

391.010 Descent of real estate (old)

When a person having right or title to any real estate or inheritance dies intestate as to such estate, it shall descend in common to his kindred, male and female, in the following order, except as otherwise provided in this chapter:

- (1) To his children and their descendants; if there are none, then
- (2) To his father and mother, if both are living, one (1) moiety each; but if the father is dead, the mother, if living, shall take the whole estate; if the mother is dead, the whole estate shall pass to the father; if there is no father or mother, then
- (3) To his brothers and sisters and their descendants; if there are none, then
- (4) To the husband or wife of the intestate; if there are none surviving, then
- (5) One (1) moiety of the estate shall pass to the paternal and the other to the maternal kindred, in the following order:
 - (a) The grandfather and grandmother equally, if both are living; but if one is dead, the entire moiety shall go to the survivor; if there is no grandfather or grandmother, then
 - (b) To the uncles and aunts and their descendants; if there are none, then
 - (c) To the great-grandfathers and great-grandmothers, in the same manner prescribed for grandfather and grandmother by subsection (a); if there are none, then
 - (d) To the brothers and sisters of the grandfathers and grandmothers and their descendants; and so on in other cases without end, passing to the nearest lineal ancestors and their descendants.
- (6) If there is no such kindred to one of the parents as is described in subsection (5), the whole to go to the kindred of the other. If there is neither paternal nor maternal kindred, the whole shall go to the kindred of the husband or wife, as if he or she had survived the intestate and died entitled to the estate.

391.010 Descent of real estate (new)

When a person having right or title to any real estate or inheritance dies intestate as to such estate, it shall descend in common to his or her kindred, male and female, in the following order, except as otherwise provided in this chapter:

(1) (a) To his or her surviving spouse as follows:

1. If there is no surviving descendant of the decedent, the entirety;
2. If the decedent is survived by one (1) or more descendants, all of whom are also descendants of the surviving spouse, the entirety;
3. If the decedent is survived by one (1) or more descendants who are not lineal descendants of the surviving spouse, one-half (1/2); or
4. If the decedent is survived by one (1) or more descendants, all of whom are also descendants of the surviving spouse, and the surviving spouse has one (1) or more descendants who are not descendants of the decedent, one-half (1/2); and

(b) Any interest in property not passing to his or her surviving spouse under this subsection, or if there is no surviving spouse, as provided in subsections (2) to (6) of this section.

(2) To his or her children and their descendants; if there are none, then

(3) To his or her father and mother, if both are living, one (1) moiety each; but if the father is dead, the mother, if living, shall take the whole estate; if the mother is dead, the whole estate shall pass to the father; if there is no father or mother, then

(4) To his or her brothers and sisters and their descendants; if there are none, then

(5) (a) One (1) moiety of the estate shall pass to the paternal and the other to the maternal grandfather and grandmother equally, if both are living; but if one is dead, the entire moiety shall go to the survivor; if there is no grandfather or grandmother, then

(b) To the uncles and aunts and their descendants; if there are none, then

(c) To the stepchildren of the decedent

(6) If there is no kindred as is described in subsection (5) of this section, the whole shall vest in the state under KRS 393.020.