Local Government Mandate Statement Kentucky Legislative Research Commission 2023 Regular Session

Part I: Measure Information

Bill Request #: 54
Bill #: SB 208
Document ID #: 4183
Bill Subject/Title: AN ACT relating to the transfer of property on death.
Sponsor: Senator John Schickel
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

SB 208 **Section 2** would create a new section of KRS Chapter 391 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 in the public records of the county where the property is located. A TOD deed may be revoked by instrument recorded with the county clerk of the county where the deed is recorded. If a transferor's estate at death is not sufficient to satisfy an allowed claim, costs of administration, or a statutory allowance to a surviving spouse or child, the claim may be enforced against the property subject to the TOD deed. A TOD deed shall contain all the formalities of an inter vivos real property deed.

Section 7 of the bill would create a new section of KRS Chapter 391 to require each county clerk to 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 8** would create and require each county clerk to offer the "Revocation Of Transfer On Death Deed" form set out in

that section. **Section 13** would establish Sections 1-13 of the bill as the Uniform Real Property Transfer on Death Act. **Section 14** would establish the fees payable to a county clerk for recording a TOD deed and recording revocation of a TOD deed.

Section 22 of SB 208 would create a new section of KRS Chapter 186A that would allow an owner of a vehicle to provide for the transfer of the vehicle's title on his or her death. The Transportation Cabinet would be responsible for providing a beneficiary designation form to be made available in each county clerk's office and on the cabinet's website. On the owner's death the beneficiary would present the form to the county clerk and request a new title of ownership in the beneficiary's name. The beneficiary would also be required to present proof of the death of the vehicle owner, proof of payment of ad valorem taxes on the vehicle, and the fee for transfer of the certificate of title.

SB 208 would have a minimal positive fiscal impact on county clerks' offices.

Re: Transfer on Death deeds: Recording real property deeds has long been a duty of county clerks. SB 208 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 recording 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 and recordable instruments are. According Kentucky County Clerks Association website the (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.

Re: Transfer on Death vehicle ownership: Similarly, recording vehicle transfers and issuing certificates of title is a regular duty of county clerks. Again, county clerks may require some training in what documentation is necessary to transfer and issue a new title pursuant to a beneficiary designation form but such training would not be expensive or overly burdensome. The fee for an application for a certificate of title is \$9.00 of which the county clerk's office retains \$6.00.

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

Part II applies to SB 208 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:** 2/24/23