GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

SENATE BILL NO. 122

FRIDAY, MARCH 4, 2016

The following bill was reported to the House from the Senate and ordered to be printed.

RECEIVED AND FILED
DATE April 1, 2016
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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

1 AN ACT relating to recording statutes.

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

3 ➔Section 1. KRS 186A.190 is amended to read as follows:

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

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

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

26 (b) A limited partnership organized under KRS Chapter 362 or as defined in KRS
27 362.2-102(14) shall be deemed a resident of the county in which its principal

1 place of business is located, as set forth in its certificate of limited partnership
2 or most recent amendment thereto filed pursuant to KRS Chapter 362 or
3 362.2-202. If such office is not located in this state, the debtor shall be
4 deemed a nonresident for purposes of filing in this state;
5 (c) A limited partnership not organized under the laws of this state and authorized
6 to do business in this state shall be deemed a resident of the county in which
7 the office of its process agent is located, as set forth in the designation or most
8 recent amendment thereto filed with the Secretary of State of the
9 Commonwealth of Kentucky;
10 (d) A corporation organized under KRS Chapter 271B, 273, or 274 or a limited
11 liability company organized under KRS Chapter 275 shall be deemed a
12 resident of the county in which its registered office is located, as set forth in
13 its most recent corporate filing with the Secretary of State which officially
14 designates its current registered office;
15 (e) A corporation not organized under the laws of this state, but authorized to
16 transact or do business in this state under KRS Chapter 271B, 273, or 274, or
17 a limited liability company not organized under the laws of this state, but
18 authorized to transact business in this state under KRS Chapter 275, shall be
19 deemed a resident of the county in which its registered office is located, as set
20 forth in its most recent filing with the Secretary of State which officially
21 designates its current registered office;
22 (f) A cooperative corporation or association organized under KRS Chapter 272
23 shall be deemed a resident of the county in which its principal business is
24 transacted, as set forth in its articles of incorporation or most recent
25 amendment thereto filed with the Secretary of State of the Commonwealth of
26 Kentucky;
27 (g) A cooperative corporation organized under KRS Chapter 279 shall be deemed

1 a resident of the county in which its principal office is located, as set forth in
2 its articles of incorporation or most recent amendment thereto filed with the
3 Secretary of State of the Commonwealth of Kentucky;
4 (h) A business trust organized under KRS Chapter 386 shall be deemed a resident
5 of the county in which its principal place of business is located, as evidenced
6 by the recordation of its declaration of trust in that county pursuant to KRS
7 Chapter 386;
8 (i) A credit union organized under Subtitle 6 of KRS Chapter 286 shall be
9 deemed a resident of the county in which its principal place of business is
10 located, as set forth in its articles of incorporation or most recent amendment
11 thereto filed with the Secretary of State of the Commonwealth of Kentucky;
12 and
13 (j) Any other organization (defined in KRS 355.1-201) shall be deemed a
14 resident of the county in which its principal place of business in this state is
15 located, except that any limited liability company, limited liability partnership,
16 limited partnership, or corporation not organized under the laws of this state
17 and not authorized to transact or do business in this state shall be deemed a
18 nonresident for purposes of filing in this state. If the organization does not
19 have a place of business in this state, then it shall be deemed a nonresident for
20 purposes of filing in this state.
21 If the debtor does not reside in the Commonwealth, the notation of the security
22 interest shall be done in the office of the county clerk in which the property is
23 principally situated or operated. Notwithstanding the existence of any filed
24 financing statement under the provisions of KRS Chapter 355 relating to any
25 property registered or titled in Kentucky, the sole means of perfecting and
26 discharging a security interest in property for which a certificate of title is required
27 by this chapter is by notation on the property's certificate of title under the

1 provisions of this chapter or in accordance with the provisions of KRS 186.045(3).
2 In other respects the security interest is governed by the provisions of KRS Chapter
3 355.
4 (3) Except as provided in subsection (4) of this section, before ownership of property
5 subject to a lien evidenced by notation on the certificate of title may be transferred,
6 the transferor shall obtain the release of the prior liens in his name against the
7 property being transferred. Once a security interest has been noted on the owner's
8 title, a subsequent title shall not be issued by any county clerk free of the notation
9 unless the owner's title is presented to the clerk and it has been noted thereon that
10 the security interest has been discharged. If this requirement is met, information
11 relating to any security interest shown on the title as having been discharged may be
12 omitted from the title to be issued by the clerk. If information relating to the
13 discharge of a security interest is presented to a clerk under the provisions of KRS
14 186.045(3), the clerk shall discharge the security interest and remove the lien
15 information from AVIS.
16 (4) Notwithstanding subsections (1), (2), and (3) of this section, a county clerk shall,
17 following inspection of the vehicle by the sheriff, to determine that the vehicle has
18 not been stolen, issue a new title to a vehicle, clear of all prior liens, to a person
19 after he provides to the county clerk an affidavit devised by the Transportation
20 Cabinet and completed by the person. In the affidavit, the person shall attest that:
21 (a) He possesses the vehicle;
22 (b) A debt on the vehicle was owed him for more than thirty (30) days before he
23 provided the notices required by paragraphs (c) and (d) of this subsection;
24 (c) More than fourteen (14) days before presenting the affidavit to the county
25 clerk, the person attempted to notify the owner of the vehicle and all known
26 lienholders, including those noted on the title, by certified mail, return receipt
27 requested, of his name, address, and telephone number as well as his intention

1 to obtain a new title, clear of all prior liens, unless the owner or a lienholder
2 objected in writing;
3 (d) More than fourteen (14) days before presenting the affidavit to the county
4 clerk, the person had published a legal notice stating his intention to obtain
5 title to the vehicle. The legal notice appeared at least twice in a seven (7) day
6 period in a newspaper published, and with a statewide circulation, in
7 Kentucky. The legal notice stated:
8 1. The person's name, address, and telephone number;
9 2. The owner's name;
10 3. The names of all known lienholders, including those noted on the title;
11 4. The vehicle's make, model, and year; and
12 5. The person's intention to obtain title to the vehicle unless the owner or a
13 lienholder objects in writing within fourteen (14) days after the last
14 publication of the legal notice; and
15 (e) Neither the owner nor a lienholder has objected in writing to the person's right
16 to obtain title to the vehicle.
17 (5) No more than two (2) active security interests may be noted upon a certificate of
18 title.
19 (6) In noting a security interest upon a certificate of title, the county clerk shall ensure
20 that the certificate of title bears the lienholder's name, mailing address and zip code,
21 the date the lien was noted, the notation number, and the county in which the
22 security interest was noted. The clerk shall obtain the information required by this
23 subsection for notation upon the certificate of title from the title lien statement
24 described in KRS 186A.195 to be provided to the county clerk by the secured party.
25 (7) For all the costs incurred in the notation and discharge of a security interest on the
26 certificate of title, the county clerk shall receive the fee prescribed by KRS 64.012.
27 The fee prescribed by this subsection shall be paid at the time of submittal of the

1 title lien statement described in KRS 186A.195.
2 (8) A copy of the application, certified by the county clerk, indicating the lien will be
3 noted on the certificate of title shall be forwarded to the lienholder.
4 ➔Section 2. KRS 382.110 is amended to read as follows:
5 (1) All deeds, mortgages and other instruments required by law to be recorded to be
6 effectual against purchasers without notice, or creditors, shall be recorded in the
7 county clerk's office of the county in which the property conveyed, or the greater
8 part thereof, is located.
9 (2) No county clerk or deputy county clerk shall admit to record any deed of
10 conveyance of any interest in real property equal to or greater than a life estate,
11 unless the deed plainly specifies and refers to the~~[next]~~ immediate source from
12 which the grantor derived title to the property or the interest conveyed therein.
13 (3) An authentic photocopy of any original record may be certified, as a true, complete,
14 unaltered copy of the original record on file by the official public custodian of the
15 record. A certified copy of a document certified by the official public custodian of
16 that document may be submitted for filing in any other filing officer's jurisdiction as
17 though it were the original record. However, no county clerk or deputy county clerk
18 shall accept for filing any original document or certified copy of any document
19 unless the original document and its certified copy conforms to all statutory
20 requirements for filing the document under KRS Chapter 382. The provisions of
21 this subsection shall apply only to a record generated and filed in Kentucky, and
22 only if the certified copy thereof is to be utilized in Kentucky. If the record is a
23 foreign record or a Kentucky record to be filed or utilized in a foreign jurisdiction,
24 then this subsection shall not apply and applicable federal, Kentucky, or foreign law
25 shall apply.
26 (4) If the source of title is a deed or other recorded writing, the deed offered for record
27 shall refer to the former deed or writing, and give the office, book and page where

1 recorded, and the date thereof. If the property or interest therein is obtained by
2 inheritance or in any other way than by recorded instrument of writing, the deed
3 offered for record shall state clearly and accurately how and from whom the title
4 thereto was obtained by the grantor.
5 (5) If the title to the property or interest conveyed is obtained from two (2) or more
6 sources, the deed offered for record shall plainly specify and refer to each of the
7 sources in the manner provided in subsections (2) and (4), and shall show which
8 part of the property, or interest therein, was obtained from each of the sources.
9 (6) No grantor shall lodge for record, and no county clerk or deputy shall receive and
10 permit to be lodged for record, any deed that does not comply with the provisions of
11 this section.
12 (7) No clerk or deputy clerk shall be liable to the fine imposed by subsection (1) of
13 KRS 382.990 because of any erroneous or false references in any such deed, nor
14 because of the omission of a reference required by law where it does not appear on
15 the face of such deed that the title to the property or interest conveyed was obtained
16 from more than one (1) source.
17 (8) This section does not apply to deeds made by any court commissioner, sheriff or by
18 any officer of court in pursuance of his duty as such officer, nor to any deed or
19 instrument made and acknowledged before March 20, 1928. No deed shall be
20 invalid because it is lodged contrary to the provisions of this section.
21 (9) A mortgage holder shall file a deed in lieu of foreclosure in the county clerk's office
22 of the county in which the property conveyed, or the greater part thereof, is located,
23 no later than forty-five (45) days after the date the deed in lieu of foreclosure is
24 executed.
25 ***(10) A deed filed pursuant to KRS 426.577 shall be filed by the grantee within five (5)***
26 ***business days of receipt of the deed from the commissioner appointed by a court***
27 ***to convey the property.***

1 ➔Section 3. KRS 382.290 is amended to read as follows:
2 (1) In recording mortgages and deeds in which liens are retained (except railroad
3 mortgages securing bonds payable to bearer), there shall be left a blank space
4 immediately after the record of the deed or mortgage of at least two (2) full lines for
5 each note or obligation named in the deed or mortgage, or in the alternative, at the
6 option of the county clerk, a marginal entry record may be kept for the same
7 purposes as the blank space. Each entry in the marginal entry record shall be linked
8 to its respective referenced instrument in the indexing system for the referenced
9 instruments.
10 (2) No county clerk or deputy county clerk shall admit to record any mortgage or deed
11 in which liens are retained unless the mortgage or deed in which a lien is retained
12 plainly specifies and refers to the ~~[next]~~immediate source from which the
13 mortgagor or grantor derived title to the property or the interest encumbered therein.
14 (3) When any note named in any deed or mortgage is assigned to any other person, the
15 assignor may, over his own hand, attested by the clerk, note such assignment in the
16 blank space, or in a marginal entry record, beside a listing of the book and page of
17 the document being assigned, and when any one (1) or more of the notes named in
18 any deed or mortgage is paid, or otherwise released or satisfied, the holder of the
19 note, and who appears from the record to be such holder, may release the lien, so far
20 as such note is concerned, by release, over his own hand, attested by the clerk. Each
21 entry in the marginal entry record shall be linked to its respective referenced
22 instrument in the indexing system for the referenced instrument.
23 (4) No person who does not, from such record or assignment of record, appear at the
24 time to be the legal holder of any note secured by lien in any deed or mortgage, shall
25 be permitted to release the lien securing any such note, and any release made in
26 contravention of this section shall be void; but this section does not change the
27 existing law if no such entry is made.

1 (5) For each assignment and release so made and attested by the clerk, he may charge a
2 fee pursuant to KRS 64.012 to be paid by the person executing the release or noting
3 the assignment.
4 (6) If such assignment of a note is made by separate instrument or by deed assigning the
5 note, or in a marginal entry record, the instrument of writing or deed or marginal
6 entry record shall set forth the date of notes assigned, a brief description of notes,
7 the name and post office address of assignee, and the deed book and page of the
8 instrument wherein the lien or mortgage is recorded and the clerk or deputy clerk
9 receiving such instrument of writing or deed of assignment for record shall at the
10 option of the county clerk immediately either link the assignment and its filing
11 location to its respective referenced instrument in the indexing system for the
12 referenced instrument, or endorse at the foot of the record in the space provided in
13 subsection (1) of this section, "The notes mentioned herein (giving a brief
14 description of notes assigned) have been transferred and assigned to (insert name
15 and address of assignee) by deed of assignment (or describe instrument) dated and
16 recorded in deed book .... page ....," and attest such certificate. For making such
17 notation on the record the clerk shall be allowed a fee pursuant to KRS 64.012 for
18 each notation so made, to be paid by the party filing the instrument of writing or
19 deed of assignment.
20 (7) No holder of a note secured by lien retained in either deed or mortgage shall lodge
21 for record, and no clerk or deputy clerk shall receive and permit to be lodged for
22 record, any deed or instrument of writing that does not comply with the provisions
23 of this section.
24 ➔Section 4. KRS 382.297 is amended to read as follows:
25 A recorded mortgage may be amended by an affidavit of amendment prepared by an
26 attorney to correct clerical errors or omitted information. An ***affidavit of*** amendment may
27 not change any term, dollar amount, or interest rate in the mortgage, unless signed by the

1 mortgagor and secured party. An ***affidavit of*** amendment ***may not change*** [~~shall not alter~~
2]the parties or the collateral of a recorded mortgage***, but may be used to correct a***
3 ***manifest clerical or typographical error such as spelling, punctuation, or numbering***
4 ***mistakes in typing or printing***. The attorney preparing the affidavit shall certify in the
5 affidavit that notice of filing the amendment has been given to the mortgagor by mailing a
6 copy of the amendment to the mortgagor at the address shown on the original mortgage.
7 A subsequent release of the mortgage releases any amendments to the original mortgage.

President of Senate

Speaker-House of Representatives

Attest: Chief Clerk of Senate

Approved Governor

Date 1 APRIL 2016