

#### **403.190 Disposition of property.**

- (1) In a proceeding for dissolution of the marriage or for legal separation, or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall assign each spouse's property to him. It also shall divide the marital property without regard to marital misconduct in just proportions considering all relevant factors including:
  - (a) Contribution of each spouse to acquisition of the marital property, including contribution of a spouse as homemaker;
  - (b) Value of the property set apart to each spouse;
  - (c) Duration of the marriage; and
  - (d) Economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse having custody of any children.
- (2) For the purpose of this chapter, "marital property" means all property acquired by either spouse subsequent to the marriage except:
  - (a) Property acquired by gift, bequest, devise, or descent during the marriage and the income derived therefrom unless there are significant activities of either spouse which contributed to the increase in value of said property and the income earned therefrom;
  - (b) Property acquired in exchange for property acquired before the marriage or in exchange for property acquired by gift, bequest, devise, or descent;
  - (c) Property acquired by a spouse after a decree of legal separation;
  - (d) Property excluded by valid agreement of the parties; and
  - (e) The increase in value of property acquired before the marriage to the extent that such increase did not result from the efforts of the parties during marriage.
- (3) All property acquired by either spouse after the marriage and before a decree of legal separation is presumed to be marital property, regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, and community property. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection (2) of this section.
- (4) If the retirement benefits of one spouse are excepted from classification as marital property, or not considered as an economic circumstance during the division of marital property, then the retirement benefits of the other spouse shall also be excepted, or not considered, as the case may be. However, the level of exception provided to the spouse with the greater retirement benefit shall not exceed the level of exception provided to the other spouse. Retirement benefits, for the purposes of this subsection shall include retirement or disability allowances, accumulated contributions, or any other benefit of a retirement system or plan regulated by the

Employees Retirement Income Security Act of 1974, or of a public retirement system administered by an agency of a state or local government, including deferred compensation plans created pursuant to KRS 18A.230 to 18A.275 or defined contribution or money purchase plans qualified under Section 401(a) of the Internal Revenue Code of 1954, as amended.

**Effective:** July 15, 1996

**History:** Amended 1996 Ky. Acts ch. 328, secs. 1 and 2, effective July 15, 1996. -- Amended 1986 Ky. Acts ch. 441, sec. 1, effective July 15, 1986. -- Created 1972 Ky. Acts ch. 182, sec. 9.

**Legislative Research Commission Note** (7/15/96). This section was amended by 1996 Ky. Acts ch. 328, secs. 1 and 2 which do not appear to be in conflict and have been codified together.