

**367.937 Permissibility of irrevocable trust provision -- Effect on determining eligibility for entitlement programs -- Required form for application.**

- (1) Notwithstanding the provisions of KRS 367.936 to the contrary, an agreement, contract, or plan may provide that the trust shall be irrevocable during the lifetime of the beneficiary or grantor, if at the time of the signing of an agreement, contract, or plan or at any time thereafter, the beneficiary or grantor of the trust is, becomes, applies, or intends to apply to be an aged, blind, or disabled recipient of benefits pursuant to the federal Supplemental Security Income program under Title XVI of the Social Security Act or any other federal or state entitlement program. Funds irrevocably set aside for burial reserves, burial spaces, or other funds for funeral and burial expenses, including interest thereon shall be excluded as a financial resource in determining the beneficiary's or grantor's eligibility under any federal or state entitlement program as long as exclusion is not prohibited by any federal law or regulation governing the entitlement program.
- (2) An application for an irrevocable trust shall be on a form developed by the Attorney General, which shall require proof that the beneficiary or grantor has received, applied for, or intends to apply for entitlement benefits within thirty (30) days of the signing of the agreement, contract, or plan. The form showing proof shall thereafter be maintained in the files of the agent.
- (3) If, for any reason, a beneficiary or grantor of the trust fails to apply for entitlement benefits within thirty (30) days of his written intention to do so, fails to receive, or otherwise becomes ineligible for entitlement benefits, then the trust shall be a revocable trust.
- (4) An irrevocable trust established pursuant to this section shall not affect the selection of funeral goods or services or the selection of the funeral home. At any time the beneficiary or grantor of the trust may, by written request to the agent and trustee, change the agent, trustee, or both.
- (5) All agreements, contracts, or plans entered into prior to the enactment of this statute may be made irrevocable pursuant to the provisions of this section upon written application to the agent.

**Effective:** July 14, 1992

**History:** Created 1992 Ky. Acts ch. 75, sec. 1, effective July 14, 1992.