

1 AN ACT relating to ownership documents for property.

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

3 ➔Section 1. KRS 382.135 is amended to read as follows:

- 4 (1) In addition to any other requirement imposed by law, a deed to real property shall  
5 contain the following:
- 6 (a) The full name of the grantor and grantee;
  - 7 (b) The mailing addresses of the grantor and grantee;
  - 8 (c) A statement of the full consideration;
  - 9 (d) A statement indicating the in-care-of address to which the property tax bill for  
10 the year in which the property is transferred may be sent; and
  - 11 (e) 1. In the case of a transfer other than by gift, or with nominal or no  
12 consideration a sworn, notarized certificate signed by the grantor or his  
13 or her agent and the grantee or his or her agent, or the parent or guardian  
14 of a person under eighteen (18) years old, that the consideration reflected  
15 in the deed is the full consideration paid for the property; or  
16 2. In the case of a transfer either by gift or with nominal or no  
17 consideration, a sworn, notarized certificate signed by the grantor or his  
18 or her agent and the grantee or his or her agent, or the parent or guardian  
19 of a person under eighteen (18) years old, stating that the transfer is by  
20 gift and setting forth the estimated fair cash value of the property.
- 21 (2) The deed filing requirements listed in subsection (1)(c), (d), and (e) of this section  
22 shall not apply to:
- 23 (a) Deeds which only convey utility easements;
  - 24 (b) Deeds which transfer property through a court action pursuant to a divorce  
25 proceeding;
  - 26 (c) Deeds which convey rights-of-way that involve governmental agencies;
  - 27 (d) Deeds which convey cemetery lots;

- 1 (e) Deeds which correct errors in previous deeds conveying the same property  
2 from the same grantor to the same grantee; or
- 3 (f) Deeds which convey real property to a local airport board.
- 4 (3) In the case of an exchange of properties, the fair cash value of the property being  
5 exchanged shall be stated in the body of the deed.
- 6 (4) In the event of a transfer of property by will or under the laws of intestate  
7 succession, the personal representative of the estate, prior to closing out the estate,  
8 shall file an affidavit with the county clerk of each county in which any of the  
9 property is located, which shall contain the following:
- 10 (a) The names and addresses of the persons receiving each property passing by  
11 will or intestate succession; and
- 12 (b) The full or fair market value of each property as estimated or established for  
13 any purpose in the handling of the estate, or a statement that no such values  
14 were estimated or established.
- 15 (5) No county clerk or deputy clerk shall lodge for record, and no county clerk or  
16 deputy shall receive and permit to be lodged for record, any deed that does not  
17 comply with the provisions of this section.
- 18 (6) For purposes of subsection (1)(a) of this section, **the full name of the grantor and**  
19 **grantee shall be determined as follows:**
- 20 (a) ~~[The full name of an individual shall be determined]~~As provided in KRS  
21 355.9-503(1)~~[(d) and (e)]~~; **or**~~[and]~~
- 22 (b) **For**~~[The full name of]~~ a business entity, **it** shall be synonymous with its real  
23 name determined as provided in KRS 365.015(1)(b) and (c); **or**
- 24 **(c) For an individual, his or her surname and his or her first personal name or**  
25 **initial, middle personal name or names, or initial or initials, or any**  
26 **combination thereof that includes the individual's surname.**
- 27 **(7) The receipt for record and recording of any instrument by the county clerk not in**

1       *compliance with the provisions of this section shall not prevent the record of*  
2       *filing of the instrument from becoming notice as otherwise provided by law, nor*  
3       *impair the admissibility of the record as evidence.*

4       ➔Section 2. KRS 186A.190 is amended to read as follows:

5       (1) Except as provided in subsection (4) of this section and in KRS 355.9-311(4), the  
6       perfection and discharge of a security interest in any property for which has been  
7       issued a Kentucky certificate of title shall be by notation on the certificate of title.  
8       Notation shall be made by the entry of information required by subsection (7) of this  
9       section into the Automated Vehicle Information System, and shall be deemed to  
10      have occurred upon the entry. The notation of the security interest on the certificate  
11      of title shall be in accordance with this chapter and shall remain effective from the  
12      date on which the security interest is noted on the certificate of title for a period of  
13      ten (10) years, or, in the case of a manufactured home, for a period of thirty (30)  
14      years, or until discharged under this chapter and KRS Chapter 186. The filing of a  
15      continuation statement within the six (6) months preceding the expiration of the  
16      initial period of a notation's effectiveness extends the expiration date for five (5)  
17      additional years, commencing on the day the notation would have expired in the  
18      absence of the filing. Succeeding continuation statements may be filed in the same  
19      manner to continue the effectiveness of the initial notation.

20      (2) Except as provided in subsection (4) of this section, the notation of security interests  
21      relating to property required to be titled in Kentucky through the county clerk shall  
22      be done in the office of the county clerk of the county in which the debtor resides. If  
23      the debtor is other than a natural person, the following provisions govern the  
24      determination of the county of the debtor's residence:

25      (a) A partnership shall be deemed a resident of the county in which its principal  
26      place of business in this state is located. If the debtor does not have a place of  
27      business in this state, then the debtor shall be deemed a nonresident for

- 1 purposes of filing in this state;
- 2 (b) A limited partnership organized under KRS Chapter 362 or as defined in KRS  
3 362.2-102(14) shall be deemed a resident of the county in which its principal  
4 place of business is located, as set forth in its certificate of limited partnership  
5 or most recent amendment thereto filed pursuant to KRS Chapter 362 or  
6 362.2-202. If such office is not located in this state, the debtor shall be  
7 deemed a nonresident for purposes of filing in this state;
- 8 (c) A limited partnership not organized under the laws of this state and authorized  
9 to do business in this state shall be deemed a resident of the county in which  
10 the office of its process agent is located, as set forth in the designation or most  
11 recent amendment thereto filed with the Secretary of State of the  
12 Commonwealth of Kentucky;
- 13 (d) A corporation organized under KRS Chapter 271B, 273, or 274 or a limited  
14 liability company organized under KRS Chapter 275 shall be deemed a  
15 resident of the county in which its registered office is located, as set forth in  
16 its most recent corporate filing with the Secretary of State which officially  
17 designates its current registered office;
- 18 (e) A corporation not organized under the laws of this state, but authorized to  
19 transact or do business in this state under KRS Chapter 271B, 273, or 274, or  
20 a limited liability company not organized under the laws of this state, but  
21 authorized to transact business in this state under KRS Chapter 275, shall be  
22 deemed a resident of the county in which its registered office is located, as set  
23 forth in its most recent filing with the Secretary of State which officially  
24 designates its current registered office;
- 25 (f) A cooperative corporation or association organized under KRS Chapter 272  
26 shall be deemed a resident of the county in which its principal business is  
27 transacted, as set forth in its articles of incorporation or most recent

1 amendment thereto filed with the Secretary of State of the Commonwealth of  
2 Kentucky;

3 (g) A cooperative corporation organized under KRS Chapter 279 shall be deemed  
4 a resident of the county in which its principal office is located, as set forth in  
5 its articles of incorporation or most recent amendment thereto filed with the  
6 Secretary of State of the Commonwealth of Kentucky;

7 (h) A business trust organized under KRS Chapter 386 shall be deemed a resident  
8 of the county in which its principal place of business is located, as evidenced  
9 by the recordation of its declaration of trust in that county pursuant to KRS  
10 Chapter 386;

11 (i) A credit union organized under Subtitle 6 of KRS Chapter 286 shall be  
12 deemed a resident of the county in which its principal place of business is  
13 located, as set forth in its articles of incorporation or most recent amendment  
14 thereto filed with the Secretary of State of the Commonwealth of Kentucky;  
15 and

16 (j) Any other organization (defined in KRS 355.1-201) shall be deemed a  
17 resident of the county in which its principal place of business in this state is  
18 located, except that any limited liability company, limited liability partnership,  
19 limited partnership, or corporation not organized under the laws of this state  
20 and not authorized to transact or do business in this state shall be deemed a  
21 nonresident for purposes of filing in this state. If the organization does not  
22 have a place of business in this state, then it shall be deemed a nonresident for  
23 purposes of filing in this state.

24 If the debtor does not reside in the Commonwealth, the notation of the security  
25 interest shall be done in the office of the county clerk in which the property is  
26 principally situated or operated. Notwithstanding the existence of any filed  
27 financing statement under the provisions of KRS Chapter 355 relating to any

1 property registered or titled in Kentucky, the sole means of perfecting and  
2 discharging a security interest in property for which a certificate of title is required  
3 by this chapter is by notation on the property's certificate of title under the  
4 provisions of this chapter or in accordance with the provisions of KRS 186.045(3).  
5 In other respects the security interest is governed by the provisions of KRS Chapter  
6 355.

7 (3) Except as provided in subsection (4) of this section, before ownership of property  
8 subject to a lien evidenced by notation on the certificate of title may be transferred,  
9 the transferor shall obtain the release of the prior liens in his name against the  
10 property being transferred. Once a security interest has been noted on the owner's  
11 title, a subsequent title shall not be issued by any county clerk free of the notation  
12 unless the owner's title is presented to the clerk and it has been noted thereon that  
13 the security interest has been discharged. If this requirement is met, information  
14 relating to any security interest shown on the title as having been discharged may be  
15 omitted from the title to be issued by the clerk. If information relating to the  
16 discharge of a security interest is presented to a clerk under the provisions of KRS  
17 186.045(3), the clerk shall discharge the security interest and remove the lien  
18 information from AVIS.

19 (4) Notwithstanding subsections (1), (2), and (3) of this section, a county clerk shall,  
20 following inspection of the vehicle by the sheriff, to determine that the vehicle has  
21 not been stolen, issue a new ownership document to a vehicle, clear of all prior  
22 liens, to a person after he or she provides to the county clerk an affidavit devised by  
23 the Transportation Cabinet and completed by the person. The ownership document  
24 presented as a result of this affidavit shall be in accordance with subsection (5) of  
25 this section. In the affidavit, the affiant shall attest that:

- 26 (a) The affiant or the agent of the affiant possesses the vehicle;  
27 (b) Before he or she provided the notices required by paragraphs (c) and (d) of

1           this subsection:

2           1.    A debt on the vehicle has been owed him or her for more than thirty (30)  
3           days;

4           2.    Within thirty (30) days of payment of damages by an insurance company  
5           and receipt by the current owner of the motor vehicle or lienholder of  
6           damages pursuant to a claim settlement which required transfer of the  
7           vehicle to the insurance company, the insurance company has been  
8           unable to obtain:

9           a.    A properly endorsed certificate of title on the vehicle from the  
10           current owner; and

11           b.    If applicable, any lien satisfactions; or

12           3.    a.    The vehicle was voluntarily towed or transported pursuant to a  
13           request of the current owner or an insurance company that a motor  
14           vehicle dealer, licensed as a used motor vehicle dealer and motor  
15           vehicle auction dealer, take possession of and store the motor  
16           vehicle in the regular course of business; and

17           b.    Within forty-five (45) days of taking possession of the motor  
18           vehicle, the motor vehicle dealer has not been paid storage fees by  
19           the current owner or lienholder and has not been provided both a  
20           properly endorsed certificate of title and if applicable, any lien  
21           satisfactions;

22           (c)   More than thirty (30) days before presenting the affidavit to the county clerk,  
23           the affiant attempted to notify the owner of the vehicle and all known  
24           lienholders, including those noted on the title, by certified mail, return receipt  
25           requested, or by a nationally recognized courier service, of his or her name,  
26           address, and telephone number as well as his or her intention to obtain a new  
27           title or salvage title, as applicable, clear of all prior liens, unless the owner or a

1           lienholder objects in writing;

2           (d) More than fourteen (14) days before presenting the affidavit to the county  
3           clerk, the affiant had published a legal notice stating his or her intention to  
4           obtain title to the vehicle. The legal notice appeared at least twice in a seven  
5           (7) day period in a newspaper~~[published, and]~~ with~~[a statewide]~~  
6           circulation~~[,]~~ in ***the county***~~[Kentucky]~~. The legal notice stated:

7           1. The affiant's name, address, and telephone number;

8           2. The owner's name;

9           3. The names of all known lienholders, including those noted on the title;

10          4. The vehicle's make, model, and year; and

11          5. The affiant's intention to obtain title to the vehicle unless the owner or a  
12          lienholder objects in writing within fourteen (14) days after the last  
13          publication of the legal notice; and

14          (e) Neither the owner nor a lienholder has objected in writing to the affiant's right  
15          to obtain title to the vehicle.

16       (5) (a) If subsection (4)(b)1. of this section applies, the new ownership document  
17          shall be a title.

18          (b) If subsection (4)(b)2. or 3. of this section applies, the new ownership  
19          document shall be a salvage title if the vehicle meets the requirements for a  
20          salvage title as stated in KRS 186A.520(1)(a).

21          (c) If subsection (4)(b)2. or 3. of this section applies and the vehicle does not  
22          meet the requirements for a salvage title as stated in KRS 186A.520(1)(a), the  
23          new ownership document shall be a title.

24       (6) No more than two (2) active security interests may be noted upon a certificate of  
25          title.

26       (7) In noting a security interest upon a certificate of title, the county clerk shall ensure  
27          that the certificate of title bears the lienholder's name, mailing address and zip code,



- 1           the date the lien was noted, the notation number, and the county in which the  
2           security interest was noted. The clerk shall obtain the information required by this  
3           subsection for notation upon the certificate of title from the title lien statement  
4           described in KRS 186A.195 to be provided to the county clerk by the secured party.
- 5   (8) For all the costs incurred in the notation and discharge of a security interest on the  
6           certificate of title, the county clerk shall receive the fee prescribed by KRS 64.012.  
7           The fee prescribed by this subsection shall be paid at the time of submittal of the  
8           title lien statement described in KRS 186A.195.
- 9   (9) A copy of the application, certified by the county clerk, indicating the lien will be  
10          noted on the certificate of title shall be forwarded to the lienholder.