

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.

392.020 Surviving spouse's interest in property of deceased spouse; “dower” and “curtesy” defined (old)

After the death of the husband or wife intestate, the survivor shall have an estate in fee of one-half ($\frac{1}{2}$) of the surplus real estate of which the other spouse or anyone for the use of the other spouse, was seized of an estate in fee simple at the time of death, and shall have an estate for his or her life in one-third ($\frac{1}{3}$) of any real estate of which the other spouse or anyone for the use of the other spouse, was seized of an estate in fee simple during the coverture but not at the time of death, unless the survivor's right to such interest has been barred, forfeited or relinquished. The survivor shall also have an absolute estate in one-half ($\frac{1}{2}$) of the surplus personalty left by the decedent. Unless the context otherwise requires, any reference in the statutes of this state to “dower” or “curtesy” shall be deemed to refer to the surviving spouse's interest created by this section.

392.020 Surviving spouse's interest in property of deceased spouse; “dower” and “curtesy” defined (new)

(1) (a) After the death of the husband or wife intestate, the survivor shall have, in addition to his or her share under Section 1 of this Act, an estate for his or her life in one-third (1/3) of any real estate of which the other spouse or anyone for the use of the other spouse, was seized of an estate in fee simple during the coverture but not at the time of death, unless the survivor's right to the interest has been barred, forfeited, or relinquished.

(b) The survivor shall also have an absolute estate in one-half (1/2) of the surplus personalty left by the decedent. Unless the context otherwise requires, any reference in the statutes of this state to "dower" or "curtesy" shall be deemed to refer to the surviving spouse's interest created by this section.

(2) Except as otherwise provided in subsection (4) of this section, surplus personalty includes personal property owned by the decedent at death that is:

(a) Payable pursuant to a:

1. Beneficiary designation;

2. Transfer on death designation; or

3. Payable on death designation, including retirement accounts whether designated as an individual retirement account or otherwise; or

(b) Jointly owned with right of survivorship to another person.

(3) The surviving spouse's share of the decedent's surplus personalty shall be credited with any property described in subsection (2) of this section received by the surviving spouse at the decedent's death, less the amount of payment made for the decedent's funeral and burial expenses as confirmed by receipt of payment, or by contract or other written document of obligation for payment.

(4) (a) Surplus personalty shall not include the death benefit payable on any life insurance policy insuring the life of the decedent;

(b) Life insurance proceeds payable to the surviving spouse shall be credited against the surviving spouse's share of the decedent's surplus personalty; and

(c) Life insurance proceeds payable to a trust of which the surviving spouse is a beneficiary shall be credited against the surviving spouse's share of the decedent's surplus personalty in an amount determined under subsection (7) of this section.

(5) Surplus real estate and surplus personalty include all property held by or payable at the decedent's death:

(a) To a trust over which the decedent held at the time of death a power of revocation; and

(b) Over which the decedent held at the time of death a general power of appointment as defined in KRS 390.020.

(6) Property of any kind transferred by the decedent to a person or trust, other than a trust for the benefit of the surviving spouse, the decedent, or a qualified charitable organization two (2) years or more prior to death, is not surplus personalty and is not surplus real estate. Property of any kind transferred by the decedent to a person or trust less than two (2) years prior to death is surplus personalty or surplus real estate.

(7) Property of any kind transferred prior to the decedent's death and held at the decedent's death by a trust created by the decedent and of which the surviving spouse is a beneficiary shall be:

(a) Deemed surplus personalty or surplus real estate as applicable; and

(b) Credited against the surviving spouse's share of the decedent's surplus real estate and surplus personalty, in an amount computed under 26 U.S.C. sec. 7520.

(8) The surviving spouse may bring an action against any person receiving property that is part of the surplus real estate or surplus personalty as necessary to satisfy the dower or curtesy claim of the surviving spouse with respect to that property.

394.300 Recording of wills (old)

(1) Every will or authenticated copy admitted to record by any court shall be recorded by the county clerk, and remain in his office, except during such time as it may be carried to another court under subpoena duces tecum.

(2) (a) A will probated in the court of one Kentucky county and recorded in the office of the county clerk for that county may be recorded in the office of the county clerk for other counties without the process of probate in the other county.

(b) Production of an attested copy of the will together with an attested copy of the order of probate shall be required by the county clerk of the other county before recordation.

(c) The clerk shall make the same charge for recordation as is otherwise provided for recording a will.

394.300 Recording of wills (new)

(1) (a) Every will admitted to probate by any court shall be recorded by the county clerk, and shall remain in the office of the county clerk except:

1. During such time as it may be carried to another court under subpoena duces tecum; or
2. As provided in paragraph (d) of this subsection.

(b) For any will recorded on or after January 1, 2027, the county clerk shall return the will to the person designated in the order admitting the will to probate no earlier than two (2) years after it has been recorded by the county clerk.

(c) Any will recorded with the county clerk after January 1, 1978, and prior to January 1, 2027, that remains in the office of the county clerk may be destroyed or returned to either the person designated in the order admitting the will to probate or the person appointed as the executor or executrix of the decedent's estate no earlier than ten (10) years after the date of recording.

(d) Upon receipt of any notice required under KRS 394.240, the county clerk shall not return a will under paragraph (b) or (c) of this subsection until:

1. The adversarial proceeding is final and nonappealable; or
2. Authorized by a court of competent jurisdiction.

(e) Any attempted return of a will under paragraph (b) or (c) of this subsection that is:

1. Returned to the county clerk as undeliverable; or
2. Precluded due to insufficient information regarding an address or to whom the will should be returned;

may be destroyed.

(2) (a) A will probated in the court of one Kentucky county and recorded in the office of the county clerk for that county may be recorded in the office of the county clerk for other counties without the process of probate in the other county.

(b) Production of an attested copy of the will together with an attested copy of the order of probate shall be required by the county clerk of the other county before recordation.

(c) The clerk shall make the same charge for recordation as is otherwise provided for recording a will.

395.015 Applications for appointment of personal representative (old)

(1) Before being appointed as executor, administrator, curator, or administrator with the will annexed, every person shall make and file in duplicate a written application under oath, which must state the names of the deceased's surviving spouse and all of his heirs-at-law or such as are known, their post office address if known, the date of death and also a statement in general terms as to what the estate consists of and the probable value of the personal and real estate and also a statement of any indebtedness owing by the applicant to the deceased. The foregoing requirement in respect to names and addresses of heirs-at-law may be omitted when the application is being made by the executor named in the will unless requested by the court. The application of a nonresident shall include the designation of a resident of the county where administration is pending as his agent for the service of process in any action against him as personal representative or personally, provided that such personal action must have accrued in the administration of the estate. A duplicate copy of said application shall be mailed by the clerk to the secretary of revenue of the State of Kentucky.

(2) In the case of intestacy, or where an administrator with will annexed or de bonis non is to be appointed, if there be no surviving spouse, or if such spouse waives the right of appointment or is not qualified to act and does not nominate a suitable administrator and there is more than one (1) resident heir-at-law entitled to appointment, the court shall thereupon set a time for hearing such application. Notice of said hearing shall be given to the surviving spouse and all known heirs of the deceased residing in the state, or elsewhere, in the manner provided in [KRS 395.016](#).

395.015 Applications for appointment of personal representative (new)

(1) Before being appointed as executor, administrator, curator, or administrator with the will annexed, every person shall make and file in duplicate a written application for appointment under oath, which shall include:

(a) The names of the deceased's surviving spouse and all of his or her heirs-at-law as are known, and the United States postal address and electronic mail address of each if known;

(b) The date of death;

(c) A statement of any indebtedness owing by the applicant to the deceased;

(d) If the decedent died testate, the name and address of the person to whom any will admitted to probate and recorded with the county clerk is to be returned under Section 3 of this Act; and

(e) An acknowledgment by the person seeking appointment as executor, administrator, curator, or administrator with the will annexed in substantially the following form:

“Upon appointment, I agree to faithfully execute the duties required by law, and such additional duties ordered by the court, and that I am subject to removal as a fiduciary if I fail to perform the required duties, and subject to possible civil and criminal penalties for improper conversion of any property I hold as a fiduciary.”

(2) (a) If the decedent died testate, the decedent's will shall be presented to the court prior to or at the time of any appointment.

(b) After the will is admitted to probate, the clerk of the court shall:

1. Beginning January 1, 2028, collect the fee required by the county clerk under Section 56 of this Act for the filing of a will and the tax required under Section 57 of this Act; and

2. Deliver the following to the county clerk:

a. The will and a certified copy of the order admitting the will to probate, which shall include the name and address of the person to whom the will is to be returned as provided under Section 3 of this Act; and

b. The filing fee and tax collected under subparagraph 1. of this paragraph.

(3) (a) A written general financial disclosure statement of the property of the decedent, to the extent known, shall be filed separately at the time of filing the application for appointment.

(b) The general financial disclosure statement shall comply with the requirements in subsection (4) of this section and shall include the approximate value, determined in good faith, of all real and personal property known by the applicant which may include:

1. Furniture and household goods;

2. Personal effects, including jewelry and collectibles;

3. Stocks, bonds, bank accounts, and retirement accounts that do not constitute a nontestamentary transfer on death as provided in KRS 391.360;

4. Insurance policies if payable to the estate of the decedent;

5. Real property that is not held in joint ownership with another with right of survivorship; and

6. Any other personal property accurately identified, including the decedent's share in any partnership or ownership in any other entity.

(c) The general financial disclosure statement shall be confidential, placed under seal when filed, and disclosed only:

1. To the personal representative;

2. To the personal representative's attorney;

3. To any beneficiary or heir at law;

4. As required under subsection (9) of this section and Section 13 of this Act; or

5. By order of the court upon a showing of good cause that shall include a creditor who has filed a verified statement of claim against the estate.

(d) As used in paragraph (c) of this subsection, and in subsection (7) of Section 13 of this Act, a finding of good cause shall not:

1. Be based solely on the position of the decedent as a public official, public figure, or other person who has drawn substantial public attention due to the person's official acts, fame, notoriety, or celebrity; or

2. Be made if the release of the protected information would constitute a clearly unwarranted invasion or exploitation of personal privacy or proprietary interests of a beneficiary of the estate or an heir at law without substantial evidence of irreparable harm or material financial loss if release of the requested information to the requesting party is denied.

(4) The application for appointment and the general financial disclosure statement shall be signed and dated by the person seeking the appointment and the acknowledgment required under subsections (1) and (3) of this section may be satisfied, with like force and effect, by a written and dated declaration under the penalty of perjury, in substantially the following form:

“I declare under the penalties of perjury of the laws of the Commonwealth of Kentucky, which may include a fine or imprisonment, that the foregoing is true and correct.”

(5) If the application for appointment is being made by the executor named in the will, the names and addresses of the heirs at law may be omitted unless requested by the court.

(6) The application of a nonresident shall include the designation of a resident of the county where probate or administration is pending as his or her agent for the service of process in any action against him or her as personal representative or personally, provided that the personal action must have accrued in the administration of the estate.

(7) (a) Except as provided in paragraph (b) of this subsection, the court shall set a time for hearing the application for appointment when:

1. An administrator with will annexed or de bonis non is to be appointed and there is no surviving spouse; or

2. The surviving spouse waives the right of appointment or is not qualified to act and does not nominate a suitable administrator, and there is more than one (1) resident heir-at-law entitled to appointment.

(b) No hearing shall be required under paragraph (a)2. of this subsection if the surviving spouse and all of the known heirs at law have executed a waiver of the right to a hearing.

(c) Notice of any hearing set under this subsection shall be given to the surviving spouse and all known heirs of the deceased residing in the state, or elsewhere, in the manner provided in KRS 395.016.

(8) Upon receipt of the filings and presentation of the will as required under this section, the court, in its discretion, shall determine if a hearing on the application for the appointment of a fiduciary is required.

(9) The clerk of the court shall transmit a copy of the application and general financial disclosure statement to the commissioner of the Department of Revenue.

395.016 Notice of hearing application (old)

When notice of hearing of an application for the appointment of an administrator, administrator with will annexed or guardian is required, it shall be given by mailing written notice of the time, place and purpose of such hearing at least five (5) days before said hearing. Proof of such notice shall be by certified mail, return receipt requested or by applicant's affidavit that the same was mailed to each of the parties entitled thereto in a sealed envelope, postage prepaid, and the date when posted, which proof shall be filed at the time of hearing. If all parties entitled to notice are under no disability and waive notice in writing, the court may hear such application as if notice had been given. A minor over fourteen (14) years of age may waive notice if present in person at the time of hearing of application for appointment of his guardian; provided, however in any estate where the gross amount involved is less than five thousand dollars (\$5,000) the court in its discretion may dispense with the requirements of this section relating to notice.

395.016 Notice of hearing application (new)

(1) (a) When a hearing is ordered by the court, notice of the hearing on an application for the appointment of a fiduciary, or petition for the probate of a will, shall be given by mailing written notice of the time, place, and purpose of the hearing at least five (5) days before the hearing.

(b) Proof of notice shall be by:

1. Certified mail, return receipt requested; or

2. The applicant's written and dated declaration in conformity with the requirements of a declaration under subsection (4) of Section 4 of this Act that notice of the hearing was mailed to each of the parties in a sealed envelope, postage prepaid, and the date when posted.

(c) Proof of notice shall be filed at the time of the hearing.

(2) If all parties entitled to notice are under no disability and waive notice in writing, the court may hear the application as if notice had been given. The waiver of notice may be filed before or at the time of the hearing.

(3) A minor over fourteen (14) years of age may waive notice of the hearing if he or she is present in person at the hearing.

(4) In any estate where the gross amount involved is less than five thousand dollars (\$5,000) the court, in its discretion, may dispense with the notice requirements of this section.

395.020 Executor not to act until will probated; exception (old)

The person named in a will as executor shall not act as executor to any extent until the will or an authenticated copy of the will is admitted to record, and he has executed bond and taken oath in the court in which the record is made. He may, however, provide for the burial of the testator, pay the reasonable funeral expenses, and take care of and preserve the estate.

395.020 Executor not to act until will probated; exception (new)

(1) The person named in a will as executor shall not act as executor to any extent until:

(a) The will or an authenticated copy of the will is admitted to probate;

(b) He or she has presented an executed surety bond when required under Section 11 of this Act;
and

(c) He or she has taken an oath in the court in which the record is made, or if no hearing is required by the court for appointment, has filed with the court in which the record is made the declaration executed under penalty of perjury in accordance with Section 10 of this Act.

(2) The person named in a will as executor may, however, provide for the burial of the testator, pay the reasonable funeral expenses, and take care of and preserve the estate.

395.050 Administrator with will annexed; appointment; functions (old)

(1) If no executor is appointed by the will, or if all the executors named in the will die, refuse the executorship or fail to give bond the court may grant administration with the will annexed to the person who would have been entitled to administration if there had been no will, but no person shall be eligible to appointment as administrator with the will annexed whose interests are antagonistic to the provisions of the will. Failure to give bond shall amount to refusal to act as executor.

(2) An administrator with the will annexed shall possess and exercise all power and authority, have the same rights and interest and be responsible in like manner as the executors named in it.

395.050 Administrator with will annexed; appointment; functions (new)

(1) If no executor is appointed by the will, or if all the executors named in the will die, refuse the executorship, or fail to provide surety bond if required by the court, the court may grant administration with the will annexed to the person who would have been entitled to administration if there had been no will, but a person whose interests are antagonistic to the provisions of the will shall not be eligible to appointment as administrator with the will annexed. Failure to provide surety bond when required by the court shall amount to refusal to act as executor.

(2) An administrator with the will annexed shall possess and exercise all power and authority, have the same rights and interest, and be responsible in like manner as the executors named in it.

395.080 When minor may be executor (old)

If all the persons nominated as executors are under the age of eighteen (18) at the time of probating the will, or those who are of age fail to qualify, administration with the will annexed may be granted during such minority. But if a testator, by his will, so directs, then such infant executor may qualify and give bond as an adult.

395.080 When minor may be executor (new)

If all the persons nominated as executors are under the age of eighteen (18) at the time of probating the will, or those who are of age fail to qualify, administration with the will annexed may be granted during minority. If a testator, by his or her will, so directs, however, then the infant executor may qualify and, if required by the court, give surety bond as an adult.

395.105 Fiduciary must have letters of appointment; general duties; when appointment effective (old)

Every fiduciary, before entering upon the execution of the trust, shall receive letters of appointment from the District Court having jurisdiction as now fixed by law. The duties of a fiduciary shall be such as are required by law, and such additional duties not inconsistent therewith as the court may order. The appointment shall be effective with the signing of an order by the judge.

395.105 Fiduciary must have letters of appointment; general duties; when appointment effective (new)

(1) Every fiduciary, before entering upon the execution of the trust, shall receive letters of appointment from the District Court having jurisdiction as fixed by law.

(2) The duties of a fiduciary shall be those required by law, and any additional duties as the court may order.

(3) The appointment of the personal representative shall be effective upon the signing of an order by the judge, the presentation to the clerk of an executed surety bond when required under Section

11 of this Act, and either the administration of any oaths required in Section 10 of this Act, or the filing of the declaration in Section 10 of this Act if no hearing is required.

395.120 Oaths of representatives (old)

(1) Each executor, administrator and curator shall take an oath to faithfully perform the duties of his office to the best of his judgment.

(2) Each administrator shall also take an oath that his intestate, so far as he knows or believes, died without leaving a will.

395.120 Oaths of representatives (new)

(1) If the court requires a hearing for the appointment of the fiduciary, each executor, administrator, and curator, and administrator with the will annexed or de bonis non shall take an oath before the court in which the application for appointment is made to faithfully perform the duties of his or her office to the best of his or her judgment.

(2) (a) The oaths required of the executor, administrator, curator, and administrator with the will annexed or de bonis non may be satisfied by execution of the following declaration:

“1. I, the undersigned, agree to faithfully perform the duties of the office as required by law, including but not limited to:

a. Deposit all funds which come into my hands in a lawful depository located within this Commonwealth and provide canceled checks as may be required to prove accounts;

b. Keep estate funds in separate estate accounts at all times during the administration of the estate;

c. Invest all funds in a lawful manner;

d. Make and file all required documents when due as required by law;

e. File all tax documents as required by law;

f. Maintain adequate insurance to reasonably protect any property that I may hold as a fiduciary; and

g. Obey all orders of the court;

2. I, the undersigned, understand I am subject to removal as the fiduciary if I fail to perform the duties required of me under the laws of this state and that I am subject to possible fines, and civil and criminal penalties for improper conversion of the property that I hold as fiduciary; and

3. If applicable, I, the undersigned, declare that my intestate, so far as I know or believe, died without leaving a will.”

(b) The oath sworn or affirmed in the presence of a notary public, or the declaration if authorized by the court, shall be presented to the appropriate clerk of the court with the fiduciary's application for appointment. Each administrator shall also take an oath that his intestate, so far as he knows or believes, died without leaving a will.

395.130 Bond, when required; cost of corporate surety paid from estate (old)

(1) Every fiduciary, except as provided in KRS 286.3-220 and 386B.7-020, shall provide surety on his bond unless, on the petition of any interested party, the court upon being satisfied that all interests are adequately protected excuses the requirement of a surety, or unless, by the terms of

the will or trust, surety is not required. Subsequent to the qualification of a fiduciary and on motion of any interested party the court may reduce the amount of the bond, release the surety, or permit the substitution of another bond with the same or different sureties. If an executor does not give bond when required to do so, he shall not be permitted to qualify, and, if he has already qualified, he shall be removed.

(2) Whenever any personal representative, guardian, conservator, or fiduciary who is required by law to execute a bond for the faithful discharge of his duties or fulfillment of his trust, procures as surety on his bond an incorporated surety company authorized to do business in this state, the necessary and reasonable cost incident to the bond shall be a lawful charge against the estate in the hands of the fiduciary, as other expenses of administration, and in his settlement the fiduciary shall be entitled to credit by the amount actually paid by him for that purpose, subject to the approval of the court which has approved the bond.

395.130 Bond, when required; cost of corporate surety paid from estate (new)

(1) No bond shall be required of a personal representative appointed under this chapter except as provided in subsection (2) of this section.

(2) The court shall order a surety bond of a personal representative appointed under this chapter when the:

(a) Appointment is of a public administrator under Section 16 of this Act or a curator under Section 19 of this Act; or

(b) Court, in its discretion, determines that a surety bond is required to adequately protect all interests in the estate. In exercising its discretion under this paragraph, the court may consider the:

1. Expression of intent of the testator under a will or trust; however, notwithstanding any other law to the contrary, the court shall not be bound by the expressed intent; and

2. Experience of the personal representative, including whether or not the personal representative is acting as a fiduciary in any other matter.

(3) (a) Every fiduciary of whom surety bond is required under subsection (2) of this section shall provide the surety bond as ordered by the court.

(b) On motion of any interested party the court may:

1. Reduce or increase the amount of the surety bond; or

2. Permit the substitution of another surety bond with the same or different sureties.

(4) If an executor does not give surety bond when required to do so, he or she shall not be authorized to act as executor, and, if he or she has already been appointed, shall be removed.

(5) Whenever any personal representative, guardian, conservator, or fiduciary who is required by law to execute a surety bond for the faithful discharge of his or her duties or fulfillment of his or her trust, procures as surety on his or her bond an incorporated surety company authorized to do business in this state, the necessary and reasonable cost incident to the surety bond shall be a lawful charge against the estate in the hands of the fiduciary, as other expenses of administration, and in his or her settlement the fiduciary shall be entitled to credit by the amount actually paid by him or her for that purpose, subject to the approval of the court which has approved the surety bond.

395.140 Bond; persons not to be surety on; recording of (old)

(1) The District Court shall not accept as surety, in any bond of a personal representative, any master or other commissioner whose duty is to settle the accounts of personal representatives or any judge or clerk of a District Court or practicing attorney of that court.

(2) The bond shall be subscribed by the principal and sureties, approved by the court, attested by the clerk of the court and carefully kept by the clerk in his office in a book to be provided for that purpose.

395.140 Bond; persons not to be surety on; recording of (new)

- (1) A fiduciary required to execute a surety bond shall deliver to the clerk of the court of the county in which he or she is appointed a surety bond payable to and with the Commonwealth, subscribed to by the principal and sureties in the presence of a notary, in the amount, and with sufficient sureties, as may be approved by the court in its order of appointment.
- (2) The District Court shall not accept as surety, in any surety bond of a personal representative, any master or other commissioner whose duty is to settle the accounts of personal representatives, or any judge or clerk of a District Court or practicing attorney of that court.
- (3) The surety bond shall be filed by the clerk in his or her office in a record maintained for that purpose.

395.250 Inventory; when to be returned; copies are evidence (old)

It shall be the duty of a personal representative of a decedent to return an inventory in duplicate within two (2) months from the time of qualifying as such, to the clerk's office of the court in which he qualified, the original of which shall be recorded by the clerk and the duplicate shall be mailed by the clerk to the secretary of revenue. Copies from the record of the inventory or appraisal shall be prima facie evidence for or against such representative.

395.250 Inventory; when to be returned; copies are evidence (new)

(1) (a) It shall be the duty of a personal representative of a decedent to file an inventory no later than ninety (90) days from the time of qualifying as personal representative.

(b) The inventory shall be confidential except as provided in subsection (2)(a) of this section, and shall be placed under seal when filed. The clerk of the court shall transmit a copy of the inventory to the commissioner of the Department of Revenue.

(2) (a) It shall be the duty of the personal representative of a decedent to furnish a filed copy of the inventory required under subsection (1) of this section to any person authorized under subsection (3)(c) of Section 4 of this Act who has requested a copy, or to whom the court has ordered disclosure of assets and liabilities.

(b) No person or entity authorized under subsection (3)(c) of Section 4 of this Act or by the court to receive records under seal, including the inventory filed under this section, shall copy, reproduce, or in any way release any information contained in the records without specific authorization from the court in which the personal representative qualified. Violation of this paragraph shall be a basis for a finding of contempt of court.

(3) Copies from the record of the inventory or appraisal shall be prima facie evidence for or against the personal representative when required and approved for release by the court for that purpose.

(4) If any property not included in the initial inventory comes to the knowledge of the personal representative, or if the personal representative learns that the value or description of any item listed in the initial inventory is erroneous or misleading, the personal representative shall file an amended inventory with the court.

(5) (a) If the personal representative has cause to believe that any of the assets of the estate are concealed or wrongfully withheld from the personal representative, or that any person has in his or her possession or under his or her control any records, books, documents, or related information concerning withheld assets or the ownership of withheld assets, the personal representative shall petition the court before which the estate action is pending for an order compelling discovery of the required information.

(b) All parties named in the petition may be compelled to provide under oath either by response to the petition or by personal testimony to the court, all the facts known to them concerning the assets of the estate and any adverse claims relating to the assets of the estate.

(c) If the court finds that any person has property or assets of the estate to which there is no adverse claim, the court shall direct the property or asset be delivered to the personal representative who shall account for the property or asset in an amended inventory filed with the court no later than twenty (20) days following entry of the court's order.

(6) Any settlement ordered or filed under this chapter shall be filed in compliance with the confidentiality provisions in subsections (1) and (2) of this section.

(7) Additional documents containing information regarding the assets or value of the decedent's estate shall not be ordered to be filed except upon motion with good cause shown, and any document filed under this section shall be in compliance with the confidentiality provisions in subsections (1) and (2) of this section.

(8) Failure to timely file any inventory when due shall be subject to the penalties in Sections 14 and 30 of this Act.

395.255 Notice to compel filing of inventory or account; removal for delinquency; disallowance of compensation (old)

If a fiduciary neglects or refuses to file an inventory or account when due according to law, or when ordered by the court, the court shall notify the fiduciary of his delinquency and fix a date when such inventory or account must be filed. Unless there is pending in the circuit court a suit to settle the estate such neglect or refusal shall be grounds for removal by the court. If the fiduciary fails to file such account within thirty days after the date fixed in said notice, no allowance shall be made for his services unless the court enters upon its minutes an order that such delay was justified.

395.255 Notice to compel filing of inventory or account; removal for delinquency; disallowance of compensation (new)

(1) It shall be the duty of the clerk of the court to report to the judge once each month the names and addresses of all fiduciaries who failed to submit an inventory or settlement due according to law during the previous calendar month.

(2) The judge shall notify the fiduciaries reported under subsection (1) of this section of their failure to file an inventory or settlement and shall warn them of the penalties provided by law.

(3) If a fiduciary neglects or refuses to file an inventory or settlement when due according to law, or when ordered by the court, the court shall notify the fiduciary of his or her delinquency and fix a date when the inventory or settlement shall be filed.

(4) (a) If the fiduciary fails to file the inventory or settlement by the extended date ordered by the court, the court shall enter an order for the fiduciary to appear before the court to show cause why he or she should not be found to have breached his or her fiduciary duty and be:

1. Removed from service as a fiduciary;
2. Found in contempt of court;
3. Fined in accordance with Section 30 of this Act;
4. Denied any allowance for his or her services; or
5. Be subject to any other penalty authorized by law for breach of a fiduciary duty.

(b) Failure to appear at a show cause hearing under this subsection shall result in automatic removal from service as a fiduciary.

(5) The time for filing an inventory or settlement under this section shall not be extended by more than thirty (30) days following a hearing:

- (a) Unless there is pending in Circuit Court a suit to settle the estate; or
- (b) Upon good cause shown by the fiduciary.

395.300 Successor may sue former representative (old)

An administrator de bonis non or any other successor appointed in the place of a personal representative who has resigned or has been removed or whose letters have been revoked, or who has ceased to act or has died, may maintain an action against the former personal representative and the sureties on the administration bond and against the predecessor's real and personal representatives, for all damages or debts arising from the maladministration or omission of the predecessor.

395.300 Successor may sue former representative (new)

An administrator de bonis non or any other successor appointed in the place of a personal representative who has resigned, has been removed, whose letters have been revoked, has ceased to act, or has died, may maintain an action against the former personal representative and the sureties on the administration surety bond, if any, and against the predecessor's real and personal representatives, for all damages or debts arising from the maladministration or omission of the predecessor.

395.380 Public administrator and guardian (old)

(1) The District Court of each county shall appoint a discreet, fit person to act as administrator of decedents' estates of which there is no personal representative, and as guardian of orphans who have no guardian.

(2) He shall serve at the discretion of the District Court.

(3) He shall be sworn and execute bond with good surety to the state for the faithful discharge of his duties, and when so sworn with bond so executed, shall be accepted by the court in every estate in which the public administrator is appointed without the necessity of additional surety.

395.380 Public administrator and guardian (new)

(1) The District Court of each county shall appoint a discreet, qualified person to act as administrator of decedents' estates of which there is no personal representative, and as guardian of orphans who have no guardian.

(2) The public administrator or guardian appointed under this section:

(a) Shall serve at the discretion of the District Court;

(b) Shall be sworn and execute bond with good surety to the state for the faithful discharge of his or her duties; and

(c) Upon being duly sworn and executing surety bond, shall be accepted by the court in every estate in which the public administrator is appointed without the necessity of additional surety.

395.390 Public administrator and guardian to act, when (old)

(1) The District Court of a county which has a public administrator and guardian shall, after the expiration of sixty (60) days from the death of the decedent, order the public administrator and guardian to administer the estate of the decedent where the surviving spouse and heirs waive their right to be appointed, or if the surviving spouse does not nominate a suitable administrator, or in the event any of the persons designated in KRS 395.040 are unable, or found to be incapable of handling or managing the estate, or if from any other cause there is no personal representative. If there is no public administrator and guardian, the court shall order the sheriff to administer the estate.

(2) The District Court shall also confide to the public administrator and guardian the care and control of the persons and estates of all minors when it appears that a minor has no testamentary guardian and no one will apply for appointment, or serve, as guardian.

395.390 Public administrator and guardian to act, when (new)

(1) (a) The District Court of a county which has a public administrator and guardian shall, after the expiration of sixty (60) days from the death of the decedent, order the public administrator and guardian to administer the estate of the decedent where:

1. The surviving spouse and heirs waive their right to be appointed;
2. The surviving spouse does not nominate a suitable administrator;
3. Any of the persons designated in KRS 395.040 are unable or found to be incapable of handling or managing the estate; or
4. From any other cause there is no personal representative.

(b) If there is no public administrator and guardian, the court shall use its discretion to appoint an administrator to administer the estate.

(2) (a) The District Court shall also confide to the public administrator and guardian the care and control of the persons and estates of all minors when it appears that a minor has no testamentary guardian and no one will apply for appointment, or serve, as guardian.

(b) If there is no public administrator and guardian, the court shall use its discretion to appoint a guardian to serve under this subsection.

395.400 Functions of public administrator and sheriff (old)

The public administrator and guardian or sheriff shall, by virtue of his office and the order of court, be the administrator or administrator de bonis non, or if there is a will, administrator with the will annexed, and shall have all the rights and powers and be subjected to the same liabilities and be governed by the same laws prescribed for administrators and guardians. If the sheriff is acting, his powers, rights, duties and liabilities shall not expire with his office of sheriff. The court may, however, at any time, set aside the order entrusting the estate to the public administrator and guardian or sheriff and allow an executor or administrator to qualify.

395.400 Functions of public administrator and sheriff (new)

(1) The public administrator and guardian or person appointed under Section 17 of this Act shall, by order of the court, be the administrator or administrator de bonis non, or if there is a will, administrator with the will annexed, and shall have all the rights and powers, be subjected to the same liabilities, and be governed by the same laws prescribed for administrators and guardians.

(2) The court may, however, at any time, set aside the order entrusting the estate to the public administrator and guardian or person appointed under Section 17 of this Act and allow an executor or administrator to qualify.

395.410 Curator; grounds for appointment; bond (old)

(1) During the contest about the probate of a will, or when the court for any valid cause is delayed in granting letters testamentary or administration, it may appoint a curator to collect and preserve the estate of the decedent until probate of the will is granted, or until the cause for which the order was made is removed.

(2) When any resident of this state or person owning property in this state has been absent from his last known place of residence for a period of one (1) year and is not known to have been living during that time, the District Court of any county in which a personal representative could be appointed for that person's estate if deceased, may appoint a curator to collect and preserve the estate of that absent person.

(3) The court shall take bond with good surety from the person appointed curator for the full and faithful performance of the trust confided in him.

395.410 Curator; grounds for appointment; bond (new)

(1) During the contest about the probate of a will, or when the court for any valid cause is delayed in granting letters testamentary or of administration, it may appoint a curator to collect and preserve the estate of the decedent until probate of the will is granted, or until the cause for which the order was made is removed.

(2) When any resident of this state or person owning property in this state has been absent from his or her last known place of residence for a period of one (1) year and is not known to have been living during that time, the District Court of any county in which a personal representative could be appointed for that person's estate if deceased, may appoint a curator to collect and preserve the estate of that absent person.

(3) The court shall take a surety bond payable to and with the Commonwealth from the person appointed curator. The surety bond shall be subscribed to by the principal and sureties in the presence of a notary or as may be otherwise authorized by the court, for the full and faithful performance of the trust confided in him or her.

(4) The surety bond shall be kept by the clerk of the court in his or her office in a record to be maintained for that purpose.

395.455 Transfer of assets without administration (old)

(1) Where the exemption of the surviving spouse alone, or together with preferred claims paid by a widow or by the widower where the wife's estate is legally liable for payment, equals or exceeds the amount of probatable assets, the court may order that administration of the estate be dispensed with and such assets be transferred to the surviving spouse or to a person designated by such surviving spouse to receive all or part of such assets. The court may so order in both testate and intestate estates and without requiring the renunciation of a will or the giving of bond.

(2) If the court is satisfied that no probatable estate will pass through the hands of the personal representative, it may order that no letters of administration be issued and in the case of a testate estate that the will be probated only.

(3) Where a surviving spouse has waived his or her right to the exemption accorded by law in favor of a person who has paid preferred claims in an amount equalling or exceeding the amount of

probable assets or who is legally entitled to such payment, or where there is no surviving spouse and such person has made such payment or is legally entitled thereto, the court may order that the administration of the estate be dispensed with and such assets transferred to such person. The court may so order without requiring the giving of bond.

(4) For purpose of this section, the exemption of the surviving spouse is such exemption as has been created by KRS 391.030 and preferred claims are those listed in KRS 396.095 and in the order thereof.

395.455 Transfer of assets without administration (new)

(1) Where the exemption for the surviving spouse or children, alone or together with preferred claims, paid by either the surviving spouse or children or by the surviving spouse where the surviving spouse's estate is legally liable for payment, equals or exceeds the amount of distributable assets, the court may order that administration of the estate be dispensed with and the assets be transferred to the surviving spouse or, if there is no surviving spouse, to the surviving children, or to a person designated by the surviving spouse. The court may order that administration of the estate be dispensed with in both testate and intestate estates without requiring the renunciation of a will.

(2) If the court is satisfied that no distributable estate will pass through the hands of the personal representative, it may order that no letters of administration be issued and in the case of a testate estate, order that the will be probated only.

(3) The court may order that the administration of the estate be dispensed with and the assets transferred in favor of a preferred creditor or other person where:

(a) A surviving spouse or, if there is no surviving spouse, the surviving children have waived the exemption accorded by law in favor of a person who has paid preferred claims in an amount equaling or exceeding the amount of distributable assets or who is legally entitled to payment; or

(b) There is no surviving spouse or surviving children, and another person has paid preferred claims or is legally entitled to payment.

(4) For purpose of this section, the exemption for the surviving spouse and children shall be the exemption created by KRS 391.030, and preferred claims shall be those listed in KRS 396.095 and in the order listed.

395.470 Dispensing with administration by agreement (old)

(1) Administration of the estate of a person dying intestate may be dispensed with by agreement if there are no debts owing by the estate; all persons beneficially entitled to the personal estate have agreed in writing that there shall be no administration; and either there are no claims or demands due the estate, or the written agreement to dispense with administration designates a trustee with power to collect claims and demands.

(2) The written agreement provided in subsection (1) shall be acknowledged by the parties and filed in the District Court together with the motion of the parties for an order dispensing with administration. If the court is satisfied by affidavit or otherwise that the conditions prescribed in subsection (1) exist, it shall enter an order dispensing with administration. If the written agreement of the beneficiaries designates a trustee to collect claims or demands, the order shall confirm the designation and the person so designated shall have the same right to sue for and collect claims and demands that an administrator has.

(3) The District Court shall be satisfied that provision has been made for the state inheritance tax and the United States estate tax.

(4) The persons applying for an order dispensing with administration shall advertise for creditors of the intestate to appear and present their claims to some person at the county seat. The person and place shall be designated in the advertisement. The advertisement shall also give notice when, where and by whom the order dispensing with administration will be applied for. The advertisement shall be posted at the courthouse door for six (6) weeks, and published pursuant to KRS Chapter 424. The order dispensing with administration shall not be granted until the persons applying for the order file in the District Court the affidavit of one (1) of them showing that advertisement for creditors has been made.

(5) The persons applying for the order dispensing with administration shall, before the order is entered, give bond with surety in the amount of the personal estate for the benefit of any creditors who, within six (6) months from the order dispensing with administration, appear and file their claims with the court clerk. This bond shall be approved by the District Court and shall run to the state for the benefit of those creditors and be conditioned to be void if none of them files his claim with the clerk within six (6) months from the date of the order dispensing with administration.

395.470 Dispensing with administration by agreement (new)

(1) Administration of the estate of a person dying testate or intestate may be dispensed with by agreement if:

(a) There are no debts owing by the estate;

- (b) All beneficiaries entitled to the personal estate have agreed in writing, under penalty of perjury, that there shall be no further administration, and if applicable, have designated a trustee with power to collect claims and demands;
- (c) Advertisement has occurred as required in subsection (7) of this section, as evidenced by an acknowledgment under penalty of perjury;
- (d) Provision has been made for the state inheritance tax and the federal estate tax, if any; and
- (e) There are no claims or demands due the estate, if no trustee has been designated by agreement.
- (2) (a) The written agreement required in subsection (1)(b) of this section shall be acknowledged under penalty of perjury by the beneficiaries; and
- (b) The agreements of all beneficiaries shall be filed in the District Court together with the motion for an order dispensing with administration by agreement.
- (3) An agreement prescribed in subsection (1)(b) of this section shall be effective if it is executed by a person who had authority to contract on behalf of a beneficiary when signed.
- (4) A motion to dispense with administration by agreement may be filed at any time after:
- (a) Probate of the will, if any;
- (b) Appointment of a personal representative; and
- (c) Advertisement for creditors as required under this section.
- (5) If the court is satisfied by the agreements that the conditions prescribed in subsection (1) of this section exist, the court shall enter an order dispensing with any further administration by agreement.
- (6) If the motion and the agreements of the beneficiaries designate a trustee to collect claims or demands, the order shall confirm the designation, and the person designated as the trustee shall have the same right to sue for and collect claims and demands as an administrator appointed under this chapter
- .
- (7) (a) Prior to moving to dispense with administration by agreement, the beneficiaries shall advertise for creditors of the estate to appear and present any claims to some person at the county seat. The person and place shall be designated in the advertisement.
- (b) The advertisement shall also give notice of when, where, and by whom the order dispensing with administration by agreement will be applied for.

(c) The advertisement shall be posted at the courthouse door for six (6) weeks and published pursuant to KRS Chapter 424.

(8) The court may order that the beneficiaries applying for the order dispensing with administration by agreement, before the order is entered, execute a surety bond in the amount of the personal estate for the benefit of any creditors who, within six (6) months from the order dispensing with administration by agreement, appear and file their claims with the court clerk. This surety bond shall be approved by the District Court and shall run to the state for the benefit of those creditors and be conditioned to be void if none of them files a claim with the clerk within six (6) months from the date of the order dispensing with administration by agreement.

395.605 When informal settlement may be accepted from fiduciary (old)

(1) Upon the sworn application of any fiduciary, that the fiduciary is the sole beneficiary of any estate, the court may dispense with the requirements of this chapter regarding periodic or final settlement of fiduciaries' accounts and may dispense with the requirements of a surety for the fiduciary and shall accept from the fiduciary an informal settlement. The informal settlement shall be made, under oath, by the fiduciary and shall state that the estate was solvent; that all legal claims and debts have been paid, or if not paid, the manner in which the claims and debts have been provided for; that, for final settlement, the requirements of the inheritance, estate or similar death statutes have been met and the tax paid, if due and payable; that all court costs have been paid; the name of the attorney(s), if any, representing the fiduciary, and the amount of the attorney's fee, and that the beneficiary has received his or her share. An informal settlement may be filed at any time after expiration of six (6) months from the fiduciary's appointment. Upon the filing of the informal final settlement, the court may enter an order discharging the fiduciary, and his or her surety, if any. When a settlement is effected in the informal manner, no notice to any person shall be required nor shall the court be compelled to inquire into detailed items of income or disbursements.

(2) If a proposed periodic or final settlement of a fiduciary is accompanied by a verified waiver executed by all of the beneficiaries of an estate, and none of the beneficiaries is under a disability, the court shall accept from the fiduciary an informal settlement which meets the requirements of subsection (1) of this section. Said beneficiaries may request an accounting of the assets of the estate prior to execution of the waiver. No verified waiver need be obtained from a nonresiduary legatee who has received and receipted for his or her legacy, the canceled check or signed receipt attached to the proposed settlement being sufficient evidence of satisfaction. The court may require the fiduciary to execute bond with or without surety to insure the application of the estate assets to the debts of the decedent.

(3) In the event that one (1) or more of the beneficiaries of the estate is under a disability, the court may allow the filing of an informal settlement if the court is of the opinion that the best interests of the person under the disability would be served.

395.605 When informal settlement may be accepted from fiduciary (new)

(1) Upon the application of any fiduciary, under penalty of perjury, that the fiduciary is the sole beneficiary of any estate, the court may dispense with the requirements of this chapter regarding settlement of fiduciaries' accounts and shall accept from the fiduciary an informal final settlement if:

(a) The estate was solvent;

(b) All legal claims and debts have been paid, or if not paid, the manner in which the claims and debts have been provided for;

(c) The requirements of the inheritance, estate, or similar death statutes have been met and the tax paid, if due and payable;

(d) All court costs have been paid;

(e) The name of the attorney(s), if any, representing the fiduciary, and the amount of the attorney's fee have been provided; and

(f) The beneficiary has received his or her share.

(2) (a) Upon application of any fiduciary, under penalty of perjury, accompanied by verified waivers executed by all of the beneficiaries of an estate, none of whom is under a disability, the court shall accept from the fiduciary an informal final settlement which meets the requirements of subsection (1) of this section.

(b) Any beneficiary may request an accounting of the assets of the estate prior to execution of the waiver.

(c) A verified waiver shall not be required from a nonresiduary legatee who has received and receipted for his or her legacy, and the canceled check or signed receipt attached to the proposed settlement shall be sufficient evidence of satisfaction.

(3) An informal final settlement may be filed at any time after expiration of six (6) months from the date of the fiduciary's appointment.

(4) The court shall not require notice to any person or a hearing prior to approval and confirmation of an informal final settlement.

(5) Upon approval and confirmation of the informal final settlement, the court may enter an order discharging the fiduciary, and his or her surety, if any.

(6) In the event that one (1) or more of the beneficiaries of the estate is under a disability, the court may allow the filing of an informal final settlement if the court is of the opinion that the best interests of the person under the disability would be served.

395.610 Periodic accounting by fiduciaries (old)

(1) Two (2) years after appointment and annually thereafter, unless otherwise provided by law, every fiduciary as defined in KRS 395.001, other than a guardian or conservator of a mentally disabled person, shall render an account of the execution of his trust to the court by which he was appointed, including in the account an itemized statement of receipts and disbursements supported by vouchers accompanying the account and a statement of all investments on hand and changes in investments since the filing of his last account. The settlements, when approved and confirmed by the court, shall be recorded and indexed by the clerk, and the original and the vouchers carefully kept by him in his office. An account shall be rendered by a fiduciary, at any other time upon order of the court upon its own motion or that of any person interested in the trust, for good cause shown on affidavit. At the expiration of his trust, the fiduciary shall fully account for and pay over the trust estate to the person or persons entitled thereto. Every such account shall list all unpaid creditors whose claims have been allowed and all creditors whose claims have been disallowed. No account of a fiduciary, except of corporate fiduciaries under the supervision of state or federal banking authorities, shall be approved until there are exhibited to the court, for its examination, the security or securities shown in the account as being in the hands of the fiduciary, or the certificate of a bank having possession thereof or in which they have been deposited for safekeeping, and a certified bank statement showing the funds to the credit of the trust.

(2) Guardians and conservators of mentally disabled persons may be required to render accountings to the court under the provisions of this section. Guardians and conservators of mentally disabled persons shall comply with the reporting requirements of KRS Chapter 387.

395.610 Periodic accounting by fiduciaries (new)

(1) Two (2) years after appointment and annually thereafter, unless otherwise provided by law, every fiduciary as defined in KRS 395.001, other than a guardian or conservator of a mentally disabled person, shall render an account of the execution of his or her trust and file it with the court by which he or she was appointed.

(2) A periodic settlement shall be filed until all trust assets and investments have been fully distributed and all debts, costs, fees, and taxes have been paid or accounted for.

(3) A periodic settlement shall identify all assets and investments of the trust estate on hand, including a beginning and current value, and shall account for all receipts and disbursements occurring since the last inventory or settlement with supporting documentation.

(4) Notwithstanding subsection (1) of this section, at any other time upon order of the court either on its own motion, or upon the motion of any person interested in the trust, for good cause shown, a fiduciary shall file a periodic settlement that meets the requirements of subsection (3) of this section and as otherwise ordered by the court.

(5) In addition to the requirements of subsection (3) of this section, all final settlements shall include:

(a) A complete accounting for and distribution of the trust estate assets and investments, including whether the distribution was:

1. In kind and if so to whom; or

2. Liquidated for cash for payment of debts, costs of administration, or pecuniary legacies;

(b) A list of all unpaid creditors whose claims have been allowed and all creditors whose claims have been disallowed;

(c) Fees and commissions paid to the fiduciary and his or her attorney; and

(d) Provision for state inheritance tax and federal estate tax, if any.

(6) No settlement of a fiduciary, except of corporate fiduciaries under the supervision of state or federal banking authorities, shall be approved until there are exhibited to the court, for its examination, the security or securities shown in the account as being in the hands of the fiduciary,

or the certificate of a bank having possession thereof or in which they have been deposited for safekeeping, and a certified bank statement showing the funds to the credit of the trust.

(7) The clerk of the court shall record all settlements that are approved and confirmed by the court.

(8) Guardians and conservators of mentally disabled persons may be required to render accountings to the court under the provisions of this section. Guardians and conservators of mentally disabled persons shall comply with the reporting requirements of KRS Chapter 387.

395.617 Proposed settlement (old)

(1) A fiduciary may, prior to filing a periodic or final settlement and prior to a distribution of assets, file with the court a proposed settlement. The proposed settlement shall be set for hearing and notice given as for any other settlement except that beneficiaries of the estate, other than nonresiduary legatees who have received and receipted for their legacies, shall also receive notice from the fiduciary by certified mail, return receipt requested, at least twenty (20) days prior to the hearing date. The proposed settlement shall set forth all assets and disbursements previously made, shall indicate assets on hand and anticipated to be received subsequent to the date of the proposed settlement and prior to the filing of the periodic or final settlement, and shall further indicate the manner in which the remaining and anticipated assets are proposed to be distributed. The proposal may set forth which assets are to be distributed in kind and to whom and which assets may be liquidated for distribution of cash or for payment of debts, costs of administration, or pecuniary legacies. The proposal may also indicate claims proposed to be allowed or disallowed, in whole or in part, and may also indicate fees and commissions proposed to be paid to the fiduciary and his attorney. The inclusion of evidence and vouchers to accompany the proposal shall not be necessary unless required by the court upon exceptions filed. At the hearing, if no exceptions are filed, the proposal, if made according to law, shall be approved. If exceptions are filed, other evidence besides that reported may be heard, and the court shall, upon the whole case, reject, confirm, alter, or amend the proposal. Following the entry of an order of approval or of an order of amendment, the fiduciary shall disburse the assets in accordance therewith. Following the distribution, the fiduciary shall file a settlement accompanied by evidence and vouchers showing that distribution was effected in conformity with the court order. If it appears to the court that the distribution was in conformity, the court shall confirm the settlement and, if the settlement is final, discharge the fiduciary and his surety without further hearing or notice to any person.

(2) An aggrieved party may, no later than thirty (30) days from the entry of the order upon the proposed settlement, institute an adversary proceeding in Circuit Court pursuant to KRS 24A.120(2).

395.617 Proposed settlement (new)

- (1) A fiduciary may, prior to filing a periodic or final settlement and prior to a distribution of assets, file with the court a proposed periodic or final settlement within the time prescribed for filing settlements in Section 23 of this Act.
- (2) The proposed settlement shall be set for hearing, and in addition to the notice given as provided in Section 26 of this Act as for any other settlement, the fiduciary shall notify all beneficiaries of the estate, other than nonresiduary legatees who have received and receipted for their legacies, by certified mail, return receipt requested, at least twenty (20) days prior to the hearing date.
- (3) The proposed settlement shall comply with the requirements for periodic and final settlements in Section 23 of this Act, except the proposed settlement shall also indicate any assets anticipated to be received subsequent to filing the proposed settlement and prior to the filing of the periodic or final settlement and the proposed distribution of all or a portion of the assets. Documentation supporting receipts and past disbursements shall not be required to be filed with the proposed settlement unless ordered by the court if exceptions are filed.
- (4) At the hearing, if no exceptions are filed, the proposal, if made according to law, shall be approved. If exceptions are filed, other evidence besides that reported may be heard, and the court shall, upon the whole case, reject, confirm, alter, or amend the proposal.
- (5) Following the entry of an order approving, confirming, or amending the proposed settlement, the fiduciary shall disburse the assets in accordance with the order. Following the distribution, the fiduciary shall file a settlement accompanied by documentation showing that distribution was effected in conformity with the order approving, confirming, or amending.
- (6) An aggrieved party may, no later than thirty (30) days from the entry of the order upon the proposed settlement, institute an adversary proceeding in Circuit Court pursuant to KRS 24A.120(2).

395.620 Report and filing of settlement (old)

(1) The District Judge shall make a written report of the settlement, showing each item of debit and credit, and the general result, and return it, with all evidence heard and vouchers filed, to the Circuit Clerk. The clerk shall note it of record, and indorse on it the time of filing, and set a date for a hearing on the report.

(2) A hearing on a settlement filed in conformity with an approved proposed settlement made under KRS 395.617 shall not be necessary.

395.620 Report and filing of settlement (new)

- (1) The District Judge shall review a periodic or final settlement filed by a fiduciary, accompanied by documentation showing receipts, payments, and distribution.
- (2) If the settlement is not submitted as provided in subsection (5) of Section 24 of this Act and otherwise found by the court to be complete, the court shall direct the clerk of the court to set a date for a hearing on the settlement and give notice as required in Section 26 of this Act .
- (3) If the settlement is found to be in conformity with an order approving, confirming, or amending a proposed settlement made under KRS 395.617, the court shall confirm the settlement without further hearing or notice to any person and, if the settlement is final, discharge the fiduciary and his or her surety, if any.

395.625 Notice requirements for filing of settlement; exception (old)

Not less than ten (10) days prior to the date of hearing, the clerk shall cause notice of the filing of a settlement to be published pursuant to KRS Chapter 424, stating the name of the fiduciary, the trust, the nature of the account and the date of hearing, with a statement that exceptions must be filed before that time; except that with the court's approval the fiduciary may, in lieu of such publication, send a written notice thereof to all unpaid creditors and distributees, which notice shall be mailed at least ten (10) days before said date of hearing. The fiduciary in such cases shall file his affidavit that such notice has been mailed. The actual cost of the notice, or the proportionate part thereof, if more than one (1) settlement, shall be taxed as costs. If the value of the trust or estate is not more than two thousand five hundred dollars (\$2,500) and the assets of the trust or estate are held in an account that may be accessed only upon order of the court, the provisions of this section shall not apply to settlements involving that trust or estate.

395.625 Notice requirements for filing of settlement; exception (new)

(1) Except as provided in subsection (5) of this section, not less than ten (10) days prior to the date of the settlement hearing under Section 25 of this Act, the clerk of the court shall publish notice of the settlement pursuant to KRS Chapter 424.

(2) The notice required under subsection (1) of this section shall include the:

(a) Name of the fiduciary;

(b) Name of the trust;

(c) Nature of the account; and

(d) Date of hearing, with a statement that exceptions shall be filed before the hearing.

(3) (a) Notwithstanding the publication requirement under subsection (1) of this section, with the court's approval the fiduciary may, in lieu of the publication, send a written notice of the hearing to all unpaid creditors and distributees;

(b) The notice shall be mailed at least ten (10) days before the date of hearing; and

(c) The fiduciary shall file his or her affidavit that the notice has been mailed.

(4) The actual cost of the notice, or the proportionate part of the notice, if more than one (1) settlement, shall be taxed as costs.

(5) The provisions of this section shall not apply if the value of the trust or estate is two thousand five hundred dollars (\$2,500) or less and the assets of the trust or estate are held in an account that may be accessed only upon order of the court.

395.630 Exceptions; confirmation; recording; effect as evidence (old)

At the hearing, if no exceptions are filed, the report, if made according to law, shall be approved and recorded. If exceptions are filed, other evidence besides that reported may be heard, and the court shall upon the whole case, reject, confirm, alter or amend the report, and, if confirmed, order it to be recorded. The vouchers accompanying the report shall not be recorded, but must be carefully kept on file with the report in the clerk's office. Any new evidence given in court must be electronically recorded and filed with the report. Settlements so made and recorded shall be prima facie evidence between the parties interested.

395.630 Exceptions; confirmation; recording; effect as evidence (new)

- (1) At the settlement hearing, if no exceptions are filed, the settlement, if made according to law, shall be approved.
- (2) If exceptions are filed, other evidence may be heard, and the court shall upon the whole case, reject, confirm, alter, or amend the settlement.
- (3) Any evidence given in court must be electronically recorded and filed in the court record.
- (4) Settlements confirmed and filed in the court record shall be prima facie evidence between the interested parties.

395.640 Sureties of fiduciaries, inquiry into solvency of additional surety (old)

The district judge shall at least once each year carefully inquire into the solvency of all the sureties upon the bond of each fiduciary, and if there is reason to believe that any bond is not amply sufficient to protect those interested, he shall at once give notice to the fiduciary that a new bond, or additional surety on the old one, is required, and upon the failure of the fiduciary to give the required bond or surety within a reasonable time fixed by the court, the court shall remove him.

395.640 Sureties of fiduciaries, inquiry into solvency of additional surety (new)

(1) The district judge shall at least once each year carefully inquire into the solvency of all the sureties upon the bond of each fiduciary that is required by law, or has been ordered by the court to post surety bond.

(2) If there is reason to believe that any bond is not amply sufficient to protect those interested, the district judge shall at once give notice to the fiduciary that a new bond, or additional surety on the old bond, is required, and upon the failure of the fiduciary to give the required bond or surety within a reasonable time fixed by the court, the court shall remove the fiduciary.

395.645 Clerk to record settlements and reports (old)

When the court directs, settlements of the accounts of fiduciaries made before and reported by any trial commissioner, and all reports of estates or funds received or disbursed, under order of the court, by its trial commissioner, after they have been confirmed by the court, shall be recorded by the clerk of the court in a book to be provided for that purpose. The vouchers accompanying the settlements or reports shall not be recorded.

395.645 Clerk to record settlements and reports (new)

When the court directs, settlements of the accounts of fiduciaries made before and reported by any trial commissioner, and all settlements of estates or funds received or disbursed, under order of the court, by its trial commissioner, after they have been confirmed by the court, shall be filed in the court record with the documentation showing receipts, payments, and distributions.

395.990 Penalties (old)

Any fiduciary failing, without good cause therefor, to file his inventory or account as required by notice given pursuant to KRS 395.255 shall be fined by the court, for each day he neglects or refuses after the date fixed in said notice, the sum of ten dollars (\$10), to be collected by rule or other process.

395.990 Penalties (new)

Any fiduciary failing, without good cause, to file his or her inventory or account as required by notice given pursuant to KRS 395.255 shall be fined by the court, for each day he or she neglects or refuses after the date fixed in the notice, the sum of one hundred dollars (\$100), to be collected by rule or other process.

199.520 Judgment; prerequisites; orders; name and legal status of child; health history and other nonidentifying information of biological parents and relatives to be given to adoptive parents (old)

(1) After hearing the case, the court shall enter a judgment of adoption, if it finds that the facts stated in the petition were established; that all legal requirements, including jurisdiction, relating to the adoption have been complied with; that the petitioners are of good moral character, of reputable standing in the community and of ability to properly maintain and educate the child; and that the best interest of the child will be promoted by the adoption and that the child is suitable for adoption. In the judgment, the name of the child shall be changed to conform with the prayer of the petition. The judgment and all orders required to be entered and recorded in the order book,

including the caption, shall contain only the names of the petitioners and the proposed adopted name of the child, without any reference to its former name or the names of its birth parents.

(2) Upon entry of the judgment of adoption, from and after the date of the filing of the petition, the child shall be deemed the child of petitioners and shall be considered for purposes of inheritance and succession and for all other legal considerations, the natural child of the parents adopting it the same as if born of their bodies. Upon granting an adoption, all legal relationship between the adopted child and the biological parents shall be terminated except the relationship of a biological parent who is the spouse of an adoptive parent.

(3) The clerk of the court shall notify the cabinet of any action of the court with respect to entering a judgment granting an adoption, the amendment of an adoption, or the denial or dismissal of a petition for adoption.

(4) (a) The health history and other nonidentifying background information of biological parents and blood relatives of the adopted person, in writing, on a standardized form, provided by the cabinet, if known, shall be given by the cabinet or child-placing agency which has the information to the adoptive parents and to the Circuit Court not later than the date of finalization of the adoption proceedings. This information shall include the results of any tests for HIV or hepatitis A, B, and C; and

(b) The information provided for in paragraph (a) of this subsection, if known, shall, upon the request in person or in writing of the adult adopted person be made available in writing to that person. The information shall not be made available if it is of a nature that would tend to identify the biological parents of the adopted person except as provided in KRS 199.570 and 199.572.

199.520 Judgment; prerequisites; orders; name and legal status of child; health history and other nonidentifying information of biological parents and relatives to be given to adoptive parents (new)

(1) (a) After hearing the case, the court shall enter a judgment of adoption if it finds that:

1. The facts stated in the petition were established;
2. All legal requirements, including jurisdiction, relating to the adoption have been complied with;
3. The petitioners are of good moral character, of reputable standing in the community and of ability to properly maintain and educate the child; and

4. The best interest of the child will be promoted by the adoption and that the child is suitable for adoption.

(b) In the judgment, the name of the child shall be changed to conform with the prayer of the petition. The judgment and all orders required to be entered and recorded in the order book, including the caption, shall contain only the names of the petitioners and the proposed adopted name of the child, without any reference to its former name or the names of its birth parents.

(2) (a) Upon entry of the judgment of adoption, from and after the date of the filing of the petition, the child shall be:

1. Deemed the child of petitioners; and

2. Except as provided in paragraph (b) of this subsection, for all legal considerations, the natural child of the parents adopting it the same as if born of their bodies.

(b) For purposes of inheritance and succession, the child shall only be deemed the child of the petitioners if the child was adopted and resided in the household of the petitioners prior to eighteen (18) years of age.

(c) Upon granting an adoption, all legal relationship between the adopted child and the biological parents shall be terminated except the relationship of a biological parent who is the spouse of an adoptive parent.

(3) The clerk of the court shall notify the cabinet of any action of the court with respect to entering a judgment granting an adoption, the amendment of an adoption, or the denial or dismissal of a petition for adoption.

(4) (a) The cabinet or other child-placing agency shall provide to the adoptive parents and the Circuit Court, in writing, on a standardized form provided by the cabinet, the health history and other nonidentifying background information of biological parents and blood relatives of the adopted person to the extent known, not later than the date of finalization of the adoption proceedings. This information shall include the results of any tests for HIV or hepatitis A, B, and C; and

(b) The information provided for in paragraph (a) of this subsection, if known, shall, upon the request in person or in writing of the adult adopted person, be made available in writing to that person. The information shall not be made available if it would identify the biological parents of the adopted person, except as provided in KRS 199.570 and 199.572.

64.012 Fees of county clerks; use of fees for recording real estate mortgages; reimbursement of clerk; handling of fee (old)

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

(a) 1. Recording and indexing of a:

a. Deed of trust or assignment for the benefit of creditors;

- b. Deed;
- c. Deed of assignment;
- d. File-stamped copy of documents set forth in KRS 14A.2-040(1) or (2) that have been filed first with the Secretary of State;
- e. Real estate option;
- f. Power of attorney;
- g. Revocation of power of attorney;
- h. Lease which is recordable by law;
- i. Deed of release of a mortgage or lien under KRS 382.360;
- j. United States lien;
- k. Release of a United States lien;
- l. Release of any recorded encumbrance other than state liens;
- m. Lis pendens notice concerning proceedings in bankruptcy;
- n. Lis pendens notice;
- o. Mechanic's and artisan's lien under KRS Chapter 376;
- p. Assumed name;
- q. Notice of lien issued by the Internal Revenue Service;
- r. Notice of lien discharge issued by the Internal Revenue Service;
- s. Original, assignment, amendment, or continuation financing statement;
- t. Making a record for the establishment of a city, recording the plan or plat thereof, and all other service incident;
- u. Survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city;
- v. Recording with statutory authority for which no specific fee is set, except a military discharge;
- w. Will or other probate document pursuant to KRS Chapter 392 or 394;
- x. Court ordered name change pursuant to KRS Chapter 401;
- y. Land use restriction according to KRS 100.3681; and
- z. Filing with statutory authority for which no specific fee is set.

For all items in this subsection if the entire thereof does not exceed five (5) pages: \$33.00

And, for all items in this subsection exceeding five (5) pages, for each additional page: \$3.00

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

2. The thirty-three dollar (\$33) fee imposed by this subsection shall be divided as follows:

a. Twenty-seven dollars (\$27) shall be retained by the county clerk; and

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

(b) For noting a security interest on a certificate of title pursuant to KRS Chapter 186A: \$12.00

(c) For filing the release of collateral under a financing statement and noting same upon the face of the title pursuant to KRS Chapter 186 or 186A: \$5.00

(d) Filing or recording state tax or other state liens: \$5.00

(e) Filing release of a state tax or other state lien: \$5.00

(f) Acknowledging or notarizing any deed, mortgage, power of attorney, or other written instrument required by law for recording and certifying same: \$5.00

(g) Recording plats, maps, and surveys, not exceeding 24 inches by 36 inches, per page: \$40.00

(h) Recording a bond, for each bond: \$10.00

(i) Each bond required to be taken or prepared by the clerk: \$4.00

(j) Copy of any bond when ordered: \$3.00

(k) Administering an oath and certificate thereof: \$5.00

(l) Issuing a license for which no other fee is fixed by law: \$8.00

(m) Issuing a solicitor's license: \$15.00

(n) Marriage license, indexing, recording, and issuing certificate thereof: \$26.50

(o) Every order concerning the establishment, changing, closing, or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not: \$3.00

(p) Registration of licenses for professional persons required to register with the county clerk: \$10.00

(q) Certified copy of any record: \$5.00

Plus fifty cents (\$.50) per page after three (3) pages

(r) Filing certification required by KRS 65.070(2)(a): \$5.00

(s) Filing notification and declaration and petition of candidates for Commonwealth's attorney: \$200.00

(t) Filing notification and declaration and petition of candidates for county and independent boards of education: \$20.00

(u) Filing notification and declaration and petition of candidates for boards of soil and water conservation districts: \$20.00

(v) Filing notification and declaration and petition of candidates for other office: \$50.00

(w) Filing declaration of intent to be a write-in candidate for office: \$50.00

(x) Filing petitions for elections, other than nominating petitions: \$50.00

(y) Notarizing any signature, per signature: \$2.00

(z) Filing bond for receiving bodies under KRS 311.310: \$10.00

(aa) Noting the assignment of a certificate of delinquency and recording and indexing the encumbrance under KRS 134.126 or 134.127: \$27.00

(ab) Filing a going-out-of-business permit under KRS 365.445: \$50.00

(ac) Filing a renewal of a going-out-of-business permit under KRS 365.445: \$50.00

(ad) Filing and processing a transient merchant permit under KRS 365.680: \$25.00

(ae) Recording and indexing a real estate mortgage:

1. For a mortgage that does not exceed thirty (30) pages: \$63.00
2. And, for a mortgage that exceeds thirty (30) pages, for each additional page: \$3.00

(af) Filing or recording a lien or release of lien by a consolidated local government, urban-county government, unified local government, or city of any class: \$20.00

(2) The sixty-three dollar (\$63) fee imposed by subsection (1)(ae) of this section shall be divided as follows:

(a) Fifty-seven dollars (\$57) shall be retained by the county clerk; and

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

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

(b) In counties or a county containing an urban-county government, charter county government, or unified local government:

1. This fee shall:

- a. Not be paid annually to the fiscal court under KRS 64.152;
- b. Not be paid to the Finance and Administration Cabinet under KRS 64.345;
- c. Be accumulated and transferred to the fiscal court or the legislative body of an urban-county government on a monthly basis within ten (10) days following the end of the month;
- d. Be maintained by the fiscal court or the legislative body of an urban-county government in a separate bank account and accounted for in a separate fund; and
- e. Not lapse to the general fund of the county or urban-county government.

2. The moneys accumulated from this fee shall be held in perpetuity by the fiscal court or the legislative body of an urban-county government for the county clerk's exclusive use for:

- a. Equipment related to the permanent storage of and access to records, including deed books, binders, shelves, microfilm equipment, and fireproof equipment;
- b. Hardware for the permanent storage of and access to records, including computers, servers, and scanners;
- c. Software for the permanent storage of and access to records, including vendor services and consumer subscription fees;
- d. Personnel costs for the permanent storage of and access to records, including overtime costs for personnel involved in the digitization of records; and
- e. Cloud storage and cybersecurity services for the permanent storage of and access to records.

3. Notwithstanding KRS 68.275, claims by a county clerk that are for the approved expenditures in subparagraph 2. of this paragraph shall be paid by the county judge/executive or the chief

executive officer of an urban-county government by a warrant drawn on the fund and co-signed by the treasurer of the county or urban-county government.

4. No later than July 1 of each year, each county fiscal court or legislative body of an urban-county government shall submit a report to the Legislative Research Commission detailing the receipts, expenditures, and any amounts remaining in the fund.

(c) In a county containing a consolidated local government:

1. The fee shall not:

a. Be paid to the Finance and Administration Cabinet under KRS 64.345; or

b. Lapse to the general fund of the consolidated local government.

2. The moneys accumulated from this fee shall be held in perpetuity by the county clerk in a separate fund to be used exclusively for:

a. Equipment related to the permanent storage of and access to records, including deed books, binders, shelves, microfilm equipment, and fireproof equipment;

b. Hardware for the permanent storage of and access to records, including computers, servers, and scanners;

c. Software for the permanent storage of and access to records, including vendor services and consumer subscription fees;

d. Personnel costs for the permanent storage of and access to records, including overtime costs for personnel involved in the digitization of records; and

e. Cloud storage and cybersecurity services for the permanent storage of and access to records.

3. No later than July 1 of each year, the county clerk shall submit a report to the consolidated local government and the Legislative Research Commission detailing the receipts, expenditures, and any amounts remaining in the fund.

64.012 Fees of county clerks; use of fees for recording real estate mortgages; reimbursement of clerk; handling of fee (new)

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

(a) 1. Recording and indexing of a:

- a. Deed of trust or assignment for the benefit of creditors;
- b. Deed;
- c. Deed of assignment;
- d. File-stamped copy of documents set forth in KRS 14A.2–040(1) or (2) that have been filed first with the Secretary of State;
- e. Real estate option;
- f. Power of attorney;
- g. Revocation of power of attorney;
- h. Lease which is recordable by law;
- i. Deed of release of a mortgage or lien under KRS 382.360;
- j. United States lien;
- k. Release of a United States lien;
- l. Release of any recorded encumbrance other than state liens;
- m. Lis pendens notice concerning proceedings in bankruptcy;
- n. Lis pendens notice;
- o. Mechanic's and artisan's lien under KRS Chapter 376;
- p. Assumed name;
- q. Notice of lien issued by the Internal Revenue Service;
- r. Notice of lien discharge issued by the Internal Revenue Service;
- s. Original, assignment, amendment, or continuation financing statement;
- t. Making a record for the establishment of a city, recording the plan or plat thereof, and all other service incident;
- u. Survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city;
- v. Recording with statutory authority for which no specific fee is set, except a military discharge;
- w. Will or other probate document pursuant to KRS Chapter 392 or 394;

- x. Court ordered name change pursuant to KRS Chapter 401;
- y. Land use restriction according to KRS 100.3681; and
- z. Filing with statutory authority for which no specific fee is set.

For all items in this subsection if the entire thereof does not exceed five (5) pages: \$33.00

And, for all items in this subsection exceeding five (5) pages, except any will or other probate document pursuant to KRS Chapter 392 or 394 under subdivision w. of this subparagraph, or any court-ordered name change pursuant to KRS Chapter 401 under subdivision x. of this subparagraph,

for each additional page: \$3.00

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

2. The thirty-three dollar (\$33) fee imposed by this subsection shall be divided as follows:

a. Twenty-seven dollars (\$27) shall be retained by the county clerk; and

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

(b) For noting a security interest on a certificate of title pursuant to KRS Chapter 186A: \$12.00

(c) For filing the release of collateral under a financing statement and noting same upon the face of the title pursuant to KRS Chapter 186 or 186A: \$5.00

(d) Filing or recording state tax or other state liens: \$5.00

(e) Filing release of a state tax or other state lien: \$5.00

(f) Acknowledging or notarizing any deed, mortgage, power of attorney, or other written instrument required by law for recording and certifying same: \$5.00

(g) Recording plats, maps, and surveys, not exceeding 24 inches by 36 inches, per page: \$40.00

(h) Recording a bond, for each bond: \$10.00

(i) Each bond required to be taken or prepared by the clerk: \$4.00

(j) Copy of any bond when ordered: \$3.00

(k) Administering an oath and certificate thereof: \$5.00

- (l) Issuing a license for which no other fee is fixed by law: \$8.00
- (m) Issuing a solicitor's license: \$15.00
- (n) Marriage license, indexing, recording, and issuing certificate thereof: \$26.50
- (o) Every order concerning the establishment, changing, closing, or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not: \$3.00
- (p) Registration of licenses for professional persons required to register with the county clerk: \$10.00
- (q) Certified copy of any record: \$5.00
Plus fifty cents (\$.50) per page after three (3) pages
- (r) Filing certification required by KRS 65.070(2)(a): \$5.00
- (s) Filing notification and declaration and petition of candidates for Commonwealth's attorney: \$200.00
- (t) Filing notification and declaration and petition of candidates for county and independent boards of education: \$20.00
- (u) Filing notification and declaration and petition of candidates for boards of soil and water conservation districts: \$20.00
- (v) Filing notification and declaration and petition of candidates for other office: \$50.00
- (w) Filing declaration of intent to be a write-in candidate for office: \$50.00
- (x) Filing petitions for elections, other than nominating petitions: \$50.00
- (y) Notarizing any signature, per signature: \$2.00
- (z) Filing bond for receiving bodies under KRS 311.310: \$10.00
- (aa) Noting the assignment of a certificate of delinquency and recording and indexing the encumbrance under KRS 134.126 or 134.127: \$27.00
- (ab) Filing a going-out-of-business permit under KRS 365.445: \$50.00
- (ac) Filing a renewal of a going-out-of-business permit under KRS 365.445 \$50.00
- (ad) Filing and processing a transient merchant permit under KRS 365.680 .25.00
- (ae) Recording and indexing a real estate mortgage:

1. For a mortgage that does not exceed thirty (30) pages: \$63.00
 2. And, for a mortgage that exceeds thirty (30) pages, for each additional page: \$3.00
- (af) Filing or recording a lien or release of lien by a consolidated local government, urban-county government, unified local government, or city of any class: \$20.00
- (2) The sixty-three dollar (\$63) fee imposed by subsection (1)(ae) of this section shall be divided as follows:
- (a) Fifty-seven dollars (\$57) shall be retained by the county clerk; and
 - (b) Six dollars (\$6) shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk within ten (10) days following the end of the quarter in which the fee was received. Each remittance to the affordable housing trust fund shall be accompanied by a summary report on a form prescribed by the Kentucky Housing Corporation.
- (3) (a) For services related to the permanent storage of records listed in paragraphs (a), (g), (n), and (ae) of subsection (1) of this section, the clerk shall be entitled to receive a reimbursement of ten dollars (\$10).
- (b) In counties or a county containing an urban-county government, charter county government, or unified local government:
1. This fee shall:
 - a. Not be paid annually to the fiscal court under KRS 64.152;
 - b. Not be paid to the Finance and Administration Cabinet under KRS 64.345;
 - c. Be accumulated and transferred to the fiscal court or the legislative body of an urban-county government on a monthly basis within ten (10) days following the end of the month;
 - d. Be maintained by the fiscal court or the legislative body of an urban-county government in a separate bank account and accounted for in a separate fund; and
 - e. Not lapse to the general fund of the county or urban-county government.
 2. The moneys accumulated from this fee shall be held in perpetuity by the fiscal court or the legislative body of an urban-county government for the county clerk's exclusive use for:
 - a. Equipment related to the permanent storage of and access to records, including deed books, binders, shelves, microfilm equipment, and fireproof equipment;
 - b. Hardware for the permanent storage of and access to records, including computers, servers, and scanners;

c. Software for the permanent storage of and access to records, including vendor services and consumer subscription fees;

d. Personnel costs for the permanent storage of and access to records, including overtime costs for personnel involved in the digitization of records; and

e. Cloud storage and cybersecurity services for the permanent storage of and access to records.

3. Notwithstanding KRS 68.275, claims by a county clerk that are for the approved expenditures in subparagraph 2. of this paragraph shall be paid by the county judge/executive or the chief executive officer of an urban-county government by a warrant drawn on the fund and co-signed by the treasurer of the county or urban-county government.

4. No later than July 1 of each year, each county fiscal court or legislative body of an urban-county government shall submit a report to the Legislative Research Commission detailing the receipts, expenditures, and any amounts remaining in the fund.

(c) In a county containing a consolidated local government:

1. The fee shall not:

a. Be paid to the Finance and Administration Cabinet under KRS 64.345; or

b. Lapse to the general fund of the consolidated local government.

2. The moneys accumulated from this fee shall be held in perpetuity by the county clerk in a separate fund to be used exclusively for:

a. Equipment related to the permanent storage of and access to records, including deed books, binders, shelves, microfilm equipment, and fireproof equipment;

b. Hardware for the permanent storage of and access to records, including computers, servers, and scanners;

c. Software for the permanent storage of and access to records, including vendor services and consumer subscription fees;

d. Personnel costs for the permanent storage of and access to records, including overtime costs for personnel involved in the digitization of records; and

e. Cloud storage and cybersecurity services for the permanent storage of and access to records.

3. No later than July 1 of each year, the county clerk shall submit a report to the consolidated local government and the Legislative Research Commission detailing the receipts, expenditures, and any amounts remaining in the fund.

142.010 State taxes on legal processes and instruments; distribution of amount collected (old)

(1) The following taxes shall be paid:

(a) A tax of four dollars and fifty cents (\$4.50) on each marriage license;

(b) A tax of four dollars (\$4) on each power of attorney to convey real or personal property;

(c) A tax of four dollars (\$4) on each mortgage, financing statement, or security agreement and on each notation of a security interest on a certificate of title under KRS 186A.190;

(d) A tax of four dollars (\$4) on each conveyance of real property; and

(e) A tax of four dollars (\$4) on each lien or conveyance of coal, oil, gas, or other mineral right or privilege.

(2) The tax imposed by this section shall be collected by each county clerk as a prerequisite to the issuance of a marriage license or the original filing of an instrument subject to the tax. Subsequent assignment of the original instrument shall not be cause for additional taxation under this section. This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.

(3) Taxes imposed under this section shall be reported and paid to the Department of Revenue by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed or marriage licenses issued. Each remittance shall be accompanied by a summary report on a form prescribed by the department.

(4) Any county clerk who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180. In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

(5) (a) One dollar (\$1) of the amount collected under each paragraph of subsection (1) of this section shall be placed in an agency fund in the Department for Libraries and Archives to be used exclusively for the purpose of preserving and retaining public records by continuing the local records grant program active in the Department for Libraries and Archives.

(b) Ninety percent (90%) of all funds allocated to the Department for Libraries and Archives under paragraph (a) of this subsection for the local records grant program shall be set aside for grants to county clerks and distributed annually, except as provided in paragraph (c) of this subsection.

(c) If there are insufficient grant applications from county clerks for the Department for Libraries and Archives to distribute ninety percent (90%) of all funds allocated under paragraph (a) of this subsection, the Department for Libraries and Archives may grant those funds to other agencies.

142.010 State taxes on legal processes and instruments; distribution of amount collected (new)

(1) The following taxes shall be paid:

(a) A tax of four dollars and fifty cents (\$4.50) on each marriage license;

(b) A tax of four dollars (\$4) on each power of attorney to convey real or personal property;

(c) A tax of four dollars (\$4) on each mortgage, financing statement, or security agreement and on each notation of a security interest on a certificate of title under KRS 186A.190;

(d) A tax of four dollars (\$4) on each conveyance of real property;

(e) A tax of four dollars (\$4) on each lien or conveyance of coal, oil, gas, or other mineral right or privilege; and

(f) A tax of four dollars (\$4) on each recorded will.

(2) Except as provided in Section 4 of this Act, the tax imposed by this section shall be collected by each county clerk as a prerequisite to the issuance of a marriage license or the original filing of an instrument subject to the tax. Subsequent assignment of the original instrument shall not be cause for additional taxation under this section. This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.

(3) Taxes imposed under this section shall be reported and paid to the Department of Revenue by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed or marriage licenses issued. Each remittance shall be accompanied by a summary report on a form prescribed by the department.

(4) Any county clerk who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180. In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

(5) (a) One dollar (\$1) of the amount collected under each paragraph of subsection (1) of this section shall be placed in an agency fund in the Department for Libraries and Archives to be used exclusively for the purpose of preserving and retaining public records by continuing the local records grant program active in the Department for Libraries and Archives.

(b) Ninety percent (90%) of all funds allocated to the Department for Libraries and Archives under paragraph (a) of this subsection for the local records grant program shall be set aside for grants to county clerks and distributed annually, except as provided in paragraph (c) of this subsection.

(c) If there are insufficient grant applications from county clerks for the Department for Libraries and Archives to distribute ninety percent (90%) of all funds allocated under paragraph (a) of this subsection, the Department for Libraries and Archives may grant those funds to other agencies.

401.040 Adult may have name changed by District Court (old)

(1) If the District Court, Family Court, or Circuit Court, as authorized by KRS 401.020, orders any person's name to be changed under this chapter, a copy of the order shall be certified by the clerk of that court to the county clerk, for record.

(2) The county clerk shall keep an alphabetical index for each book of records, referring to the page on which each person's name change appears, and giving the name from and to which it is changed.

401.040 Adult may have name changed by District Court (new)

(1) (a) If the District Court, Family Court, or Circuit Court, as authorized by KRS 401.020, orders any person's name to be changed under this chapter, a copy of the order shall be certified by the clerk of that court to the county clerk, for record, unless the court has ordered the record sealed or otherwise restricted from public inspection.

(b) Beginning January 1, 2028, the clerk of the court shall collect the fee required under Section 56 of this Act for the filing of a court-ordered name change under subsection (2) of this section and forward the fee with the copy of the order to the county clerk, except as provided in paragraph (a) of this subsection.

(2) The county clerk shall keep an alphabetical index for each book of records, referring to the page on which each person's name change appears, and giving the name from and to which it is changed.

386.010 Definitions for KRS 386.010 to 386.175 (old)

As used in KRS 386.010 to 386.175, unless the context requires otherwise:

- (1) “Fiduciary” means any trustee, guardian, executor, administrator, conservator or other individual or corporation holding funds or otherwise acting in a fiduciary capacity.
- (2) “Principal” means any person to whom a fiduciary, as such, owes an obligation.

386.010 Definitions for KRS 386.010 to 386.17[0] (new)

As used in KRS 386.010 to 386.170, unless the context requires otherwise:

- (1) “Fiduciary” means any trustee, guardian, executor, administrator, conservator or other individual or corporation holding funds or otherwise acting in a fiduciary capacity.
- (2) “Principal” means any person to whom a fiduciary, as such, owes an obligation.

386B.1-010 Definitions for chapter (old)

As used in this chapter, unless the context requires otherwise:

- (1) “Action” with respect to an act of a trustee, includes a failure to act;
- (2) “Ascertainable standard” means a standard relating to an individual's health, education, support, or maintenance within the meaning of 26 U.S.C. sec. 2041(b)(1)(A) or 26 U.S.C. sec. 2514(c)(1), as amended;
- (3) “Beneficiary” means a person that:
 - (a) Has a present or future beneficial interest in a trust, vested or contingent; or
 - (b) In a capacity other than that of trustee, holds a power of appointment over trust property;
- (4) “Charitable trust” means a trust, or part of a trust, established for a charitable purpose as described in KRS 386B.4-050(1);
- (5) “Conservator” means a person appointed by the court to administer the estate of a minor or adult individual;
- (6) “Environmental law” means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment;
- (7) “Guardian” means a person appointed by the court, a parent, or a spouse to make decisions regarding the support, care, education, health, and welfare of a minor or adult individual. The term shall not include a guardian ad litem;
- (8) “Interests of the beneficiaries” means the beneficial interests provided in the terms of the trust;
- (9) “Jurisdiction,” with respect to a geographic area, includes a state or country;

- (10) “Person” means any individual or entity as defined in KRS 446.010;
- (11) “Power of withdrawal” means a presently exercisable general power of appointment other than a power:
- (a) Exercisable by a trustee and limited by an ascertainable standard; or
 - (b) Exercisable by another person only on the consent of the trustee or a person holding an adverse interest;
- (12) “Property” means anything that may be the subject of ownership, whether legal or equitable, or any interest therein;
- (13) “Qualified beneficiary” means a beneficiary who, on the date the beneficiary's qualification is determined:
- (a) Is a distributee or permissible distributee of trust income or principal;
 - (b) Would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in paragraph (a) of this subsection ended on that date without causing the trust to end; or
 - (c) Would be a distributee or permissible distributee of trust income or principal if the trust ended on that date;
- (14) “Revocable,” as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest;
- (15) “Settlor” means a person, including a testator, who creates or contributes property to a trust. If more than one (1) person creates or contributes property to a trust, each person is a settlor of the part of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that part;
- (16) “Spendthrift provision” means a term of a trust which restrains both voluntary and involuntary transfer of a beneficiary's interest;
- (17) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state;
- (18) “Terms of a trust” means the manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or as may be established by other evidence that would be admissible in a judicial proceeding;

(19) (a) “Trust” means an express trust established by a trust instrument, including a will, whereby a trustee has the duty to administer a trust asset for the benefit of a named or otherwise described income or principal beneficiary, or both. This definition includes oral trusts.

(b) “Trust” does not include a resulting or constructive trust, a business trust which provides for certificates to be issued to the beneficiary, an investment trust, a voting trust, a security instrument, a trust established by the judgment of a court, a liquidation trust, or a trust for the primary purpose of paying dividends, interests, interest coupons, salaries, wages, pensions or profits, or employee benefits of any kind, an instrument in which a person is nominee or escrowee for another, a trust established in deposits in any financial institution, or other trust the nature of which does not admit of general trust administration;

(20) “Trust instrument” means an instrument signed by the settlor that contains terms of the trust, including any amendments thereto; and

(21) “Trustee” includes an original, additional, and successor trustee, and a cotrustee.

386B.1-010 Definitions for chapter (new)

As used in this chapter, unless the context requires otherwise:

(1) “Action” with respect to an act of a trustee, includes a failure to act;

(2) “Ascertainable standard” means a standard relating to an individual's health, education, support, or maintenance within the meaning of 26 U.S.C. sec. 2041(b)(1)(A) or 26 U.S.C. sec. 2514(c)(1), as amended;

(3) “Beneficiary” means a person that:

(a) Has a present or future beneficial interest in a trust, vested or contingent; or

(b) In a capacity other than that of trustee, holds a power of appointment over trust property;

(4) “Charitable trust” means a trust, or part of a trust, established for a charitable purpose as described in KRS 386B.4-050(1);

(5) “Conservator” means a person appointed by the court to administer the estate of a minor or adult individual;

(6) “Environmental law” means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment;

- (7) “Guardian” means a person appointed by the court, a parent, or a spouse to make decisions regarding the support, care, education, health, and welfare of a minor or adult individual. The term shall not include a guardian ad litem;
- (8) “Interests of the beneficiaries” means the beneficial interests provided in the terms of the trust;
- (9) “Jurisdiction,” with respect to a geographic area, includes a state or country;
- (10) “Person” means any individual or entity as defined in KRS 446.010;
- (11) “Power of direction”:
- (a) Means a power over a trust granted to a person by the terms of the trust to the extent the power is exercisable while the person is not serving as a trustee;
 - (b) Includes a power over the investment, management, or distribution of trust property or other matters of trust administration; and
 - (c) Excludes the powers described in subsection (2) of Section 73 of this Act;
- (12) “Power of withdrawal” means a presently exercisable general power of appointment other than a power:
- (a) Exercisable by a trustee and limited by an ascertainable standard; or
 - (b) Exercisable by another person only on the consent of the trustee or a person holding an adverse interest;
- (13) “Property” means anything that may be the subject of ownership, whether legal or equitable, or any interest therein;
- (14) “Qualified beneficiary” means a beneficiary who, on the date the beneficiary's qualification is determined:
- (a) Is a distributee or permissible distributee of trust income or principal;
 - (b) Would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in paragraph (a) of this subsection ended on that date without causing the trust to end; or
 - (c) Would be a distributee or permissible distributee of trust income or principal if the trust ended on that date;
- (15) “Revocable,” as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest;

(16) “Settlor” means a person, including a testator, who creates or contributes property to a trust. If more than one (1) person creates or contributes property to a trust, each person is a settlor of the part of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that part;

(17) “Spendthrift provision” means a term of a trust which restrains both voluntary and involuntary transfer of a beneficiary's interest;

(18) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state;

(19) “Terms of a trust” means:

(a) Except as otherwise provided in paragraph (b) of this subsection, the manifestation of the settlor's intent regarding a trust's provisions as:

1. Expressed in the trust instrument; or
2. Established by other evidence that would be admissible in a judicial proceeding; or

(b) The trust's provisions as established, determined, or amended by:

1. A trustee or trust director in accordance with applicable law;
2. A court order; or
3. A nonjudicial settlement agreement under KRS 386B.1–090;

(20) (a) “Trust” means an express trust established by a trust instrument, including a will, whereby a trustee has the duty to administer a trust asset for the benefit of a named or otherwise described income or principal beneficiary, or both. This definition includes oral trusts.

(b) “Trust” does not include a resulting or constructive trust, a business trust which provides for certificates to be issued to the beneficiary, an investment trust, a voting trust, a security instrument, a trust established by the judgment of a court, a liquidation trust, or a trust for the primary purpose of paying dividends, interests, interest coupons, salaries, wages, pensions or profits, or employee benefits of any kind, an instrument in which a person is nominee or escrowee for another, a trust established in deposits in any financial institution, or other trust the nature of which does not admit of general trust administration;

(21) “Trust director” means a person that is granted power of direction by the terms of a trust to the extent the power is exercisable while the person is not serving as a trustee. The person is a trust

director whether or not the terms of the trust refer to the person as a trust director and whether or not the person is a beneficiary or settlor of the trust;

(22) “Trust instrument” means an instrument signed by the settlor that contains terms of the trust, including any amendments thereto; and

(23) “Trustee” includes an original, additional, and successor trustee, and a cotrustee.

386B.1-030 Default and mandatory rules (old)

(1) Except as otherwise provided in the terms of the trust, this chapter governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.

(2) The terms of a trust prevail over any provision of this chapter, except:

(a) The requirements for creating a trust;

(b) The duty of a trustee to act in good faith and in the interests of the beneficiaries;

(c) The requirement that a trust and its terms be for the benefit of its beneficiaries, and that the trust have a purpose that is lawful, not contrary to public policy, and possible to achieve;

(d) The power of the court to change or terminate a trust under Subchapter 4 of this chapter;

- (e) The effect of a spendthrift provision and the rights of certain creditors and assignees to reach a trust as provided in Subchapter 5 of this chapter;
- (f) The power of the court under KRS 386B.7-020 to require, dispense with, or modify or terminate a bond;
- (g) The power of the court under KRS 386B.7-080(2) to adjust a trustee's compensation as specified in the terms of the trust which is unreasonably low or high;
- (h) The duty to notify and report under KRS 386B.8-130(2);
- (i) The effect of an exculpatory term under KRS 386B.10-080;
- (j) The rights under KRS 386B.10-100, 386B.10-110, and 386B.10-120 of a person other than a trustee or beneficiary;
- (k) Periods of limitation for commencing a judicial proceeding;
- (l) The power of the court to take such action and exercise such jurisdiction as may be necessary in the interests of justice; and
- (m) The subject-matter jurisdiction of the court and venue for commencing a proceeding as provided in KRS 386B.2-030 and 386B.2-040.

386B.1-030 Default and mandatory rules (new)

- (1) Except as otherwise provided in the terms of the trust, this chapter governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.
- (2) The terms of a trust prevail over any provision of this chapter, except:
 - (a) The requirements for creating a trust;
 - (b) Subject to Sections 77, 79, and 80 of this Act, the duty of a trustee to act in good faith and in the interests of the beneficiaries;

- (c) The requirement that a trust and its terms be for the benefit of its beneficiaries, and that the trust have a purpose that is lawful, not contrary to public policy, and possible to achieve;
- (d) The power of the court to change or terminate a trust under Subchapter 4 of this chapter;
- (e) The effect of a spendthrift provision and the rights of certain creditors and assignees to reach a trust as provided in Subchapter 5 of this chapter;
- (f) The power of the court under KRS 386B.7–020 to require, dispense with, or modify or terminate a bond;
- (g) The power of the court under KRS 386B.7–080(2) to adjust a trustee's compensation as specified in the terms of the trust which is unreasonably low or high;
- (h) The duty to notify and report under KRS 386B.8–130(2);
- (i) The effect of an exculpatory term under KRS 386B.10–080;
- (j) The rights under KRS 386B.10–100, 386B.10–110, and 386B.10–120 of a person other than a trustee or beneficiary;
- (k) Periods of limitation for commencing a judicial proceeding;
- (l) The power of the court to take such action and exercise such jurisdiction as may be necessary in the interests of justice; and
- (m) The subject-matter jurisdiction of the court and venue for commencing a proceeding as provided in KRS 386B.2–030 and 386B.2–040.

386B.1-060 Principal place of administration (old)

- (1) Without precluding other means for establishing a connection with the designated jurisdiction, terms of a trust designating the principal place of administration are valid and controlling if:
 - (a) A trustee's principal place of business is located in or a trustee is a resident of the designated jurisdiction; or
 - (b) All or part of the administration occurs in the designated jurisdiction.

(2) A trustee is under a continuing duty to administer the trust at a place appropriate to its purposes, its administration, and the interests of the beneficiaries.

(3) Without precluding the right of the court to order, approve, or disapprove a transfer, the trustee, in furtherance of the duty prescribed by subsection (2) of this section, may transfer the trust's principal place of administration to another state or to a jurisdiction outside of the United States.

(4) The trustee shall notify the qualified beneficiaries of a proposed transfer of a trust's principal place of administration not less than sixty (60) days before initiating the transfer. The notice of proposed transfer shall include:

(a) The name of the jurisdiction to which the principal place of administration is to be transferred;

(b) The address and telephone number at the new location at which the trustee can be contacted;

(c) An explanation of the reasons for the proposed transfer;

(d) The date on which the proposed transfer is anticipated to occur; and

(e) The date, not less than sixty (60) days after the giving of the notice, by which the qualified beneficiary shall notify the trustee of an objection to the proposed transfer.

(5) The authority of a trustee under this section to transfer a trust's principal place of administration ends if a qualified beneficiary notifies the trustee of an objection to the proposed transfer on or before the date specified in the notice.

(6) In connection with a transfer of the trust's principal place of administration, the trustee may transfer some or all of the trust property to a successor trustee designated in the terms of the trust or appointed under KRS 386B.7-040.

(7) The District Court shall have exclusive jurisdiction over matters under this section.

386B.1-060 Principal place of administration (new)

(1) Without precluding other means for establishing a connection with the designated jurisdiction, terms of a trust designating the principal place of administration are valid and controlling if:

(a) A trustee's principal place of business is located in or a trustee is a resident of the designated jurisdiction;

(b) A trust director's principal place of business is located in or a trust director is a resident of the designated jurisdiction; or

(c) All or part of the administration occurs in the designated jurisdiction.

(2) A trustee is under a continuing duty to administer the trust at a place appropriate to its purposes, its administration, and the interests of the beneficiaries.

(3) Without precluding the right of the court to order, approve, or disapprove a transfer, the trustee, in furtherance of the duty prescribed by subsection (2) of this section, may transfer the trust's principal place of administration to another state or to a jurisdiction outside of the United States.

(4) The trustee shall notify the qualified beneficiaries of a proposed transfer of a trust's principal place of administration not less than sixty (60) days before initiating the transfer. The notice of proposed transfer shall include:

(a) The name of the jurisdiction to which the principal place of administration is to be transferred;

(b) The address and telephone number at the new location at which the trustee can be contacted;

(c) An explanation of the reasons for the proposed transfer;

(d) The date on which the proposed transfer is anticipated to occur; and

(e) The date, not less than sixty (60) days after the giving of the notice, by which the qualified beneficiary shall notify the trustee of an objection to the proposed transfer.

(5) The authority of a trustee under this section to transfer a trust's principal place of administration ends if a qualified beneficiary notifies the trustee of an objection to the proposed transfer on or before the date specified in the notice.

(6) In connection with a transfer of the trust's principal place of administration, the trustee may transfer some or all of the trust property to a successor trustee designated in the terms of the trust or appointed under KRS 386B.7-040.

(7) The District Court shall have exclusive jurisdiction over matters under this section.

386B.3-010 Representations; basic effect (old)

(1) Notice to a person who may represent and bind another person under this subchapter has the same effect as if notice were given directly to the other person.

(2) The consent of a person who may represent and bind another person under this subchapter is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.

(3) Except as otherwise provided under KRS 386B.4-110 and 386B.6-020, a person who under this subchapter may represent a settlor who lacks capacity, may receive notice and give a binding consent on the settlor's behalf.

(4) A settlor may not represent and bind a beneficiary under this subchapter with respect to the termination or modification of a trust under KRS 386B.4-110(1).

(5) Provisions of this subchapter shall also be applicable to KRS 386.175 regarding a trustee's power to appoint principal and income in favor of a trustee of a second trust and KRS 386.454 regarding a trustee's power to adjust between principal and income and conversion to unitrust.

386B.3-010 Representations; basic effect (new)

- (1) Notice to a person who may represent and bind another person under this subchapter has the same effect as if notice were given directly to the other person.
- (2) The consent of a person who may represent and bind another person under this subchapter is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.
- (3) Except as otherwise provided under KRS 386B.4–110 and 386B.6–020, a person who under this subchapter may represent a settlor who lacks capacity, may receive notice and give a binding consent on the settlor's behalf.
- (4) A settlor may not represent and bind a beneficiary under this subchapter with respect to the termination or modification of a trust under KRS 386B.4–110(1).
- (5) Provisions of this subchapter shall also be applicable to Sections 87 to 114 of this Act regarding a trustee's power to appoint principal and income in favor of a trustee of a second trust and KRS 386.454 regarding a trustee's power to adjust between principal and income and conversion to unitrust.

386B.6-030 Settlor's powers; powers of withdrawal (old)

(1) While a trust is revocable and, in the reasonable belief of the trustee, the settlor has capacity to revoke the trust, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor.

(2) During the period the power may be exercised, the holder of a power of withdrawal has the rights of a settlor of a revocable trust under this section to the extent of the property subject to the power.

386B.6-030 Settlor's powers; powers of withdrawal (new)

(1) While a trust is revocable:

(a) And, in the reasonable belief of the trustee, the settlor has capacity to revoke the trust, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor; and

(b) The trustee may follow a direction of the settlor that is contrary to the terms of the trust.

(2) During the period the power may be exercised, the holder of a power of withdrawal has the rights of a settlor of a revocable trust under this section to the extent of the property subject to the power.

386B.7-030 Cotrustees (old)

- (1) Cotrustees who are unable to reach a unanimous decision may act by majority decision.
- (2) If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust.
- (3) A cotrustee shall participate in the performance of a trustee's function unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity or the cotrustee has properly delegated the performance of the function to another trustee.
- (4) If a cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity, and prompt action is necessary to achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust.
- (5) A trustee may not delegate to a cotrustee the performance of a function the settlor reasonably expected the trustees to perform jointly. Unless a delegation was irrevocable, a trustee may revoke a delegation previously made.
- (6) Except as otherwise provided in subsection (7) of this section, a trustee who does not join in an action of another trustee is not liable for the action.
- (7) Each trustee shall exercise reasonable care to:
 - (a) Prevent a cotrustee from committing a breach of trust; and
 - (b) Compel a cotrustee to redress a breach of trust.
- (8) A dissenting trustee who joins in an action at the direction of the majority of the trustees and who notified any cotrustee of the dissent at or before the time of the action is not liable for the action unless the action is a breach of trust.

386B.7-030 Cotrustees (new)

- (1) Cotrustees who are unable to reach a unanimous decision may act by majority decision.
- (2) If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust.
- (3) Subject to Section 80 of this Act, a cotrustee shall participate in the performance of a trustee's function unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity or the cotrustee has properly delegated the performance of the function to another trustee.
- (4) If a cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity, and prompt action is necessary to achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust.
- (5) A trustee may not delegate to a cotrustee the performance of a function the settlor reasonably expected the trustees to perform jointly. Unless a delegation was irrevocable, a trustee may revoke a delegation previously made.
- (6) Except as otherwise provided in subsection (7) of this section, a trustee who does not join in an action of another trustee is not liable for the action.
- (7) Subject to Section 80 of this Act, each trustee shall exercise reasonable care to:
 - (a) Prevent a cotrustee from committing a breach of trust; and
 - (b) Compel a cotrustee to redress a breach of trust.
- (8) A dissenting trustee who joins in an action at the direction of the majority of the trustees and who notified any cotrustee of the dissent at or before the time of the action is not liable for the action unless the action is a breach of trust.

386B.8–180 Duties of trustee upon termination or upon removal of trustee; objection (old)

(1) (a) When a trust terminates pursuant to the terms of the trust, the trustee may follow the requirements for distribution upon termination as provided in KRS 386B.8-170 or, if proceeding under this section, within a reasonable amount of time after such termination, the trustee shall provide to the qualified beneficiaries a statement showing the fair market value of the net assets to be distributed, a trust accounting for the prior five (5) years and an estimate for any items reasonably anticipated but not yet received or disbursed, the amount of any fees, including trustee fees, remaining to be paid, and notice that the trust is terminating. The trustee may also provide such statement and notice to any other person whom the trustee reasonably believes may have an interest in the trust.

(b) If, after receiving the notice and trust information described in paragraph (a) of this subsection, a qualified beneficiary objects to an action or omission disclosed, he or she shall provide written notice of the objection to the trustee within forty-five (45) days of the notice having been sent by the trustee. If no written objection is provided within the forty-five (45) day time period, the information provided pursuant to paragraph (a) of this subsection shall be considered approved by the recipient and the trustee shall, within a reasonable period of time following the expiration of such period, distribute the assets as provided in the trust. If the trustee receives a written objection within the applicable forty-five (45) day time period, the trustee may:

1. Submit the written objection to the District Court for resolution and charge the expense of commencing such a proceeding to the trust; or
2. Resolve the objection with the qualified beneficiary, whether by nonjudicial settlement agreement or otherwise. Any agreement entered into pursuant to this paragraph may include a release, an indemnity clause, or both on the part of the beneficiary against the trustee relating to the trust. If the parties agree to a nonjudicial settlement agreement, any related expenses shall be charged to the trust.

Upon a resolution of an objection pursuant to subparagraph 1. or 2. of this paragraph, within a reasonable period of time thereafter the trustee shall distribute the remaining trust assets as provided in the trust.

(c) The trustee may rely upon the written statement of a person receiving notice that such person does not object.

(2) (a) When a trustee is removed or resigns pursuant to the terms of the trust, the trustee may follow the requirements for distribution upon termination as provided in KRS 386B.8-170 or, if proceeding under this section, the trustee, within a reasonable time after such removal or resignation, shall provide to the successor trustee a statement showing the net assets to be distributed, a trust accounting for the prior five (5) years, an estimate for any items reasonably anticipated but not yet received or disbursed, the amount of any fees, including trustee fees, remaining to be paid, and notice that the trustee has resigned or been removed. The trustee may also provide such statement and notice to any other person whom trustee reasonably believes may have an interest in the trust.

(b) Any person provided notice and trust information as described in paragraph (a) of this subsection who objects to an action or omission disclosed shall provide written notice of the objection to the trustee within forty-five (45) days of the notice having been sent by the trustee. If no written objection is provided within the forty-five (45) day time period, the information provided pursuant to paragraph (a) of this subsection will be considered approved, and the trustee shall, within a reasonable period following the expiration of such forty-five (45) day period, distribute the assets to the successor trustee. If the trustee receives a written objection within the applicable forty-five (45) day time period, the trustee may:

1. Submit the written objection to the District Court for resolution and charge the expense of commencing such a proceeding to the trust; or
2. Resolve the objection with the opposing party, whether by nonjudicial settlement agreement or otherwise. Any agreement entered into pursuant to this paragraph may include a release, an indemnity clause, or both on the part of the opposing party against the trustee relating to the trust. If the parties agree to a nonjudicial settlement agreement, any related expenses shall be charged to the trust.

Upon a resolution of any objection raised by an opposing party pursuant to subparagraph 1. or 2. of this paragraph, within a reasonable period of time thereafter the trustee shall distribute the remaining trust assets as provided in the trust.

(c) The trustee may rely upon the written statement of a person receiving notice that such person does not object.

(3) When a trustee distributes assets of the trust pursuant to subsection (1) or (2) of this section, the limitations in KRS 386B.6-040 and 386B.10-050 are waived by each person who received notice and either consented or failed to object pursuant to this section, and any such person is barred from bringing a claim against the trustee for breach of trust or challenging the validity of the trust, to the same extent and with the same preclusive effect as if the court had entered a final order approving the trustee's final account.

(4) Notice provided under subsection (1) or (2) of this section shall clearly warn of the impending bar of claims against a trustee under KRS 386B.6-040 and 386B.10-050 that will result if an objection is not timely made.

(5) No trustee trust shall request that any beneficiary indemnify the trustee against loss in exchange for the trustee forgoing a request to the court to approve its accounts at the time the trust terminates or at the time the trustee is removed or resigns, except as agreed upon by the parties pursuant to paragraph (b)1. or 2. of subsections (1) and (2) of this section.

(6) The District Court shall have exclusive jurisdiction over matters under this section.

386B.8–180 Duties of trustee upon termination or upon removal of trustee; objection (new)

(1) (a) When a trust terminates pursuant to the terms of the trust, the trustee may follow the requirements for distribution upon termination as provided in KRS 386B.8–170 or, if proceeding under this section, within a reasonable amount of time after such termination, the trustee shall provide to the qualified beneficiaries a statement showing the fair market value of the net assets to be distributed, a trust accounting for the prior five (5) years and an estimate for any items reasonably anticipated but not yet received or disbursed, the amount of any fees, including trustee fees, remaining to be paid, and notice that the trust is terminating. The trustee may also provide such statement and notice to any other person whom the trustee reasonably believes may have an interest in the trust.

(b) If, after receiving the notice and trust information described in paragraph (a) of this subsection, a qualified beneficiary objects to an action or omission disclosed, he or she shall provide written notice of the objection to the trustee within forty-five (45) days of the notice having been sent by the trustee. If no written objection is provided within the forty-five (45) day time period, the information provided pursuant to paragraph (a) of this subsection shall be considered approved by the recipient and the trustee shall, within a reasonable period of time following the expiration of such period, distribute the assets as provided in the trust. If the trustee receives a written objection within the applicable forty-five (45) day time period, the trustee may:

1. Submit the written objection to the District Court for resolution and charge the expense of commencing such a proceeding to the trust; or
2. Resolve the objection with the qualified beneficiary, whether by nonjudicial settlement agreement or otherwise. Any agreement entered into pursuant to this paragraph may include a release, an indemnity clause, or both on the part of the beneficiary against the trustee relating to the trust. If the parties agree to a nonjudicial settlement agreement, any related expenses shall be charged to the trust.

Upon a resolution of an objection pursuant to subparagraph 1. or 2. of this paragraph, within a reasonable period of time thereafter the trustee shall distribute the remaining trust assets as provided in the trust.

(c) The trustee may rely upon the written statement of a person receiving notice that such person does not object.

(2) (a) When a trustee is removed or resigns pursuant to the terms of the trust, the trustee may follow the requirements for distribution upon termination as provided in KRS 386B.8–170 or, if proceeding under this section, the trustee, within a reasonable time after such removal or resignation, shall provide to the successor trustee a statement showing the net assets to be distributed, a trust accounting for the prior five (5) years, an estimate for any items reasonably anticipated but not yet received or disbursed, the amount of any fees, including trustee fees, remaining to be paid, and notice that the trustee has resigned or been removed. The trustee may also provide such statement and notice to any other person whom trustee reasonably believes may have an interest in the trust.

(b) Any person provided notice and trust information as described in paragraph (a) of this subsection who objects to an action or omission disclosed shall provide written notice of the objection to the trustee within forty-five (45) days of the notice having been sent by the trustee. If no written objection is provided within the forty-five (45) day time period, the information provided pursuant to paragraph (a) of this subsection will be considered approved, and the trustee shall, within a reasonable period following the expiration of such forty-five (45) day period, distribute the assets to the successor trustee. If the trustee receives a written objection within the applicable forty-five (45) day time period, the trustee may:

1. Submit the written objection to the District Court for resolution and charge the expense of commencing such a proceeding to the trust; or
2. Resolve the objection with the opposing party, whether by nonjudicial settlement agreement or otherwise. Any agreement entered into pursuant to this paragraph may include a release, an indemnity clause, or both on the part of the opposing party against the trustee relating to the trust. If the parties agree to a nonjudicial settlement agreement, any related expenses shall be charged to the trust.

Upon a resolution of any objection raised by an opposing party pursuant to subparagraph 1. or 2. of this paragraph, within a reasonable period of time thereafter the trustee shall distribute the remaining trust assets as provided in the trust.

(c) The trustee may rely upon the written statement of a person receiving notice that such person does not object.

(3) When a trustee distributes assets of the trust pursuant to subsection (1) or (2) of this section, the limitations in KRS 386B.6–040 and 386B.10–050 are waived by each person who received notice and either consented or failed to object pursuant to this section, and any such person is barred from bringing a claim against the trustee for breach of trust or challenging the validity of the trust, to the same extent and with the same preclusive effect as if the court had entered a final order approving the trustee's final account.

(4) Notice provided under subsection (1) or (2) of this section shall clearly warn of the impending bar of claims against a trustee under KRS 386B.6–040 and 386B.10–050 that will result if an objection is not timely made.

(5) No trustee trust shall request that any beneficiary indemnify the trustee against loss in exchange for the trustee forgoing a request to the court to approve its accounts at the time the trust terminates or at the time the trustee is removed or resigns, except as agreed upon by the parties pursuant to paragraph (b)1. or 2. of subsections (1) and (2) of this section.

(6) For purposes of this section, a termination of a trust under Subchapter 4 of KRS Chapter 386B shall be considered a termination pursuant to the trust terms.

(7) The District Court shall have exclusive jurisdiction over matters under this section.

394.010 “Will” defined (old)

As used in this chapter, unless the context requires otherwise, “will” means a last will or testament, codicil, appointment by will, writing in the nature of a will in exercise of a power, and any other testamentary disposition.

394.010 “Will” defined (new)

As used in this chapter, unless the context requires otherwise, “will”:

- (1) Means a last will or testament, codicil, appointment by will, writing in the nature of a will in exercise of a power, and any other testamentary disposition; and
- (2) Includes a codicil and any testamentary instrument that merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession.

138.470 Exemptions from tax (old)

There is expressly exempted from the tax imposed by KRS 138.460:

- (1) (a) Motor vehicles titled or registered to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions; and
- (b) The gross rental or lease charges for the rental or lease of a motor vehicle paid by the United States, or the Commonwealth of Kentucky or any of its political subdivisions;
- (2) Motor vehicles titled or registered to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;
- (3) Motor vehicles which have been previously titled in Kentucky on or after July 1, 2005, or previously registered and titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. The motor vehicles shall not be leased, rented, or loaned to any person and shall be held for resale only;
- (4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to members of the Armed Forces on duty in this Commonwealth under orders from the United States government;
- (5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine (9) persons or less, owned by nonresident owners and used primarily in interstate commerce and

based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;

(6) Motor vehicles titled in Kentucky on or after July 1, 2005, or previously registered in Kentucky, transferred between husband and wife, parent and child, stepparent and stepchild, or grandparent and grandchild;

(7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;

(8) Motor vehicles transferred to a corporation from a proprietorship or limited liability company, to a limited liability company from a corporation or proprietorship, or from a corporation or limited liability company to a proprietorship, within six (6) months from the time that the business is incorporated, organized, or dissolved, if the transferor and the transferee are the same business entity except for a change in legal form;

(9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property, if the vehicles were titled in Kentucky on or after July 1, 2005, or previously registered in Kentucky;

(10) Motor vehicles transferred between a subsidiary corporation and its parent corporation if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

(11) Motor vehicles transferred between a limited liability company and any of its members, if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

(12) The interest of a partner in a motor vehicle when other interests are transferred to him;

(13) Motor vehicles repossessed by a secured party who has a security interest in effect at the time of repossession and a repossession affidavit as required by KRS 186.045(6). The reposessor shall hold the vehicle for resale only and not for personal use, unless he has previously paid the motor vehicle usage tax on the vehicle;

(14) Motor vehicles transferred to an insurance company to settle a claim. These vehicles shall be junked or held for resale only;

(15) Motor carriers operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281;

(16) (a) 1. Motor vehicles registered under KRS 186.050 that have a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater; and

2. Farm trucks registered under KRS 186.050(4) that have a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater;

(b) To be eligible for the exemption established in paragraph (a) of this subsection, motor vehicles shall be registered at the appropriate range for the declared gross weight of the vehicle established in KRS 186.050(3)(b) and shall be prohibited from registering at a higher weight range. If a motor vehicle is initially registered in one (1) declared gross weight range and subsequently is registered at a declared gross weight range lower than forty-four thousand and one (44,001) pounds, the person registering the vehicle shall be required to pay the county clerk the usage tax due on the vehicle unless the person can provide written proof to the clerk that the tax has been previously paid;

(17) Motor vehicles transferred to a trustee to be held in trust, or from a trustee to a beneficiary of the trust, if a direct transfer from the grantor of the trust to all individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to subsection (6) or (9) of this section;

(18) Motor vehicles transferred to a trustee to be held in trust, if the grantor of the trust is a natural person and is treated as the owner of any portion of the trust for federal income tax purposes under the provisions of 26 U.S.C. secs. 671 to 679;

(19) Motor vehicles transferred from a trustee of a trust to another person if:

(a) The grantor of the trust is a natural person and is treated as the owner of any portion of the trust for federal income tax purposes under the provisions of 26 U.S.C. secs. 671 to 679; and

(b) A direct transfer from the grantor of the trust to the person would have qualified for an exemption from the tax pursuant to subsection (6) or (9) of this section; and

(20) Motor vehicles under a manufacturer's statement of origin in possession of a licensed new motor vehicle dealer that are titled and transferred to a licensed used motor vehicle dealer and held for sale.

138.470 Exemptions from tax (new)

There is expressly exempted from the tax imposed by KRS 138.460:

- (1) (a) Motor vehicles titled or registered to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions; and
- (b) The gross rental or lease charges for the rental or lease of a motor vehicle paid by the United States, or the Commonwealth of Kentucky or any of its political subdivisions;
- (2) Motor vehicles titled or registered to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;
- (3) Motor vehicles which have been previously titled in Kentucky on or after July 1, 2005, or previously registered and titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. The motor vehicles shall not be leased, rented, or loaned to any person and shall be held for resale only;
- (4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to members of the Armed Forces on duty in this Commonwealth under orders from the United States government;

- (5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine (9) persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;
- (6) Motor vehicles titled in Kentucky on or after July 1, 2005, or previously registered in Kentucky, transferred between husband and wife, parent and child, stepparent and stepchild, or grandparent and grandchild;
- (7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;
- (8) Motor vehicles transferred to a corporation from a proprietorship or limited liability company, to a limited liability company from a corporation or proprietorship, or from a corporation or limited liability company to a proprietorship, within six (6) months from the time that the business is incorporated, organized, or dissolved, if the transferor and the transferee are the same business entity except for a change in legal form;
- (9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property, if the vehicles were titled in Kentucky on or after July 1, 2005, or previously registered in Kentucky;
- (10) Motor vehicles transferred between a subsidiary corporation and its parent corporation if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;
- (11) Motor vehicles transferred between a limited liability company and any of its members, if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;
- (12) The interest of a partner in a motor vehicle when other interests are transferred to him or her;
- (13) Motor vehicles repossessed by a secured party who has a security interest in effect at the time of repossession and a repossession affidavit as required by KRS 186.045(6). The reposessor shall hold the vehicle for resale only and not for personal use, unless he or she has previously paid the motor vehicle usage tax on the vehicle;
- (14) Motor vehicles transferred to an insurance company to settle a claim. These vehicles shall be junked or held for resale only;
- (15) Motor carriers operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281;

(16) (a) 1. Motor vehicles registered under KRS 186.050 that have a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater; and

2. Farm trucks registered under KRS 186.050(4) that have a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater.

(b) To be eligible for the exemption established in paragraph (a) of this subsection, motor vehicles shall be registered at the appropriate range for the declared gross weight of the vehicle established in KRS 186.050(3)(b) and shall be prohibited from registering at a higher weight range. If a motor vehicle is initially registered in one (1) declared gross weight range and subsequently is registered at a declared gross weight range lower than forty-four thousand and one (44,001) pounds, the person registering the vehicle shall be required to pay the county clerk the usage tax due on the vehicle unless the person can provide written proof to the clerk that the tax has been previously paid;

(17) Motor vehicles transferred to a trustee to be held in trust, or from a trustee to a beneficiary of the trust, if a direct transfer from the grantor of the trust to all individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to subsection (6) or (9) of this section;

(18) Motor vehicles transferred to a trustee to be held in trust, if the grantor of the trust is a natural person and is treated as the owner of any portion of the trust for federal income tax purposes under the provisions of 26 U.S.C. secs. 671 to 679;

(19) Motor vehicles transferred from a trustee of a trust to another person if:

(a) The grantor of the trust is a natural person and is treated as the owner of any portion of the trust for federal income tax purposes under the provisions of 26 U.S.C. secs. 671 to 679; and

(b) A direct transfer from the grantor of the trust to the person would have qualified for an exemption from the tax pursuant to subsection (6) or (9) of this section;

(20) Motor vehicles under a manufacturer's statement of origin in possession of a licensed new motor vehicle dealer that are titled and transferred to a licensed used motor vehicle dealer and held for sale; and

(21) Motor vehicles transferred under Section 124 of this Act.

395.160 Removal of representatives (old)

(1) If a personal representative moves out of the state and fails to designate a process agent as required by KRS 395.015(1), becomes insane or otherwise incapable to discharge the trust, goes bankrupt or insolvent or is in failing circumstances, the District Court shall remove him, and the other personal representative, if there is another, shall discharge the trust. If he resides in the county of his appointment or in an adjoining county, and is not insane, he shall have ten (10) days' notice before the order of removal is made. If he is insane, the notice shall be given to his committee, if he has one, and if there is no committee, the court may appoint one.

(2) The district court may remove a personal representative for failing to give additional security when required under KRS 62.060 and appoint another.

(3) The court shall require a personal representative who is removed to settle his accounts, and deliver over the decedent's estate to the person appointed in his stead.

395.160 Removal of representatives (new)

(1) If a personal representative moves out of the state and fails to designate a process agent as required by KRS 395.015, becomes insane or otherwise incapable to discharge the trust, goes bankrupt or insolvent or is in failing circumstances, the District Court shall remove him or her, and the other personal representative, if there is another, shall discharge the trust. If he or she resides in the county of his or her appointment or in an adjoining county, and is not insane, he or she shall have ten (10) days' notice before the order of removal is made. If he or she is insane, the notice shall be given to his or her committee, if he or her has one, and if there is no committee, the court may appoint one.

(2) The district court may remove a personal representative for failing to give additional security when required under KRS 62.060 and appoint another.

(3) The court shall require a personal representative who is removed to settle his accounts, and deliver over the decedent's estate to the person appointed in his stead.

395.140 Bond; persons not to be surety on; recording of (old)

(1) The District Court shall not accept as surety, in any bond of a personal representative, any master or other commissioner whose duty is to settle the accounts of personal representatives or any judge or clerk of a District Court or practicing attorney of that court.

(2) The bond shall be subscribed by the principal and sureties, approved by the court, attested by the clerk of the court and carefully kept by the clerk in his office in a book to be provided for that purpose.

395.140 Bond; persons not to be surety on; recording of (new)

(1) All fiduciaries required to execute a bond shall deliver to the clerk of the court of the county in which he or she is appointed a bond payable to and with the Commonwealth, subscribed to by the principal and sureties in the presence of a notary, in the amount as may be approved by the court in the order of appointment.

(2) The District Court shall not accept as surety, in any bond of a personal representative, any master or other commissioner whose duty is to settle the accounts of personal representatives, or any judge or clerk of a District Court or practicing attorney of that court.

(3) The bond shall be filed by the clerk in his or her office in a record maintained for that purpose.

45A.045 Authority of cabinet; authority to promulgate administrative regulations (old)

(1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth.

(a) The cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration Cabinet an estimate of all needs

for supplies, materials, and equipment during that year which will have to be required through competitive bidding.

(b) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(c) The Finance and Administration Cabinet shall attempt in every practicable way to ensure that state agencies are fulfilling their business needs through the application of the best value criteria.

(2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general administrative regulations promulgated by the cabinet.

(3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state, including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.

(4) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of any interest in real property of the state which is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order and shall be reached only after review of a written request by the agency desiring to dispose of the property. This request shall describe the property and state the reasons why the agency believes the property should be disposed. All instruments required by law to be recorded which convey any interest in any real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all interests in real property shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for the requirements of that cabinet.

(5) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all personal property of the state that is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, or, with the approval of the secretary, may delegate the sale, trade, or other disposal of the personal property. In the event the authority is delegated, the method for disposal shall be determined by the agency head, in accordance with administrative regulations promulgated by the Finance and Administration Cabinet, and shall be set forth in a document describing the property and stating the method of disposal and the reasons why the agency believes the property should be disposed of. In the event the authority is not delegated, requests to the Finance and Administration Cabinet to sell, trade, or otherwise dispose of the property shall describe the property and state the reasons why the agency believes the property should be disposed of. The method for disposal shall be determined by the Division of Surplus Properties, and approved by the secretary of the Finance and Administration Cabinet or his or her designee.

(6) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall promulgate administrative regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.

(7) The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.

(8) Nothing in this section shall prevent the Finance and Administration Cabinet from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the General Services Administration and the vendor affected.

(9) Except as provided in KRS Chapters 175, 176, 177, and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure. Subject to the provisions of this code, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not

either himself or herself, or through any other person, influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, the request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(10) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.

(11) For capital construction projects, subject to the provisions of this code and KRS 45A.180, the procurement may be on whichever of the following alternative project delivery methods, in the judgment of the secretary of the Finance and Administration Cabinet after first considering the traditional design-bid-build project delivery method, offers the best value to the taxpayer:

- (a) A design-build basis; or
- (b) A construction management-at-risk basis.

Proposals shall be reviewed by the engineering staff to assure quality and value, and compliance with procurement procedures. All specifications shall be written to promote competition. Nothing in this section shall prohibit the procurement of phased bidding or construction manager-agency services.

(12) The Finance and Administration Cabinet shall have control and supervision over all purchases of energy-consuming equipment, supplies, and related equipment purchased or acquired by any agency of the state as provided in this code, and shall promulgate administrative regulations to designate the manner in which an energy-consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis and shall take into consideration the projected cost of fuel. The Finance and Administration Cabinet, in consultation with the Cabinet for Economic Development, shall conduct a thorough economic feasibility analysis on any major energy-using component of at least three million (3,000,000) BTU's per hour heat input and shall issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For the analysis, the Finance and

Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

45A.045 Authority of cabinet; authority to promulgate administrative regulations (new)

(1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth. The cabinet shall:

(a) Require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration Cabinet an estimate of all needs for supplies, materials, and equipment during that year which will have to be required through competitive bidding;

(b) Have the authority, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property; and

(c) Attempt in every practicable way to ensure that state agencies are fulfilling their business needs through the application of the best value criteria.

(2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation in accordance with KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general administrative regulations promulgated by the cabinet.

(3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state, including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.

(4) (a) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of any interest in real property of the state which is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet.

(b) The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order and shall be reached only after review of a written request by the agency desiring to

dispose of the real property. This request shall describe the real property and state the reasons why the agency believes the real property should be disposed.

(c) Before the disposal of real property, the secretary of the Finance and Administration Cabinet shall determine that:

1. No other state agency has a purpose for the real property; and
2. The city, county, urban-county government, or consolidated local government where the real property is located does not have an ownership interest in the real property.

(d) All instruments required by law to be recorded which convey any interest in any real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor.

(e) Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all interests in real property shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for the requirements of that cabinet.

(f) A state agency notifying the Finance and Administration Cabinet of its intent to dispose of any interest in real property assigned to the state agency shall continue to provide maintenance and security of the existing structures, buildings, and land included in the real property until the sale or other disposition is complete.

(g) In the event the Finance and Administration Cabinet receives no responsive bids for real property being disposed of, either by sealed bid or by public auction, the real property may be disposed of, consistent with the public interest, in any manner deemed appropriate by the secretary of the Finance and Administration Cabinet. A written description of the real property, the method of disposal, and the amount of compensation, if any, shall be made by the secretary of the Finance and Administration Cabinet.

(5) (a) If state-owned real property is observed to be abandoned, or it has not been substantially utilized for a public use, the chief executive officer of the city, county, urban-county government, or consolidated local government where the real property is located may:

1. Receive notice inquiring about the real property from a citizen, developer, or consultant as described in paragraph (d) of this subsection;
2. Develop a plan for public use of the real property; and
3. Submit a written notice to the secretary of the Finance and Administration Cabinet and the Capital Planning Advisory Board:

- a. Expressing interest in the use of the real property;
 - b. Requesting state utilization information from the Finance and Administration Cabinet on the availability of the real property for disposal; and
 - c. Requesting the real property to be considered for sale, trade, or disposal.
- (b) Within sixty (60) calendar days of receiving written notice under paragraph (a)3. of this subsection, the secretary of Finance and Administration Cabinet shall send a written response to the chief executive officer of the city, county, urban-county government, or consolidated local government and the Capital Planning Advisory Board that includes but is not limited to:
1. The current occupancy and use of the real property;
 2. If the Finance and Administration Cabinet or other applicable state agency intends to evaluate real property for disposal under subsection (4) of this section or to maintain its ownership interest in the real property for public use; and
 3. Provide a description of the real property, current status, available and planned occupancy, utilization, restrictions of use, and a timeline for full utilization of the property.
- (c) If the applicable state agency determines to request disposal of the real property, the state agency and Finance and Administration Cabinet shall proceed in accordance with subsection (4) of this section.
- (d) A citizen, developer, or consultant may notify the chief executive officer of the city, county, urban-county government, or consolidated local government where state-owned real property is located if he or she observes that the state-owned real property is abandoned or not substantially utilized for public use.
- (6) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all personal property of the state that is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, or, with the approval of the secretary, may delegate the sale, trade, or other disposal of the personal property. In the event the authority is delegated, the method for disposal shall be determined by the agency head, in accordance with administrative regulations promulgated by the Finance and Administration Cabinet, and shall be set forth in a document describing the property and stating the method of disposal and the reasons why the agency believes the property should be disposed of. In the event the authority is not delegated, requests to the Finance and Administration Cabinet to sell, trade, or otherwise dispose of the property shall describe the property and state the reasons why the agency believes the property should be disposed of. The method for disposal shall be determined by the Division of Surplus Properties, and approved by the secretary of the Finance and Administration Cabinet or his or her designee.

(7) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall promulgate administrative regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.

(8) The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.

(9) Nothing in this section shall prevent the Finance and Administration Cabinet from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the General Services Administration and the vendor affected.

(10) Except as provided in KRS Chapters 175, 176, 177, and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure. Subject to the provisions of this code, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not either himself or herself, or through any other person, influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, the request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(11) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.

(12) For capital construction projects, subject to the provisions of this code and KRS 45A.180, the procurement may be on whichever of the following alternative project delivery methods, in the judgment of the secretary of the Finance and Administration Cabinet after first considering the traditional design-bid-build project delivery method, offers the best value to the taxpayer:

(a) A design-build basis; or

(b) A construction management-at-risk basis.

Proposals shall be reviewed by the engineering staff to assure quality and value, and compliance with procurement procedures. All specifications shall be written to promote competition. Nothing in this section shall prohibit the procurement of phased bidding or construction manager-agency services.

(13) The Finance and Administration Cabinet shall have control and supervision over all purchases of energy-consuming equipment, supplies, and related equipment purchased or acquired by any agency of the state as provided in this code, and shall promulgate administrative regulations to designate the manner in which an energy-consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis and shall take into consideration the projected cost of fuel. The Finance and Administration Cabinet, in consultation with the Cabinet for Economic Development, shall conduct a thorough economic feasibility analysis on any major energy-using component of at least three million (3,000,000) BTU's per hour heat input and shall issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For the analysis, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

56.463 Powers of cabinet in determining need, controlling, and disposing of real estate (old)

The cabinet shall have the power and duty:

(1) To determine the comparative needs and demands of the various state agencies for acquiring real estate and for building projects;

(2) To purchase or otherwise acquire all real property determined to be needed for state use and upon the approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition, except as provided in KRS Chapters 175, 176, 177, and 180. All such acquisitions of real property or interests therein shall be made in accordance with KRS 45A.045;

(3) To sell or otherwise dispose of all property, including any interest in real property, of the state that is not needed or has become unsuitable for public use or would be more suitable consistent with the public interest for some other use as determined by the secretary of the Finance and Administration Cabinet. All such sales or other disposition shall be made in accordance with KRS 45A.045;

(4) (a) To control the use of any real property owned or otherwise held by the Commonwealth, or any state agency, and to determine for what periods of time and for what purposes any state agency may use the same, including the agency for whose use it was initially acquired or improved, and to determine what appropriate uses shall be made of such real property during periods that the cabinet finds the same is not required for the purposes of any particular state agency. The cabinet shall allocate to the General Assembly and the Legislative Research Commission all space within the New State Capitol Annex in the basement and on the first, second, third, and fourth floors, excluding:

1. Mechanical areas, public entrances, vestibules, and restrooms; and

2. The following additional space, as allocated on January 1, 2023:

a. Areas in the basement occupied by the Kentucky State Police and Facilities Security;

b. Areas in the basement operated as the snack bar and cafeteria, as well as storage areas related to the operation of the snack bar and cafeteria;

c. The area in the basement operated as a nurse's station;

- d. The area in the basement used as an automated teller machine (ATM);
- e. The office space in the basement occupied by the Secretary of State;
- f. Utility spaces in the basement west wing and east wing northernmost hallways occupied by janitorial, maintenance, and mechanical staff;
- g. The loading dock in the rear of the annex basement, along with the office space immediately adjacent to the loading dock on the back wall of the annex, provided that the General Assembly and the Legislative Research Commission shall be given access to and use of the loading dock and the receiving areas adjacent to the loading dock; and
- h. Office and studio space on the first floor currently occupied and used for broadcasting purposes by Kentucky Educational Television.

All space assigned to the legislative branch and plans, uses, furnishings, and equipment therefor are subject to the specific approval of the Legislative Research Commission;

(b) All additional space in the New State Capitol Annex, not specifically allocated for use by the General Assembly and the Legislative Research Commission in paragraph (a) of this subsection, shall be allocated for the use of the legislative branch, with occupancy by the legislative branch to be determined by the Legislative Research Commission, upon a vote of a majority of the entire membership of the Legislative Research Commission;

(c) In order for the General Assembly and the Legislative Research Commission to efficiently utilize the space provided by paragraphs (a) and (b) of this subsection, the cabinet shall enter into a memorandum of understanding with the Legislative Research Commission on or about February 1, 2024, and as often as every two (2) years thereafter at the request of the Legislative Research Commission, to establish tenancy terms, including but not limited to building maintenance, repairs, renovations, and upgrades; facility security; janitorial services; and applicable rental and utilities rates. The Legislative Research Commission shall at any time, and upon at least sixty (60) days' notice, be authorized to discontinue the cabinet's provision of janitorial services for the New State Capitol Annex and to enter into a separate contract for the provision of those services, with the applicable rental and utilities rates to be proportionately reduced to reflect that separate contract, provided that the Legislative Research Commission may also at any time, and upon at least sixty (60) days' notice, elect to have the cabinet continue or reinstate the provision of those janitorial services at the cabinet's expense;

(d) For the purposes of this subsection, real property shall include the parking areas adjacent to the New State Capitol and the New State Capitol Annex, and the cabinet shall allocate to the General Assembly and the Legislative Research Commission all parking spaces within the Capitol campus parking garage, all parking spaces in the east, south, and west parking lots of the New State Capitol Annex, and all parking spaces in the west parking lot of the New State Capitol, except for those

spaces in the west parking lot of the New State Capitol allocated, as of January 1, 2023, to the Supreme Court of Kentucky, the Lieutenant Governor, the Attorney General, and the Secretary of State. Any further allocation of any parking spaces allocated pursuant to this paragraph shall be within the sole discretion of the Legislative Research Commission or its designee; and

(e) To determine the housing and furnishings needs of the various state agencies located in Frankfort and to establish and put into effect a permanent program for housing them. Subject to paragraphs (a) and (b) of this subsection, the cabinet is also authorized and directed to allocate office space and furnishings in existing public buildings located in Frankfort, exclusive of the third and fourth floors of the New State Capitol and the space in the New State Capitol Annex allocated to the legislative branch, according to the needs of the various agencies. When necessary, the cabinet is authorized to provide additional office space and furnishings in Frankfort under any building program the cabinet deems most advisable and economical for the state. The permanent housing program shall include provisions for housing the General Assembly and its related agencies, including the Legislative Research Commission, and its subcommittees, the executive offices, the Supreme Court and the clerk of the Supreme Court, the Department of Law and the law library, in the New State Capitol, provided the General Assembly and the Legislative Research Commission shall have complete control and exclusive use of the third and fourth floors of the New State Capitol and shall have exclusive use of the space in the New State Capitol Annex allocated to them under paragraphs (a) and (b) of this subsection. If there be any additional space in the Capitol, it shall be assigned to agencies whose activities are most closely related to the agencies directed to be located permanently in the Capitol;

(5) To acquire, by condemnation in the manner provided in the Eminent Domain Act of Kentucky, any real estate necessary for use by the state or by any state agency, when the cabinet is unable to agree with the owner thereof on a price for such real estate;

(6) To lease any real property, or any interest in such real property, owned by the state or any agency thereof, in accordance with KRS 45A.045;

(7) To provide for and adopt plans and specifications as may be necessary, to provide adequate public notice for and receive bids for any expenditures proposed to be made, to award contracts for the purpose authorized, to supervise construction and make changes and revisions in plans and specifications or in construction as may become necessary, and generally to do any and all other things as may become necessary or expedient in order to effectively fulfill and carry out the purposes of this chapter, including the right to employ clerks, engineers, statisticians, architects, or other persons required to be employed in order to fulfill the functions of the Commonwealth relating to state property and buildings provided in KRS 56.450 to 56.550; and

(8) To adopt rules and promulgate administrative regulations as may be necessary to govern the acquisition, control, and disposition of the real property to which this section is applicable.

56.463 Powers of cabinet in determining need, controlling, and disposing of real estate (new)

The cabinet shall have the power and duty:

(1) To determine the comparative needs and demands of the various state agencies for acquiring real estate and for building projects;

(2) To purchase or otherwise acquire all real property determined to be needed for state use and upon the approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition, except as provided in KRS Chapters 175, 176, 177, and 180. All such acquisitions of real property or interests therein shall be made in accordance with KRS 45A.045;

(3) (a) To sell or otherwise dispose of all property, including any interest in real property, of the state that is not needed or has become unsuitable for public use or would be more suitable consistent with the public interest for some other use as determined by the secretary of the Finance and Administration Cabinet. All such sales or other disposition shall be made in accordance with KRS 45A.045.

(b) A state agency notifying the Finance and Administration Cabinet of its intent to dispose of any interest in real property assigned to the state agency shall continue to provide maintenance and security of the existing structures, buildings, and land included in the real property until the sale or other disposition is complete in accordance with Section 1 of this Act.

(4) (a) To control the use of any real property owned or otherwise held by the Commonwealth, or any state agency, and to determine for what periods of time and for what purposes any state agency may use the same, including the agency for whose use it was initially acquired or improved, and to determine what appropriate uses shall be made of such real property during periods that the cabinet finds the same is not required for the purposes of any particular state agency. The cabinet shall allocate to the General Assembly and the Legislative Research Commission all space within the New State Capitol Annex in the basement and on the first, second, third, and fourth floors, excluding:

1. Mechanical areas, public entrances, vestibules, and restrooms; and

2. The following additional space, as allocated on January 1, 2023:

- a. Areas in the basement occupied by the Kentucky State Police and Facilities Security;
- b. Areas in the basement operated as the snack bar and cafeteria, as well as storage areas related to the operation of the snack bar and cafeteria;
- c. The area in the basement operated as a nurse's station;
- d. The area in the basement used as an automated teller machine (ATM);
- e. The office space in the basement occupied by the Secretary of State;
- f. Utility spaces in the basement west wing and east wing northernmost hallways occupied by janitorial, maintenance, and mechanical staff;
- g. The loading dock in the rear of the annex basement, along with the office space immediately adjacent to the loading dock on the back wall of the annex, provided that the General Assembly and the Legislative Research Commission shall be given access to and use of the loading dock and the receiving areas adjacent to the loading dock; and
- h. Office and studio space on the first floor currently occupied and used for broadcasting purposes by Kentucky Educational Television.

All space assigned to the legislative branch and plans, uses, furnishings, and equipment therefor are subject to the specific approval of the Legislative Research Commission;

(b) All additional space in the New State Capitol Annex, not specifically allocated for use by the General Assembly and the Legislative Research Commission in paragraph (a) of this subsection, shall be allocated for the use of the legislative branch, with occupancy by the legislative branch to be determined by the Legislative Research Commission, upon a vote of a majority of the entire membership of the Legislative Research Commission;

(c) In order for the General Assembly and the Legislative Research Commission to efficiently utilize the space provided by paragraphs (a) and (b) of this subsection, the cabinet shall enter into a memorandum of understanding with the Legislative Research Commission on or about February 1, 2024, and as often as every two (2) years thereafter at the request of the Legislative Research Commission, to establish tenancy terms, including but not limited to building maintenance, repairs, renovations, and upgrades; facility security; janitorial services; and applicable rental and utilities rates. The Legislative Research Commission shall at any time, and upon at least sixty (60) days' notice, be authorized to discontinue the cabinet's provision of janitorial services for the New State Capitol Annex and to enter into a separate contract for the provision of those services, with the applicable rental and utilities rates to be proportionately reduced to reflect that separate contract, provided that the Legislative Research Commission may also at any time, and upon at least sixty

(60) days' notice, elect to have the cabinet continue or reinstate the provision of those janitorial services at the cabinet's expense;

(d) For the purposes of this subsection, real property shall include the parking areas adjacent to the New State Capitol and the New State Capitol Annex, and the cabinet shall allocate to the General Assembly and the Legislative Research Commission all parking spaces within the Capitol campus parking garage, all parking spaces in the east, south, and west parking lots of the New State Capitol Annex, and all parking spaces in the west parking lot of the New State Capitol, except for those spaces in the west parking lot of the New State Capitol allocated, as of January 1, 2023, to the Supreme Court of Kentucky, the Lieutenant Governor, the Attorney General, and the Secretary of State. Any further allocation of any parking spaces allocated pursuant to this paragraph shall be within the sole discretion of the Legislative Research Commission or its designee; and

(e) To determine the housing and furnishings needs of the various state agencies located in Frankfort and to establish and put into effect a permanent program for housing them. Subject to paragraphs (a) and (b) of this subsection, the cabinet is also authorized and directed to allocate office space and furnishings in existing public buildings located in Frankfort, exclusive of the third and fourth floors of the New State Capitol and the space in the New State Capitol Annex allocated to the legislative branch, according to the needs of the various agencies. When necessary, the cabinet is authorized to provide additional office space and furnishings in Frankfort under any building program the cabinet deems most advisable and economical for the state. The permanent housing program shall include provisions for housing the General Assembly and its related agencies, including the Legislative Research Commission, and its subcommittees, the executive offices, the Supreme Court and the clerk of the Supreme Court, the Department of Law and the law library, in the New State Capitol, provided the General Assembly and the Legislative Research Commission shall have complete control and exclusive use of the third and fourth floors of the New State Capitol and shall have exclusive use of the space in the New State Capitol Annex allocated to them under paragraphs (a) and (b) of this subsection. If there be any additional space in the Capitol, it shall be assigned to agencies whose activities are most closely related to the agencies directed to be located permanently in the Capitol;

(5) To acquire, by condemnation in the manner provided in the Eminent Domain Act of Kentucky, any real estate necessary for use by the state or by any state agency, when the cabinet is unable to agree with the owner thereof on a price for such real estate;

(6) To lease any real property, or any interest in such real property, owned by the state or any agency thereof, in accordance with KRS 45A.045;

(7) To provide for and adopt plans and specifications as may be necessary, to provide adequate public notice for and receive bids for any expenditures proposed to be made, to award contracts for the purpose authorized, to supervise construction and make changes and revisions in plans and

specifications or in construction as may become necessary, and generally to do any and all other things as may become necessary or expedient in order to effectively fulfill and carry out the purposes of this chapter, including the right to employ clerks, engineers, statisticians, architects, or other persons required to be employed in order to fulfill the functions of the Commonwealth relating to state property and buildings provided in KRS 56.450 to 56.550; and

(8) To adopt rules and promulgate administrative regulations as may be necessary to govern the acquisition, control, and disposition of the real property to which this section is applicable.

27A.210 Books and records (old)

(1) The following books and records shall be maintained by the State Law Library:

(a) All copies of Volumes 1 to 77 of the Kentucky Reports;

(b) Twenty-five (25) copies each of Volumes 78 to 314 of the Kentucky Reports;

(c) Two (2) sets of all future publications of the journals and nine (9) sets of the Acts of the General Assembly; and

(d) Two (2) sets of the official Kentucky statute publications.

(2) The state law librarian shall arrange with the proper official of each state of the United States and of the United States and its territories for the exchanges of the statutes and the acts of the legislatures of each state and of Congress. When an exchange is agreed upon, the state law librarian shall send to the officer one (1) copy of the Acts of the General Assembly and one (1) set of statutes as soon as they are ready for distribution.

(3) Copies of acts, statutes, and other materials required to be kept by the state law librarian and to be made available for exchange shall be furnished to the state law librarian, without charge, by the agency or official responsible for the distribution of same.

(4) The state law librarian may arrange for the distribution or disposal of materials held by the State Law Library upon concurrence of the administrative assistant to the Chief Justice responsible for law library operations.

(5) The state law librarian may acquire, by purchase, exchange, donation, or otherwise, books and other materials the librarian deems suitable for the holdings of the State Law Library.

(6) The state law librarian may, with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, sell any surplus books in the State Law Library that have a market value, collect the funds received therefor, and deposit them in the “State Law Library Surplus Books Fund,” which is hereby created in the State Treasury. The “State Law Library Surplus Books Fund” shall not lapse. The state law librarian may reinvest the funds in other books and materials that the librarian deems suitable for the holdings of the State Law Library. The provisions of KRS 45A.045(5) concerning the powers and duties of the Finance and Administration Cabinet shall not apply to sales made by the state law librarian under this section.

(7) The state law librarian may, with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, offer and provide technical and other assistance to county law libraries and to other publicly funded law libraries.

(8) The state law librarian may, upon the request of a county law library or other publicly funded law library and with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, purchase books, supplies, or other materials for the library. The funds used for these purposes shall be those of the county law library or other publicly funded law library.

(9) The state law librarian shall issue, with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, regulations for the operation, management, and lending policy of the State Law Library.

27A.210 Books and records (new)

(1) The following books and records shall be maintained by the State Law Library:

(a) All copies of Volumes 1 to 77 of the Kentucky Reports;

(b) Twenty-five (25) copies each of Volumes 78 to 314 of the Kentucky Reports;

(c) Two (2) sets of all future publications of the journals and nine (9) sets of the Acts of the General Assembly; and

(d) Two (2) sets of the official Kentucky statute publications.

(2) The state law librarian shall arrange with the proper official of each state of the United States and of the United States and its territories for the exchanges of the statutes and the acts of the legislatures of each state and of Congress. When an exchange is agreed upon, the state law librarian shall send to the officer one (1) copy of the Acts of the General Assembly and one (1) set of statutes as soon as they are ready for distribution.

(3) Copies of acts, statutes, and other materials required to be kept by the state law librarian and to be made available for exchange shall be furnished to the state law librarian, without charge, by the agency or official responsible for the distribution of same.

(4) The state law librarian may arrange for the distribution or disposal of materials held by the State Law Library upon concurrence of the administrative assistant to the Chief Justice responsible for law library operations.

(5) The state law librarian may acquire, by purchase, exchange, donation, or otherwise, books and other materials the librarian deems suitable for the holdings of the State Law Library.

(6) The state law librarian may, with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, sell any surplus books in the State Law Library that have a market value, collect the funds received therefor, and deposit them in the state law library surplus books fund, which is hereby created in the State Treasury. The state law library surplus books fund shall not lapse. The state law librarian may reinvest the funds in other books and materials that the librarian deems suitable for the holdings of the State Law Library. The provisions of KRS 45A.045(6) concerning the powers and duties of the Finance and Administration Cabinet shall not apply to sales made by the state law librarian under this section.

(7) The state law librarian may, with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, offer and provide technical and other assistance to county law libraries and to other publicly funded law libraries.

(8) The state law librarian may, upon the request of a county law library or other publicly funded law library and with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, purchase books, supplies, or other materials for the library. The funds used for these purposes shall be those of the county law library or other publicly funded law library.

(9) The state law librarian shall issue, with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, regulations for the operation, management, and lending policy of the State Law Library.

45A.050 Centralization of procurement; exemptions; reciprocal preference for resident bidders (old)

(1) Except as provided in KRS 45A.800 to 45A.835 and KRS Chapters 175, 176, 177, and 180, all rights, powers, duties, and authority relating to the procurement of supplies, services, and construction, and the management, control, warehousing, sale, and disposal of supplies, services, and construction now vested in or exercised by any state agency under the several statutes relating thereto, are hereby transferred to the secretary of the Finance and Administration Cabinet as provided in this code, subject to the provisions of subsection (2) of this section.

(2) Unless otherwise ordered by the secretary of the Finance and Administration Cabinet, the acquisition of the following shall not be required through the Finance and Administration Cabinet:

- (a) Works of art for museum and public display;
- (b) Published books, maps, periodicals, and technical pamphlets; and
- (c) Services of visiting speakers, professors, and performing artists.

(3) The Finance and Administration Cabinet shall include in all state agency price contracts for the purchase of materials or supplies a provision that, as approved by the secretary of the Finance and Administration Cabinet, any political subdivision, including cities of all classes, counties, school districts, or special districts, may participate in these contracts to the same extent as the Commonwealth. Any political subdivision may purchase materials and supplies in accordance with

a contract for supplies and materials entered into by the Finance and Administration Cabinet for the Commonwealth, including those contracts negotiated by the cabinet with vendors who maintain a General Services Administration price agreement as provided in KRS 45A.045(8). Political subdivisions of the Commonwealth must comply with other provisions of the Kentucky Revised Statutes which require purchase by competitive bidding, before participating in the contract, unless the state contract has been let by competitive bidding, or the contract was negotiated as provided in KRS 45A.045(8).

(4) The Finance and Administration Cabinet shall inform the Department for Local Government, which shall then inform the appropriate purchasing agent of each political subdivision interested in participating under this section, of all state agency contracts in effect between the Commonwealth and vendors.

(5) The secretary of the Finance and Administration Cabinet shall promulgate administrative regulations necessary for the implementation of this section and necessary to provide that the Commonwealth be reimbursed for any additional expenses incurred by the Commonwealth in allowing political subdivisions to participate in contracts with vendors.

(6) The Finance and Administration Cabinet shall comply with all provisions relating to the methods of purchasing in the Kentucky Revised Statutes. This section is not intended to repeal or otherwise affect any provision of the Kentucky Revised Statutes regarding purchasing methods of the Finance and Administration Cabinet.

(7) Notwithstanding any other statute to the contrary, all public agencies as defined in KRS 45A.490 shall comply with the provisions for reciprocal preference for resident bidders in KRS 45A.490 to 45A.494.

45A.050 Centralization of procurement; exemptions; reciprocal preference for resident bidders
(new)

(1) Except as provided in KRS 45A.800 to 45A.835 and KRS Chapters 175, 176, 177, and 180, all rights, powers, duties, and authority relating to the procurement of supplies, services, and construction, and the management, control, warehousing, sale, and disposal of supplies, services, and construction now vested in or exercised by any state agency under the several statutes relating thereto, are hereby transferred to the secretary of the Finance and Administration Cabinet as provided in this code, subject to the provisions of subsection (2) of this section.

(2) Unless otherwise ordered by the secretary of the Finance and Administration Cabinet, the acquisition of the following shall not be required through the Finance and Administration Cabinet:

- (a) Works of art for museum and public display;
- (b) Published books, maps, periodicals, and technical pamphlets; and
- (c) Services of visiting speakers, professors, and performing artists.

(3) The Finance and Administration Cabinet shall include in all state agency price contracts for the purchase of materials or supplies a provision that, as approved by the secretary of the Finance and Administration Cabinet, any political subdivision, including cities of all classes, counties, school districts, or special districts, may participate in these contracts to the same extent as the Commonwealth. Any political subdivision may purchase materials and supplies in accordance with

a contract for supplies and materials entered into by the Finance and Administration Cabinet for the Commonwealth, including those contracts negotiated by the cabinet with vendors who maintain a General Services Administration price agreement as provided in KRS 45A.045(9). Political subdivisions of the Commonwealth must comply with other provisions of the Kentucky Revised Statutes which require purchase by competitive bidding, before participating in the contract, unless the state contract has been let by competitive bidding, or the contract was negotiated as provided in KRS 45A.045(9).

(4) The Finance and Administration Cabinet shall inform the Department for Local Government, which shall then inform the appropriate purchasing agent of each political subdivision interested in participating under this section, of all state agency contracts in effect between the Commonwealth and vendors.

(5) The secretary of the Finance and Administration Cabinet shall promulgate administrative regulations necessary for the implementation of this section and necessary to provide that the Commonwealth be reimbursed for any additional expenses incurred by the Commonwealth in allowing political subdivisions to participate in contracts with vendors.

(6) The Finance and Administration Cabinet shall comply with all provisions relating to the methods of purchasing in the Kentucky Revised Statutes. This section is not intended to repeal or otherwise affect any provision of the Kentucky Revised Statutes regarding purchasing methods of the Finance and Administration Cabinet.

(7) Notwithstanding any other statute to the contrary, all public agencies as defined in KRS 45A.490 shall comply with the provisions for reciprocal preference for resident bidders in KRS 45A.490 to 45A.494.

45A.300 Cooperative purchasing (old)

(1) Any public purchasing unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of any supplies, services, or construction with any other public purchasing unit or foreign purchasing activity, in accordance with an agreement entered into between the participants. This cooperative purchasing may include, but is not limited to, joint contracts between public purchasing units and access by local public purchasing units to open-ended state public purchasing unit contracts.

(2) Nothing in this code shall limit any public purchasing unit from selling to, acquiring from, or using any property belonging to another public purchasing unit or foreign purchasing activity independent of the requirements of KRS 45A.070 to 45A.180.

(3) Nothing in this code shall limit or restrict any public purchasing unit from entering into an agreement, independent of the requirements of KRS 45A.045(5) and KRS 45A.070 to 45A.165, with any other public purchasing unit or foreign purchasing activity for the cooperative use of supplies or services.

(4) Any public purchasing unit may enter into an agreement for the joint or common use of warehousing facilities or the lease or common use of capital equipment or facilities with any other

public purchasing unit or a foreign purchasing activity subject to the terms as may be agreed upon between the parties.

(5) Nothing in this code shall limit or restrict the ability of local school districts to acquire supplies outside of the public purchasing agreements when the supplies and equipment meeting the same specifications as the contract items are available at a lower price elsewhere and the purchase does not exceed two thousand five hundred dollars (\$2,500).

(6) Nothing in this code shall limit any public purchasing unit from receiving notice of or accepting a price reduction on supplies or equipment when the supplies or equipment are being offered by the vendor with whom a price agreement has been made; the supplies or equipment are being offered in accordance with all terms and conditions that are specified in the price agreement, except those relating to price; and the price reduction is offered to all of the participants in the price agreement. Public purchasing units may accept special price reductions under this subsection even if the reduced price requires the purchase of a specified quantity of units different from the quantity stated in the original price agreement. Price reductions under this subsection shall not be considered to permanently alter the price of the supplies or equipment under the price agreement with the Commonwealth, except where the price reductions are to be made permanent under the express terms of the price agreement and where the purchasing agency which solicited the price agreement determines that the enforcement of those terms serves the best interest of the Commonwealth.

(7) The Finance and Administration Cabinet shall not exclude the Department of Fish and Wildlife Resources from, or interfere with the department's participation in, any contracts available to multiple state agencies for the procurement of goods or services, including but not limited to interfering with the department's electronic access to the statewide accounting system in any way.

45A.300 Cooperative purchasing (new)

(1) Any public purchasing unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of any supplies, services, or construction with any other public purchasing unit or foreign purchasing activity, in accordance with an agreement entered into between the participants. This cooperative purchasing may include but is not limited to joint contracts between public purchasing units and access by local public purchasing units to open-ended state public purchasing unit contracts.

(2) Nothing in this code shall limit any public purchasing unit from selling to, acquiring from, or using any property belonging to another public purchasing unit or foreign purchasing activity independent of the requirements of KRS 45A.070 to 45A.180.

(3) Nothing in this code shall limit or restrict any public purchasing unit from entering into an agreement, independent of the requirements of KRS 45A.045(6) and KRS 45A.070 to 45A.165,

with any other public purchasing unit or foreign purchasing activity for the cooperative use of supplies or services.

(4) Any public purchasing unit may enter into an agreement for the joint or common use of warehousing facilities or the lease or common use of capital equipment or facilities with any other public purchasing unit or a foreign purchasing activity subject to the terms as may be agreed upon between the parties.

(5) Nothing in this code shall limit or restrict the ability of local school districts to acquire supplies outside of the public purchasing agreements when the supplies and equipment meeting the same specifications as the contract items are available at a lower price elsewhere and the purchase does not exceed two thousand five hundred dollars (\$2,500).

(6) Nothing in this code shall limit any public purchasing unit from receiving notice of or accepting a price reduction on supplies or equipment when the supplies or equipment are being offered by the vendor with whom a price agreement has been made; the supplies or equipment are being offered in accordance with all terms and conditions that are specified in the price agreement, except those relating to price; and the price reduction is offered to all of the participants in the price agreement. Public purchasing units may accept special price reductions under this subsection even if the reduced price requires the purchase of a specified quantity of units different from the quantity stated in the original price agreement. Price reductions under this subsection shall not be considered to permanently alter the price of the supplies or equipment under the price agreement with the Commonwealth, except where the price reductions are to be made permanent under the express terms of the price agreement and where the purchasing agency which solicited the price agreement determines that the enforcement of those terms serves the best interest of the Commonwealth.

(7) The Finance and Administration Cabinet shall not exclude the Department of Fish and Wildlife Resources from, or interfere with the department's participation in, any contracts available to multiple state agencies for the procurement of goods or services, including but not limited to interfering with the department's electronic access to the statewide accounting system in any way.

45A.810 Architectural services selection committees; engineering or engineering-related services selection committees; uses; membership (old)

(1) (a) One (1) or more architectural services selection committees and one (1) or more engineering or engineering-related services selection committees shall be created in the Finance and Administration Cabinet.

(b) One (1) or more engineering and engineering-related services selection committees shall be created in the Transportation Cabinet.

(c) One (1) or more engineering and engineering-related services selection committees shall be created in the Department of Fish and Wildlife Resources.

(2) Except when an emergency condition exists as defined by KRS 45A.095(1)(a), when architectural, engineering, or engineering-related services are procured under KRS 45A.837 and 45A.838, or when the project is constructed under KRS 45A.045(11)(a) or (b):

(a) An architectural services selection committee created in the Finance and Administration Cabinet shall participate in every instance of that cabinet's procuring architectural services for its own needs and the needs of other agencies, and upon request from the commissioner of the Department of Fish and Wildlife Resources, shall assist and participate in that department's procuring of architectural services;

(b) An engineering and engineering-related services selection committee created in the Finance and Administration Cabinet shall participate in every instance of that cabinet's procuring engineering or engineering-related services;

(c) An engineering and engineering-related services selection committee created in the Transportation Cabinet shall participate in every instance of that cabinet's procuring engineering or engineering-related services; and

(d) An engineering and engineering-related services selection committee created in the Department of Fish and Wildlife Resources shall participate in every instance of that department's procuring of engineering or engineering-related services.

(3) An architectural services selection committee created in the Finance and Administration Cabinet to perform its own procurement and assist other state agencies with procuring architectural services shall consist of six (6) or more members selected in the manner specified within each paragraph:

(a) Two (2) architects. The secretary of the Finance and Administration Cabinet shall appoint a pool of at least six (6) architects who are employees of the cabinet. At least three (3) of the architects shall be merit employees of the cabinet. The secretary, or designee, under the supervision of the Auditor of Public Accounts, or designee, shall randomly select architects from the pool. The first employee selected shall be placed on the selection committee. If the first employee selected is a merit employee, the second employee selected shall be placed on the selection committee. If the first employee selected is a nonmerit employee, the selection process shall continue until a merit employee is selected. That merit employee shall be placed on the selection committee;

(b) One (1) or more additional employees of the Department for Facilities Management, appointed by the commissioner of the Department for Facilities Management, to serve as a nonvoting technical adviser for a given project selection. Advisory members shall serve on a project-by-project basis and shall have the requisite knowledge, training, or experience pertaining to the professional requirements of the project;

(c) Two (2) merit employees of the user agency appointed by the head of that agency to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency;

(d) An individual. The Kentucky Society of Architects shall nominate nine (9) individuals, and the Governor shall appoint three (3) of these individuals to serve in the pool from which the secretary of the Finance and Administration Cabinet, or designee, under the supervision of the Auditor of Public Accounts, or designee, shall randomly select one (1) individual to serve on the committee;

(e) One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor, who may, at the discretion of the Auditor, serve as nonvoting members of the committee. If one (1) employee is appointed, then that employee may attend any committee proceedings. If more than one (1) employee is appointed, then either of the employees may attend any committee proceeding; and

(f) Upon completion of the selection process set forth in this subsection, the commissioner of the Department of Facilities Management shall submit a statement to the Auditor of Public Accounts attesting to full compliance with the selection process for each architectural firm appointed to provide architectural services. In addition, a complete record of the selection process for each project shall be maintained by the department and shall be subject to audit by the Auditor of Public Accounts.

(4) The engineering and engineering-related services selection committee created in the Finance and Administration Cabinet shall consist of six (6) or more members selected in the manner specified in each paragraph:

(a) Two (2) engineers. The secretary of the Finance and Administration Cabinet shall appoint a pool of at least six (6) engineers who are employees of the cabinet. At least three (3) of the engineers shall be merit employees of the cabinet. The secretary, or designee, under the supervision of the Auditor of Public Accounts, or designee, shall randomly select engineers from the pool. The first employee selected shall be placed on the selection committee. If the first employee selected is a merit employee, the second employee selected shall be placed on the selection committee. If the first employee selected is a nonmerit employee, the selection process shall continue until a merit employee is selected. That merit employee shall be placed on the selection committee;

(b) Two (2) merit employees of the user agency appointed by the head of that agency to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency;

(c) An individual. The Kentucky Society of Professional Engineers and the Kentucky Consulting Engineers Council shall together nominate nine (9) individuals, and the Governor shall appoint three (3) of these individuals to serve in the pool from which the secretary of the Finance and

Administration Cabinet, or designee, under the supervision of the Auditor of Public Accounts, or designee, shall randomly select one (1) individual to serve on the committee;

(d) One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor, who may, at the discretion of the Auditor, serve as nonvoting members of the committee. If one (1) employee is appointed, then that employee may attend any committee proceedings. If more than one (1) employee is appointed, then either of the employees may attend any committee proceeding;

(e) One (1) or more additional employees of the Department for Facilities Management to serve as nonvoting technical adviser for a specific project selection. Advisory members shall serve on a project-by-project basis and shall have the requisite knowledge, training, or experience pertaining to the professional requirements of the project; and

(f) Upon completion of the selection process set forth in this subsection, the commissioner of the Department of Facilities Management shall submit a statement to the Auditor of Public Accounts attesting to full compliance with the selection process for each firm appointed to provide engineering or engineering-related services. In addition, a complete record of the selection process for each project shall be maintained by the department and shall be subject to audit by the Auditor of Public Accounts.

(5) The engineering and engineering-related services selection committee created in the Transportation Cabinet shall consist of six (6) or more members selected in the manner specified in each paragraph:

(a) Two (2) engineers. The secretary of the Transportation Cabinet shall appoint a pool of six (6) engineers who are employees of the cabinet. At least three (3) of the engineers shall be merit employees of the cabinet. The secretary, or designee, under the supervision of the Auditor of Public Accounts, or designee, shall randomly select engineers from the pool. The first employee selected shall be placed on the selection committee. If the first employee selected is a merit employee, the second employee selected shall be placed on the selection committee. If the first employee selected is a nonmerit employee, the selection process shall continue until a merit employee is selected. That merit employee shall be placed on the selection committee;

(b) Two (2) engineers who are merit employees of the user division appointed by the head of that division to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency. However, if two (2) user divisions have approximately equal responsibilities or separate responsibilities for the project, each user division head shall appoint one (1) member to the selection committee;

(c) An individual. The Kentucky Society of Professional Engineers and the Kentucky Consulting Engineers Council shall together nominate nine (9) individuals, and the Governor shall appoint

three (3) of these individuals to serve in the pool from which the secretary of the Transportation Cabinet, or designee, under the supervision of the Auditor of Public Accounts, or designee, shall randomly select one (1) individual to serve on the committee;

(d) One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor, who may, at the discretion of the Auditor, serve as nonvoting members of the committee. If one (1) employee is appointed, then that employee may attend any committee proceedings. If more than one (1) employee is appointed, then either of the employees may attend any committee proceeding; and

(e) Upon completion of the selection process set forth in this subsection, the commissioner of the Department of Highways shall submit a statement to the Auditor of Public Accounts attesting to full compliance with the selection process for each firm appointed to provide engineering or engineering-related services. In addition, a complete record of the selection process for each project shall be maintained by the department and shall be subject to audit by the Auditor of Public Accounts.

(6) The engineering and engineering-related services selection committee created within the Department of Fish and Wildlife Resources shall consist of six (6) or more members selected as follows:

(a) The commissioner of the Department of Fish and Wildlife Resources shall appoint five (5) members:

1. One (1) department employee in or designated to the job classification of Department of Fish and Wildlife Resources Project Manager;

2. Two (2) Department of Fish and Wildlife Resources employees in the Engineering and Geological series, at least one (1) of whom shall be a merit employee;

3. One (1) merit employee of the Department of Fish and Wildlife Resources designated by the division head for the project or by the commissioner; and

4. One (1) employee of the Department of Fish and Wildlife Resources who is an attorney;

(b) The Kentucky Society of Professional Engineers and the Kentucky Consulting Engineers Council shall together nominate nine (9) individuals, and the Governor shall select three (3) of these individuals to serve in a pool from which the commissioner of the Department of Fish and Wildlife Resources, or designee, under the supervision of the Auditor of Public Accounts, or designee, shall randomly select one (1) individual to serve on the committee;

(c) One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor, who may, at the discretion of the Auditor, serve as nonvoting members of the committee. If one (1) employee is appointed, then that employee may attend any committee proceedings. If more

than one (1) employee is appointed, then either of the employees may attend any committee proceeding; and

(d) Upon completion of the selection process set forth in this subsection, the commissioner of the Department of Fish and Wildlife Resources shall submit a statement to the Auditor of Public Accounts attesting to full compliance with the selection process for each firm appointed to provide engineering or engineering-related services. A complete record of the selection process for each project shall be maintained by the Department of Fish and Wildlife Resources and shall be subject to audit by the Auditor of Public Accounts.

(7) (a) All selection committee members shall have experience which qualifies them to serve on the committee.

(b) The same appointment procedures set out in this section apply to any user agency or user division listed in subsection (3), (4), (5), or (6) of this section that does not operate under a merit system.

(c) Any individual appointed to serve in a pool from which selection committee members are drawn shall serve in the pool for an initial one (1) year term and may be reappointed. He or she shall serve until his or her successor is appointed and qualified. A successor or a replacement, in the case of a vacancy in the pool, shall be appointed in the same manner as the initial appointee. If a selection committee member, drawn from a pool, leaves a selection committee, his or her replacement shall be drawn from the pool in the same manner as he or she. The replacement shall have the merit or nonmerit status of his or her predecessor.

(d) Any individual appointed by the Auditor of Public Accounts to serve on selection committees shall serve an initial one (1) year term and may be reappointed to succeed himself or herself. He or she shall serve until his or her successor is appointed and qualified. A successor or a replacement, in the case of a vacancy, shall be appointed in the same manner as the initial appointee.

(e) The selection committee members appointed by the head of a user agency or user division shall serve on a project-by-project basis. These members shall participate only in committee action related to the project for which they were appointed. A replacement, in the case of a vacancy, shall be appointed in the same manner as the initial appointee.

45A.810 Architectural services selection committees; engineering or engineering-related services selection committees; uses; membership (new)

(1) (a) One (1) or more architectural services selection committees and one (1) or more engineering or engineering-related services selection committees shall be created in the Finance and Administration Cabinet.

(b) One (1) or more engineering and engineering-related services selection committees shall be created in the Transportation Cabinet.

(c) One (1) or more engineering and engineering-related services selection committees shall be created in the Department of Fish and Wildlife Resources.

(2) Except when an emergency condition exists as defined by KRS 45A.095(1)(a), when architectural, engineering, or engineering-related services are procured under KRS 45A.837 and 45A.838, or when the project is constructed under KRS 45A.045(12)(a) or (b):

(a) An architectural services selection committee created in the Finance and Administration Cabinet shall participate in every instance of that cabinet's procuring architectural services for its own needs and the needs of other agencies, and upon request from the commissioner of the Department of Fish and Wildlife Resources, shall assist and participate in that department's procuring of architectural services;

(b) An engineering and engineering-related services selection committee created in the Finance and Administration Cabinet shall participate in every instance of that cabinet's procuring engineering or engineering-related services;

(c) An engineering and engineering-related services selection committee created in the Transportation Cabinet shall participate in every instance of that cabinet's procuring engineering or engineering-related services; and

(d) An engineering and engineering-related services selection committee created in the Department of Fish and Wildlife Resources shall participate in every instance of that department's procuring of engineering or engineering-related services.

(3) An architectural services selection committee created in the Finance and Administration Cabinet to perform its own procurement and assist other state agencies with procuring architectural services shall consist of six (6) or more members selected in the manner specified within each paragraph:

(a) Two (2) architects. The secretary of the Finance and Administration Cabinet shall appoint a pool of at least six (6) architects who are employees of the cabinet. At least three (3) of the architects shall be merit employees of the cabinet. The secretary, or designee, under the supervision of the Auditor of Public Accounts, or designee, shall randomly select architects from the pool. The first employee selected shall be placed on the selection committee. If the first employee selected is a merit employee, the second employee selected shall be placed on the selection committee. If

the first employee selected is a nonmerit employee, the selection process shall continue until a merit employee is selected. That merit employee shall be placed on the selection committee;

(b) One (1) or more additional employees of the Department for Facilities Management, appointed by the commissioner of the Department for Facilities Management, to serve as a nonvoting technical adviser for a given project selection. Advisory members shall serve on a project-by-project basis and shall have the requisite knowledge, training, or experience pertaining to the professional requirements of the project;

(c) Two (2) merit employees of the user agency appointed by the head of that agency to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency;

(d) An individual. The Kentucky Society of Architects shall nominate nine (9) individuals, and the Governor shall appoint three (3) of these individuals to serve in the pool from which the secretary of the Finance and Administration Cabinet, or designee, under the supervision of the Auditor of Public Accounts, or designee, shall randomly select one (1) individual to serve on the committee;

(e) One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor, who may, at the discretion of the Auditor, serve as nonvoting members of the committee. If one (1) employee is appointed, then that employee may attend any committee proceedings. If more than one (1) employee is appointed, then either of the employees may attend any committee proceeding; and

(f) Upon completion of the selection process set forth in this subsection, the commissioner of the Department of Facilities Management shall submit a statement to the Auditor of Public Accounts attesting to full compliance with the selection process for each architectural firm appointed to provide architectural services. In addition, a complete record of the selection process for each project shall be maintained by the department and shall be subject to audit by the Auditor of Public Accounts.

(4) The engineering and engineering-related services selection committee created in the Finance and Administration Cabinet shall consist of six (6) or more members selected in the manner specified in each paragraph:

(a) Two (2) engineers. The secretary of the Finance and Administration Cabinet shall appoint a pool of at least six (6) engineers who are employees of the cabinet. At least three (3) of the engineers shall be merit employees of the cabinet. The secretary, or designee, under the supervision of the Auditor of Public Accounts, or designee, shall randomly select engineers from the pool. The first employee selected shall be placed on the selection committee. If the first employee selected is a merit employee, the second employee selected shall be placed on the selection committee. If

the first employee selected is a nonmerit employee, the selection process shall continue until a merit employee is selected. That merit employee shall be placed on the selection committee;

(b) Two (2) merit employees of the user agency appointed by the head of that agency to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency;

(c) An individual. The Kentucky Society of Professional Engineers and the Kentucky Consulting Engineers Council shall together nominate nine (9) individuals, and the Governor shall appoint three (3) of these individuals to serve in the pool from which the secretary of the Finance and Administration Cabinet, or designee, under the supervision of the Auditor of Public Accounts, or designee, shall randomly select one (1) individual to serve on the committee;

(d) One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor, who may, at the discretion of the Auditor, serve as nonvoting members of the committee. If one (1) employee is appointed, then that employee may attend any committee proceedings. If more than one (1) employee is appointed, then either of the employees may attend any committee proceeding;

(e) One (1) or more additional employees of the Department for Facilities Management to serve as nonvoting technical adviser for a specific project selection. Advisory members shall serve on a project-by-project basis and shall have the requisite knowledge, training, or experience pertaining to the professional requirements of the project; and

(f) Upon completion of the selection process set forth in this subsection, the commissioner of the Department of Facilities Management shall submit a statement to the Auditor of Public Accounts attesting to full compliance with the selection process for each firm appointed to provide engineering or engineering-related services. In addition, a complete record of the selection process for each project shall be maintained by the department and shall be subject to audit by the Auditor of Public Accounts.

(5) The engineering and engineering-related services selection committee created in the Transportation Cabinet shall consist of six (6) or more members selected in the manner specified in each paragraph:

(a) Two (2) engineers. The secretary of the Transportation Cabinet shall appoint a pool of six (6) engineers who are employees of the cabinet. At least three (3) of the engineers shall be merit employees of the cabinet. The secretary, or designee, under the supervision of the Auditor of Public Accounts, or designee, shall randomly select engineers from the pool. The first employee selected shall be placed on the selection committee. If the first employee selected is a merit employee, the second employee selected shall be placed on the selection committee. If the first employee selected

is a nonmerit employee, the selection process shall continue until a merit employee is selected. That merit employee shall be placed on the selection committee;

(b) Two (2) engineers who are merit employees of the user division appointed by the head of that division to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency. However, if two (2) user divisions have approximately equal responsibilities or separate responsibilities for the project, each user division head shall appoint one (1) member to the selection committee;

(c) An individual. The Kentucky Society of Professional Engineers and the Kentucky Consulting Engineers Council shall together nominate nine (9) individuals, and the Governor shall appoint three (3) of these individuals to serve in the pool from which the secretary of the Transportation Cabinet, or designee, under the supervision of the Auditor of Public Accounts, or designee, shall randomly select one (1) individual to serve on the committee;

(d) One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor, who may, at the discretion of the Auditor, serve as nonvoting members of the committee. If one (1) employee is appointed, then that employee may attend any committee proceedings. If more than one (1) employee is appointed, then either of the employees may attend any committee proceeding; and

(e) Upon completion of the selection process set forth in this subsection, the commissioner of the Department of Highways shall submit a statement to the Auditor of Public Accounts attesting to full compliance with the selection process for each firm appointed to provide engineering or engineering-related services. In addition, a complete record of the selection process for each project shall be maintained by the department and shall be subject to audit by the Auditor of Public Accounts.

(6) The engineering and engineering-related services selection committee created within the Department of Fish and Wildlife Resources shall consist of six (6) or more members selected as follows:

(a) The commissioner of the Department of Fish and Wildlife Resources shall appoint five (5) members:

1. One (1) department employee in or designated to the job classification of Department of Fish and Wildlife Resources Project Manager;

2. Two (2) Department of Fish and Wildlife Resources employees in the Engineering and Geological series, at least one (1) of whom shall be a merit employee;

3. One (1) merit employee of the Department of Fish and Wildlife Resources designated by the division head for the project or by the commissioner; and

4. One (1) employee of the Department of Fish and Wildlife Resources who is an attorney;

(b) The Kentucky Society of Professional Engineers and the Kentucky Consulting Engineers Council shall together nominate nine (9) individuals, and the Governor shall select three (3) of these individuals to serve in a pool from which the commissioner of the Department of Fish and Wildlife Resources, or designee, under the supervision of the Auditor of Public Accounts, or designee, shall randomly select one (1) individual to serve on the committee;

(c) One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor, who may, at the discretion of the Auditor, serve as nonvoting members of the committee. If one (1) employee is appointed, then that employee may attend any committee proceedings. If more than one (1) employee is appointed, then either of the employees may attend any committee proceeding; and

(d) Upon completion of the selection process set forth in this subsection, the commissioner of the Department of Fish and Wildlife Resources shall submit a statement to the Auditor of Public Accounts attesting to full compliance with the selection process for each firm appointed to provide engineering or engineering-related services. A complete record of the selection process for each project shall be maintained by the Department of Fish and Wildlife Resources and shall be subject to audit by the Auditor of Public Accounts.

(7) (a) All selection committee members shall have experience which qualifies them to serve on the committee.

(b) The same appointment procedures set out in this section apply to any user agency or user division listed in subsection (3), (4), (5), or (6) of this section that does not operate under a merit system.

(c) Any individual appointed to serve in a pool from which selection committee members are drawn shall serve in the pool for an initial one (1) year term and may be reappointed. He or she shall serve until his or her successor is appointed and qualified. A successor or a replacement, in the case of a vacancy in the pool, shall be appointed in the same manner as the initial appointee. If a selection committee member, drawn from a pool, leaves a selection committee, his or her replacement shall be drawn from the pool in the same manner as he or she. The replacement shall have the merit or nonmerit status of his or her predecessor.

(d) Any individual appointed by the Auditor of Public Accounts to serve on selection committees shall serve an initial one (1) year term and may be reappointed to succeed himself or herself. He or she shall serve until his or her successor is appointed and qualified. A successor or a replacement, in the case of a vacancy, shall be appointed in the same manner as the initial appointee.

(e) The selection committee members appointed by the head of a user agency or user division shall serve on a project-by-project basis. These members shall participate only in committee action related to the project for which they were appointed. A replacement, in the case of a vacancy, shall be appointed in the same manner as the initial appointee.

56.774 Purpose of program; engineering analysis; methods of finance; documentation of savings (old)

(1) The Energy Efficiency Program for State Government Buildings shall provide for implementation of low cost/no cost energy conservation measures, engineering analyses, energy efficiency measures, building improvements, and monitoring of results for state-owned or state-leased buildings.

(2) Any engineering analysis conducted on a state-owned building shall assess the energy efficiency of the building and make recommendations for improving the efficient use of energy within the building. The analyses shall be performed by qualified engineers, architects, or other persons trained in energy efficiency who may be employees of the cabinet or employed pursuant to KRS Chapter 45A, except that any engineers, architects or other persons trained in energy efficiency and retained under a guaranteed energy savings performance contract, shall not be subject to the provisions of KRS 45A.800 to 45A.835.

(3) Except as provided in subsection (5) of this section, measures to improve the energy efficiency of a state-owned building, which have an aggregate simple payback period of five (5) years or less, shall be implemented as general fund appropriations become available. No more than five percent (5%) of the cost of energy conservation measures for a building may be utilized for monitoring the results.

(4) If general fund appropriations are available for energy conservation improvements, the cabinet shall prioritize projects among the various state-owned buildings to determine which projects shall be implemented to best utilize the available funding.

(5) If general fund appropriations are unavailable, energy conservation measures for a state-owned building may be financed by other means. These other means include but are not limited to guaranteed energy savings performance contracts as defined under KRS 56.770 entered into pursuant to KRS 45A.085 and KRS 45A.045(10). Guaranteed energy savings performance contracts shall not be subject to the provisions of KRS 45A.800 to 45A.835. These energy conservation measures shall not be limited to those that have an aggregate simple payback period

of five (5) years or less, but shall result in reasonable economic benefit to the Commonwealth. Ownership of the energy conservation measures shall be transferred to the Commonwealth upon completion of the guaranteed energy savings performance contract or as otherwise agreed upon in the contract. Savings from the implementation of the energy conservation measures under the guaranteed energy savings performance contract shall be used to satisfy the obligations under the guaranteed energy savings performance contract and to repay the cost of the other means used to finance the energy conservation measures, and may be used to repay expenses incurred by the cabinet to reimburse the cabinet for expenses related to the guaranteed energy savings performance contract, including but not limited to staff time for monitoring, overseeing, and managing the project. Notwithstanding KRS 45.229, remaining savings shall remain in the state agency account and shall not lapse. All savings projected under a guaranteed energy savings performance contract shall be guaranteed to the Commonwealth.

(6) The savings in reduced expenditures that are specified as payment sources shall be documented in the guaranteed energy savings performance contract. Savings shall be determined by using one (1) of the measurement and verification methodologies listed in the United States Department of Energy's "International Performance Measurement and Verification Protocol." If specific data limitations or documented unique characteristics of the project prevent use of the "International Performance Measurement and Verification Protocol," an alternative method that is compatible shall be adopted upon documentation and approval of the secretary of the cabinet.

56.774 Purpose of program; engineering analysis; methods of finance; documentation of savings (new)

(1) The Energy Efficiency Program for State Government Buildings shall provide for implementation of low cost/no cost energy conservation measures, engineering analyses, energy efficiency measures, building improvements, and monitoring of results for state-owned or state-leased buildings.

(2) Any engineering analysis conducted on a state-owned building shall assess the energy efficiency of the building and make recommendations for improving the efficient use of energy within the building. The analyses shall be performed by qualified engineers, architects, or other persons trained in energy efficiency who may be employees of the cabinet or employed pursuant to KRS Chapter 45A, except that any engineers, architects or other persons trained in energy efficiency and retained under a guaranteed energy savings performance contract, shall not be subject to the provisions of KRS 45A.800 to 45A.835.

(3) Except as provided in subsection (5) of this section, measures to improve the energy efficiency of a state-owned building, which have an aggregate simple payback period of five (5) years or less, shall be implemented as general fund appropriations become available. No more than five percent (5%) of the cost of energy conservation measures for a building may be utilized for monitoring the results.

(4) If general fund appropriations are available for energy conservation improvements, the cabinet shall prioritize projects among the various state-owned buildings to determine which projects shall be implemented to best utilize the available funding.

(5) If general fund appropriations are unavailable, energy conservation measures for a state-owned building may be financed by other means. These other means include but are not limited to guaranteed energy savings performance contracts as defined under KRS 56.770 entered into pursuant to KRS 45A.085 and KRS 45A.045(11). Guaranteed energy savings performance contracts shall not be subject to the provisions of KRS 45A.800 to 45A.835. These energy

conservation measures shall not be limited to those that have an aggregate simple payback period of five (5) years or less, but shall result in reasonable economic benefit to the Commonwealth. Ownership of the energy conservation measures shall be transferred to the Commonwealth upon completion of the guaranteed energy savings performance contract or as otherwise agreed upon in the contract. Savings from the implementation of the energy conservation measures under the guaranteed energy savings performance contract shall be used to satisfy the obligations under the guaranteed energy savings performance contract and to repay the cost of the other means used to finance the energy conservation measures, and may be used to repay expenses incurred by the cabinet to reimburse the cabinet for expenses related to the guaranteed energy savings performance contract, including but not limited to staff time for monitoring, overseeing, and managing the project. Notwithstanding KRS 45.229, remaining savings shall remain in the state agency account and shall not lapse. All savings projected under a guaranteed energy savings performance contract shall be guaranteed to the Commonwealth.

(6) The savings in reduced expenditures that are specified as payment sources shall be documented in the guaranteed energy savings performance contract. Savings shall be determined by using one (1) of the measurement and verification methodologies listed in the United States Department of Energy's "International Performance Measurement and Verification Protocol." If specific data limitations or documented unique characteristics of the project prevent use of the "International Performance Measurement and Verification Protocol," an alternative method that is compatible shall be adopted upon documentation and approval of the secretary of the cabinet.

56.782 Report on use of energy-efficiency measures in state government; contents (old)

The cabinet shall report on or before October 15, 2008, and on or before every October 15 thereafter to the Legislative Research Commission on progress made to maximize the use of energy-efficiency measures in state government. The Legislative Research Commission shall transmit the report to the appropriate interim joint committees and to the General Assembly when it convenes. The report shall include but not be limited to:

- (1) A summary of initiatives undertaken by the cabinet during the reporting period to promote adoption of low cost/no cost energy-efficiency measures, including employee training efforts;
- (2) A summary of energy-efficiency measures installed and energy improvements made during the reporting period;
- (3) Energy consumption and expenditure data for facilities owned or leased by state government and any documented savings made as a result of energy-efficiency measures and improvements;
- (4) Status report on the number of buildings newly constructed, renovated, or leased in accordance with the high-performance building standards required under KRS 56.777 and the amount of savings realized based upon a life-cycle cost analysis;
- (5) Any efforts made during the reporting period to promote acquisition of energy-efficient products pursuant to KRS 45A.045(12) and the amount of savings expected to be realized in the first year of operation from the purchase of ENERGY STAR-qualified products pursuant to KRS 56.775;
- (6) Any recommendations for future funding of energy improvements or other measures needed to assure energy efficiency in state government; and

(7) Any improvements in energy efficiency planned or realized through the use of the LEED rating system, the Green Globes rating system, ENERGY STAR-qualified products, and guaranteed energy savings performance contracts.

56.782 Report on use of energy-efficiency measures in state government; contents (new)

The cabinet shall report on or before October 15, 2008, and on or before every October 15 thereafter to the Legislative Research Commission on progress made to maximize the use of energy-efficiency measures in state government. The Legislative Research Commission shall transmit the report to the appropriate interim joint committees and to the General Assembly when it convenes. The report shall include but not be limited to:

- (1) A summary of initiatives undertaken by the cabinet during the reporting period to promote adoption of low cost/no cost energy-efficiency measures, including employee training efforts;
- (2) A summary of energy-efficiency measures installed and energy improvements made during the reporting period;
- (3) Energy consumption and expenditure data for facilities owned or leased by state government and any documented savings made as a result of energy-efficiency measures and improvements;
- (4) Status report on the number of buildings newly constructed, renovated, or leased in accordance with the high-performance building standards required under KRS 56.777 and the amount of savings realized based upon a life-cycle cost analysis;
- (5) Any efforts made during the reporting period to promote acquisition of energy-efficient products pursuant to KRS 45A.045(13) and the amount of savings expected to be realized in the first year of operation from the purchase of ENERGY STAR-qualified products pursuant to KRS 56.775;

(6) Any recommendations for future funding of energy improvements or other measures needed to assure energy efficiency in state government; and

(7) Any improvements in energy efficiency planned or realized through the use of the LEED rating system, the Green Globes rating system, ENERGY STAR-qualified products, and guaranteed energy savings performance contracts.