

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) Any proceeding to:
- 13 (a) Contest the capacity of the transferor; or
14 (b) Determine whether a transfer on death deed or an instrument revoking a
15 transfer on death deed is void because it was obtained by fraud, duress, or
16 undue influence;
17 shall be commenced within two (2) years of the date of death of the transferor or
18 the date of the filing of an action under KRS 394.240 relating to the estate of the
19 transferor, whichever is later.
- 20 (7) A transfer on death deed shall:
- 21 (a) Except as otherwise provided in this subsection, contain the required
22 elements and formalities of a properly recordable deed under KRS 382.110;
23 (b) Designate one (1) or more persons, identified by name, as a designated
24 beneficiary. A transfer on death deed that uses a beneficiary designation
25 that only identifies beneficiaries as members of a class is void;
26 (c) If the transferor is married, contain a sworn statement by the transferor's
27 spouse that the spouse's dower or curtesy rights are subordinate to the

1 vesting of title to the real property or interest in the real property to the
 2 designated beneficiary at the time of transfer;

3 (d) Contain a sworn statement that the designated beneficiary or beneficiaries,
 4 and alternate beneficiaries, if any, have been given notice of the intent of
 5 the transferor to record the transfer on death deed;

6 (e) State that the transfer to the designated beneficiary is to occur at the
 7 transferor's death; and

8 (f) Shall be recorded in the record of deeds, and indexed in the general index
 9 of deeds before the transferor's death in the name of the transferor as
 10 grantor and in the name of each of the designated beneficiaries as grantees
 11 in the office of the county clerk in the county where the property to be
 12 transferred is located.

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

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

16 (b) Consideration.

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

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

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

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

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

1 (d) A deed that transfers an interest in property that is the subject of a transfer
 2 on death deed;

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

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

7 (a) Revocation by one (1) transferor shall not affect the deed as to the interest
 8 of another transferor; and

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

11 (3) After a transfer on death deed is recorded, it shall not be revoked by a will or
 12 codicil, or by a revocatory act on the deed.

13 (4) If a power of attorney under KRS Chapter 457 or the transfer on death deed
 14 expressly grants a designated agent of the transferor the power to revoke a
 15 transfer on death deed, the power of attorney or designated agent may revoke the
 16 transfer on death deed as provided in this section. Any revocation made under a
 17 power shall comply with the requirements of KRS 382.370.

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

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

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

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

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

27 (3) Affect an interest or right of a secured or unsecured creditor or future creditor of

- 1 the transferor, even if the creditor has actual or constructive notice of the deed;
2 (4) Affect the transferor's or designated beneficiary's eligibility for any form of
3 public assistance;
4 (5) Create a legal or equitable interest in favor of the designated beneficiary; or
5 (6) Subject the property to claims or process of a creditor of the designated
6 beneficiary.

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

- 9 (1) Except as otherwise provided in the transfer on death deed in this section, Section
10 17 of this Act, or KRS 394.092, on the death of the transferor, the following shall
11 apply to the property that is the subject of a transfer on death deed and owned by
12 the transferor at death:
13 (a) The interest in the property is transferred to the designated beneficiary in
14 accordance with the deed;
15 (b) The interest of a designated beneficiary is contingent on the designated
16 beneficiary surviving the transferor in accordance with KRS 397.1002, and
17 the interest of a designated beneficiary that fails to survive the transferor
18 lapses;
19 (c) Subject to paragraphs (d) and (e) of this subsection, concurrent interests are
20 transferred to the beneficiaries in equal and undivided shares with no right
21 of survivorship;
22 (d) If the transferor has identified two (2) or more designated beneficiaries to
23 receive concurrent interests in the property and the transferor has not
24 named an alternate designated beneficiary under paragraph (e) of this
25 subsection for the share of a designated beneficiary that lapses or fails for
26 any reason, the lapsing or failing share shall be transferred to the other
27 remaining designated beneficiaries in proportion to the interest of each

1 remaining beneficiary in the remaining part of the property held
2 concurrently; and

3 (e) The transferor may identify one (1) or more alternate designated
4 beneficiaries by name to take the share of a designated beneficiary that
5 lapses or fails for any reason.

6 (2) Subject to KRS 382.110, a beneficiary shall take the property subject to all
7 conveyances, encumbrances, assignments, contracts, mortgages, liens, unpaid
8 property taxes, and other interests to which the property is subject at the
9 transferor's death. For purposes of this subsection and KRS 382.110, the
10 recording of the transfer on death deed to the beneficiary shall be deemed to have
11 occurred at the transferor's death.

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

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

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

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

19 (5) A beneficiary of a transfer on death deed shall provide proof of death of the
20 transferor to the county clerk of the county in which the property is located.

21 (6) A beneficiary may disclaim all or part of the beneficiary's interest as provided
22 under KRS 394.035.

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

25 (1) To the extent the transferor's probate estate is insufficient to satisfy an allowed
26 claim against the estate, the costs of administration of the estate, or a statutory
27 allowance to a surviving spouse or child, the estate may enforce the liability

1 against property transferred at the transferor's death by a transfer on death deed.

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

5 (3) A proceeding to enforce the liability under this section shall be commenced not
6 later than the time established under KRS 396.011. A proceeding to enforce the
7 liability under subsection (1) of this section shall not be commenced unless the
8 personal representative of the transferor's estate has received a written demand
9 by the surviving spouse, a creditor, a child of the decedent, or a person acting for
10 a child of the decedent.

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

13 (1) The following form may be used to create a transfer on death deed under
14 Sections 1 to 14 of this Act. The Department of Revenue shall prescribe this form
15 and make the form available on its website. Each county clerk shall provide a link
16 on its website to the form on the website of the Department of Revenue, and shall
17 make available the following form to the public to effect a transfer on death deed.

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

20 (front of form)

21 REVOCABLE TRANSFER ON DEATH DEED

22 NOTICE TO OWNER

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

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

26 IDENTIFYING INFORMATION

27 Owner or Owners Making This Deed:

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Printed name Mailing address

Printed name Mailing address

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

PRIMARY BENEFICIARY

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

Printed name Mailing address, if available

ALTERNATE BENEFICIARY – Optional

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

Printed name Mailing address, if available

TRANSFER ON DEATH

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

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

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

2 _____

3 Signature _____ Date _____

4 _____

5 Signature _____ Date _____

6 **ACKNOWLEDGMENT**

7 State of: _____

8 County of: _____

9 The foregoing Transfer of Death Deed was acknowledged before me this _____ day of

10 _____, 20____, by _____.

11 _____

12 **NAME OF OFFICER**

13 _____

14 **TITLE**

15 (back of form)

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

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

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

27 **3. Is the "legal description" and "source of title" of the property necessary?**

1 Yes.

2 4. How do I find the "legal description" and "source of title" of the property?

3 This information may be on the deed you received when you became an owner of the
4 property. This information may also be available in the county clerk's office for the
5 county where the property is located. If you are not absolutely sure, consult an
6 attorney.

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

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

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

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

27 9. I am being pressured to complete this form. What should I do? Do not

1 complete this form under pressure. Seek help from a trusted family member, friend, or
2 attorney.

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

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

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

12 (1) The following form may be used to create an instrument of revocation under
13 Sections 1 to 14 of this Act. The Department of Revenue shall prescribe this form
14 and make the form available on its website. Each county clerk shall provide a link
15 on its website to the form on the website of the Department of Revenue, and shall
16 make available the following form to the public, to revoke a transfer on death
17 deed.

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

20 (front of form)

21 REVOCATION OF TRANSFER ON DEATH DEED

22 NOTICE TO OWNER

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

26 IDENTIFYING INFORMATION

27 Owner or Owners of Property Making This Revocation:

1

2

Printed name _____ Mailing address

3

4

Printed name _____ Mailing address

5

Source of title of the property:

6

7

Book number and page number of the transfer on death deed that is being

8

revoked: _____

9

REVOCATION

10

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

11

SIGNATURE OF OWNER OR OWNERS MAKING THIS REVOCATION

12

13

Signature _____ Date

14

15

Signature _____ Date

16

ACKNOWLEDGMENT

17

State of: _____

18

County of: _____

19

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

20

day of _____, 20____, by _____.

21

22

NAME OF OFFICER

23

24

TITLE

25

(back of form)

26

1. How do I use this form to revoke a Transfer on Death (TOD) deed?

27

Complete this form. Have it acknowledged before a notary public or other individual

1 authorized to take acknowledgments. Record the form in the public records in the
2 county clerk's office of each county where the property is located. The form must be
3 acknowledged and recorded before your death or it has no effect.

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

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

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

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

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

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

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

25 The provisions of Sections 1 to 14 of this Act modify, limit, and supersede the Federal
26 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. sec. 7001 et
27 seq., but do not modify, limit, or supersede Section 101(c) of that Act, 15 U.S.C. sec.

1 7001(c), or authorize electronic delivery of any of the notices described in Section
2 103(b) of that Act, 15 U.S.C. sec. 7003(b).

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

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

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

9 (1) As used in this section:

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

11 (b) "Estate" means all:

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

15 2. Other real and personal property or other assets in which the
16 transferor of the transfer on death deed had legal title or interest at the
17 time of death, to the extent of the recipient's interest, including assets
18 conveyed to a survivor, heir, or assign of the deceased recipient
19 through joint tenancy, tenancy in common, survivorship, life estate,
20 living trust, or other arrangement; and

21 (c) "Medicaid estate recovery program" means that program instituted
22 pursuant to 42 U.S.C. sec. 1396p.

23 (2) The commissioner of the department shall prescribe a form on which a
24 beneficiary of a transfer on death deed who survives the deceased transferor of
25 the real property or an interest in the real property that is in existence on the date
26 of death of the deceased transferor, or that beneficiary's representative, is to
27 indicate both of the following:

- 1 (a) Which of the following applies to the deceased transferor:
- 2 1. The deceased transferor had been a Medicaid recipient.
- 3 2. The deceased transferor had not been a Medicaid recipient.
- 4 3. The beneficiary or representative does not know whether the deceased
- 5 transferor had ever been a Medicaid recipient; and
- 6 (b) If the spouse of the deceased transferor died before the owner died, which
- 7 of the following applied to the deceased spouse:
- 8 1. The predeceased spouse had been a Medicaid recipient.
- 9 2. The predeceased spouse had never been a Medicaid recipient.
- 10 3. The beneficiary or representative does not know whether the
- 11 predeceased spouse had ever been a Medicaid recipient.
- 12 (3) The department shall make the form required under subsection (2) of this section
- 13 available on its website and shall provide copies to the property valuation
- 14 administrator in each county. The property valuation administrator shall provide
- 15 a copy of the form to a beneficiary of a transfer on death deed or to the
- 16 beneficiary's representative upon presentation of the proof of death of the
- 17 transferor. A beneficiary or beneficiary's representative shall submit a copy of the
- 18 properly completed form to the department if the beneficiary or representative
- 19 indicates any of the following on the form:
- 20 (a) That the deceased transferor had been a Medicaid recipient or that the
- 21 beneficiary or representative does not know whether the deceased transferor
- 22 had ever been a Medicaid recipient; or
- 23 (b) That the predeceased spouse of the deceased transferor had been a
- 24 Medicaid recipient or that the beneficiary or representative does not know
- 25 whether the predeceased spouse had ever been a Medicaid recipient.

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

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

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

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

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

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

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

15 (b) "Value" means:

16 1. In the case of any deed not a gift, the amount of the full actual
 17 consideration~~[thereof,]~~ paid or to be paid, including the amount of any
 18 lien or liens on the property~~[thereon]~~; and

19 2. In the case of a gift, or any deed with nominal consideration or without
 20 stated consideration, the estimated price the property would bring in an
 21 open market and under the then prevailing market conditions in a sale
 22 between a willing seller and a willing buyer, both conversant with the
 23 property and with prevailing general price levels.

24 (2) A tax upon the grantor named in the deed shall be imposed at the rate of fifty cents
 25 (\$0.50) for each five hundred dollars (\$500)~~[\$500]~~ of value or fraction thereof,
 26 which value is declared in the deed upon the privilege of transferring title to real
 27 property.

- 1 (3) (a) If any deed evidencing a transfer of title subject to the tax~~[herein]~~ imposed **in**
2 **subsection (2) of this section** is offered for recordation, the county clerk shall
3 ascertain and compute the amount of the tax due thereon and shall collect the
4 amount as prerequisite to acceptance of the deed for recordation.
- 5 (b) The amount of tax shall be computed on the basis of the value of the
6 transferred property as set forth in the deed.
- 7 (c) The tax required to be levied by this section shall be collected only once on
8 each transaction and in the county in which the deed is required to be recorded
9 by KRS 382.110(1).
- 10 (4) The county clerk shall collect the amount due and certify the date of payment and
11 the amount of collection on the deed. The county clerk shall retain five percent
12 (5%) as his **or her** fee for collection and remit the balance every three (3) months to
13 the county treasurer, who shall deposit the money in the county general fund.
- 14 (5) The Department of Revenue may prescribe regulations necessary to carry out the
15 purposes of this section.
- 16 (6) Any county clerk who willfully **records**~~[shall record]~~ any deed upon which a tax is
17 imposed by this section without collecting the proper amount of tax and certifying
18 the date and amount of collection on the deed as required by this section based on
19 the declared value indicated in the affidavit appended to the deed shall, upon
20 conviction, be fined **fifty dollars (\$50)**~~[\$50]~~ for each offense.
- 21 (7) The tax imposed by this section shall not apply to a transfer of title:
- 22 (a) Recorded prior to March 27, 1968;
- 23 (b) To, in the event of a deed of gift or deed with nominal consideration, or from
24 the United States of America, this state, any city or county within this state, or
25 any instrumentality, agency, or subdivision **of this state, city, or county**
26 **within this state**~~[hereof]~~;
- 27 (c) Solely in order to provide or release security for a debt or obligation;

- 1 (d) Which confirms or corrects a deed previously recorded;
- 2 (e) Between husband and wife, or between former spouses as part of a divorce
3 proceeding;
- 4 (f) On sale for delinquent taxes or assessments;
- 5 (g) On partition;
- 6 (h) Pursuant to:
- 7 1. Merger or consolidation between and among corporations, partnerships,
8 limited partnerships, or limited liability companies; or
- 9 2. Any conversion of a partnership, limited partnership, corporation, or
10 limited liability company into a partnership, limited partnership,
11 corporation, or limited liability company;
- 12 (i) Between a subsidiary corporation and its parent corporation for no
13 consideration, nominal consideration, or in sole consideration of the
14 cancellation or surrender of either corporation's stock;
- 15 (j) 1. Under a foreclosure proceeding; or
16 2. Pursuant to a voluntary surrender under a mortgage in lieu of a
17 foreclosure proceeding;
- 18 (k) Between a person and a corporation, partnership, limited partnership or
19 limited liability company in an amount equal to the portion of the value of the
20 real property transferred that represents the proportionate interest of the
21 transferor of the property in the entity to which the property was transferred, if
22 the transfer was for nominal consideration;
- 23 (l) Between parent and child or grandparent and grandchild, with only nominal
24 consideration therefor;
- 25 (m) By a corporation, partnership, limited partnership, or limited liability
26 company to a person as owner or shareholder of the entity, upon dissolution of
27 the entity, in an amount equal to the portion of the value of the real property

1 transferred that represents the proportionate interest of the person to whom the
 2 property was transferred, if the transfer was for nominal consideration;

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

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

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

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

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

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

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

16 (9) As used in this section, "trust" shall have the same definition as contained in KRS
 17 386B.1-010.

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

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

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

21 a. Deed of trust or assignment for the benefit of creditors;

22 b. Deed;

23 c. Deed of assignment;

24 d. File-stamped copy of documents set forth in KRS 14A.2-040(1) or
 25 (2) that have been filed first with the Secretary of State;

26 e. Real estate option;

27 f. Power of attorney;

- 1 g. Revocation of power of attorney;
- 2 h. Lease which is recordable by law;
- 3 i. Deed of release of a mortgage or lien under KRS 382.360;
- 4 j. United States lien;
- 5 k. Release of a United States lien;
- 6 l. Release of any recorded encumbrance other than state liens;
- 7 m. Lis pendens notice concerning proceedings in bankruptcy;
- 8 n. Lis pendens notice;
- 9 o. Mechanic's and artisan's lien under KRS Chapter 376;
- 10 p. Assumed name;
- 11 q. Notice of lien issued by the Internal Revenue Service;
- 12 r. Notice of lien discharge issued by the Internal Revenue Service;
- 13 s. Original, assignment, amendment, or continuation financing
- 14 statement;
- 15 t. Making a record for the establishment of a city, recording the plan
- 16 or plat thereof, and all other service incident;
- 17 u. Survey of a city, or any part thereof, or any addition to or
- 18 extensions of the boundary of a city;
- 19 v. Recording with statutory authority for which no specific fee is set,
- 20 except a military discharge;
- 21 w. Will or other probate document pursuant to KRS Chapter 392 or
- 22 394;
- 23 x. Court ordered name change pursuant to KRS Chapter 401;
- 24 y. Land use restriction according to KRS 100.3681;~~and~~
- 25 z. **Revocable transfer on death deed;**
- 26 **aa. Revocation of transfer on death deed; and**
- 27 **ab.** Filing with statutory authority for which no specific fee is set;~~and~~

- 1 For all items in this ~~paragraph~~^{subsection} if the entire thereof
2 does not exceed
3 five (5) pages\$33.00
4 And, for all items in this ~~paragraph~~^{subsection} exceeding five (5)
5 pages,
6 for each additional page\$3.00
7 And, for all items in this ~~paragraph~~^{subsection} for each
8 additional reference
9 relating to same instrument\$4.00
- 10 2. The thirty-three dollar (\$33) fee imposed by this ~~paragraph~~^{subsection}
11 shall be divided as follows:
- 12 a. Twenty-seven dollars (\$27) shall be retained by the county clerk;
13 and
14 b. Six dollars (\$6) shall be paid to the affordable housing trust fund
15 established in KRS 198A.710 and shall be remitted by the county
16 clerk within ten (10) days following the end of the quarter in
17 which the fee was received. Each remittance to the affordable
18 housing trust fund shall be accompanied by a summary report on a
19 form prescribed by the Kentucky Housing Corporation.
- 20 (b) For noting a security interest on a certificate of title pursuant to
21 KRS Chapter 186A\$12.00
- 22 (c) For filing the release of collateral under a financing statement
23 and noting same upon the face of the title pursuant to KRS Chapter
24 186 or 186A\$5.00
- 25 (d) Filing or recording state tax or other state liens\$5.00
- 26 (e) Filing release of a state tax or other state lien\$5.00
- 27 (f) Acknowledging or notarizing any deed, mortgage, power of attorney,

1 or other written instrument required by law for recording and certifying
2 same\$5.00

3 (g) Recording plats, maps, and surveys, not exceeding 24 inches by
4 36 inches, per page\$40.00

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

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

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

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

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

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

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

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

16 (p) Registration of licenses for professional persons required to register
17 with the county clerk\$10.00

18 (q) Certified copy of any record\$5.00
19 Plus fifty cents (\$.50) per page after three (3) pages

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

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

23 (t) Filing notification and declaration and petition of candidates for county
24 and independent boards of education\$20.00

25 (u) Filing notification and declaration and petition of candidates for
26 boards of soil and water conservation districts\$20.00

27 (v) Filing notification and declaration and petition of candidates for

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

1 entitled to receive a reimbursement of ten dollars (\$10).

2 (b) In counties or a county containing an urban-county government, charter
3 county government, or unified local government:

4 1. This fee shall:

5 a. Not be paid annually to the fiscal court under KRS 64.152;

6 b. Not be paid to the Finance and Administration Cabinet under KRS
7 64.345;

8 c. Be accumulated and transferred to the fiscal court or the legislative
9 body of an urban-county government on a monthly basis within
10 ten (10) days following the end of the month;

11 d. Be maintained by the fiscal court or the legislative body of an
12 urban-county government in a separate bank account and
13 accounted for in a separate fund; and

14 e. Not lapse to the general fund of the county or urban-county
15 government.

16 2. The moneys accumulated from this fee shall be held in perpetuity by the
17 fiscal court or the legislative body of an urban-county government for
18 the county clerk's exclusive use for:

19 a. Equipment related to the permanent storage of and access to
20 records, including deed books, binders, shelves, microfilm
21 equipment, and fireproof equipment;

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

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

26 d. Personnel costs for the permanent storage of and access to records,
27 including overtime costs for personnel involved in the digitization

1 of records; and

2 e. Cloud storage and cybersecurity services for the permanent storage
3 of and access to records.

4 3. Notwithstanding KRS 68.275, claims by a county clerk that are for the
5 approved expenditures in subparagraph 2. of this paragraph shall be paid
6 by the county judge/executive or the chief executive officer of an urban-
7 county government by a warrant drawn on the fund and co-signed by the
8 treasurer of the county or urban-county government.

9 4. No later than July 1 of each year, each county fiscal court or legislative
10 body of an urban-county government shall submit a report to the
11 Legislative Research Commission detailing the receipts, expenditures,
12 and any amounts remaining in the fund.

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

14 1. The fee shall not:

15 a. Be paid to the Finance and Administration Cabinet under KRS
16 64.345; or

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

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

20 a. Equipment related to the permanent storage of and access to
21 records, including deed books, binders, shelves, microfilm
22 equipment, and fireproof equipment;

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

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

27 d. Personnel costs for the permanent storage of and access to records,

1 including overtime costs for personnel involved in the digitization
2 of records; and

3 e. Cloud storage and cybersecurity services for the permanent storage
4 of and access to records.

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

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

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

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

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

25 (b) Shall not apply in cases where the decedent, with knowledge of the person's
26 disqualification, reaffirmed the right of the husband, wife, heir-at-law,
27 beneficiary under a will, joint tenant with the right of survivorship, transfer

1 on death deed beneficiary, or insurance policy beneficiary to receive the
2 property by executing a new or modified will or codicil, insurance policy or
3 policy modification, transfer on death deed, or deed; and

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

6 (3) If, after the provisions of this section are applied, there are no other heirs-at-law,
7 beneficiaries, or joint tenants of the decedent as to all or part of the interest
8 forfeited, the forfeited interest shall escheat to the state under KRS Chapter 393.
9 The Department of the Treasury shall, after liquidation of the interest, pay the
10 proceeds into the elder and vulnerable adult victims trust fund established in KRS
11 41.305.

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

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

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

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

17 (c) A statement of the full consideration;

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

20 (e) 1. In the case of a transfer other than by gift, or with nominal or no
21 consideration a sworn, notarized certificate signed by the grantor or his
22 or her agent and the grantee or his or her agent, or the parent or guardian
23 of a person under eighteen (18) years old, that the consideration
24 reflected in the deed is the full consideration paid for the property; or

25 2. In the case of a transfer either by gift or with nominal or no
26 consideration, a sworn, notarized certificate signed by the grantor or his
27 or her agent and the grantee or his or her agent, or the parent or guardian

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

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

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

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

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

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

13 ➔Section 19. KRS 391.360 is amended to read as follows:

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

22 (a) Money or other benefits due to, controlled, or owned by a decedent before
23 death shall be paid after the decedent's death to a person whom the decedent
24 designates either in the instrument or in a separate writing, including a will,
25 executed before, at the same time, or after the instrument is executed;

26 (b) Money due or to become due under the instrument shall cease to be payable in
27 the event of the death of the promisee or the promissor before payment or

1 demand; or

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

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

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

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

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

20 When a surviving spouse recovers dower or curtesy against the heir or devisee or
21 purchaser from the decedent, **or from a beneficiary under Sections 1 to 14 of this Act,**
22 the dower or curtesy shall be according to the value of the estate when received by the
23 heir, devisee, **beneficiary,** or purchaser, and shall not include, in the estimated value, any
24 permanent improvements which the heir, devisee, **beneficiary,** or purchaser has made on
25 the land. Against the heir, ~~or~~ devisee, **beneficiary,** or his **or her** alienee the surviving
26 spouse's claim for rent shall not exceed rent for five (5) years before the action, and
27 against a purchaser from the decedent the surviving spouse's claim shall be only from the

1 commencement of the action. In either case it shall continue up to final recovery. If, after
2 action has been brought, the surviving spouse or tenant dies before recovery, the rent may
3 be recovered by the surviving spouse's representative or against the tenant's heirs,
4 devisees, and representatives.

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

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

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

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

- 22 (a) Property acquired by gift, bequest, devise, or descent during the marriage and
23 the income derived *from that property*~~[therefrom]~~ unless there are significant
24 activities of either spouse which contributed to the increase in value of
25 ~~the~~^{said} property and the income earned *from the property*~~[therefrom]~~;
- 26 (b) Property acquired in exchange for property acquired before the marriage or in
27 exchange for property acquired by gift, bequest, devise, or descent;

- 1 (c) Property acquired by a spouse after a decree of legal separation;
2 (d) Property excluded by valid agreement of the parties; and
3 (e) The increase in value of property acquired before the marriage to the extent
4 that such increase did not result from the efforts of the parties during
5 marriage.

6 (3) All property acquired by either spouse after the marriage and before a decree of
7 legal separation is presumed to be marital property, regardless of whether title is
8 held individually or by the spouses in some form of co-ownership such as joint
9 tenancy, tenancy in common, tenancy by the entirety, and community property. The
10 presumption of marital property is overcome by a showing that the property was
11 acquired by a method listed in subsection (2) of this section.

12 (4) If the retirement benefits of one (1) spouse are excepted from classification as
13 marital property, or not considered as an economic circumstance during the division
14 of marital property, then the retirement benefits of the other spouse shall also be
15 excepted, or not considered, as the case may be. However, the level of exception
16 provided to the spouse with the greater retirement benefit shall not exceed the level
17 of exception provided to the other spouse. Retirement benefits, for the purposes of
18 this subsection shall include retirement or disability allowances, accumulated
19 contributions, or any other benefit of a retirement system or plan regulated by the
20 Employees Retirement Income Security Act of 1974, or of a public retirement
21 system administered by an agency of a state or local government, including
22 deferred compensation plans created pursuant to KRS 18A.230 to 18A.275 or
23 defined contribution or money purchase plans qualified under Section 401(a) of the
24 Internal Revenue Code of 1954, as amended.

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

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

3 (1) As used in this section:

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

6 (b) "Beneficiary designation form" means a form that contains the intention of
7 a present owner or joint owners of a vehicle to transfer ownership of the
8 vehicle to a named beneficiary upon the death of the owner or last surviving
9 joint owner of the vehicle;

10 (c) "Joint owner" means an individual who owns a vehicle with one (1) or
11 more other individuals as joint tenants with rights of survivorship. "Joint
12 owner" does not include an individual who owns a vehicle with one (1) or
13 more other individuals as tenants in common;

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

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

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

22 (a) The manufacturer, model, year, and vehicle identification number of the
23 vehicle;

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

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

27 (d) The signature of the owner of the vehicle or of each joint owner of the

1 vehicle.

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

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

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

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

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

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

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

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

21 (6) During the lifetime of the owner of the vehicle for which a beneficiary
22 designation form has been properly executed or before the death of the last
23 surviving joint owner of the vehicle:

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

26 (b) The owner or surviving joint owners of the vehicle may revoke the
27 beneficiary designation form or change the beneficiary on the beneficiary

1 designation form at any time by:

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

4 2. Properly executing a subsequent beneficiary designation form that
 5 designates a new beneficiary.

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

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

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

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

17 (1) Where the exemption of the surviving spouse alone, or together with preferred
 18 claims paid by a widow or by the widower where the wife's estate is legally liable
 19 for payment, equals or exceeds the amount of probatable assets, the court may order
 20 that administration of the estate be dispensed with and the~~such~~ assets ~~be~~
 21 ~~transferred~~ to the surviving spouse or to a person designated by the~~such~~ surviving
 22 spouse to receive all or part of the~~such~~ assets. The court may ~~so~~ order the
 23 transfer in both testate and intestate estates and without requiring the renunciation
 24 of a will or the giving of bond.

25 (2) The court may order that the administration of the estate be dispensed with and
 26 the assets transferred to the surviving parents of a minor, in equal shares if both
 27 parents survive, or to a person designated by the surviving parents to receive all

1 or part of the assets if the:

2 (a) Minor holds assets solely in:

3 1. His or her name; or

4 2. The name of a:

5 a. Guardian of the property; or

6 b. Custodian under the Uniform Transfers to Minors Act;

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

8 (c) Provisions of KRS 391.033 do not apply.

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

10 ~~(3)~~⁽²⁾ If the court is satisfied that no probatable estate will pass through the hands of
11 the personal representative, it may order that no letters of administration be issued,
12 and in the case of a testate estate, that the will be probated only.

13 ~~(4)~~⁽³⁾ (a) The court may order that the administration of the estate be dispensed
14 with and the assets transferred to a person who has paid preferred claims,
15 or is legally entitled to payment of preferred claims, in an amount equal to
16 or exceeding the amount of probatable assets, if:

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

20 2. There is no surviving spouse~~[Where a surviving spouse has waived his~~
21 ~~or her right to the exemption accorded by law in favor of a person who~~
22 ~~has paid preferred claims in an amount equalling or exceeding the~~
23 ~~amount of probatable assets or who is legally entitled to such payment,~~
24 ~~or where there is no surviving spouse and such person has made such~~
25 ~~payment or is legally entitled thereto, the court may order that the~~
26 ~~administration of the estate be dispensed with and such assets~~
27 ~~transferred to such person].~~

1 **(b)** The court may ~~so~~ order **the transfer** without requiring the giving of bond.
2 **(5)**~~(4)~~ For **purposes**~~purpose~~ of this section, the exemption of the surviving spouse
3 is **the**~~such~~ exemption ~~as has been~~ created by KRS 391.030, and preferred claims
4 are those listed **and paid in accordance with**~~in~~ KRS 396.095~~and in the order~~
5 thereof.