. You can revoke it at any time. You are also free to transfer  
4 the property to someone else during your lifetime. If you do not own any interest in the  
5 property when you die, this deed will have no effect.

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

10 3. Is the "legal description" and "source of title" of the property necessary?  
11 Yes.

12 4. How do I find the "legal description" and "source of title" of the property?  
13 This information may be on the deed you received when you became an owner of the  
14 property. This information may also be available in the county clerk's office for the  
15 county where the property is located. If you are not absolutely sure, consult an  
16 attorney.

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

20 6. How do I "record" the TOD deed? Take the completed and acknowledged  
21 form to the county clerk's office of the county where the property is located. Follow the  
22 instructions given by the county clerk to make the form part of the official property  
23 records and pay the required recording fee. If the property is in more than one county  
24 you should record the deed in each county and will be required to pay the recording fee  
25 in each county.

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

1 deed.

2 8. How do I revoke the TOD deed after it is recorded? There are three ways to  
 3 revoke a recorded TOD deed: (1) Complete and acknowledge a revocation of transfer  
 4 on death deed form, pay the recording fee, and record it in each county where the  
 5 property is located. (2) Complete and acknowledge a new TOD deed that disposes of the  
 6 same property, pay the recording fee, and record it in each county where the property is  
 7 located. (3) Transfer the property to someone else during your lifetime by a recorded  
 8 deed. You may not revoke the TOD deed by will or codicil.

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

12 10. Do I need to tell the beneficiaries about the TOD deed? Yes. Secrecy can  
 13 cause later complications and might make it easier for others to commit fraud.  
 14 Advising the beneficiaries of the TOD deed, however, does not change your ability to  
 15 revoke the TOD deed at a later date if you want to do so.

16 11. I have other questions about this form. What should I do? This form is  
 17 designed to fit some but not all situations. If you have other questions, you are  
 18 encouraged to consult an attorney.

19 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO  
 20 READ AS FOLLOWS:

21 (1) The following form may be used to create an instrument of revocation under  
 22 Sections 1 to 14 of this Act. The Department of Revenue shall prescribe this form  
 23 and make the form available on its website. Each county clerk shall provide a link  
 24 on its website to the form on the website of the Department of Revenue to revoke  
 25 a transfer on death deed.

26 (2) Sections 1 to 14 of this Act shall govern the effect of this or any other instrument  
 27 used to revoke a transfer on death deed:

1  
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(front of form)

**REVOCATION OF TRANSFER ON DEATH DEED**

**NOTICE TO OWNER**

*This revocation must be recorded before you die or it will not be effective. This revocation is effective only as to the interests in the property of owners who sign this revocation.*

**IDENTIFYING INFORMATION**

**Owner or Owners of Property Making This Revocation:**

\_\_\_\_\_

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

\_\_\_\_\_

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

**Source of title of the property:**

\_\_\_\_\_

**Book number and page number of the transfer on death deed that is being revoked:** \_\_\_\_\_

**REVOCATION**

**I revoke all my previous transfers of this property by transfer on death deed.**

**SIGNATURE OF OWNER OR OWNERS MAKING THIS REVOCATION**

\_\_\_\_\_

Signature \_\_\_\_\_ Date

\_\_\_\_\_

Signature \_\_\_\_\_ Date

**ACKNOWLEDGMENT**

**State of:** \_\_\_\_\_

**County of:** \_\_\_\_\_

**The foregoing revocation of a transfer on death deed was acknowledged before this**

1  day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_.

2 \_\_\_\_\_

3 **NAME OF OFFICER**

4 \_\_\_\_\_

5 **TITLE**

6 (back of form)

7 **1. How do I use this form to revoke a Transfer on Death (TOD) deed?**  
8 **Complete this form. Have it acknowledged before a notary public or other individual**  
9 **authorized to take acknowledgments. Record the form in the public records in the**  
10 **county clerk's office of each county where the property is located. The form must be**  
11 **acknowledged and recorded before your death or it has no effect.**

12 **2. How do I find the "source of title" of the property? This information will be**  
13 **on the TOD deed. It may also be available in the county clerk's office for the county**  
14 **where the property is located. If you are not absolutely sure, consult an attorney.**

15 **3. How do I "record" the form? Take the completed and acknowledged form**  
16 **to the county clerk's office of the county where the property is located. Follow the**  
17 **instructions given by the county clerk to make the form part of the official property**  
18 **records and pay the required fee. If the property is located in more than one county,**  
19 **you should record the form in each of those counties.**

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

23 **5. I have other questions about this form. What should I do? This form is**  
24 **designed to fit some but not all situations. If you have other questions, consult an**  
25 **attorney.**

26 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO  
27 READ AS FOLLOWS:

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

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

6 *The provisions of Sections 1 to 14 of this Act modify, limit, and supersede the Federal*  
 7 *Electronic Signatures in Global and National Commerce Act, 15 U.S.C. sec. 7001 et*  
 8 *seq., but do not modify, limit, or supersede Section 101(c) of that Act, 15 U.S.C. sec.*  
 9 *7001(c), or authorize electronic delivery of any of the notices described in Section*  
 10 *103(b) of that Act, 15 U.S.C. sec. 7003(b).*

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

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

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

17 *(1) As used in this section:*

18       *(a) "Department" means the Department for Medicaid Services or its designee;*

19       *(b) "Estate" means all:*

20               *1. Real and personal property or other assets owned by the transferor of*  
 21               *the transfer on death deed that would be included as probate property*  
 22               *under the laws of this state; and*

23               *2. Other real and personal property or other assets in which the*  
 24               *transferor of the transfer on death deed had legal title or interest at the*  
 25               *time of death, to the extent of the recipient's interest, including assets*  
 26               *conveyed to a survivor, heir, or assign of the deceased recipient*  
 27               *through joint tenancy, tenancy in common, survivorship, life estate,*

- 1                   living trust, or other arrangement; and
- 2           (c) "Medicaid estate recovery program" means that program instituted
- 3                   pursuant to 42 U.S.C. sec. 1396p.
- 4   (2) The commissioner of the department shall prescribe a form on which a
- 5           beneficiary of a transfer on death deed who survives the deceased transferor of
- 6           the real property or an interest in the real property that is in existence on the date
- 7           of death of the deceased transferor, or that beneficiary's representative, is to
- 8           indicate both of the following:
- 9           (a) Which of the following applies to the deceased transferor:
- 10                  1. The deceased transferor had been a Medicaid recipient;
- 11                  2. The deceased transferor had not been a Medicaid recipient; or
- 12                  3. The beneficiary or representative does not know whether the deceased
- 13                           transferor had ever been a Medicaid recipient; and
- 14           (b) If the spouse of the deceased transferor died before the owner died, which
- 15                           of the following applied to the deceased spouse:
- 16                  1. The predeceased spouse had been a Medicaid recipient;
- 17                  2. The predeceased spouse had never been a Medicaid recipient; or
- 18                  3. The beneficiary or representative does not know whether the
- 19                           predeceased spouse had ever been a Medicaid recipient.
- 20   (3) The department shall make the form required under subsection (2) of this section
- 21           available on its website and shall provide copies to the property valuation
- 22           administrator in each county. The property valuation administrator shall provide
- 23           a copy of the form to a beneficiary of a transfer on death deed or to the
- 24           beneficiary's representative upon presentation of the proof of death of the
- 25           transferor. A beneficiary or beneficiary's representative shall submit a copy of the
- 26           properly completed form to the department if the beneficiary or representative
- 27           indicates any of the following on the form:

1        (a) That the deceased transferor had been a Medicaid recipient or that the  
 2        beneficiary or representative does not know whether the deceased transferor  
 3        had ever been a Medicaid recipient; or

4        (b) That the predeceased spouse of the deceased transferor had been a  
 5        Medicaid recipient or that the beneficiary or representative does not know  
 6        whether the predeceased spouse had ever been a Medicaid recipient.

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

9        Sections 1 to 14 of this Act shall apply to a transfer on death deed made before, on, or  
 10       after the effective date of this Act by a transferor dying on or after the effective date of  
 11       this Act.

12       ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 391 IS CREATED TO  
 13       READ AS FOLLOWS:

14       Sections 1 to 14 of this Act may be cited as the Uniform Real Property Transfer on  
 15       Death Act.

16       ➔Section 15. KRS 142.050 is amended to read as follows:

17       (1) As used in this section, unless the context otherwise requires:

18       (a) "Deed" means any document, instrument, or writing other than a will, ~~and~~  
 19       ~~other than a~~ lease, or easement, regardless of where made, executed, or  
 20       delivered, by which any real property in Kentucky, or any interest in the  
 21       property~~[therein]~~, is conveyed, vested, granted, bargained, sold, transferred,  
 22       or assigned; and~~[.]~~

23       (b) "Value" means:

24       1. In the case of any deed not a gift, the amount of the full actual  
 25       consideration~~[therefor,]~~ paid or to be paid, including the amount of any  
 26       lien or liens on the property~~[thereon]~~; and

27       2. In the case of a gift, or any deed with nominal consideration or without

1           stated consideration, the estimated price the property would bring in an  
2           open market and under the then prevailing market conditions in a sale  
3           between a willing seller and a willing buyer, both conversant with the  
4           property and with prevailing general price levels.

5       (2) A tax upon the grantor named in the deed shall be imposed at the rate of fifty cents  
6       (\$0.50) for each five hundred dollars (\$500)~~[\$500]~~ of value or fraction thereof,  
7       which value is declared in the deed upon the privilege of transferring title to real  
8       property.

9       (3) (a) If any deed evidencing a transfer of title subject to the tax~~[herein]~~ imposed in  
10       subsection (2) of this section is offered for recordation, the county clerk shall  
11       ascertain and compute the amount of the tax due thereon and shall collect the  
12       amount as prerequisite to acceptance of the deed for recordation.

13       (b) The amount of tax shall be computed on the basis of the value of the  
14       transferred property as set forth in the deed.

15       (c) The tax required to be levied by this section shall be collected only once on  
16       each transaction and in the county in which the deed is required to be recorded  
17       by KRS 382.110(1).

18       (4) The county clerk shall collect the amount due and certify the date of payment and  
19       the amount of collection on the deed. The county clerk shall retain five percent  
20       (5%) as his or her fee for collection and remit the balance every three (3) months to  
21       the county treasurer, who shall deposit the money in the county general fund.

22       (5) The Department of Revenue may prescribe regulations necessary to carry out the  
23       purposes of this section.

24       (6) Any county clerk who willfully records~~[shall record]~~ any deed upon which a tax is  
25       imposed by this section without collecting the proper amount of tax and certifying  
26       the date and amount of collection on the deed as required by this section based on  
27       the declared value indicated in the affidavit appended to the deed shall, upon

1 conviction, be fined fifty dollars (\$50)~~[\$50]~~ for each offense.

2 (7) The tax imposed by this section shall not apply to a transfer of title:

3 (a) Recorded prior to March 27, 1968;

4 (b) To, in the event of a deed of gift or deed with nominal consideration, or from  
5 the United States of America, this state, any city or county within this state, or  
6 any instrumentality, agency, or subdivision of this state, city, or county  
7 within this state~~hereof~~;

8 (c) Solely in order to provide or release security for a debt or obligation;

9 (d) Which confirms or corrects a deed previously recorded;

10 (e) Between husband and wife, or between former spouses as part of a divorce  
11 proceeding;

12 (f) On sale for delinquent taxes or assessments;

13 (g) On partition;

14 (h) Pursuant to:

15 1. Merger or consolidation between and among corporations, partnerships,  
16 limited partnerships, or limited liability companies; or

17 2. Any conversion of a partnership, limited partnership, corporation, or  
18 limited liability company into a partnership, limited partnership,  
19 corporation, or limited liability company;

20 (i) Between a subsidiary corporation and its parent corporation for no  
21 consideration, nominal consideration, or in sole consideration of the  
22 cancellation or surrender of either corporation's stock;

23 (j) 1. Under a foreclosure proceeding; or

24 2. Pursuant to a voluntary surrender under a mortgage in lieu of a  
25 foreclosure proceeding;

26 (k) Between a person and a corporation, partnership, limited partnership or  
27 limited liability company in an amount equal to the portion of the value of the

1 real property transferred that represents the proportionate interest of the  
 2 transferor of the property in the entity to which the property was transferred, if  
 3 the transfer was for nominal consideration;

4 (l) Between parent and child or grandparent and grandchild, with only nominal  
 5 consideration therefor;

6 (m) By a corporation, partnership, limited partnership, or limited liability  
 7 company to a person as owner or shareholder of the entity, upon dissolution of  
 8 the entity, in an amount equal to the portion of the value of the real property  
 9 transferred that represents the proportionate interest of the person to whom the  
 10 property was transferred, if the transfer was for nominal consideration;

11 (n) Between a trustee and a successor trustee;~~and~~

12 (o) Between a limited liability company and any of its members; **and**

13 **(p) Pursuant to a transfer on death deed.**

14 (8) The tax imposed by subsection (2) of this section shall not apply to transfers to a  
 15 trustee, to be held in trust, or from a trustee to a beneficiary of the trust if:

16 (a) The grantor is the sole beneficiary of the trust;

17 (b) The grantor is a beneficiary of the trust and a direct transfer from the grantor  
 18 of the trust to all other individual beneficiaries of the trust would have  
 19 qualified for an exemption from the tax pursuant to one (1) of the provisions  
 20 of subsection (7) of this section; or

21 (c) A direct transfer from the grantor of the trust to all other individual  
 22 beneficiaries of the trust would have qualified for an exemption from the tax  
 23 pursuant to one (1) of the provisions of subsection (7) of this section.

24 (9) As used in this section, "trust" shall have the same definition as contained in KRS  
 25 386B.1-010.

26 ➔Section 16. KRS 64.012 is amended to read as follows:

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

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

- 1                                   except a military discharge;
- 2                                   w. Will or other probate document pursuant to KRS Chapter 392 or
- 3                                   394;
- 4                                   x. Court ordered name change pursuant to KRS Chapter 401;
- 5                                   y. Land use restriction according to KRS 100.3681;~~and~~
- 6                                   z. **Revocable transfer on death deed;**
- 7                                   **aa. Revocation of transfer on death deed; and**
- 8                                   **ab.** Filing with statutory authority for which no specific fee is set;~~and~~
- 9                                   For all items in this **paragraph**~~[subsection]~~ if the entire thereof
- 10                                   does not exceed
- 11                                   five (5) pages .....\$33.00
- 12                                   And, for all items in this **paragraph**~~[subsection]~~ exceeding five (5)
- 13                                   pages,
- 14                                   for each additional page .....\$3.00
- 15                                   And, for all items in this **paragraph**~~[subsection]~~ for each
- 16                                   additional reference
- 17                                   relating to same instrument .....\$4.00
- 18                                   2. The thirty-three dollar (\$33) fee imposed by this **paragraph**~~[subsection]~~
- 19                                   shall be divided as follows:
- 20                                   a. Twenty-seven dollars (\$27) shall be retained by the county clerk;
- 21                                   and
- 22                                   b. Six dollars (\$6) shall be paid to the affordable housing trust fund
- 23                                   established in KRS 198A.710 and shall be remitted by the county
- 24                                   clerk within ten (10) days following the end of the quarter in
- 25                                   which the fee was received. Each remittance to the affordable
- 26                                   housing trust fund shall be accompanied by a summary report on a
- 27                                   form prescribed by the Kentucky Housing Corporation.

- 1 (b) For noting a security interest on a certificate of title pursuant to
- 2 KRS Chapter 186A .....\$12.00
- 3 (c) For filing the release of collateral under a financing statement
- 4 and noting same upon the face of the title pursuant to KRS Chapter
- 5 186 or 186A .....\$5.00
- 6 (d) Filing or recording state tax or other state liens .....\$5.00
- 7 (e) Filing release of a state tax or other state lien .....\$5.00
- 8 (f) Acknowledging or notarizing any deed, mortgage, power of attorney,
- 9 or other written instrument required by law for recording and certifying
- 10 same .....\$5.00
- 11 (g) Recording plats, maps, and surveys, not exceeding 24 inches by
- 12 36 inches, per page .....\$40.00
- 13 (h) Recording a bond, for each bond .....\$10.00
- 14 (i) Each bond required to be taken or prepared by the clerk .....\$4.00
- 15 (j) Copy of any bond when ordered .....\$3.00
- 16 (k) Administering an oath and certificate thereof .....\$5.00
- 17 (l) Issuing a license for which no other fee is fixed by law .....\$8.00
- 18 (m) Issuing a solicitor's license .....\$15.00
- 19 (n) Marriage license, indexing, recording, and issuing certificate thereof ....\$26.50
- 20 (o) Every order concerning the establishment, changing, closing, or
- 21 discontinuing of roads, to be paid out of the county levy when
- 22 the road is established, changed, closed, or discontinued, and by
- 23 the applicant when it is not .....\$3.00
- 24 (p) Registration of licenses for professional persons required to register
- 25 with the county clerk .....\$10.00
- 26 (q) Certified copy of any record .....\$5.00
- 27 Plus fifty cents (\$.50) per page after three (3) pages

- 1 (r) Filing certification required by KRS 65.070(2)(a) .....\$5.00
- 2 (s) Filing notification and declaration and petition of candidates
- 3 for Commonwealth's attorney.....\$200.00
- 4 (t) Filing notification and declaration and petition of candidates for county
- 5 and independent boards of education .....\$20.00
- 6 (u) Filing notification and declaration and petition of candidates for
- 7 boards of soil and water conservation districts .....\$20.00
- 8 (v) Filing notification and declaration and petition of candidates for
- 9 other office .....\$50.00
- 10 (w) Filing declaration of intent to be a write-in candidate for office .....\$50.00
- 11 (x) Filing petitions for elections, other than nominating petitions .....\$50.00
- 12 (y) Notarizing any signature, per signature .....\$2.00
- 13 (z) Filing bond for receiving bodies under KRS 311.310 .....\$10.00
- 14 (aa) Noting the assignment of a certificate of delinquency and recording
- 15 and indexing the encumbrance under KRS 134.126 or 134.127 .....\$27.00
- 16 (ab) Filing a going-out-of-business permit under KRS 365.445 .....\$50.00
- 17 (ac) Filing a renewal of a going-out-of-business permit under KRS 365.445 \$50.00
- 18 (ad) Filing and processing a transient merchant permit under KRS 365.680 . \$25.00
- 19 (ae) Recording and indexing a real estate mortgage:
- 20 1. For a mortgage that does not exceed thirty (30) pages.....\$63.00
- 21 2. And, for a mortgage that exceeds thirty (30) pages, for each additional
- 22 page .....\$3.00
- 23 (af) Filing or recording a lien or release of lien by a consolidated local
- 24 government, urban-county government, unified local government, or city of
- 25 any class .....\$20.00
- 26 (2) The sixty-three dollar (\$63) fee imposed by subsection (1)(ae) of this section shall
- 27 be divided as follows:

- 1 (a) Fifty-seven dollars (\$57) shall be retained by the county clerk; and
- 2 (b) Six dollars (\$6) shall be paid to the affordable housing trust fund established
- 3 in KRS 198A.710 and shall be remitted by the county clerk within ten (10)
- 4 days following the end of the quarter in which the fee was received. Each
- 5 remittance to the affordable housing trust fund shall be accompanied by a
- 6 summary report on a form prescribed by the Kentucky Housing Corporation.
- 7 (3) (a) For services related to the permanent storage of records listed in paragraphs
- 8 (a), (g), (n), and (ae) of subsection (1) of this section, the clerk shall be
- 9 entitled to receive a reimbursement of ten dollars (\$10).
- 10 (b) In counties or a county containing an urban-county government, charter
- 11 county government, or unified local government:
- 12 1. This fee shall:
- 13 a. Not be paid annually to the fiscal court under KRS 64.152;
- 14 b. Not be paid to the Finance and Administration Cabinet under KRS
- 15 64.345;
- 16 c. Be accumulated and transferred to the fiscal court or the legislative
- 17 body of an urban-county government on a monthly basis within
- 18 ten (10) days following the end of the month;
- 19 d. Be maintained by the fiscal court or the legislative body of an
- 20 urban-county government in a separate bank account and
- 21 accounted for in a separate fund; and
- 22 e. Not lapse to the general fund of the county or urban-county
- 23 government.
- 24 2. The moneys accumulated from this fee shall be held in perpetuity by the
- 25 fiscal court or the legislative body of an urban-county government for
- 26 the county clerk's exclusive use for:
- 27 a. Equipment related to the permanent storage of and access to

- 1 records, including deed books, binders, shelves, microfilm  
2 equipment, and fireproof equipment;
- 3 b. Hardware for the permanent storage of and access to records,  
4 including computers, servers, and scanners;
- 5 c. Software for the permanent storage of and access to records,  
6 including vendor services and consumer subscription fees;
- 7 d. Personnel costs for the permanent storage of and access to records,  
8 including overtime costs for personnel involved in the digitization  
9 of records; and
- 10 e. Cloud storage and cybersecurity services for the permanent storage  
11 of and access to records.
- 12 3. Notwithstanding KRS 68.275, claims by a county clerk that are for the  
13 approved expenditures in subparagraph 2. of this paragraph shall be paid  
14 by the county judge/executive or the chief executive officer of an urban-  
15 county government by a warrant drawn on the fund and co-signed by the  
16 treasurer of the county or urban-county government.
- 17 4. No later than July 1 of each year, each county fiscal court or legislative  
18 body of an urban-county government shall submit a report to the  
19 Legislative Research Commission detailing the receipts, expenditures,  
20 and any amounts remaining in the fund.
- 21 (c) In a county containing a consolidated local government:
- 22 1. The fee shall not:
- 23 a. Be paid to the Finance and Administration Cabinet under KRS  
24 64.345; or
- 25 b. Lapse to the general fund of the consolidated local government.
- 26 2. The moneys accumulated from this fee shall be held in perpetuity by the  
27 county clerk in a separate fund to be used exclusively for:

- 1 a. Equipment related to the permanent storage of and access to  
 2 records, including deed books, binders, shelves, microfilm  
 3 equipment, and fireproof equipment;
- 4 b. Hardware for the permanent storage of and access to records,  
 5 including computers, servers, and scanners;
- 6 c. Software for the permanent storage of and access to records,  
 7 including vendor services and consumer subscription fees;
- 8 d. Personnel costs for the permanent storage of and access to records,  
 9 including overtime costs for personnel involved in the digitization  
 10 of records; and
- 11 e. Cloud storage and cybersecurity services for the permanent storage  
 12 of and access to records.
- 13 3. No later than July 1 of each year, the county clerk shall submit a report  
 14 to the consolidated local government and the Legislative Research  
 15 Commission detailing the receipts, expenditures, and any amounts  
 16 remaining in the fund.

17 ➔Section 17. KRS 381.280 is amended to read as follows:

- 18 (1) If the husband, wife, heir-at-law, beneficiary under a will, joint tenant with the right  
 19 of survivorship, **beneficiary under a transfer on death deed**, or the beneficiary  
 20 under any insurance policy takes the life of the decedent or victimizes the decedent  
 21 by the commission of any felony under KRS Chapter 209 and in either  
 22 circumstance is convicted **of the offense**~~therefor~~, the person~~[-so]~~ convicted  
 23 forfeits all interest in and to the property of the decedent, including any interest he  
 24 or she would receive as surviving joint tenant, and the property interest or insurable  
 25 interest~~[-so]~~ forfeited descends to the decedent's other heirs-at-law, beneficiaries, or  
 26 joint tenants, unless otherwise disposed of by the decedent. A judge sentencing a  
 27 person for **an**~~a~~ offense that triggers a forfeiture under this section shall inform the

1 defendant of the provisions of this section at sentencing.

2 (2) A forfeiture under subsection (1) of this section:

3 (a) Shall not apply in cases involving the commission of any felony under KRS  
4 Chapter 209 where the will, deed, or insurance policy was executed prior to  
5 January 1, 2012;

6 (b) Shall not apply in cases where the decedent, with knowledge of the person's  
7 disqualification, reaffirmed the right of the husband, wife, heir-at-law,  
8 beneficiary under a will, joint tenant with the right of survivorship, transfer  
9 on death deed beneficiary, or insurance policy beneficiary to receive the  
10 property by executing a new or modified will or codicil, insurance policy or  
11 policy modification, transfer on death deed, or deed; and

12 (c) Shall not apply in cases of a felony under KRS Chapter 209 committed prior  
13 to January 1, 2012.

14 (3) If, after the provisions of this section are applied, there are no other heirs-at-law,  
15 beneficiaries, or joint tenants of the decedent as to all or part of the interest  
16 forfeited, the forfeited interest shall escheat to the state under KRS Chapter 393.  
17 The Department of the Treasury shall, after liquidation of the interest, pay the  
18 proceeds into the elder and vulnerable adult victims trust fund established in KRS  
19 41.305.

20 ➔Section 18. KRS 382.135 is amended to read as follows:

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

23 (a) The full name of the grantor and grantee;

24 (b) The mailing addresses of the grantor and grantee;

25 (c) A statement of the full consideration;

26 (d) A statement indicating the in-care-of address to which the property tax bill for  
27 the year in which the property is transferred may be sent; and

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

- 1 (a) The names and addresses of the persons receiving each property passing by  
2 will or intestate succession; and
- 3 (b) The full or fair market value of each property as estimated or established for  
4 any purpose in the handling of the estate, or a statement that no such values  
5 were estimated or established.
- 6 (5) No county clerk or deputy clerk shall lodge for record, and no county clerk or  
7 deputy shall receive and permit to be lodged for record, any deed that does not  
8 comply with the provisions of this section.
- 9 (6) For purposes of subsection (1)(a) of this section, the full name of the grantor and  
10 grantee shall be determined as follows:
- 11 (a) As provided in KRS 355.9-503(1);~~or~~
- 12 (b) For a business entity, it shall be synonymous with its real name determined as  
13 provided in KRS 365.015(1)(b) and (c); or
- 14 (c) For an individual, his or her surname and his or her first personal name or  
15 initial, middle personal name or names, or initial or initials, or any  
16 combination thereof that includes the individual's surname.
- 17 (7) The receipt for record and recording of any instrument by the county clerk not in  
18 compliance with this section shall not prevent the record of filing of the instrument  
19 from becoming notice as otherwise provided by law, nor impair the admissibility of  
20 the record as evidence.
- 21 ➔Section 19. KRS 391.360 is amended to read as follows:
- 22 (1) A written provision for a nonprobate transfer on death in an insurance policy,  
23 contract of employment, bond, mortgage, promissory note, certified or uncertified  
24 security account agreement, custodial agreement, deposit agreement, compensation  
25 plan, pension plan, individual retirement plan, employee benefit plan, trust,  
26 conveyance, deed of gift, marital property agreement, **transfer on death deed**, or  
27 other written instrument of a similar nature is nontestamentary. These written

1 provisions shall include~~[,]~~ but not be limited to~~[,]~~ written provisions which provide  
2 that:

- 3 (a) Money or other benefits due to, controlled, or owned by a decedent before  
4 death shall be paid after the decedent's death to a person whom the decedent  
5 designates either in the instrument or in a separate writing, including a will,  
6 executed before, at the same time, or after the instrument is executed;
- 7 (b) Money due or to become due under the instrument shall cease to be payable in  
8 the event of the death of the promisee or the promissor before payment or  
9 demand; or
- 10 (c) Any property, controlled by or owned by the decedent before death, which is  
11 the subject of the instrument shall pass to a person the decedent designates  
12 either in the instrument or in a separate writing, including a will, executed  
13 before, at the same time, or after the instrument is executed.

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

15 ➔Section 20. KRS 392.020 is amended to read as follows:

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

27 ➔Section 21. KRS 392.070 is amended to read as follows:

1 When a surviving spouse recovers dower or curtesy against the heir or devisee or  
 2 purchaser from the decedent, or from a beneficiary under Sections 1 to 14 of this Act,  
 3 the dower or curtesy shall be according to the value of the estate when received by the  
 4 heir, devisee, beneficiary, or purchaser, and shall not include, in the estimated value, any  
 5 permanent improvements which the heir, devisee, beneficiary, or purchaser has made on  
 6 the land. Against the heir, ~~or~~ devisee, beneficiary, or his or her alienee the surviving  
 7 spouse's claim for rent shall not exceed rent for five (5) years before the action, and  
 8 against a purchaser from the decedent the surviving spouse's claim shall be only from the  
 9 commencement of the action. In either case it shall continue up to final recovery. If, after  
 10 action has been brought, the surviving spouse or tenant dies before recovery, the rent may  
 11 be recovered by the surviving spouse's representative or against the tenant's heirs,  
 12 devisees, and representatives.

13 ➔Section 22. KRS 403.190 is amended to read as follows:

- 14 (1) In a proceeding for dissolution of the marriage or for legal separation, or in a  
 15 proceeding for disposition of property following dissolution of the marriage by a  
 16 court which lacked personal jurisdiction over the absent spouse or lacked  
 17 jurisdiction to dispose of the property, the court shall assign each spouse's property  
 18 to him or her. It also shall divide the marital property without regard to marital  
 19 misconduct in just proportions considering all relevant factors including:
- 20 (a) Contribution of each spouse to acquisition of the marital property, including  
 21 contribution of a spouse as homemaker;
- 22 (b) Value of the property set apart to each spouse;
- 23 (c) Duration of the marriage; and
- 24 (d) Economic circumstances of each spouse when the division of property is to  
 25 become effective, including the desirability of awarding the family home or  
 26 the right to live therein for reasonable periods to the spouse having custody of  
 27 any children.

- 1 (2) For the purpose of this chapter, "marital property" means all property acquired by  
2 either spouse subsequent to the marriage except:
- 3 (a) Property acquired by gift, bequest, devise, or descent during the marriage and  
4 the income derived from that property~~[therefrom]~~ unless there are significant  
5 activities of either spouse which contributed to the increase in value of  
6 the~~[said]~~ property and the income earned from the property~~[therefrom]~~;
- 7 (b) Property acquired in exchange for property acquired before the marriage or in  
8 exchange for property acquired by gift, bequest, devise, or descent;
- 9 (c) Property acquired by a spouse after a decree of legal separation;
- 10 (d) Property excluded by valid agreement of the parties; and
- 11 (e) The increase in value of property acquired before the marriage to the extent  
12 that such increase did not result from the efforts of the parties during  
13 marriage.
- 14 (3) All property acquired by either spouse after the marriage and before a decree of  
15 legal separation is presumed to be marital property, regardless of whether title is  
16 held individually or by the spouses in some form of co-ownership such as joint  
17 tenancy, tenancy in common, tenancy by the entirety, and community property. The  
18 presumption of marital property is overcome by a showing that the property was  
19 acquired by a method listed in subsection (2) of this section.
- 20 (4) If the retirement benefits of one (1) spouse are excepted from classification as  
21 marital property, or not considered as an economic circumstance during the division  
22 of marital property, then the retirement benefits of the other spouse shall also be  
23 excepted, or not considered, as the case may be. However, the level of exception  
24 provided to the spouse with the greater retirement benefit shall not exceed the level  
25 of exception provided to the other spouse. Retirement benefits, for the purposes of  
26 this subsection shall include retirement or disability allowances, accumulated  
27 contributions, or any other benefit of a retirement system or plan regulated by the

1 Employees Retirement Income Security Act of 1974, or of a public retirement  
 2 system administered by an agency of a state or local government, including  
 3 deferred compensation plans created pursuant to KRS 18A.230 to 18A.275 or  
 4 defined contribution or money purchase plans qualified under Section 401(a) of the  
 5 Internal Revenue Code of 1954, as amended.

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

9 ➔SECTION 23. A NEW SECTION OF KRS CHAPTER 186A IS CREATED  
 10 TO READ AS FOLLOWS:

11 **(1) As used in this section:**

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

14 **(b) "Beneficiary designation form" means a form that contains the intention of**  
 15 **a present owner or joint owners of a vehicle to transfer ownership of the**  
 16 **vehicle to one (1) named beneficiary upon the death of the owner or last**  
 17 **surviving joint owner of the vehicle;**

18 **(c) "Joint owner" means an individual who owns a vehicle with one (1) or**  
 19 **more other individuals as joint tenants with rights of survivorship. "Joint**  
 20 **owner" does not include an individual who owns a vehicle with one (1) or**  
 21 **more other individuals as tenants in common;**

22 **(d) "Owner" means an individual who owns a vehicle; and**

23 **(e) "Vehicle" includes any motor vehicle, motorcycle, motor home, trailer, or**  
 24 **other item for which a certificate of title is issued by the cabinet.**

25 **(2) The cabinet shall provide a beneficiary designation form that allows the owner or**  
 26 **joint owners of a vehicle to provide for the transfer of the vehicle's title to one (1)**  
 27 **named beneficiary upon the death of the owner or upon the death of all joint**

1 owners of the vehicle. The form shall include but not be limited to fields for the  
2 following information:

3 (a) The manufacturer, model, year, and vehicle identification number of the  
4 vehicle;

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

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

8 (d) The signature of the owner of the vehicle or of each joint owner of the  
9 vehicle.

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

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

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

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

18 (a) A death certificate of the owner or last surviving joint owner of the vehicle;

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

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

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

27 (6) During the lifetime of the owner of the vehicle for which a beneficiary

1 designation form has been properly executed or before the death of the last  
 2 surviving joint owner of the vehicle:

3 (a) The signature or consent of the beneficiary shall not be required for any  
 4 transaction relating to the vehicle; and

5 (b) The owner or surviving joint owners of the vehicle may revoke the  
 6 beneficiary designation form or change the beneficiary on the beneficiary  
 7 designation form at any time by:

8 1. Selling the vehicle with proper transfer and delivery of the certificate  
 9 of title to another person; or

10 2. Properly executing a subsequent beneficiary designation form that  
 11 designates a new beneficiary.

12 (7) Upon the death of the owner or the last surviving joint owner of a vehicle for  
 13 which a beneficiary designation form has been properly executed, the interest of  
 14 the beneficiary in the vehicle shall be subject to any contract of sale, assignment,  
 15 or ownership or security interest to which the owner or joint owners of the vehicle  
 16 were subject during their lifetime.

17 (8) Except as provided in subsection (6)(b) of this section, the designation of a  
 18 beneficiary in a beneficiary designation form shall not be changed or revoked by  
 19 will or by other instrument.

20 (9) The transfer on death of a vehicle under this section shall be a nontestamentary  
 21 transfer.

22 ➔Section 24. KRS 395.455 is amended to read as follows:

23 (1) Where the exemption of the surviving spouse alone, or together with preferred  
 24 claims paid by a widow or by the widower where the wife's estate is legally liable  
 25 for payment, equals or exceeds the amount of probatable assets, the court may order  
 26 that administration of the estate be dispensed with and ~~the~~<sub>[such]</sub> assets ~~be~~  
 27 ~~transferred~~ transferred to the surviving spouse or to a person designated by ~~the~~<sub>[such]</sub> surviving

1 spouse to receive all or part of ~~the~~<sup>[such]</sup> assets. The court may ~~[so]~~ order the  
 2 transfer in both testate and intestate estates and without requiring the renunciation  
 3 of a will or the giving of bond.

4 **(2) The court may order that the administration of the estate be dispensed with and**  
 5 **the assets transferred to the surviving parents of a minor, in equal shares if both**  
 6 **parents survive, or to a person designated by the surviving parents to receive all**  
 7 **or part of the assets if the:**

8 **(a) Minor holds assets solely in:**

9 **1. His or her name; or**

10 **2. The name of a:**

11 **a. Guardian of the property; or**

12 **b. Custodian under the Uniform Transfers to Minors Act;**

13 **(b) Minor has no spouse, living descendants, or creditors; and**

14 **(c) Provisions of KRS 391.033 do not apply.**

15 **The court may order the transfer without requiring the giving of bond.**

16 ~~(3)~~<sup>(2)</sup> If the court is satisfied that no probatable estate will pass through the hands of  
 17 the personal representative, it may order that no letters of administration be issued,  
 18 and in the case of a testate estate, that the will be probated only.

19 ~~(4)~~<sup>(3)</sup> **(a) The court may order that the administration of the estate be dispensed**  
 20 **with and the assets transferred to a person who has paid preferred claims,**  
 21 **or is legally entitled to payment of preferred claims, in an amount equal to**  
 22 **or exceeding the amount of probatable assets, if:**

23 **1. A surviving spouse has waived his or her right to the exemption**  
 24 **provided by law in favor of the person under paragraph (a) of this**  
 25 **subsection; or**

26 **2. There is no surviving spouse**~~[Where a surviving spouse has waived his~~  
 27 ~~or her right to the exemption accorded by law in favor of a person who~~

1           ~~has paid preferred claims in an amount equalling or exceeding the~~  
 2           ~~amount of probatable assets or who is legally entitled to such payment,~~  
 3           ~~or where there is no surviving spouse and such person has made such~~  
 4           ~~payment or is legally entitled thereto, the court may order that the~~  
 5           ~~administration of the estate be dispensed with and such assets~~  
 6           ~~transferred to such person].~~

7           **(b)** The court may ~~so~~ order **the transfer** without requiring the giving of bond.

8           ~~(5)~~~~(4)~~ For **purposes**~~[purpose]~~ of this section, the exemption of the surviving spouse  
 9           is **the**~~[such]~~ exemption ~~[as has been]~~ created by KRS 391.030, and preferred claims  
 10           are those listed **and paid in accordance with**~~[in]~~ KRS 396.095~~[and in the order~~  
 11           ~~thereof]~~.