

**397.1006 Exceptions in which specified survival requirement does not apply.**

Survival by one hundred twenty (120) hours is not required if:

- (1) The governing instrument contains language dealing explicitly with simultaneous deaths or deaths in a common disaster and that language is operable under the facts of the case;
- (2) The governing instrument expressly indicates that an individual is not required to survive an event, including the death of another individual, by any specified period or expressly requires the individual to survive the event for a stated period, but survival of the event or the specified period shall be established by clear and convincing evidence;
- (3) The imposition of a one hundred twenty (120) hour requirement of survival would cause a nonvested property interest or a power of appointment to be invalid under the rule against perpetuities, but survival shall be established by clear and convincing evidence; or
- (4) The application of a one hundred twenty (120) hour requirement to multiple governing instruments would result in an unintentional failure or duplication of a disposition, but survival shall be established by clear and convincing evidence.

**Effective:** July 15, 1998

**History:** Created 1998 Ky. Acts ch. 415, sec. 6, effective July 15, 1998.