

# General Notes

---

## **INSTRUMENT EXECUTED IN A FOREIGN LANGUAGE**

KRS 382.180

Documents presented in a language other than English may be filed if the person producing the document offers a correct English translation of the document. The translation is filed, along with the document, in the appropriate book.

If the document was executed in a foreign country, the acknowledgment must comply with KRS 382.150 which states:

Deeds not executed within the United States or any of its dependencies, may be admitted to record when certified, under his seal of office, by any foreign minister, officer in the consular service of the United States, secretary of legation of the United States, or by the secretary of foreign affairs or a notary public of the nation in which the acknowledgment is made, or by the judge or clerk of a superior court of the nation where the deed is executed, to have been acknowledged or proven before him in the manner prescribed by law.

Return to [Top of Page](#)

## **INSURANCE PROCEEDS FILE SEARCH**

KRS 304.20-200 to KRS 304.20-250

Notification of insurer of existence of lien

If requested by an insurer, the county clerk must provide information on the existence of any certified delinquent tax liens and the amount of the liens within 15 days of the request. If the clerk fails to respond within the time period, the result is the liens are considered to be terminated. The statute says, "The insurer may rely conclusively upon the amount of the taxes dues as set forth in such notice of lien in making any payments of proceeds to any person."

The request must be made in person, sent by registered or certified mail.

The request must include the following:

- The name of the property owner
- An address, legal description or provide the means for the clerk's office to sufficiently identify the property.
- Return address is required

The clerk is required to search and report any certified delinquent tax bills. This search does not include a search of any current tax bill. The KBA has issued the following opinion:

KBA U-30 (March 1981). A county clerk who complies with KRS 304.20-210 and issues a statement indicating the amount of all liens on a piece of property is engaged in the unauthorized practice of law if he examines records pertaining to city taxes, current tax bills in the hands of the sheriff, or any tax bills other than those that have been certified to him as delinquent.

Return to [Top of Page](#)

## **MASTER FORM FOR MORTGAGES - INCORPORATION INTO OTHER MORTGAGES**

After the Master Form Mortgage is recorded, any of the provisions of such master form instrument may be incorporated by reference in any mortgage of real estate **if**:

- the reference in the Mortgage states that the master form instrument was recorded in the county in which the mortgage is offered for record
- the Mortgage states the date when the master form instrument was recorded
- the Mortgage states the book and page where the master form instrument was recorded

### **Then:**

- The recording of any mortgage, which has the reference of the Master Form Mortgage incorporated into the document, will have like provisions of the Master Form Mortgage

Return to [Top of Page](#)

## **PHONY OR ILLEGAL LIENS**

House Bill 455 addresses phony liens. This section does not give the County Clerk's office any right to refuse the lien as long as the lien has the correct filing information.

SECTION 54. A NEW SECTION OF KRS CHAPTER 434 IS CREATED TO READ AS FOLLOWS:

- A person is guilty of filing an illegal lien when he files a document or lien that he knows or should have known was forged, groundless, contained a material misstatement, or was a false claim. It shall be an affirmation defense that any material misstatement was not intentional.
- Filing an illegal lien is a Class D felony for the first offense, a Class C felony for any second offense, and a Class B felony for any subsequent offense.

Return to [Top of Page](#)

## **STATUTES SUPPORTING RECORDING REQUIREMENTS OF LAND RECORDS IN GENERAL**

From time to time, the clerk's office will be challenged concerning recording requirements associated with preparation statements, signatures and acknowledgment of signatures.

The three statutes listed below provide the basis for these requirements for all land records unless the statute for the specific document otherwise. For example, Articles of Incorporation are a land record, but KRS 271B.1-200 states that a preparation statement is not a requirement. This is an example of an exception and there are not many of these.

Unless specifically stated otherwise by individual statute, each document recorded in land records requires the following:

- A prepared by statement - KRS 382.335
- Document will be signed and signatures acknowledged or proved according to law - KRS 382.270
- Statutory requirement for acknowledgment - KRS 382.130

Return to [Top of Page](#)

Copyright © 2002, Kentucky County Clerks Association, Inc.