

392.080 Surviving spouse may renounce will -- Form to use when renouncing will -- Share of the surviving spouse in such case -- When devise or bequest is in addition to dower or curtesy.

- (1) (a) When a husband or wife dies testate, the surviving spouse may, though under full age, release what is given to him or her by will, if any, and receive his or her share under KRS 392.020 as if no will had been made, except that in such case the share in any real estate of which the decedent or anyone for the use of the decedent was seized of an estate in fee simple at the time of death shall be only one-third (1/3) of such real estate. Such relinquishment shall be acknowledged before an officer authorized to administer oaths under the laws of this state and evidenced by the officer's certificate. The relinquishment and certificate shall be in substantially the following form:

I, _____, am the surviving spouse of _____. Except as provided in KRS 392.080(2), I hereby release what is given to me by the will of my said deceased spouse. I understand I will now receive the share to which I am entitled pursuant to KRS 392.080.

Surviving

Spouse

THE STATE OF _____

COUNTY OF _____

Subscribed to and acknowledged before me by _____, the surviving spouse of _____, this _____ day of _____.

(Officer's signature and

capacity)

- (b) To be effective, such relinquishment and certificate shall be filed both with the clerk of the court which admitted the will of the deceased spouse to probate and the county clerk of the county where the will of the deceased spouse was admitted to probate, within six (6) months after the admission of the will to probate. If, within those six (6) months, an action contesting the will is brought, the surviving spouse need not make such relinquishment until within six (6) months succeeding the time when the action is disposed of. Provided, however, the period for renunciation may be extended not exceeding six (6) additional months by order entered by the district court upon application of the surviving spouse for such extension within six (6) months after the date of probate.
- (2) Subsection (1) does not preclude the surviving spouse from receiving his or her share under KRS 392.020, in addition to any bequest or devise to him or her by will, if such is the intention of the testator, plainly expressed in the will or necessarily inferable from the will.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 21, sec. 10, effective July 15, 2010. --

Amended 1978 Ky. Acts ch. 384, sec. 513, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 352, effective January 2, 1978. -- Amended 1972 Ky. Acts ch. 168, sec. 7. -- Amended 1956 Ky. Acts ch. 117, sec. 3. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1404.