Local Government Mandate Statement Kentucky Legislative Research Commission 2023 Regular Session

Part I: Measure Information

Bill Request #: 185
Bill #: _HB 72
Document ID #: 905
Bill Subject/Title: AN ACT relating to the transfer of property on death.
Sponsor: Representative Steve Rawlings
Unit of Government: City X County X Urban-County Unified Local
X Charter County X Consolidated Local X Government
Office(s) Impacted: County clerks
Requirement: X Mandatory Optional
Effect on Powers & Duties: X Modifies Existing Adds New Eliminates Existing

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

HB 72 **Section 2** would create a new section of KRS Chapter 394 to authorize an individual to transfer real property located in Kentucky by transfer on death ("TOD") deed, effective at the transferor's death.

The TOD deed must be recorded before the transferor's death. A TOD deed may be revoked by instrument recorded with the county clerk of the county where the deed is recorded.

Section 14 of the bill would create a new section of KRS Chapter 394 to require each county clerk offer to individuals who wish to effect a TOD deed. The form set out in that Section and titled, "Revocable Transfer On Death Deed." On the back side of the form is set out "Common Questions About the Use Of This Form. **Section 15** would create the "Revocation Of Transfer On Death Deed" form. **Section 25** of HB 72 would repeal KRS 140.130, Levy of estate tax, and KRS 140.140, Payment of estate tax under protest.

HB 72 would have a minimal positive fiscal impact on county clerks' offices.

Recording real property deeds has long been a duty of county clerks. HB 72 would not change that duty, but would have clerks recording a new kind of deed.

It is not known how many TOD deeds would be presented to county clerks for recording or revocation, but it is not expected to be a large number. The information required for a valid TOD deed is very similar to that required for a standard real property deed.

County clerks would need to be trained on the TOD deed requirements. However, county clerks already undergo monthly training so it is not likely that TOD deed training would be unduly burdensome or expensive.

Recording TOD deeds would be a source of income to county clerks just as other deeds are. According to the Kentucky County Clerks Association website (https://kentuckycountyclerks.com/recording-fees/) the current Standard Recording Fee for deeds is \$50, plus \$3.00 for each page over 5. The county clerk's office may retain \$27.00 of that amount, plus \$3.00 for postage.

Part III: Differences to Local Government Mandate Statement from Prior Versions

Part II applies to HB 72 as introduced. There is no earlier version for comparison.

Data Source(s): Kentucky County Clerks Association; Kentucky Revised Statutes; LRC

staff

Preparer: Mary Stephens (JB) **Reviewer:** KHC **Date:** 1/24/23