

**278.684 Property right to securitized property -- Right to transfer or assign -- Default and sequestration -- Rights of successor to electric utility.**

- (1) All securitized property that is specified in a financing order constitutes an existing, present, intangible property right or interest therein, notwithstanding the fact that the imposition and collection of securitized surcharges depends on the electric utility performing its servicing functions relating to the collection of securitized surcharges and on future electricity consumption. The property right or interest therein exists regardless:
  - (a) Of whether the revenues or proceeds arising from the property have been billed, accrued, or collected; and
  - (b) That the value or amount of the property is dependent on the future provision of service to customers by the electric utility, its successors, or assignees and on the future consumption of electricity by its customers.
- (2) Securitized property specified in a financing order exists until the securitized bonds issued pursuant to the financing order are paid in full and all financing costs and other costs of the securitized bonds have been recovered in full.
- (3) Any portion of securitized property specified in a financing order issued to an electric utility may be transferred, sold, conveyed, or assigned to a successor or assignee that is wholly-owned, directly or indirectly, by the electric utility and created for the limited purpose of acquiring, owning, or administering securitized property or issuing securitized bonds under the financing order. Any portion of securitized property may be pledged to secure:
  - (a) Securitized bonds issued pursuant to the financing order;
  - (b) Amounts payable to financing parties and to counterparties under any ancillary agreements; and
  - (c) Other financing costs.
- (4) Any transfer, sale, conveyance, assignment, grant of a security interest in, or pledge of securitized property by an electric utility or an affiliate of the electric utility to an assignee, to the extent previously authorized in a financing order, does not require the prior consent and approval of the commission.
- (5) If an electric utility defaults on any required remittance of securitized surcharges arising from securitized property specified in a financing order, a court, upon application by an interested party and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the revenues arising from the securitized property to the financing parties, their successors, or assignees. The financing order shall remain in full force and effect notwithstanding any reorganization, bankruptcy, or other insolvency proceedings with respect to the electric utility, its successors, or assignees.
- (6) The interest of a transferee, purchaser, acquirer, assignee, or pledgee in securitized property specified in a financing order issued to an electric utility, and in the revenue and collections arising from that property, shall not be subject to setoff, counterclaim, surcharge, or defense by:
  - (a) The electric utility; or

- (b) Any other person in connection with the reorganization, bankruptcy, or other insolvency of the electric utility or of any other entity.
- (7) Any successor to an electric utility, whether pursuant to any reorganization, bankruptcy, or other insolvency proceeding, any merger or acquisition, sale or other business combination, transfer by operation of law as a result of the electric utility restructuring or otherwise, shall perform and satisfy all obligations of, and have the same rights under a financing order as, the electric utility under the financing order in the same manner and to the same extent as the electric utility, including collecting and paying to the person entitled to receive the revenues, collections, payments, or proceeds of the securitized property. Nothing in KRS 278.670 to 278.696 and 65.114 shall limit or impair any authority of the commission concerning the transfer or succession of interests of electric utilities.
- (8) Securitized bonds shall be nonrecourse to the credit or any assets of the electric utility other than the securitized property as specified in the financing order and any rights under any ancillary agreement.

**Effective:** June 29, 2023

**History:** Created 2023 Ky. Acts ch. 72, sec. 8, effective June 29, 2023.