

1 AN ACT relating to official documents and making an appropriation therefor.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 28 of this Act:*

6 *(1) "Acknowledgment" means a declaration by an individual before a notarial*
7 *officer that the individual has signed a record for the purpose stated in the record*
8 *and, if the record is signed in a representative capacity, that the individual signed*
9 *the record with proper authority and signed it as the act of the individual or entity*
10 *identified in the record;*

11 *(2) "Acknowledged before me" or "appears before me" means being in the same*
12 *physical location as another individual person and close enough to see, hear,*
13 *communicate with, and exchange credentials with that person;*

14 *(3) "Credential" means a non-expired record issued by a government which bears*
15 *an individual's photo and which evidences an individual's identity;*

16 *(4) "Electronic" means relating to technology having electrical, digital, magnetic,*
17 *wireless, optical, electromagnetic, or similar capabilities;*

18 *(5) "Electronic notarization" means a notarial act performed with respect to an*
19 *electronic record by means of communication technology that meets the*
20 *standards adopted under Section 21 of this Act;*

21 *(6) "Electronic signature" means an electronic symbol, sound, or process attached to*
22 *or logically associated with a record and executed or adopted by an individual*
23 *with the intent to sign the record;*

24 *(7) "Foreign state" means a jurisdiction other than the United States, a state, or a*
25 *federally recognized Indian tribe;*

26 *(8) "In a representative capacity" means acting as:*

27 *(a) An authorized officer, agent, partner, trustee, or other representative for a*

- 1 person other than an individual;
- 2 (b) A public officer, personal representative, guardian, or other representative,
3 in the capacity stated in a record;
- 4 (c) An agent or attorney-in-fact for a principal; or
- 5 (d) An authorized representative of another in any other capacity;
- 6 (9) "Notarial act" means an act, whether performed with respect to a tangible or
7 electronic record, that a notarial officer may perform under Section 3 of this Act
8 and any other law of the Commonwealth;
- 9 (10) "Notarial officer" means a notary public or other individual authorized to
10 perform a notarial act;
- 11 (11) "Notary public" means an individual commissioned to perform a notarial act by
12 the Secretary of State. This term does not include other notarial officers who may
13 perform a notarial act in this state;
- 14 (12) "Official stamp" means a physical image affixed to or embossed on a tangible
15 record or an electronic image attached to or logically associated with an
16 electronic record, including an official notary seal;
- 17 (13) "Person" means an individual, corporation, business trust, statutory trust, estate,
18 trust, partnership, limited liability company, association, joint venture, public
19 corporation, government or governmental subdivision, agency, or
20 instrumentality, or any other legal or commercial entity;
- 21 (14) "Record" means information that is inscribed on a tangible medium or that is
22 stored in an electronic or other medium and is retrievable in perceivable form;
- 23 (15) "Sign" means, with present intent to authenticate or adopt a record, to:
- 24 (a) Execute or adopt a tangible symbol; or
- 25 (b) Attach to or logically associate with the record an electronic symbol, sound,
26 or process;
- 27 (16) "Signature" means a tangible symbol or an electronic signature that evidences

1 the signing of a record;

2 (17) "Stamping device" means:

3 (a) A physical device capable of affixing to or embossing on a tangible record
4 an official stamp; or

5 (b) An electronic device or process capable of attaching to or logically
6 associating with an electronic record an official stamp;

7 (18) "State" means a state of the United States, the District of Columbia, Puerto Rico,
8 the United States Virgin Islands, or any territory or insular possession subject to
9 the jurisdiction of the United States; and

10 (19) "Verification on oath or affirmation" means a declaration, made by an
11 individual on oath or affirmation before a notarial officer, that a statement in a
12 record is true.

13 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
14 READ AS FOLLOWS:

15 Sections 1 to 28 of this Act apply to a notarial act performed on or after the effective
16 date of this Act.

17 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
18 READ AS FOLLOWS:

19 (1) A notarial officer may perform the following notarial acts:

20 (a) Take acknowledgements;

21 (b) Administer oaths and affirmations;

22 (c) Take verifications of statements on oath or affirmation;

23 (d) Certify that a copy of any document, other than a document is recorded or
24 in the custody of any federal, state, or local governmental agency, office, or
25 court, is a true copy;

26 (e) Certify depositions of witnesses;

27 (f) Make or note a protest of a negotiable instrument;

1 (g) Witness or attest signatures; and

2 (h) Perform any notarial act authorized by a law of the Commonwealth other
3 than Sections 1 to 28 of this Act.

4 (2) A notary public may perform any of the notarial acts listed in subsection (1) of
5 this section with respect to tangible records and electronic records.

6 (3) A notarial officer shall not perform a notarial act with respect to a record to
7 which the notarial officer or the notarial officer's spouse or other member of the
8 notarial officer's immediate family is a party, or in which any of those individuals
9 has a direct beneficial interest. A notarial act performed in violation of this
10 subsection is voidable.

11 (4) A notarial officer may certify that a tangible copy of an electronic record is an
12 accurate copy of the electronic record.

13 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
14 READ AS FOLLOWS:

15 A notarial officer who takes an acknowledgment of a record, takes a verification of a
16 statement on oath or affirmation, or witnesses or attests to a signature, shall determine,
17 from personal knowledge or satisfactory evidence of the identity of the individual, that
18 the individual appearing before the notarial officer has the identity claimed and that
19 the signature on the record is the signature of the individual. A notarial officer who
20 makes or notes a protest of a negotiable instrument shall determine the matters as set
21 forth in KRS 355.3-505(2).

22 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
23 READ AS FOLLOWS:

24 If a notarial act relates to a statement made in or a signature executed on a record, the
25 individual making the statement or executing the signature shall appear personally
26 before the notarial officer.

27 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) A notarial officer has personal knowledge of the identity of an individual
3 appearing before the officer if the individual is personally known to the officer
4 through dealings sufficient to provide reasonable certainty that the individual has
5 the identity claimed.

6 (2) A notarial officer has satisfactory evidence of the identity of an individual
7 appearing before the officer if the officer can identify the individual by means of
8 one (1) of the following credentials:

9 (a) A non-expired passport, driver's license, or government-issued
10 identification card;

11 (b) Another current form of government identification issued to an individual,
12 which contains the signature and a photograph of the individual, and is
13 satisfactory to the notarial officer; or

14 (c) If the means presented in paragraphs (a) and (b) of this subsection are
15 unavailable, verification on oath or affirmation of a credible witness
16 personally appearing before the notarial officer and known to the notarial
17 officer or whom the notarial officer can identify on the basis of a current
18 passport, driver's license, or government-issued identification card.

19 (3) A notarial officer may require an individual to provide additional information or
20 identification credentials necessary to assure the notarial officer of the identity of
21 the individual.

22 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
23 READ AS FOLLOWS:

24 (1) A notarial officer may refuse to perform a notarial act if the officer is not
25 satisfied that:

26 (a) The individual executing the record is competent or has the capacity to
27 execute the record; or

- 1 **(b) The individual's signature is knowingly and voluntarily made.**
2 **(2) A notarial officer may refuse to perform a notarial act unless refusal is**
3 **prohibited by law other than Sections 1 to 28 of this Act.**

4 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
5 READ AS FOLLOWS:

6 **If an individual is physically unable to sign a record, the individual may direct another**
7 **individual, other than the notarial officer, to sign the individual's name on the record**
8 **by proxy, in the presence of two (2) witnesses unaffected by the record, one (1) of**
9 **whom may be the individual who signs, by proxy, on behalf of the individual physically**
10 **unable to sign. Both witnesses shall sign their own names beside the proxy signature,**
11 **and the notarial officer shall insert "Signature affixed by (name of proxy signer) at the**
12 **direction of (name of individual) and in the presence of (names and addresses of the**
13 **two witnesses)" or words of similar import.**

14 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
15 READ AS FOLLOWS:

16 **(1) A notarial act may be performed in this state by:**

17 **(a) A notary public of this state; or**

18 **(b) A county clerk of this state.**

19 **(2) The signature and title of an individual performing a notarial act in this state are**
20 **prima facie evidence that the signature is genuine and that the individual holds**
21 **the designated title.**

22 **(3) The signature and title of a notarial officer described in this section conclusively**
23 **establishes the authority of the notarial officer to perform the notarial act.**

24 **(4) A county clerk shall have the powers of a notarial officer in the exercise of the**
25 **official functions of the office of clerk within his or her county, and the official**
26 **actions of the county clerk shall not require the witness or signature of a notary**
27 **public.**

1 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) (a) A notarial act performed in another state has the same effect under the law
4 of this state as if performed by a notarial officer of this state, if the act
5 performed in that state is performed by:

6 1. A notary public of that state;

7 2. A judge, clerk, or deputy clerk of a court of that state; or

8 3. Any other individual authorized by the law of that state to perform the
9 notarial act.

10 (b) The signature and title of an individual performing a notarial act in
11 another state are prima facie evidence that the signature is genuine and that
12 the individual holds the designated title.

13 (c) The signature and title of a notarial officer described in paragraph (a) or
14 (b) of this subsection conclusively establish the authority of the officer to
15 perform the notarial act.

16 (2) (a) A notarial act performed under the authority and in the jurisdiction of a
17 federally recognized Indian tribe has the same effect as if performed by a
18 notarial officer of this state, if the act performed in the jurisdiction of the
19 tribe is performed by:

20 1. A notary public of the tribe;

21 2. A judge, clerk, or deputy clerk of a court of the tribe; or

22 3. Any other individual authorized by the law of the tribe to perform the
23 notarial act.

24 (b) The signature and title of an individual performing a notarial act under the
25 authority and in the jurisdiction of a federally recognized Indian tribe are
26 prima facie evidence that the signature is genuine and that the individual
27 holds the designated title.

1 (c) The signature and title of a notarial officer described in paragraph (a) or
2 (b) of this subsection conclusively establish the authority of the notarial
3 officer to perform the notarial act.

4 (3) (a) A notarial act performed under the authority of federal law has the same
5 effect under the law of this state as if performed by a notarial officer of this
6 state, if the act performed under federal law is performed by:

7 1. A judge, clerk, or deputy clerk of a court;

8 2. An individual in military service or performing duties under the
9 authority of military service who is authorized to perform notarial acts
10 under federal law;

11 3. An individual designated a notarizing officer by the United States
12 Department of State for performing notarial acts overseas; or

13 4. Any other individual authorized by federal law to perform the notarial
14 act.

15 (b) The signature and title of an individual acting under federal authority and
16 performing a notarial act are prima facie evidence that the signature is
17 genuine and that the individual holds the designated title.

18 (c) The signature and title of an officer described in paragraph (a) or (b) of this
19 subsection conclusively establish the authority of the officer to perform the
20 notarial act.

21 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
22 READ AS FOLLOWS:

23 (1) If a notarial act is performed under the authority and in the jurisdiction of a
24 foreign state or constituent unit of the foreign state or is performed under the
25 authority of a multinational or international governmental organization, the act
26 has the same effect under the law of this state as if performed by a notarial
27 officer of this state.

1 (2) If the title of office and indication of authority to perform notarial acts in a
2 foreign state appears in a digest of foreign law or in a list customarily used as a
3 source for that information, the authority of an officer with that title to perform
4 notarial acts is conclusively established.

5 (3) The signature and official stamp of an individual holding an office described in
6 subsection (2) of this section are prima facie evidence that the signature is
7 genuine and the individual holds the designated title.

8 (4) An apostille in the form prescribed by the Hague Convention of October 5, 1961,
9 and issued by a foreign state party to the Convention conclusively establishes that
10 the signature of the notarial officer is genuine and that the officer holds the
11 indicated office.

12 (5) A consular authentication issued by an individual designated by the United States
13 Department of State as a notarizing officer for performing notarial acts overseas
14 and attached to the record with respect to which the notarial act is performed
15 conclusively establishes that the signature of the notarial officer is genuine and
16 that the officer holds the indicated office.

17 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
18 READ AS FOLLOWS:

19 (1) A notarial act shall be evidenced by a certificate. The certificate shall:

20 (a) Be executed contemporaneously with the performance of the notarial act;

21 (b) Be signed and dated by the notarial officer and, if the notarial officer is a
22 notary public, be signed in the same manner as on file with the Secretary of
23 State;

24 (c) Identify the jurisdiction in which the notarial act is performed;

25 (d) Contain the title of office and name of the notarial officer; and

26 (e) If the notarial officer is a notary public, indicate the commission number
27 and date of expiration, if there is an expiration date, of the officer's

1 commission.

2 (2) If a notarial act is performed regarding a tangible record by a notarial officer,
3 including a notary public, the certificate shall contain the information specified
4 in paragraphs (b), (c), and (d) of subsection (1) of this section, along with the
5 additional information in paragraph (e) of subsection (1) of this section, if the
6 certificate is completed by a notary public. An official stamp may be affixed to or
7 embossed on the certificate. If a notarial act regarding an electronic record is
8 performed by a notarial officer, the certificate shall contain the information
9 specified in paragraphs (b), (c), and (d) of subsection (1) of this section, along
10 with the additional information in paragraph (e) of subsection (1) of this section
11 if the certificate is completed by a notary public. An official stamp may be
12 attached to or logically associated with the certificate.

13 (3) A certificate of a notarial act is sufficient if it meets the requirements of
14 subsections (1) and (2) of this section and:

15 (a) Is in a form otherwise permitted by the laws of this state;

16 (b) Is in a form permitted by the law applicable in the jurisdiction in which the
17 notarial act was performed; or

18 (c) Sets forth the actions of the notarial officer and the actions are sufficient to
19 meet the requirements of the notarial act as provided in Sections 1 to 28 of
20 this Act or other law of this state other than Sections 1 to 28 of this Act.

21 (4) By executing a certificate of a notarial act, a notarial officer certifies that the
22 officer has complied with the requirements and made the determinations
23 specified in Sections 1 to 28 of this Act.

24 (5) A notarial officer may not affix the officer's signature to, or logically associate it
25 with, a certificate until the notarial act has been performed.

26 (6) If a notarial act is performed regarding a tangible record, a certificate shall be
27 part of, or securely attached to, the record. If a notarial act is performed

1 regarding an electronic record, the certificate shall be affixed to, or logically
2 associated with, the electronic record. If the Secretary of State has established
3 standards pursuant to Section 21 of this Act for attaching, affixing, or logically
4 associating the certificate, the process shall conform to the standards.

5 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
6 READ AS FOLLOWS:

7 A notary public commissioned pursuant to Sections 1 to 28 of this Act is not required
8 to use a stamp. If a notary public chooses to use a stamp, the notary public shall have
9 an official stamp which shall:

10 (1) Include the notary public's name, title, jurisdiction, commission number, and
11 expiration date; and

12 (2) Be capable of being copied together with the record to which it is affixed or
13 attached or with which it is logically associated.

14 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
15 READ AS FOLLOWS:

16 (1) A notary public is responsible for the security of the notary public's stamping
17 device and may not allow another individual to use the device to perform a
18 notarial act. On resignation from, or the revocation or expiration of, the notary
19 public's commission, or on the expiration of the date set forth in the stamping
20 device, if any, the notary public shall disable the stamping device by destroying,
21 defacing, damaging, erasing, or securing it against use in a manner that renders
22 it unusable. On the death or adjudication of incompetency of a notary public, the
23 notary public's personal representative or guardian or any other person
24 knowingly in possession of the stamping device shall render it unusable by
25 destroying, defacing, damaging, erasing, or securing it against use in a manner
26 that renders it unusable.

27 (2) If a notary public's stamping device is lost or stolen, the notary public or the

1 notary public's personal representative or guardian shall notify promptly the
2 Secretary of State on discovering that the device is lost or stolen.

3 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) A notary public shall register with the Secretary of State pursuant to Section 16
6 of this Act if the notary public intends to perform notarial acts with respect to
7 electronic records where the individual will appear before the notary in the
8 notary's physical presence.

9 (2) A notary public may select one (1) or more tamper-evident technologies to
10 perform notarial acts in the physical presence of the individual signer with
11 respect to electronic records, or to perform electronic notarizations. A person may
12 not require a notary public to perform any notarial act with a technology that the
13 notary public has not selected.

14 (3) If the Secretary of State has established standards respecting technology to
15 perform notarial acts in the physical presence of the individual signer with
16 respect to electronic records, or to perform electronic notarizations, the
17 technology chosen by the notary public shall conform to those standards.

18 (4) A tangible copy of an electronic record containing a notarial certificate may be
19 accepted as satisfying any requirement that a record accepted for recording be an
20 original, if the notarial officer executing the notarial certificate certifies that the
21 tangible copy is an accurate copy of the electronic record.

22 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
23 READ AS FOLLOWS:

24 (1) An individual qualified under subsection (2) of this section may apply to the
25 Secretary of State for a commission as a notary public. The applicant shall
26 comply with and provide the information required by administrative regulations
27 promulgated by the Secretary of State and be accompanied by payment of the

1 specified fee.

2 (2) An applicant for a commission as a notary public shall:

3 (a) Be at least eighteen (18) years of age;

4 (b) Be a citizen or permanent legal resident of the United States;

5 (c) Be a resident of or have a place of employment or practice in the county
6 within this Commonwealth where the application is made;

7 (d) Be able to read and write English;

8 (e) Not be disqualified to receive a commission under Section 17 of this Act;

9 (f) Submit to the Secretary of State any application forms, information,
10 disclosures, and verifications as are required by administrative regulations
11 promulgated by the Secretary of State;

12 (g) Submit to the Secretary of State proof of having obtained the requisite
13 surety bond required under subsection (4) of this section;

14 (h) Take an oath of office as set forth in subsection (4) of this section; and

15 (i) Submit a fee payment, as specified in Section 24 of this Act, made payable
16 to the State Treasurer.

17 (3) On compliance with this section, the Secretary of State shall issue a commission
18 as a notary public to an applicant for a term of four (4) years. The Secretary of
19 State shall assign a unique commission number to each notary public, which
20 same commission number shall continue to be assigned to the notary public in
21 the event of the renewal or later issuance of another commission to the same
22 individual notary public.

23 (4) Within thirty (30) days of receiving a notary public commission from the
24 Secretary of State, the applicant shall appear in person to take an oath of office,
25 submit an assurance in the form of a surety bond, and file the commission, all of
26 which shall take place before the county clerk listed in the commission
27 application. The applicant shall pay fees to the county clerk for filing the

- 1 assurance and administering the oath as set forth in KRS 64.012.
- 2 (5) The assurance required by this section shall be in the amount of one thousand
3 dollars (\$1,000) and shall be issued by a surety or other entity licensed or
4 authorized to do business in this state. The assurance shall cover acts performed
5 during the term of the notary public's commission and shall be in the form
6 prescribed by the Secretary of State. If a notary public violates the law with
7 respect to notaries public in this state, the surety or issuing entity is liable under
8 the assurance. The surety or issuing entity shall give thirty (30) days' notice to the
9 Secretary of State before canceling the assurance or of the assurance's expiration
10 if such expiration is prior to the date of expiration of the notary's commission. A
11 notary public may perform notarial acts in this state only during the period that a
12 valid assurance is on file with the county clerk.
- 13 (6) A notarial officer may perform a notarial act in any county of the
14 Commonwealth after filing the commission and assurance and taking the oath
15 required by this section, and for so long as the notary public's commission and
16 surety bond are valid and in effect.
- 17 (7) If, at any time during his or her period of commission under this section, or
18 period of registration under subsection (10) of this section, a notary public
19 changes his or her mail or electronic mail address, county of residence, name,
20 signature, electronic signature, or the technology or device used to perform
21 notarial acts or to maintain his or her journal or to render electronic documents
22 tamper-evident, the notary public shall, within ten (10) days after making the
23 change, submit to the Secretary of State the changed information upon the form
24 and containing all information required by the Secretary of State, along with a
25 fee payment, as specified in Section 24 of this Act, payable to the State Treasurer.
- 26 (8) (a) Prior to the expiration of his or her commission period, a notary public may
27 apply to the Secretary of State to renew his or her commission, and shall

1 comply with the qualifications, renewal application filings, and other
2 requirements then applicable to obtaining an original commission from the
3 Secretary of State. The application for commission renewal shall be
4 accompanied by a fee payment, as specified in Section 24 of this Act, made
5 payable to the State Treasurer.

6 (b) If approved, the Secretary of State shall issue a renewed commission to the
7 notary public for an additional four (4) year term, using the same
8 commission number as the notary public's original commission and
9 indicating the new commission expiration date.

10 (c) Pursuant to the procedures set forth in subsections (4) and (5) of this
11 section, the commission along with the required assurance shall be filed
12 with the county clerk listed in the renewal application, and a new oath of
13 office administered by the county clerk and new fees paid by the notary
14 public to the county clerk, as determined by KRS 64.012.

15 (d) A renewed commission shall be valid and effective only upon compliance
16 with this subsection. A notary public shall have no authority to perform
17 notarial acts during any period between the expiration of his or her current
18 commission and the effective date of any renewal commission.

19 (9) A commission to act as a notary public shall authorize the notary public to
20 perform notarial acts. The commission shall not provide the notary public with
21 any immunity or benefit conferred by the law of this state on public officials or
22 employees.

23 (10) Before performing an initial notarial act with respect to electronic records a
24 notary public shall first register with the Secretary of State. The notary of public
25 shall:

26 (a) At the time of registration, be a commissioned notary public in this
27 Commonwealth who has complied with the requirements set forth in

- 1 subsections (1) to (8) of this section, and who has complied with all
2 applicable notarial requirements set forth in this chapter;
- 3 (b) Register with the Secretary of State by submitting an electronic registration
4 pursuant to this subsection;
- 5 (c) Pay to the Secretary of State a registration fee payment, as specified in
6 Section 24 of this Act, which is in addition to the commission application
7 fee required to be a notarial officer in this state and any fees required to be
8 paid to the county clerk to file a commission and assurance and to take an
9 oath pursuant to KRS 62.010;
- 10 (d) Submit to the Secretary of State any registration forms, information,
11 disclosures, and verifications required by administrative regulations
12 promulgated by the Secretary of State; and
- 13 (e) Submit to the Secretary of State with the registration proof satisfactory to
14 the Secretary of State that the registrant has satisfied the requirement to
15 post an assurance as a notary public, as set forth in subsections (4) and (5)
16 of this section.
- 17 (11) The Secretary of State shall promulgate administrative regulations to establish
18 forms and procedures applicable to the registrations governed by subsection (10)
19 of this section, and shall obtain at least the following information in connection
20 with each registration:
- 21 (a) The registrant's commission number and full legal name as it appears on
22 the registrant's commission, and the name to be used for registration, if
23 different;
- 24 (b) The county in this state in which the registrant resides or has his or her
25 place of employment or practice;
- 26 (c) The electronic mail and resident address of the registrant;
- 27 (d) Whether the registrant is registering to perform notarial acts with respect to

- 1 electronic records in which the individual will appear before the notary in
2 the notary's physical presence;
- 3 (e) A description of the technologies or devices that the registrant intends to use
4 to perform notarial acts with respect to electronic records or electronic
5 notarizations, and to render electronic records tamper-evident after a
6 notarial act is completed, each of which technologies or devices shall
7 comply with any standards established by the Secretary of State;
- 8 (f) The digital certification of the registrant; and
- 9 (g) Any other information, evidence, disclosures, or declarations required or
10 deemed beneficial by the Secretary of State pursuant to any administrative
11 regulations promulgated by the Secretary of State.
- 12 (12) The Secretary of State may reject a registration if the applicant fails to comply
13 with any provision of Sections 1 to 28 of this Act.
- 14 (13) Thirty (30) days after compliance with all registration requirements and payment
15 of the required registration fee, a notary public will be registered with the
16 Secretary of State to perform notarial acts in the physical presence of an
17 individual signer with respect to electronic records.
- 18 (14) The Secretary of State may at any time cancel the registration of a notary public
19 to perform notarial acts with respect to electronic records if the notary public fails
20 to comply with any of the requirements of Sections 1 to 28 of this Act or based
21 upon any of the grounds for revocation or suspension of a notary public's
22 commission.
- 23 (15) Registration of a notary public under this section is suspended by operation of
24 law when the notary public is no longer commissioned as a notary public in this
25 state. If the commission of a notary public has expired or been revoked or
26 suspended, the Secretary of State shall immediately notify the notary public in
27 writing that his or her registration under this section will be suspended by

1 operation of law until he or she is appointed as a notary public in this
2 Commonwealth.

3 ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
4 READ AS FOLLOWS:

- 5 (1) The Secretary of State may deny, refuse to renew, revoke, suspend, or impose a
6 condition on a commission as notary public for any act or omission that
7 demonstrates the individual lacks the honesty, integrity, competence, or reliability
8 to act as a notary public, including:
- 9 (a) Failure to comply with Sections 1 to 28 of this Act;
- 10 (b) A fraudulent, dishonest, or deceitful misstatement or omission in the
11 application for a commission as a notary public submitted to the Secretary
12 of State;
- 13 (c) A conviction of the applicant or notary public of any felony or a crime
14 involving fraud, dishonesty, or deceit;
- 15 (d) A finding against, or admission of liability by, the applicant or notary public
16 in any legal proceeding or disciplinary action based on the applicant's or
17 notary public's fraud, dishonesty, or deceit;
- 18 (e) Failure by the notary public to discharge any duty required of a notary
19 public, whether by Sections 1 to 28 of this Act, administrative regulations
20 promulgated by the Secretary of State, or any federal or state law;
- 21 (f) Use of false or misleading advertising or representation by the notary public
22 representing that the notary has a duty, right, or privilege that the notary
23 does not have;
- 24 (g) Violation by the notary public of an administrative regulation of the
25 Secretary of State regarding a notary public;
- 26 (h) Denial, refusal to renew, revocation, or suspension of a notary public
27 commission in another state; or

- 1 (i) Failure of the notary public to maintain an assurance.
2 (2) The authority of the Secretary of State to deny, refuse to renew, suspend, revoke,
3 or impose conditions on a commission as a notary public does not prevent a
4 person from seeking and obtaining other criminal or civil remedies provided by
5 law.

6 ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
7 READ AS FOLLOWS:

- 8 (1) The Secretary of State shall maintain an electronic database of notaries public:
9 (a) Through which a person may verify the authority of a notary public to
10 perform notarial acts; and
11 (b) Which indicates whether a notary public has registered with the Secretary
12 of State in order to perform notarial acts on electronic records.
13 (2) Each county clerk who files a notary public's assurance and administers the oath
14 of office to a notary public shall promptly record the fact and date in the database
15 described in subsection (1) of this section.

16 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
17 READ AS FOLLOWS:

- 18 (1) A commission as a notary public does not authorize an individual to engage in
19 the practice of law.
20 (2) A notary public shall not engage in false or deceptive advertising.
21 (3) A notary public, other than an attorney licensed to practice law in this state, shall
22 not advertise or represent that the notary public may assist persons in drafting
23 legal records, give legal advice, or otherwise engage in the unauthorized practice
24 of law as defined by rule of the Supreme Court.
25 (4) Except as otherwise allowed by law, a notary public shall not withhold access to
26 or possession of an original record provided by a person that seeks performance
27 of a notarial act by the notary public.

1 ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
2 READ AS FOLLOWS:

3 *Except as otherwise provided in subsection (4) of Section 3 of this Act, the failure of a*
4 *notarial officer to perform a duty or meet a requirement specified in Sections 1 to 28 of*
5 *this Act does not invalidate a notarial act performed by the notarial officer. The validity*
6 *of a notarial act does not prevent an aggrieved person from seeking to invalidate the*
7 *record or transaction that is the subject of the notarial act or from seeking other*
8 *remedies based on other law of this state. This section does not validate a purported*
9 *notarial act performed by an individual who does not have the authority to perform*
10 *notarial acts.*

11 ➔SECTION 21. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
12 READ AS FOLLOWS:

13 *The Secretary of State may promulgate administrative regulations to implement*
14 *Sections 1 to 28 of this Act. Promulgated administrative regulations regarding the*
15 *performance of notarial acts with respect to electronic records or electronic*
16 *notarizations shall not require, or accord greater legal status or effect to, the*
17 *implementation or application of a specific technology or technical specification. The*
18 *administrative regulations may:*

19 *(1) Prescribe the manner of performing notarial acts regarding tangible and*
20 *electronic records;*

21 *(2) Establish requirements for notarial training or education as a condition of*
22 *obtaining or renewing a commission or before registering to perform notarial*
23 *acts with respect to electronic records or to perform electronic notarizations;*

24 *(3) Include provisions to ensure that any change to or tampering with a record*
25 *bearing a certificate of a notarial act is self-evident;*

26 *(4) Include provisions to ensure integrity in the creation, transmittal, storage, or*
27 *authentication of electronic records or signatures;*

1 (5) Prescribe the process of granting, renewing, conditioning, denying, suspending,
2 or revoking a notary public commission and assuring the trustworthiness of an
3 individual holding a commission as notary public;

4 (6) Include provisions to prevent fraud or mistake in the performance of notarial
5 acts; and

6 (7) Establish the process for approving and accepting surety bonds and other forms
7 of assurance under Section 16 of this Act.

8 ➔SECTION 22. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
9 READ AS FOLLOWS:

10 A commission as a notary public in effect on the effective date of this Act shall
11 continue until its date of expiration. A notary public who applies to renew a
12 commission as a notary public on or after the effective date of this Act shall be subject
13 to and comply with Sections 1 to 28 of this Act. A notary public, in performing notarial
14 acts after the effective date of this Act, shall comply with Sections 1 to 28 of this Act.

15 ➔SECTION 23. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
16 READ AS FOLLOWS:

17 Sections 1 to 28 of this Act does not affect the validity or effect of a notarial act
18 performed before the effective date of this Act.

19 ➔SECTION 24. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
20 READ AS FOLLOWS:

21 (1) For a notarial act relating to a tangible or electronic record, or for an electronic
22 notarization, a notary public may charge a fee:

23 (a) In compliance with KRS 64.300; and

24 (b) Which has been clearly disclosed to the person requesting the service in
25 advance.

26 (2) Compensation for services provided by a notary public which do not constitute
27 notarial acts is not governed by this section.

- 1 (3) The Secretary of State may charge the following fees in relation to notaries
- 2 public:
- 3 (a) Application for a commission or renewal as a notary public.....\$10
- 4 (b) Issuance of a replacement commission upon loss or destruction of the
- 5 original.....\$10
- 6 (c) Update to commission or registration information upon a change of name
- 7 or address or other specified information.....\$10
- 8 (d) Issuance of an electronic certificate of authority or
- 9 Apostille.....\$5 per document.
- 10 (4) In accordance with KRS 64.012, county clerks may assess fees for services
- 11 required to fulfill obligations set forth in Sections 1 to 28 of this Act.

12 ➔SECTION 25. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
 13 READ AS FOLLOWS:

- 14 (1) If an electronic record or paper printout of an electronic record relating to real
- 15 property located in this state contains an acknowledgement performed by
- 16 electronic means, notwithstanding any omission or error in the certificate of
- 17 acknowledgement or failure of the record to show an acknowledgement in
- 18 compliance with applicable law, upon the record being recorded with the county
- 19 clerk of the county in which the real property is located or filed with the Secretary
- 20 of State:
- 21 (a) The electronic record or paper printout of an electronic record shall be
- 22 deemed to be lawfully recorded or filed; and
- 23 (b) All persons, including without limitation any creditor, encumbrancer,
- 24 mortgagee, subsequent purchaser for valuable consideration, or any other
- 25 subsequent transferee thereof or of any interest therein, are deemed to have
- 26 notice of its contents.
- 27 (2) For the purposes of this section, a record is deemed to comply with all applicable

1 requirements upon the recording by the county clerk of the county in which the
2 real property is located or the filing of the record with the Secretary of State, as
3 required by law.

4 ➔SECTION 26. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
5 READ AS FOLLOWS:

6 (1) A writing or record that appears on its face to have been properly notarized in
7 accordance with Sections 1 to 28 of this Act shall be presumed to have been
8 notarized properly and may be recorded by the clerk.

9 (2) A writing or record notarized outside this state by a notary public or other person
10 referenced in Section 10 or 11 of this Act that appears on its face to be properly
11 notarized shall be presumed to have been notarized properly in accordance with
12 the laws and regulations of the jurisdiction in which the document was notarized.

13 (3) The county clerk shall be immune from suit arising from any acts or omissions
14 relating to recording records that have been notarized by electronic means as set
15 forth in Sections 1 to 28 of this Act unless the clerk was grossly negligent or
16 engaged in willful misconduct.

17 ➔SECTION 27. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
18 READ AS FOLLOWS:

19 (1) Sections 1 to 28 of this Act are to be construed and applied in a manner
20 consistent with KRS 369.101 to 369.120. In accordance with KRS 369.105,
21 nothing in Sections 1 to 28 of this Act shall affirmatively require any person to
22 create, generate, send, communicate, receive, store, or otherwise process or use
23 electronic records or complete a transaction using electronic means, and in
24 accordance with KRS 369.118, nothing shall require any governmental agency to
25 send and accept electronic records and electronic signatures to and from other
26 persons, or to otherwise create, generate, communicate, store, process, use, and
27 rely upon electronic records and electronic signatures, except as may be

1 otherwise required by law.

2 (2) A requirement that a record or a signature associated with a record be notarized,
3 acknowledged, verified, witnessed, or made under oath is satisfied by a paper
4 printout of an electronic record bearing an electronic signature of the person
5 authorized to perform that act and all other information required to be included
6 pursuant to KRS 369.111.

7 (3) In accordance with KRS 369.118, a governmental agency that accepts paper
8 printouts of electronic records may establish rules, procedures, or requirements
9 governing this acceptance.

10 ➔SECTION 28. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
11 READ AS FOLLOWS:

12 (1) With respect only to notarial acts performed in relation to tangible records, the
13 county clerk of a county in whose office any notary public has so filed his
14 signature and surety bond shall when requested subjoin to any certificate of proof
15 or acknowledgement signed by the notary a certificate under his or her hand and
16 seal stating that such notary public's written signature is on file in the clerk's
17 office, and was at the time of taking such proof or acknowledgement duly
18 authorized to take the same, that the clerk is well acquainted with the
19 handwriting of the notary public, and believes that the signature to the proof or
20 acknowledgement is genuine.

21 (2) For all notarial acts performed in relation to electronic records that are
22 transmitted to another state or nation, electronic evidence of the authenticity of
23 the official signature and seal of a notary public of this state, if required, shall be
24 attached to, or logically associated with, the record and shall be in the form of an
25 electronic certificate of authority signed by the Office of the Secretary of State in
26 conformance with any current and pertinent international treaties, agreements,
27 and conventions subscribed to by the United States.

1 (3) An electronic certificate of authority evidences the authenticity of the official
 2 signature and seal of a notary public of this state and shall contain substantially
 3 the following:

4 "Certificate of Authority for a Notarial Act

5 I, (name), Secretary of State of the Commonwealth of Kentucky, certify that
 6 (name of electronic notary), the person named as a Notary Public in the attached or
 7 associated electronic document, was indeed commissioned as a Notary Public for the
 8 Commonwealth of Kentucky and authorized to act as such at the time of the
 9 document's electronic notarization.

10 To verify this Certificate of Authority for a Notarial Act, I have included herewith
 11 my electronic signature this _____ day of _____, (year).

12 (Electronic signature and seal of the Kentucky Secretary of State)"

13 ➔SECTION 29. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO
 14 READ AS FOLLOWS:

15 (1) If a law requires, as a condition for recording by the county clerk upon the
 16 records relating to real property, that a document be an original, be on paper or
 17 another tangible medium, or be in writing, the requirement shall be satisfied by
 18 an electronic document that complies with the requirements of Sections 1 to 28 of
 19 this Act or this section.

20 (2) If a law requires, as a condition for recording, that a document be signed, the
 21 requirement is satisfied by an electronic signature.

22 (3) A requirement that a document or a signature associated with a document be
 23 notarized, acknowledged, verified, witnessed, or made under oath is satisfied if
 24 the electronic signature of the person authorized to perform that act, and all
 25 other information required to be included, is attached to or logically associated
 26 with the document or signature. A physical or electronic image of a stamp,
 27 impression, or seal need not accompany an electronic signature.

1 (4) As used in this section, "paper document" means a document that is received by
 2 the clerk in a form that is not electronic. A clerk:

3 (a) May receive, index, store, archive, and transmit electronic documents;

4 (b) May provide for access to, and search and retrieval of, documents and
 5 information by electronic means;

6 (c) Who accepts electronic documents for recording shall continue to accept
 7 paper documents as authorized by state law and shall place entries for both
 8 types of documents in the same index;

9 (d) May convert paper documents accepted for recording into electronic form;

10 (e) May convert into electronic form information recorded before the clerk
 11 began to record electronic documents;

12 (f) May accept electronically any fee, levy, or tax that the clerk is authorized to
 13 collect; and

14 (g) May agree with other officials of a state or a political subdivision of that
 15 state, or of the United States, on procedures or processes to facilitate the
 16 electronic satisfaction of prior approvals and conditions precedent to
 17 recording and the electronic payment of fees, levies, and taxes that the clerk
 18 is authorized to accept.

19 (5) This section shall be known and may be cited as the "Uniform Real Property
 20 Electronic Recording Act." In applying and construing this section,
 21 consideration shall be given to the need to promote uniformity of the law with
 22 respect to its subject matter among the states that enact it.

23 ➔SECTION 30. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO
 24 READ AS FOLLOWS:

25 (1) If a law requires that an instrument relating to real property within the
 26 Commonwealth to be admitted to the public record and recorded, to be an
 27 original, to be on paper or another tangible medium, to be in writing, or to be

1 signed, the requirement shall be satisfied by a paper copy of an electronic record,
2 including an electronic record bearing an electronic signature, that a notary
3 public has certified, pursuant to subsection (3) of this section, to be a true and
4 correct copy of the record that was originally in electronic form and bearing an
5 electronic signature.

6 (2) A requirement that a document or a signature associated with a document be
7 notarized, acknowledged, verified, witnessed, or made under oath is satisfied by a
8 paper copy of an electronic document bearing an electronic signature of the
9 person authorized to perform that act, and all other information required to be
10 included, that a notary public has certified, pursuant to subsection (3) of this
11 section, to be a true and correct copy of a document that was originally in
12 electronic form and bearing an electronic signature of the person. A physical or
13 electronic image of a stamp, impression, or seal need not accompany an
14 electronic signature.

15 (3) A county clerk shall record a paper copy of a document that was originally in
16 electronic form and that is otherwise entitled to be recorded under the laws of this
17 state, if the paper copy has been certified to be a true and correct copy of the
18 electronic record by a notary public as evidenced by a certificate attached to or
19 made a part of the record. The certificate:

20 (a) Shall:

21 1. Be signed and dated by the notary public;

22 2. Identify the jurisdiction in which the certification is performed;

23 3. Contain the title of the notary public; and

24 4. Indicate the number and date of expiration, if any, of the notary
25 public's commission; and

26 (b) May include an official stamp of the notary public affixed to or embossed
27 on the certificate.

1 (4) The following form of certificate is sufficient for the purposes of this section, if
2 completed with the information required by subsection (3) of this section:

3 State of _____

4 [County] of _____

5 I certify that the foregoing and annexed document [entitled _____
6 [document title], [dated _____ [document date, if applicable],
7 and containing _____ pages is a true and correct copy of an electronic
8 document bearing one (1) or more electronic signatures.

9 Executed this _____ [date].

10 _____
11 [Signature of notary public]

12 Stamp

13 [_____]

14 Notary Public

15 [My commission expires: _____]

16 [My notary registration number is: _____]

17 (5) A notary public duly commissioned under the laws of this Commonwealth or of
18 another state within the United States has the authority to make the certification
19 provided in this section.

20 (6) A notary public making the certification provided in this section shall:

21 (a) Personally print or supervise the printing of the electronic document onto
22 paper;

23 (b) Not make any changes or modifications to the electronic document other
24 than the certification described in subsection (3) of this section; and

25 (c) Confirm that the electronic document has been rendered tamper-evident.

26 (7) If a certificate is completed with the information required by subsection (3) of
27 this section and is attached to or made a part of a paper record, the certificate

1 shall be considered conclusive evidence that the requirements of this section have
2 been satisfied with respect to the record.

3 (8) A record purporting to convey or encumber real property or any interest therein
4 that has been recorded by a clerk for the jurisdiction in which the real property is
5 located, although the record may not have been certified in accordance with the
6 provisions of this section, shall import the same notice to third persons from the
7 time of recording as if the record had been certified in accordance with the
8 provisions of this section.

9 (9) This section shall not apply to a plat, map, or survey of real property if under
10 another law of this state, or under a rule, regulation, or ordinance applicable to a
11 clerk if:

12 (a) There are requirements of format or medium for the execution, creation, or
13 recording of the plat, map, or survey beyond the requirements applicable to
14 a deed to real property; or

15 (b) The plat, map, or survey must be recorded in a different location than a
16 deed to real property.

17 ➔SECTION 31. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
18 READ AS FOLLOWS:

19 Sections 1 to 28 and Sections 29 and 30 of this Act modify, limit, and supersede the
20 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. secs. 7001 et
21 seq., but do not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. sec.
22 7001(c), or authorize electronic delivery of any of the notices described in Section
23 103(b) of that act, 15 U.S.C. sec. 7003(b).

24 ➔SECTION 32. A NEW SECTION OF KRS CHAPTER 423 IS CREATED TO
25 READ AS FOLLOWS:

26 In the event of a conflict between the provisions of this chapter and any other law in
27 this state, the provisions of this chapter shall control.

1 ➔Section 33. KRS 423.200 is amended to read as follows:

2 Notwithstanding any other provision of law, any certificate of an acknowledgment given
 3 and certified as provided by Sections 1 to 28 of this Act~~[KRS 423.110 to 423.190]~~ or as
 4 provided by those sections and other provisions of law, together with the instrument
 5 acknowledged, may be admitted to the public record provided for the type of instrument
 6 so acknowledged, and any instrument required to be sworn to or affirmed in order to be
 7 recorded may be admitted to record upon a jurat recognized under the provisions of
 8 Sections 1 to 28 of this Act~~[KRS 423.110 to 423.190]~~.

9 ➔Section 34. KRS 369.103 is amended to read as follows:

10 (1) Except as otherwise provided in subsection (2) of this section, KRS 369.101 to
 11 369.120 applies to electronic records and electronic signatures relating to a
 12 transaction.

13 (2) KRS 369.101 to 369.120 does not apply to a transaction to the extent it is governed
 14 by:

15 (a) A law governing the creation and execution of wills, codicils, or testamentary
 16 trusts;

17 (b) KRS Chapter 355 other than KRS 355.1-107 and 355.1-206, and Articles 2
 18 and 2A of KRS Chapter 355;

19 and

20 (c) ~~[A law governing the conveyance of any interest in real property; and~~

21 ~~(d)]~~A law governing the creation or transfer of any negotiable instrument or any
 22 instrument establishing title or an interest in title to a motor vehicle and
 23 governed by KRS Chapter 186 or 186A.

24 (3) KRS 369.101 to 369.120 applies to an electronic record or electronic signature
 25 otherwise excluded from the application of KRS 369.101 to 369.120 under
 26 subsection (2) of this section to the extent it is governed by a law other than those
 27 specified in subsection (2) of this section.

1 (4) A transaction subject to KRS 369.101 to 369.120 is also subject to other applicable
2 substantive law.

3 ➔Section 35. KRS 382.230 is amended to read as follows:

4 (1) No conveyance of real property shall be void or invalid because of a failure by the
5 county clerk to incorporate in his certificate to such conveyance an endorsement of
6 acknowledgment made by his deputy thereon.

7 (2) When acknowledgments to conveyances of real property have been taken by a
8 deputy clerk, and a note or memorandum thereof endorsed by him on the
9 conveyance, and a certificate of such acknowledgment has been afterward written
10 out by the principal clerk and signed by him as having been done by such deputy or
11 as if the acknowledgment had been before such principal clerk, such conveyance
12 and certificate, and the recording thereof, shall be valid although the note or
13 memorandum made by the deputy was not copied into the certificate.

14 (3) No conveyance of real property certified, proven or lodged for record prior to June
15 17, 1924, shall be void or invalid because it was not certified, proven, or lodged for
16 record as required by the law in force at the time, if it was certified or proven in the
17 manner prescribed by the Act of 1910 c 82, or by KRS 382.130~~[, 382.140]~~ or
18 382.150.

19 ➔SECTION 36. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO
20 READ AS FOLLOWS:

21 *Documents physically presented to a county clerk for recording during regular*
22 *business hours shall be considered for immediate recording if requested by the party*
23 *presenting the documents, except that the county clerk may refuse unreasonable*
24 *requests. Documents delivered by all other methods shall be processed as they are*
25 *received, with priority assigned by the date the documents are received. All documents*
26 *received on a given date shall have equal priority, and the county clerk shall have*
27 *discretion to decide in what order documents are processed. A county clerk shall be*

1 held harmless for any disputes that arise regarding the timing of a recorded document.

2 ➔Section 37. KRS 382.200 is amended to read as follows:

3 (1) Except as provided in subsection (2) of this section and Section 36 of this Act, each
4 county clerk shall make and keep an alphabetical cross-index of all conveyances
5 recorded in his office, and when a mortgage or deed of trust, or any other
6 conveyance, lease, or contract is lodged in his office for record, he shall, at once and
7 before attending to any other business, place the names of the parties to the
8 instrument upon the cross-index in his office, and shall within six (6) days thereafter
9 record the instrument.

10 (2) Chattel mortgages, financing statements or security agreements shall be filed and
11 recorded in the manner set out in KRS 355.9-519.

12 ➔Section 38. KRS 382.280 is amended to read as follows:

13 Except as provided in Section 36 of this Act, all bona fide deeds of trust or mortgages
14 shall take effect in the order that they are legally acknowledged or proved and lodged for
15 record.

16 ➔Section 39. KRS 64.012 is amended to read as follows:

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

18 (a) 1.~~[(1)(a)]~~ Recording and indexing of a:

19 a.~~[1.]~~ Deed of trust or assignment for the benefit of creditors;

20 b.~~[2.]~~ Deed;

21 c.~~[3.]~~ ~~[Real estate mortgage;~~

22 4.~~—~~] Deed of assignment;

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

25 e.~~[5.]~~ Real estate option;

26 f.~~[6.]~~ Power of attorney;

27 g.~~[7.]~~ Revocation of power of attorney;

- 1 h.[8.] Lease which is recordable by law;
- 2 i.[9.] Deed of release of a mortgage or lien under KRS 382.360;
- 3 j.[10.] United States lien;
- 4 k.[11.] Release of a United States lien;
- 5 l.[12.] Release of any recorded encumbrance other than state liens;
- 6 m.[13.] Lis pendens notice concerning proceedings in bankruptcy;
- 7 n.[14.] Lis pendens notice;
- 8 o.[15.] Mechanic's and artisan's lien under KRS Chapter 376;
- 9 p.[16.] Assumed name;
- 10 q.[17.] Notice of lien issued by the Internal Revenue Service;
- 11 r.[18.] Notice of lien discharge issued by the Internal Revenue
- 12 Service;
- 13 s.[19.] Original, assignment, amendment, or continuation financing
- 14 statement;
- 15 t.[20.] Making a record for the establishment of a city, recording the
- 16 plan or plat thereof, and all other service incident;
- 17 u.[21.] Survey of a city, or any part thereof, or any addition to or
- 18 extensions of the boundary of a city;
- 19 v.[22.] Recording with statutory authority for which no specific fee
- 20 is set, 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.[23.] Filing with statutory authority for which no specific fee is
- 26 set.
- 27 For all items in this subsection if the entire thereof does not exceed

1 five (5)~~[three (3)]~~ pages**\$33.00**~~[\$12.00]~~

2 And, for all items in this subsection exceeding five (5)~~[three (3)]~~
3 pages,

4 for each additional page\$3.00

5 And, for all items in this subsection for each additional reference
6 relating to same instrument\$4.00

7 ~~2. (b)~~ The thirty-three dollar (\$33)~~[twelve dollar (\$12)]~~ fee imposed by
8 ~~[paragraph (a) of]~~this subsection shall be divided as follows:

9 ~~a. 1.~~ Twenty-seven dollars (\$27)~~[Six dollars (\$6)]~~ shall be retained by
10 the county clerk; and

11 ~~b. 2.~~ Six dollars (\$6) shall be paid to the affordable housing trust fund
12 established in KRS 198A.710 and shall be remitted by the county
13 clerk within ten (10) days following the end of the quarter in which
14 the fee was received. Each remittance to the affordable housing
15 trust fund shall be accompanied by a summary report on a form
16 prescribed by the Kentucky Housing Corporation.

17 ~~(b) (2)~~ ~~[Recording and indexing a file stamped copy of documents set forth in~~
18 ~~KRS 14A.2-040(1) or (2) that have been filed first with the Secretary of State:~~

19 ~~(a) — The entire record thereof does not exceed three (3) pages\$10.00~~

20 ~~(b) — And, exceeding three (3) pages, for each additional page\$3.00~~

21 ~~(3) — Recording wills or other probate documents pursuant to KRS~~
22 ~~— Chapter 392 or 394\$ 8.00~~

23 ~~(4) — Recording court ordered name changes pursuant to KRS Chapter 401\$ 8.00~~

24 ~~(5) —]For noting a security interest on a certificate of title pursuant to~~
25 ~~KRS Chapter 186A\$12.00~~

26 ~~(c) (6)~~ For filing the release of collateral under a financing statement
27 and noting same upon the face of the title pursuant to KRS Chapter

1	186 or 186A	\$5.00
2	(d) [(7)] Filing or recording state tax or other state liens	\$5.00
3	(e) [(8)] Filing release of a state tax or other state lien	\$5.00
4	[(9) Marginal release, noting release of any lien, mortgage, or redemption	
5	— other than a deed of release	\$8.00
6	(f) [(10)] Acknowledging or notarizing any deed, mortgage, power of attorney,	
7	or other written instrument required by law for recording and certifying	
8	same	\$5.00 [\$4.00]
9	(g) [(11)] — Recording a land use restriction according to KRS 100.3681	\$15.00
10	(12) Recording plats, maps, and surveys, not exceeding 24 inches by	
11	36 inches, per page	\$40.00 [\$20.00]
12	(h) [(13)] Recording a bond, for each bond	\$10.00
13	(i) [(14)] Each bond required to be taken or prepared by the clerk	\$4.00
14	(j) [(15)] Copy of any bond when ordered	\$3.00
15	(k) [(16)] Administering an oath and certificate thereof	\$5.00
16	(l) [(17)] Issuing a license for which no other fee is fixed by law	\$8.00
17	(m) [(18)] Issuing a solicitor's license	\$15.00
18	(n) [(19)] Marriage license, indexing, recording, and issuing certificate thereof \$26.50 [\$24.00]	
19	(o) [(20)] Every order concerning the establishment, changing, closing, or	
20	discontinuing of roads, to be paid out of the county levy when	
21	the road is established, changed, closed, or discontinued, and by	
22	the applicant when it is not	\$3.00
23	(p) [(21)] Registration of licenses for professional persons required to register	
24	with the county clerk	\$10.00
25	(q) [(22)] Certified copy of any record	\$5.00
26	Plus fifty cents (\$.50) per page after three (3) pages	
27	(r) [(23)] Filing certification required by KRS 65.070(2)(a)	\$5.00

- 1 ~~(s)~~~~(24)~~ Filing notification and declaration and petition of candidates
- 2 for Commonwealth's attorney\$200.00
- 3 ~~(t)~~~~(25)~~ Filing notification and declaration and petition of candidates for county
- 4 and independent boards of education\$20.00
- 5 ~~(u)~~~~(26)~~ Filing notification and declaration and petition of candidates for
- 6 boards of soil and water conservation districts\$20.00
- 7 ~~(v)~~~~(27)~~ Filing notification and declaration and petition of candidates for
- 8 other office\$50.00
- 9 ~~(w)~~~~(28)~~ Filing declaration of intent to be a write-in candidate for office\$50.00
- 10 ~~(x)~~~~(29)~~ Filing petitions for elections, other than nominating petitions\$50.00
- 11 ~~(y)~~~~(30)~~ Notarizing any signature, per signature\$2.00
- 12 ~~(z)~~~~(31)~~ Filing bond for receiving bodies under KRS 311.310\$10.00
- 13 ~~(aa)~~~~(32)~~ Noting the assignment of a certificate of delinquency and recording
- 14 and indexing the encumbrance under KRS 134.126 or 134.127\$27.00
- 15 ~~(ab)~~~~(33)~~ Filing a going-out-of-business permit under KRS 365.445\$50.00
- 16 ~~(ac)~~~~(34)~~ Filing a renewal of a going-out-of-business permit under KRS 365.445 \$50.00
- 17 ~~(ad)~~~~(35)~~ Filing a grain warehouseman's license under KRS 359.050\$10.00
- 18 ~~(ae)~~~~(36)~~ Filing and processing a transient merchant permit under KRS 365.680 \$25.00
- 19 **(af) 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 **(2) The sixty-three dollar (\$63) fee imposed by subsection (1)(af) of this section shall**
- 24 **be divided as follows:**
- 25 **(a) Fifty-seven dollars (\$57) shall be retained by the county clerk; and**
- 26 **(b) Six dollars (\$6) shall be paid to the affordable housing trust fund**
- 27 **established in KRS 198A.710 and shall be remitted by the county clerk**

1 within ten (10) days following the end of the quarter in which the fee was
 2 received. Each remittance to the affordable housing trust fund shall be
 3 accompanied by a summary report on a form prescribed by the Kentucky
 4 Housing Corporation.

5 (3) For services related to the permanent storage of records listed in paragraphs (a),
 6 (g), (n), and (af) of subsection (1) of this section, the clerk shall be entitled to
 7 receive a reimbursement of ten dollars (\$10).

8 ➔Section 40. KRS 382.240 is amended to read as follows:

9 Each instrument that is recorded shall be delivered to the party entitled thereto. The
 10 county clerk shall require prepayment of postage and a three dollar (\$3) reimbursement
 11 for delivery of said instruments at the time they are left for record in his office. If the
 12 county clerk is unable to locate the parties entitled thereto, he shall retain the instruments
 13 for at least one (1) year~~[two (2) years]~~. The clerk may then destroy the instruments
 14 ~~[provided that he shall first make the following announcement by public notice in the~~
 15 ~~newspaper of the largest circulation in the county: "Legal instruments which have been~~
 16 ~~filed for record in the (name of county) county clerk's office and which have been in the~~
 17 ~~custody of the clerk for over two (2) years must be claimed by the persons entitled thereto~~
 18 ~~within thirty (30) days, or they shall be destroyed." The date of the notice and the name of~~
 19 ~~the clerk shall be appended to the notice. Thirty (30) days after the appearance of the~~
 20 ~~public notice, the county clerk may destroy the instruments].~~

21 ➔Section 41. KRS 382.360 is amended to read as follows:

22 (1) Liens by deed or mortgage may be discharged by an entry acknowledging their
 23 satisfaction on the margin of the record thereof, or in the alternative, at the option of
 24 the county clerk, in a marginal entry record, signed by the person entitled thereto, or
 25 his or her personal representative or agent, and attested by the clerk, or may be
 26 discharged by a separate deed of release, which shall recite the date of the
 27 instrument and deed book and the page wherein it is recorded. Such release in the

1 case of a mortgage or deed of trust shall have the effect to reinstate the title in the
2 mortgagor or grantor or person entitled thereto. Each entry in the marginal entry
3 record shall be linked to its respective referenced instrument in the indexing system
4 for the referenced instruments.

5 (2) If a lien or mortgage is released by a deed of release, the clerk shall immediately, at
6 the option of the clerk, either link the release and its filing location to its respective
7 referenced instrument in the indexing system for the referenced instrument, or
8 endorse on the margin of the record wherein the lien is retained "Released by deed
9 of release (stating whether in whole or in part) lodged for record (giving date, deed
10 book and page wherein such deed of release may be found)" and the clerk shall also
11 attest such certificate. ~~The clerk shall cause the original deed of release to be
12 delivered to the mortgagor or grantor or person entitled thereto.~~

13 (3) When a mortgage is assigned to another person, the assignee shall file the
14 assignment for recording with the county clerk within thirty (30) days of the
15 assignment and the county clerk shall attest the assignment and shall note the
16 assignment in the blank space, or in a marginal entry record, beside a listing of the
17 book and page of the document being assigned. Provided, however, that an assignee
18 that reassigns the note prior to the thirtieth day after first acquiring the assignment
19 may request that the subsequent assignee file the unfiled assignment with the new
20 reassignment.

21 (4) Delivering an assignment to the assignee or a lien release to the mortgagor shall not
22 substitute for filing the assignment or release with the county clerk, as required by
23 this section.

24 (5) Notwithstanding the provisions of this section, nothing in this chapter shall require
25 the legal holder of any note secured by lien in any deed or mortgage to file a release
26 of any mortgage when the mortgage securing such paid note also secures a note or
27 other obligation which remains unpaid.

1 (6) Failure of an assignee to record a mortgage assignment shall not affect the validity
2 or perfection, or invalidity or lack of perfection, of a mortgage lien under applicable
3 law.

4 ➔Section 42. (1) The Legislative Research Commission shall create a task
5 force on issues regarding the implementation of electronic recording, fees or functions of
6 the county clerk involved in the recording of documents, issues concerning notaries
7 public or notarial officers, or any further legislation relating to this Act.

8 (2) The task force shall comprehensively investigate the electronic recording process in
9 the Commonwealth to identify policy options to streamline the process of recording
10 and notarizing documents, increasing efficiency, reducing costs, and decreasing
11 paperwork and redundancy.

12 (3) The task force shall review studies and legislative action by other states and by the
13 federal government on notarizing and recording public documents.

14 (4) The task force shall be composed of the following members, with final membership
15 subject to the consideration and approval of the Legislative Research Commission:

16 (a) One member of the House of Representatives, appointed by the Speaker of the
17 House of Representatives, who shall be designated to serve as co-chair;

18 (b) One member of the Senate, appointed by the President of the Senate, who
19 shall be designated to serve as co-chair;

20 (c) Four county clerks, one who is the current chair of the recording committee of
21 the Kentucky County Clerks Association and three clerks designated by the
22 President of the County Clerk's Association;

23 (d) Two attorneys selected from a list of three attorneys of the Real Estate Section
24 of the Kentucky Bar Association submitted by the Kentucky Bar Association,
25 one to be appointed by the Speaker of the House of Representatives and one to
26 be appointed by the President of the Senate;

27 (e) Two representatives of the banking industry selected from a list of three

1 individuals submitted by the Kentucky Bankers Association, one to be
2 appointed by the Speaker of the House of Representatives and one to be
3 appointed by the President of the Senate;

4 (f) Two representatives of the mortgage banking industry from a list of three
5 individuals submitted by the Kentucky Mortgage Bankers Association, one to
6 be appointed by the Speaker of the House of Representatives and one to be
7 appointed by the President of the Senate;

8 (g) Two representatives of the land title industry selected from a list of three
9 individuals submitted by the Kentucky Land Title Association, one to be
10 appointed by the Speaker of the House of Representatives and one to be
11 appointed by the President of the Senate;;

12 (h) One representative from the Secretary of State's office submitted by the
13 Secretary of State; and

14 (i) Two representatives from either e-recording or e-notary companies doing
15 business in Kentucky nominated by the Secretary of State, one to be appointed
16 by the Speaker of the House of Representatives and one to be appointed by the
17 President of the Senate.

18 ➔Section 43. The task force shall meet at least four times during both the 2019
19 and the 2020 legislative interims, and shall submit its findings and recommendations to
20 the Legislative Research Commission no later than December 1, 2020.

21 ➔Section 44. Provisions of this section to the contrary notwithstanding, the
22 Legislative Research Commission shall have the authority to alternatively assign the
23 issues identified herein to an interim joint committee or subcommittee thereof, and to
24 designate a study completion date.

25 ➔Section 45. Sections 42 and 43 of this Act shall have the same legal status as a
26 Senate Concurrent Resolution.

27 ➔Section 46. The following KRS sections are repealed:

- 1 382.140 Recording of deeds executed out of state.
- 2 382.190 Unrecorded deeds to be advertised by clerk.
- 3 423.010 Appointment, term, and qualifications of notaries -- County clerk has powers of
4 notary when acting in capacity as clerk.
- 5 423.020 Notary may act in any county -- Certification of notary's authority.
- 6 423.030 Protests to be recorded -- Copies as evidence.
- 7 423.040 Notice of dishonor -- To whom sent.
- 8 423.050 Records of notary to be delivered to county clerk, when.
- 9 423.060 Foreign notary -- When protest by is evidence.
- 10 423.070 Commissioners of foreign deeds -- Appointment, term.
- 11 423.080 Powers of commissioners.
- 12 423.990 Penalties.
- 13 →Section 47. This Act shall take effect January 1, 2020.