

391.030 Descent of personal property -- Exemption for surviving spouse and children -- Withdrawal of money from bank by surviving spouse.

- (1) Except as otherwise provided in this chapter, where any person dies intestate as to his or her personal estate, or any part thereof, the surplus, after payment of funeral expenses, charges of administration, and debts, shall pass and be distributed among the same persons, and in the proportions, to whom and in which real estate is directed to descend, except as follows:
 - (a) The personal estate of an infant shall be distributed as if he or she had died after full age;
 - (b) An alien may be distributee as though he or she were a citizen; and
 - (c) Personal property or money on hand or in a bank or other depository to the amount of fifteen thousand dollars (\$15,000) shall be exempt from distribution and sale and shall be set apart by the District Court having jurisdiction over the estate on application to the surviving spouse, or, if there is no surviving spouse, to the surviving children.
- (2) The surviving spouse may, at any time before the property or money is set apart by the court, procure on petition from the Judge of the District Court having jurisdiction over the estate, an order authorizing the surviving spouse to withdraw from any bank or other depository not exceeding two thousand five hundred dollars (\$2,500) belonging to the estate. Upon presentation of the order, the bank or depository shall permit the surviving spouse to withdraw the sum and shall lodge the order, endorsing thereon the amount withdrawn, with the circuit clerk who shall retain it in the clerk's files to be considered in connection with further proceedings in the estate and the withdrawal shall be treated as a charge against the property of the estate exempt from distribution.
- (3) In the application for the setting apart of property or money under subsection (1) of this section, the surviving spouse or, if there is no surviving spouse, the surviving children may make their selection out of the personal property of the estate to the extent that the value of the property selected does not exceed the amount of fifteen thousand dollars (\$15,000).
- (4) Where any person dies testate:
 - (a) Personal property or money on hand or in a bank or other depository to the amount of fifteen thousand dollars (\$15,000) shall be exempt from distribution and sale and shall be set apart by the District Court having jurisdiction over the estate on application of the surviving spouse;
 - (b) If there is no surviving spouse, personal property or money on hand or in a bank or other depository bequeathed to surviving children to the amount of fifteen thousand dollars (\$15,000) shall be exempt from distribution and sale and shall be set apart by the District Court having jurisdiction over the estate on application by the surviving children;
 - (c) The exemption of the surviving spouse under paragraph (a) of this subsection is not conditioned upon the surviving spouse renouncing the will, and, in the event of renunciation, the surviving spouse shall be entitled to the exemption

in addition and prior to determining the statutory share of the surviving spouse under KRS 392.080; and

- (d) Subsection (3) of this section shall apply with respect to the surviving spouse provided that the surviving spouse shall first select from among the personal property of the residuary estate, then to the extent necessary from among the money on hand or on deposit specifically bequeathed under the will, and then to the extent necessary from among any other personal property specifically bequeathed under the will. Where the selection of the surviving spouse is made up, in whole or in part, from personal property or money on hand or on deposit specifically bequeathed to a beneficiary, such beneficiary shall have a right of contribution on the principles of KRS 394.420 to 394.490 unless the will otherwise directs, or it is necessarily to be inferred therefrom that the testator intended the same to fall on such beneficiary except that there shall be no right of contribution from the surviving spouse.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 21, sec. 9, effective July 15, 2010. -- Amended 2002 Ky. Acts ch. 362, sec. 1, effective July 15, 2002. -- Amended 1992 Ky. Acts ch. 129, sec. 1, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 27, sec. 1, effective July 15, 1988. -- Amended 1982 Ky. Acts ch. 51, sec. 1, effective July 15, 1982; and ch. 277, sec. 7, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 259, sec. 8, effective July 15, 1980. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 10, sec. 1; and ch. 14, sec. 351, effective January 2, 1978. -- Amended 1974, Ky. Acts ch. 299, sec. 2; and ch. 328, sec. 3. -- Amended 1972 Ky. Acts ch. 168, sec. 6. -- Amended 1970 Ky. Acts ch. 222, sec. 2. -- Amended 1968 Ky. Acts ch. 144, sec. 1. -- Amended 1966 Ky. Acts ch. 255, sec. 266. -- Amended 1946 Ky. Acts ch. 163, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1403.