



# MASTER COMMISSIONER

## ACCOUNTING POLICIES AND PROCEDURES MANUAL

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Administrative Office of the Courts

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<b>CITED AUTHORITIES:</b>	<ul style="list-style-type: none"> <li>• Rules of Administrative Procedure (AP) Part IV, Master Commissioners of the Circuit Court</li> <li>• KRS Chapter 91</li> <li>• KRS Chapter 393</li> <li>• KRS Chapter 426</li> <li>• KRS 424.130</li> <li>• KRS 61.675</li> <li>• KRS 393A.040</li> </ul>		
<b>ASSOCIATED AOC FORMS:</b>	<ul style="list-style-type: none"> <li>• AOC-141AMC – Order Appointing Master Commissioner</li> <li>• AOC-141 – Order Referring Case to Master Commissioner</li> <li>• AOC-141S – Order Referring Case to Master Commissioner for Judicial Sale</li> <li>• AOC-141SP – Order Referring Case to Special Master Commissioner for Judicial Sale</li> <li>• AOC-595.1 – Account Verification Form (Master Commissioner)</li> <li>• OFA-MC-4 – Master Commissioner MCAPPM Waiver Request</li> <li>• OFA-MC-5 – Master Commissioner MCAPPM Approval Request</li> </ul>		

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Section Number: **100.1**

Subject: **AUTHORITY OF ADMINISTRATIVE OFFICE OF THE COURTS**

Authority: **AP PART IV, SECTION 2(9) AND 2(10)**

1. The Administrative Office of the Courts has the following authority:
  - a) to establish accounting standards;
  - b) to prescribe bookkeeping and accounting practices and procedures;
  - c) to oversee the financial accounts of master commissioners;
  - d) to establish audit standards; and
  - e) to perform audits.
2. A copy of any audit report must be submitted by the Administrative Office of the Courts to the chief circuit judge.
3. In the event the audit reveals a serious or recurring bookkeeping, accounting, procedural or other irregularity, a copy of the audit report must also be submitted to the Chief Justice and the Director of the Administrative Office of the Courts.
4. After reviewing the audit report, the Chief Justice may refer the master commissioner to the circuit judge(s) for removal.
5. All deviations from this manual must be approved in advance on an *OFA-MC-4 Master Commissioner Waiver Request form* by the Executive Officer, Department of Financial Services. All approvals required by this manual must be requested in advance on an *OFA-MC-5 Master Commissioner Approval Request form by the Executive Officer, Department of Financial Services. Master Commissioner Waiver Request forms and Master Commissioner Approval Request forms* must be retained by the master commissioner and the Department of Financial Services. Failure to obtain required approval may result in financial sanctions.

Section Number: **100.2**

Subject: **APPOINTMENT OF MASTER COMMISSIONER**

Authority: **AP PART IV, SECTION 2**

1. A master commissioner may be appointed for each county within a judicial circuit.
2. The master commissioner shall serve at the pleasure of the judge(s) of the circuit court, but in no case shall the master commissioner's term exceed four years without reappointment.

**Accounting Procedure**

3. Upon appointment, the master commissioner must immediately contact the AOC Department of Financial Services at MasterCommissionerFilings@kycourts.net and provide the following information:
  - a) Name
  - b) Address
  - c) Telephone numbers
  - d) Email address
  - e) Copy of the AOC-141AMC, *Order Appointing Master Commissioner*
4. Upon contact from the master commissioner pursuant to paragraph 3 above or receipt of the Order Appointing Master Commissioner from the Circuit Court Clerk, the Department of Financial Services will provide the following:
  - a) Bond application;
  - b) Authorized salary and staffing levels;
  - c) Contact information for payroll/benefit reporting;
  - d) Administrative Procedures of the Court of Justice, Part IV, *Master Commissioners of the Circuit Court; and*
  - e) *Master Commissioner Accounting Policies and Procedures Manual.*
5. The master commissioner must complete the bond application and return it to the Department of Financial Services.
6. No term of a master commissioner shall exceed four years without reappointment. Upon reappointment, the master commissioner must ensure that a copy of the AOC-141AMC,

*Order Appointing Master Commissioner* is forwarded immediately to the Department of Financial Services.

7. A master commissioner must resign and notify the Department of Financial Services of the resignation prior to filing as a candidate for election to a non-judicial office.

Section Number: **100.3**

Subject: **JUDICIAL SALE ADMINISTRATIVE FEE**

Authority: **AP PART IV, SECTIONS 2(11) AND 4**

1. A non-refundable judicial sale administrative fee of \$200 must be added to all cases referred to the master commissioner for judicial sale, hereafter referred to as the judicial sale administrative fee (JSAF).
2. The JSAF must be collected by the circuit court clerk upon receipt of the order referring a case for judicial sale. The order referring a case for judicial sale must include language indicating that the case will be transferred to the master commissioner **only after the JSAF has been received by the circuit court clerk.**
3. The circuit court clerk must remit all judicial sale administrative fees to the Administrative Office of the Courts as directed by the Department of Financial Services.
4. The AOC holds JSAF money in a restricted fund designated to cover the administrative costs of the master commissioner program.
  - a) These administrative costs include, but are not limited to, all necessary bonding of master commissioners and the employment of sufficient staff to conduct audits of master commissioner offices statewide.
  - b) To whatever extent total JSAs collected do not fully cover these expenses, excess fees submitted to the Administrative Office of the Courts with master commissioners' mandatory annual accounting reports may be used to do so.

#### **Accounting Procedure**

5. One of the following forms must be completed and filed in the official court file in each case referred for judicial sale:
  - a) AOC-141S, *Order Referring Case to Master Commissioner for Judicial Sale*; or
  - b) AOC-141SP, *Order Referring Case to Special Master Commissioner for Judicial Sale*.
6. Tracking and statistical comparison will be accomplished through the KCOJ's electronic case management system.

7. All JSAFs must be tracked under the circuit court case number and maintained by the circuit court clerk.
8. The master commissioner must obtain a copy of the applicable form, AOC-141S or AOC-141SP, and a copy of the receipt reflecting payment of the JSAF before proceeding to schedule a judicial sale.

Section Number: **100.4**

Subject: **GENERAL PROVISIONS OF JUDICIAL SALE**

Authority: **AP PART IV, SECTION 5**

1. The master commissioner shall sell the property in a reasonable time not to exceed 90 days after the date of the order of referral except that property found to be “vacant and abandoned” shall be sold in accordance with KRS 426.205. Upon motion and good cause shown, the court may extend the deadline established by this subsection for a period not to exceed 30 days.
2. Except for city tax sales pursuant to KRS Chapter 91 and partition sales, before any real property is sold under a judgment and order of sale, the appraisal value must be determined by two disinterested persons both of whom are actively engaged in or have had at least one year of experience in the field of real estate. In accordance with KRS 426.520(2) the appraisal must be in writing, must be signed by the persons making it, and must be filed in the court record prior to the sale.
3. All sales shall be advertised in accordance with KRS 424.130 as follows: The advertisement shall be published at least once not less than seven days nor more than 21 days before the date of the sale but may be published two or more times provided that one publication occurs not less than seven days nor more than 21 days before the date of the sale.
4. At the time of sale, the successful bidder shall either pay full cash or make a deposit of 10% of the purchase price with the balance on credit for 30 days. If the purchase price is not paid in full, the successful bidder shall execute a bond at the time of sale with sufficient surety approved by the master commissioner prior to the sale to secure the unpaid balance of the purchase price. Pursuant to KRS 426.705, the bond shall bear interest at the rate the judgment bears, from the date of sale until paid, and shall have the force and effect of a judgment. In the event the successful bidder is the plaintiff, then in lieu of the deposit the plaintiff shall be allowed to bid on credit up to the judgment amount.
5. No right of redemption applies in partition sales. For all other sales, excluding city tax sales pursuant to KRS Chapter 91, if the real property did not sell for at least two-thirds (2/3) of its appraised value, the defendant and his or her representatives have a right of redemption for six months from the day of sale. In that case, the purchaser receives an immediate writ of possession and a deed containing a lien in favor of the defendant, reflecting the defendant’s right to redeem during the statutory period per KRS 426.530.
6. When a city files for enforcement of a city tax lien under KRS 91.511, and the real property sells for less than 100% of its most recent assessed value as determined by the PVA, the



defendant may redeem it within 60 days from the day of the sale by paying the purchaser the original purchase money and interest at eighteen percent (18%) per annum. The master commissioner must hold the deed for 90 days following the sale to allow the right of redemption to expire.

7. The report of sale must be filed by the master commissioner no later than three business days after the date of sale.
8. The master commissioner must execute and deliver the deed to the purchaser of the property no later than five business days after the court has confirmed the sale and approved the deed and all costs, fees, and other required amounts due and owing, if any, have been paid by the foreclosing mortgagee or lienholder or the purchase price has been paid in full by the third-party purchaser.

### **Accounting Procedure**

7. A log of all cases referred for sale must be maintained. At a minimum, this log must contain:
  - a) Case number and style
  - b) Date AOC-141S or AOC-141SP entered
  - c) Date appraisal filed in court record
  - d) Date of required advertisement
  - e) Scheduled sale date
  - f) Date Report of Sale filed
  - g) Date full winning bid or sale costs/fees received by the commissioner
  - h) Date deed delivered to purchaser.
8. The master commissioner should calculate and assess applicable interest in accordance with KRS 426.705 (per the judgment) on any unpaid balance of purchase price and collect the same from the purchaser. All sale bond interest is to be included in the total funds to be distributed by the master commissioner.

Section Number: **100.5**

Subject: **MASTER COMMISSIONER FEES FOR JUDICIAL SALES**

Authority: **AP PART IV, SECTIONS 8(1) AND 8(2)**

1. The annual compensation of master commissioners, deputy master commissioners, approved staff, and authorized expenses shall be paid from fees generated by the office of master commissioner, charged upon the parties as authorized by law, and deposited into the operating account.
2. The master commissioner fee for each judicial sale must be calculated on the sale price or appraised value, as set out in the accounting procedures below.

### **Accounting Procedure**

3. If the sale is completed and confirmed:
  - a) The fee for each judicial sale must be calculated at 3% of the final bid, or if the sale involves multiple indivisible lots sold at the same time under the same judgment, 3% of the aggregate of the final bids. The fee based upon this calculation shall be no less than \$500 and shall not exceed \$8,500.
  - b) If the sale involves more than one property, parcel, or judgment, a fee of \$650 per **additional** property, parcel, or judgment shall be assessed in addition to the fee calculated above.
4. If the sale is withdrawn, a master commissioner fee of not more than 50% of the sale fee based upon the appraisal value of the property as calculated under 3. a) and b), or \$500, whichever is greater, shall be assessed.
  - a) The fee for each withdrawn judicial sale shall be 50% of the fee calculated at 3% of the appraised value. The fee based upon this calculation shall be no less than \$500 and shall not exceed \$4,250.
  - b) If the sale involves more than one property, parcel, or judgment, then \$325 per additional property, parcel, or judgment shall be assessed, in addition to the fee calculated above.
  - c) If the sale is withdrawn **before** an appraisal has been completed, a sale fee of \$500 shall be assessed; or, upon good cause shown by proper motion, the circuit court may approve some other amount of fee (**not** to exceed \$4,250).



Section Number: **100.6**

Subject: **EXPENSES OF MASTER COMMISSIONER**

Authority: **AP PART IV, SECTION 8(3)**

1. The master commissioner may recover necessary direct **expenses** attributable to the case referred for judicial sale. These charges may be combined and charged to the case as office expenses and are as follows:
  - a) The actual cost of postage;
  - b) Copies at the rate of \$0.25 per page;
  - c) The actual or documented average long distance charge per minute; and
  - d) Faxes at the rate of \$2 for the first page and \$1 per page for every page thereafter.
2. The master commissioner may also recover the following **costs** from the proceeds of the sale:
  - a) The actual cost of advertising; \*
  - b) The appraiser's fee as set by the court; \*\*
  - c) A licensed auctioneer's fee pursuant to KRS 426.522;
  - d) The actual costs associated with the care of the property in the master commissioner's possession; and
  - e) The master commissioner fees.

\* See AP Part IV, Section 5(3) and Section 100.4 of this Manual for frequency and content of advertising.

\*\* Appraisers are required to be actively engaged in, or have had at least one year of experience in, the field of real estate in order to conduct appraisals on behalf of the office of the master commissioner. See AP Part IV, Section 5(2).

### **Accounting Procedure**

3. The expenses, costs, and fees must be listed separately on any order of distribution and/or other individual case report. A separate check from the escrow account must be written for each expenditure, with the following exceptions:
  - a) One check for the total expenses may be written from the escrow account to reimburse the master commissioner.

- b) One check for the sales fee, Report and Recommendation (RAR) fee(s), and Deed or Title (DOT) fee(s) may be written from the escrow account and deposited to the operating account.
- 4. Reimbursements for direct expenses and costs attributable to a judicial sale are to be tracked, with documentation supporting the reimbursements to be retained by the master commissioner in his or her file.
- 5. The circuit court may require a deposit, prior to the sale, sufficient in amount to pay the costs of the sale.
- 6. Deposits are to be held in the master commissioner escrow account and tracked under the circuit court case number.

Section Number: **100.7**

Subject: **ADDITIONAL FEES FOR PREPARING REPORTS AND DRAFTING DOCUMENTS**

Authority: **AP PART IV, SECTIONS 4(4) AND 8(4)**

1. A fee of \$90 shall be charged for each commissioner's report prepared on tendered foreclosure judgments in uncontested cases for enforcement of a mortgage or other lien, hereafter referred to as the Report and Recommendation (RAR) fee.
2. Additionally, a fee of \$90 shall be charged for drafting any necessary deed or title and executing same, hereafter referred to as the Deed or Title (DOT) fee.

#### **Accounting Procedure**

3. The master commissioner shall charge the \$90 RAR fee on tendered judgments. **No** fee shall be charged for drafts of reports but shall be charged only for final reports.
4. The master commissioner shall charge the \$90 DOT fee for drafting any deed or title and executing same.
5. The above referenced \$90 fees are in addition to the sale fee and must be deposited into the escrow account and distributed to the operating account upon proper order from the court.
6. The above referenced fees are to be listed separately on the order of distribution and/or individual case report.
7. The DOT and RAR fees must be included in the master commissioner's total fee income for annual reporting purposes.

Section Number: **100.8**

Subject: **ADDITIONAL FEES FOR RECEIVING AND PAYING OUT MONEY UNDER COURT ORDER**

Authority: **AP PART IV, SECTION 8(5)**

1. For receiving and paying out money under court order and for settling the accounts of estates, the fee must be computed as set forth in the accounting procedures below.
2. For settlement of accounts of insolvent estates this computation must exclude any amounts exempt from creditors.
3. This fee must **not** exceed \$8,500.
4. The master commissioner may recover the costs and expenses as set out in Section 100.6.
5. The costs and expenses are to be listed separately on the order of distribution and/or individual case report. All costs and reimbursements must be supported by adequate documentation.

**Accounting Procedure**

6. The fee for receiving and paying out money under court order and for settling the accounts of estates shall be 3% up to a maximum of \$8,500.

Section Number: **100.9**

Subject: **LIMITS ON ANNUAL COMPENSATION OF MASTER COMMISSIONER**

Authority: **AP PART IV, SECTIONS 9(1) AND 11**

1. The office of the master commissioner shall be limited in total personal compensation derived from fees to not more than \$62,794 per annum, unless otherwise approved by written order of the Chief Justice.
2. This limitation on compensation shall be prorated on a monthly basis where the master commissioner serves less than the entire year.
3. Rates of compensation must be in accordance with a schedule(s) established by the Supreme Court.

#### **Accounting Procedure**

4. Compensation of the master commissioner must be disbursed from the operating account to the master commissioner on a prorated basis over a 12-month period, with the master commissioner receiving no more than 1/12 of annual compensation per month. (For example, compensation of \$62,794 per annum entitles the master commissioner to a salary of \$5,232.83 per month.)
5. The master commissioner must disburse the prorated allowable compensation monthly in an amount not to exceed the accumulated allowable salary proportionate to the time served. The disbursement must be made at the end of each month of service.
6. Master commissioners meeting the minimum requirement of working an average of 100 hours per month on master commissioner work **only**, and having sufficient proof of such work, may participate in the Kentucky Employees Retirement System (KERS) so long as they meet all other requirements established by the Kentucky Public Pension Authority (KPPA).
7. All compensation is to be reported monthly to the Finance and Administration Cabinet Department of Local Government Services Social Security Coverage and Reporting Branch (SSCRB) on the Commonwealth of Kentucky form SS-16 or 16-A, as directed by the SSCRB.



Section Number: **100.10**

Subject: **LIMITS ON ANNUAL COMPENSATION OF DEPUTY MASTER COMMISSIONER AND STAFF**

Authority: **AP PART IV, SECTIONS 2(6), 9(2), (3), 10(3), AND 14(3)**

1. Upon the express written authority of the Administrative Office of the Courts on behalf of the Chief Justice, the master commissioner may have deputies and staff as are necessary to perform the functions of the master commissioner's office.
2. Each deputy master commissioner shall be limited in his or her total personal compensation derived from fees to not more than \$47,454 per annum.
3. This limitation on compensation must be prorated on a monthly basis where the deputy master commissioner serves less than the entire year.
4. Salaries of staff must be set by the Master Commissioner in an amount not to exceed the amount authorized in writing by the Executive Officer, Department of Financial Services.

#### **Accounting Procedure**

5. The allowable compensation of the deputy master commissioner must be disbursed on a prorated basis over a 12-month period, with the deputy master commissioner receiving no more than 1/12 of his or her annual compensation per month.
6. For example, compensation of \$47,454 per annum entitles the deputy master commissioner to a salary of \$3,954.50 per month.
7. The master commissioner's office is to pay the deputy the prorated allowable compensation monthly in an amount not to exceed the accumulated allowable salary proportionate to the time served. The disbursement must be made at the end of each month of service.
8. The deputy master commissioner's compensation is to be paid from the operating account of the office of the master commissioner.
9. Salaries and/or hourly wages for all staff are to be approved in writing by the Executive Officer, Department of Financial Services, as follows:

- a) Prior to the beginning of each calendar year, the Executive Officer, Department of Financial Services shall send annual letters to each master commissioner's office authorized to have a deputy master commissioner and/or staff setting forth the maximum hourly wage or annual salary for each employee in accordance with the pay schedule established by the judicial personnel system and any allowable Court of Justice annual increment.
  - b) The master commissioner must seek approval of the Executive Officer, Department of Financial Services before making any salary adjustment that would cause an employee's maximum salary to exceed the authorized maximum hourly wage or annual salary.
  - c) Prior to establishing a wage for a new employee, the master commissioner must submit a resume to the Executive Officer, Department of Financial Services for the purpose of establishing a maximum hourly wage or annual salary for the employee that is in accordance with the pay schedule established by the judicial personnel system.
10. All full-time and part-time employees must keep track of their time using time sheets in a format designated by the master commissioner. These time sheets must be reviewed by the master commissioner at the end of each pay period. The time sheet must be signed and dated by the employee, then reviewed, signed, and dated by the master commissioner. Time sheets must be retained for a period of three years from the end of the calendar year.
11. All staff are employees of the office of the master commissioner in his or her role as master commissioner. Payroll for staff must be paid out of the master commissioner's operating account. The master commissioner must **not** use his or her private practice payroll to compensate staff for their role as employees of the master commissioner. The master commissioner may **not** lease employees from his or her private practice. Staff of the master commissioner are **not** employees of the Administrative Office of the Courts.
12. Full-time Staff
- a) Full-time is defined as a minimum of 37.5 hours per week performing only master commissioner work.
  - b) All staff who work more than 100 hours per month for the office of master commissioner are eligible for retirement benefits through the Kentucky Employees Retirement System. The master commissioner must report creditable compensation of such staff and submit payment for employee contributions on a monthly basis as directed by the Kentucky Public Pensions Authority.
    - i) If the master commissioner fails to file all required contributions and reports on or before the tenth day of the month following the period being reported, interest on the delinquent contributions of at least \$1,000 per month may be charged by the Kentucky Public Pensions Authority to the master commissioner pursuant to KRS 61.675.

- ii) Late reporting penalties are **not** authorized expenses.
- iii) Late reporting penalties may be paid by the AOC. The annual limit on the master commissioner's personal compensation shall be reduced by the amount of any late reporting penalties paid by the AOC.
- c) The cost of health insurance premiums for staff and master commissioners working at least 37.5 hours in the master commissioner's office are authorized expenses if excess fees are available and the health insurance premium is approved in writing by the Executive Officer, Department of Financial Services prior to the policy initiation or renewal. To obtain approval for the health insurance premium, the master commissioner must submit cost information to MasterCommissionerFilings@kycourts.net.
- d) Social Security and Medicare match are allowable benefits for full-time employees. Employee deductions are to be reported and remitted monthly to the Finance and Administration Cabinet Department of Local Government Services Social Security Coverage and Reporting Branch (SSCRB) on the Commonwealth of Kentucky form SS-16 or SS-16A.
- e) Workers Compensation is paid by AOC.
- f) Unemployment Insurance is an authorized expense. The master commissioner must establish an appropriate account with the Unemployment I Tax Enforcement Branch. Contact information may be obtained from the Department of Financial Services at AOC.
- g) Flexible benefits and 401(k) matching are **not** authorized expenses.

### 13. Part-time Staff

- a) Staff working less than 37.5 hours per week are part-time staff.
- b) Part-time staff who work less than 100 hours per month are **not** eligible for retirement benefits through the Kentucky Employees Retirement System.
- c) Part-time staff is **not** eligible for health insurance.
- d) Social Security and Medicare match are allowable benefits for part-time employees. Employee deductions are to be reported and remitted monthly to the Finance and Administration Cabinet Department of Local Government Services Social Security Coverage and Reporting Branch (SSCRB) on the Commonwealth of Kentucky form SS-16 or SS-16A.
- e) Workers Compensation is paid by AOC.
- f) Unemployment Insurance is an authorized expense. The master commissioner must establish an appropriate account with the Unemployment Insurance Tax Enforcement Branch. Contact information may be obtained from the Department of Financial Services at AOC.
- g) Employer contributions to flex accounts and 401(k) matching are **not** authorized expenses.

14. Changes in salary amounts and other budgetary allowances for the master commissioner, deputy master commissioner, and staff are at the discretion of the Executive Officer, Department of Financial Services, with approval of the Chief Justice.

*The Administrative Office of the Courts, Department of Financial Services, will notify master commissioners of salary changes before the effective date of January 1 of each year.*

15. Expenses other than payroll and benefits.

- a) Full-time offices authorized by the Chief Justice may deduct ordinary business expenses allowed by the IRS and directly related to the master commissioner responsibilities. When purchasing supplies and/or services, the master commissioner and staff must be prudent buyers. Purchases may not be made from related entities or persons. In no case shall the good or service be purchased at a rate higher than fair market value.
- b) Purchase of any item with a cost in excess of \$500 must have prior written approval of the Executive Officer, Department of Financial Services. A copy of such approval must be attached to the paid invoice.
- c) Costs must **not** be allocated between the office of the master commissioner and the private practice of the master commissioner without the prior approval of the Executive Officer, Department of Financial Services.
- d) A fidelity bond equal to the penal sum of the master commissioner's bond as determined by the AOC shall be maintained for all staff with check signing authority.
- e) Check printing charges for the master commissioner escrow and operating account(s) may be paid from the operating account only when excess fees are available.
- f) A master commissioner subscription to CourtNet may be obtained directly from AOC at [courtnetbilling@kycourts.net](mailto:courtnetbilling@kycourts.net) for master commissioners for a fee. The CourtNet access through this subscription shall not be used for any personal or private business, but only for records searches related to master commissioner activity. This cost is authorized to be paid from available excess fees.
- g) Attorney fees are an authorized expense when the master commissioner is sued in his or her capacity as master commissioner when:
  - i) The retention of counsel has been approved by the Executive Officer of Financial Services and the AOC General Counsel; and
  - ii) The hourly rate does not exceed the Commonwealth's standard reimbursement rates for legal services as published by the Kentucky Legislature's Government Contract Review Committee unless otherwise approved by the Executive Officer of Financial Services and the AOC General Counsel.

16. All compensation is to be reported monthly to the Finance and Administration Cabinet Department of Local Government Services Social Security Coverage and Reporting Branch (SSCRB) on the Commonwealth of Kentucky form SS-16 or 16-A, as directed by the SSCRB.

Section Number: **100.11**

Subject: **EXCESS FEES**

Authority: **AP PART IV, SECTIONS 9(3), 10(2), (4), AND 12(1)**

1. Fees in excess of the personal compensation of the master commissioner, less salaries and expenses as authorized by the Executive Officer, Department of Financial Services, must be remitted as provided in AP Part IV, Section 10(4).
2. Anticipated six months expenses, including master commissioner salary, may be retained. Computation of the anticipated six months expenses must be supported by adequate records and documentary evidence which must also be submitted with the annual accounting report tendered to the Administrative Office of the Courts, Department of Financial Services.
3. The excess fees must be remitted to the Administrative Office of the Courts, Department of Financial Services, with the annual report on or before March 1<sup>st</sup> of the following year, or immediately upon termination of office.

Section Number: **100.12**

Subject: **ACCOUNTING OF MASTER COMMISSIONER**

Authority: **AP PART IV, SECTIONS 5 AND 10**

### **Reports**

1. For each case, the master commissioner must provide an individual case report to the circuit judge. The individual case report must account for all amounts received and distributed, for all proceeds of sales disbursed, for all fees collected, and for all expenses deducted.
2. Accounting of the individual case report must be in a manner directed by the circuit judge. The circuit judge shall approve the report by his or her signature and date of approval.
3. The master commissioner must file the approved individual case report with the circuit court clerk who shall record the approved accounts in the case management system and file in the applicable case.
4. Each foreclosure case must include an accounting of all fees taken in and disbursed.
5. Each master commissioner must provide to the Administrative Office of the Courts, on or before March 1<sup>st</sup> of each year, a complete accounting of the prior calendar year for all fees collected and for all expenses deducted. Supporting documentation demonstrating approval of the Executive Officer of the Department of Financial Services, when required for expenses, must be attached to the Business Expenses for Master Commissioners schedule (Schedule A or B) attached to the annual report.
6. The accounting must be completed utilizing the *Annual Report of Master Commissioner* form provided by Administrative Office of the Courts.
7. The master commissioner is responsible for all IRS 1099 reporting requirements as directed by the SSCRB.
8. All compensation is to be reported monthly to the Finance and Administration Cabinet Department of Local Government Services Social Security Coverage and Reporting Branch (SSCRB) on the Commonwealth of Kentucky form SS-16 or 16-A, as directed by the SSCRB.

### **Documentation of Expenses**

9. Adequate records and documentary evidence must be maintained to support each element of an expense.
10. Only salaries, benefits as described herein, bonding expenses for employees that have check signing authority, check printing charges, and the cost incurred for purchase of accounting/bookkeeping software mandated by the Administrative Office of the Courts auditing standards may be deducted from any fees generated by the office of a master commissioner. Salaries are to be itemized per employee and must **not** exceed the amount authorized by the Executive Officer, Department of Financial Services.
11. Notwithstanding any provision to the contrary herein, a master commissioner authorized by the Chief Justice to operate a full-time master commissioner's office and who does not engage in any private business enterprise in their master commissioner's office may deduct business expenses directly related and necessary to the operation of the master commissioner's office as established by the Administrative Office of the Courts auditing standards.

### **Accounting Procedure**

12. Each master commissioner must maintain a ledger control balance by case for all escrow funds received for executing the duties of master commissioner. Failure to maintain a detailed escrow ledger card balance per case (inflows and outflows) results in a lack of "book balance."
13. Ledger control cards must be balanced with the escrow account bank reconciliation to identify all funds held and case number associated with said funds. This will enable the master commissioner as well as the Administrative Office of the Courts to track all funds handled and disbursed by the office of master commissioner by case.
14. Each ledger card should accurately and completely reflect the amounts reported in the order of distribution and/or individual case report filed by the master commissioner.
15. Implementation of a ledger system must be as follows:
  - a) By manual ledger cards, or
  - b) By an electronic accounting system where each case is identified separately.
16. The master commissioner should retain a copy of each check received as payment of judicial sale proceeds, stamped with the date of receipt. Sale proceeds should be deposited to the escrow account daily as received.
17. All master commissioner fees disbursed from the escrow account must be deposited in a separate interest bearing operating account. The master commissioner must deposit all

master commissioner fees generated in the execution of duties as master commissioner into this operating account not less than weekly, although daily deposits are recommended.

18. Administrative Office of the Courts, Department of Financial Services, provides the *Annual Report of Master Commissioner* form to each master commissioner. This form must be filed on or before March 1<sup>st</sup> of each year. Any questions regarding the completion of the annual report should be directed to the Department of Financial Services.
19. Excess fees from the operating account, pursuant to Section 9(3) of AP Part IV, must be remitted by check along with the *Annual Report of Master Commissioner*. In addition, the master commissioner should remit all interest earned during the year on a separate check drawn on each account. Checks are to be made payable to the "Kentucky State Treasurer."
20. The master commissioner must maintain two separate interest-bearing checking accounts, for master commissioner funds only. The checking accounts must be reconciled monthly. The reconciliation must be performed within 30 days of the date of the bank statement. The checking accounts are as follows:
  - a) an escrow account for all funds received, to be distributed per court order; and
  - b) an operating account where all fees generated by the office of master commissioner are deposited.
21. Any disbursement of commissioner funds which is not in compliance with court orders, does not relate to authorized expenses, or otherwise represents activities unrelated to commissioner duties and functions, must be reported immediately to Audit Services and Financial Services at the Administrative Office of the Courts.
22. Any deposit of personal or non-commissioner funds to either account must be reported immediately to Audit Services and Financial Services at the Administrative Office of the Courts.
23. Any deposit of commissioner funds to personal or non-commissioner accounts must be reported immediately to Audit Services and Financial Services at the Administrative Office of the Courts.



Section Number: **100.13**

Subject: **ESCROW AND OPERATING ACCOUNTS**

Authority: **AP PART IV, SECTION 11**

1. Master commissioners must maintain one or more separate interest-bearing escrow accounts for all proceeds received and disbursed and must maintain an itemized accounting of same.
2. Where a master commissioner operates as master commissioner for multiple counties or acts as both a master commissioner and as a domestic relations commissioner, all fees must be deposited into a single operating account.
  - a) Deposits must be clearly identified by county or type (MC or DRC) and must be tracked through separate income/revenue accounts in the accounting software or manual ledgers.
  - b) Only master commissioner fees earned in the applicable county may be used to pay compensation and office expenses in that county. Only DRC fees can be used to pay authorized DRC compensation.
  - c) Excess fees must be calculated for each county and type (MC/DRC) separately and properly reported on the applicable Annual Report.
3. Proceeds relating to the office of the master commissioner must **not** be comingled with any other accounts or funds held by the master commissioner in his or her personal or professional capacity.
4. Interest earned on the account must be remitted to the Administrative Office of the Courts with the *Annual Report of Master Commissioner*.
5. The account must be subject to periodic audits, but no less than annual audits, by the Administrative Office of the Courts.

#### **Accounting Procedure**

6. All master commissioner bank accounts are to be set up under the Commonwealth of Kentucky Federal ID (61-0600439) and must have "Commonwealth of Kentucky" as the first line in the account name. All interest earned must be remitted with each year's annual report. Copies of the December bank statements showing the year to date (YTD) interest earned on each account must be attached to the Annual Report. A separate check from each account is to be made payable to the "Kentucky State Treasurer."

7. An AOC-approved collateral security agreement that perfects the master commissioner's security interest in the collateral is required from each depository bank used by the master commissioner. The collateral security agreement must require the bank to pledge securities for all amounts over the FDIC insured amount deposited in the bank and to provide regular statements of pledged securities from the Trustee to the master commissioner. A pre-approved collateral security agreement is attached to this manual as Appendix A. If any collateral security agreement other than the pre-approved copy supplied by AOC is proposed, the master commissioner must submit a copy to the Department of Financial Services, for approval **prior** to the execution of the agreement. If the proposed collateral security agreement is not approved by AOC, the master commissioner must negotiate an AOC-approved agreement with the bank.
8. The master commissioner must receive and review statements of collateral balances at least quarterly to ensure the collateral is sufficient to cover all deposits in the depository bank not insured by the FDIC.
9. The master commissioner is the only person authorized to sign checks unless prior approval is received in writing from the Executive Officer, Department of Financial Services.
10. All documentation to support the payee and check amount must be provided with the check at the time the check is signed. The supporting documentation must be stamped or annotated as paid when the check is signed. The stamped or annotated supporting documentation must include the date, check number, and amount paid.
11. Escrow and operating accounts must be reconciled on a monthly basis. The reconciliation must be performed within 30 days of the date of the bank statement. If the account agreement with the bank calls for a period of less than 30 days, then the reconciliation must be performed in accordance with the agreement with the bank. The reconciliation must be performed by either the Master Commissioner or an individual **without** check signing authority. The monthly bank statements must be mailed to and opened by the individual performing the reconciliation. The master commissioner must review and approve each month's reconciliations and denote such approval by signing and dating each month's reconciliation. These procedures also apply to the operating checking account.
12. Stale dated checks and checks outstanding over six months must be voided and added back to applicable case balances. If the master commissioner is unable to reissue payment as ordered by the court, the funds must be held until they are eligible to be escheated as unclaimed property.
13. The master commissioner must disburse all judicial sale proceeds per court orders. If the master commissioner is unable to locate a payee, if stale dated checks are voided and cannot

be reissued, or if proceeds in excess of the judgments, costs, and fees are unclaimed, those funds must be considered unclaimed pursuant to KRS 91.517, KRS 393A.040, or other applicable statute. Funds are not eligible for escheatment if the judicial sale has not been confirmed or objections or appeals remain unresolved.

- a) Direct expenses related to escheating funds are not recoverable pursuant to Section 100.6.
- b) The master commissioner shall not charge fees for preparing reports or drafting documents related to the escheatment of funds

14. Blank checks may **not** be signed in advance. Unused check stock shall be maintained in a locked container when not in use. Only those with check signing authority shall have access to the check stock. Facsimile signatures are **not** allowed.

Section Number: **100.14**

Subject: **TRANSFER OF OFFICE**

Authority: **AP PART IV, SECTION 12**

1. Upon the death, termination or removal of a master commissioner, all books, papers, account information, case files and other documents related to the office of master commissioner shall be immediately transferred to the circuit judge for whom the master commissioner served and immediate notice shall be given to the Administrative Office of the Courts, Division of Financial Services. In a single-judge circuit, if termination is due to the death, resignation, or permanent replacement of the circuit judge who appointed the master commissioner, said documents shall be transferred pursuant to the order of the chief regional circuit judge.

### **Accounting Procedure**

2. Upon death, termination, or removal of a master commissioner, the circuit judge should immediately notify the Administrative Office of the Courts, Department of Financial Services.
3. Transfer of all funds, records, and documents must be accomplished within 60 days of termination or removal and must be made pursuant to the order of the appointing circuit judge or the chief regional circuit judge, if termination is due to the death, resignation, or permanent replacement of the circuit judge who appointed the master commissioner.
4. All financial records must be made immediately available to the Division of Audit Services to facilitate a close-out audit of the former master commissioner.
5. Upon termination or removal of a master commissioner, a *Final Report of Master Commissioner* must be completed by the former master commissioner within 30 days, and submitted to the Division of Financial Services along with any applicable excess fees and/or interest. The *Final Report of Master Commissioner* form may be obtained from the Division of Financial Services.
6. Upon death of a master commissioner, a *Final Report of Master Commissioner* must be completed by the newly appointed master commissioner with the assistance of a judicial auditor following the close-out audit. This report must be submitted to the Division of Financial Services along with any applicable excess fees and/or interest.

Section Number: **100.15**

Subject: **LIMITS ON ANNUAL COMPENSATION OF SPECIAL MASTER COMMISSIONER**

Authority: **AP PART IV, SECTIONS 13 AND 15**

1. Any master commissioner who is disqualified under the provisions of Section 13 of AP Part IV, or is unable to discharge the duties of his or her office for any other reason shall be replaced by a special master commissioner who shall be appointed by the judge of the court before whom the action is pending.
2. The judge shall enter an order appointing the special master commissioner and shall provide a copy of the order to the Administrative Office of the Courts, Division of Financial Services.
3. The special master commissioner shall meet the same qualifications as a master commissioner and shall take an oath, execute a bond in an amount to be set by the chief circuit judge based upon the estimated sum to be derived from the proceedings, and be subject to the same rules as the regular master commissioner.
4. If the special master commissioner is a master commissioner in another county, no additional bond is required unless ordered by the appointing judge.

#### **Accounting Procedure**

4. Special master commissioners are **not** entitled to benefits.
5. Fees earned by a master commissioner for service as a special master commissioner in another county(ies) must be treated as follows:
  - a) The first \$5,000 earned annually from service as a special master commissioner shall **not** count toward the master commissioner's salary cap and should **not** be reported to the Finance and Administration Cabinet Department of Local Government Services Social Security Coverage and Reporting Branch (SSCRB).
  - b) Any fees in excess of \$5,000 earned annually from service as a special master commissioner shall count toward the master commissioner's salary cap and must be reported on the *Annual Report of Master Commissioner*. These fees must be deposited to the master commissioner's operating account.

6. The special master commissioner is responsible for IRS Form 1099 reporting requirements as directed by the Finance and Administration Cabinet Department of Local Government Services Social Security Coverage and Reporting Branch (SSCRB).
7. In the event of extenuating circumstances where the appointed master commissioner cannot perform his or her duties for an extended period of time, the appointed acting master commissioner should be considered a deputy master commissioner for compensation purposes, with allowable annual salary of \$47,454 prorated at \$3,954.50 per month for each month served as acting master commissioner.
8. The Department of Financial Services must be notified when a special or acting master commissioner is appointed.

Section Number: **100.16**

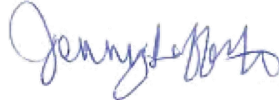

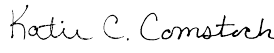
Subject: **OTHER AUTHORIZED FEES FOR HEARINGS**

Authority: **AP PART IV, SECTION 18**

1. For any hearing in which there is no sale, settlement, or receivership, the master commissioner shall receive a fee of \$90 per hour. The fee shall be assessed at a rate of \$22.50 for each quarter hour or part thereof. This fee shall hereafter be referred to as the “hearing fee.”

**Accounting Procedure**

2. Hearing fees must be deposited in the master commissioner escrow account and then distributed to the operating account. This allows the hearing fees to be tracked with other fees generated by the master commissioner.
3. Hearing fees must be paid to the commissioner and shall be due on the fifth working day following the conclusion of the hearing.
4. Hearing fees should be distinguished from **all other fees** by referencing the circuit court case number for each deposit and by annotation on the deposit slip indicating that it is a hearing fee.

	PRINTED NAME	SIGNATURE	DATE
REVIEWED & APPROVED BY APPROVING AUTHORITY:	Jenny Lafferty		3/4/24
REVIEWED & RECOMMENDED BY OGC:	Kimberly C. Hosea		3/4/2024
REVIEWED & APPROVED BY AOC DIRECTOR:	Katie C. Comstock		3/4/2024