

**CHAPTER 357****(HB 807)**

AN ACT relating to property tax.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 134.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Secretary" means the secretary of revenue.
- (2) "Cabinet" means the Revenue Cabinet.
- (3) "Real property" includes all lands within this state and improvements thereon.
- (4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.
- (5) "Taxpayer" means any person made liable by law to file a return or pay a tax.
- (6) "Tax claim" includes, in addition to the taxes due on a tax bill, the penalties, costs, fees, interest, commissions, the lien provided in subsection (1) of KRS 134.420 and other such items or expenses that have become or are by reason of the delinquent tax bill proper legal charges *imposed by this chapter* against the delinquent taxpayer at any given time.
- (7) "Uncollectible tax bill" means a tax bill of a delinquent who owns no real property and which has been returned to the fiscal court by the sheriff or collector because there is insufficient or no personal property to satisfy it, and which has been allowed and approved in the settlement with the court as uncollectible.
- (8) "Sheriff" includes any collector whose duty it is to receive or collect state, county or district taxes.

Section 2. KRS 134.450 is amended to read as follows:

- (1) The sheriff shall sell all tax claims for which payment by the delinquent taxpayer has not been made by the closing date for the acceptance by the sheriff of offers to purchase delinquent tax claims. If there is more than one (1) willing purchaser who has made an offer, the one having made the most recent purchase of a tax claim against the same delinquent or the same property shall have preference; if there is no such person, the person being the first, in the judgment of the sheriff, to offer to pay cash in the full amount of the tax claim shall receive priority for the purchase of the tax claim. If the total of all offers to purchase exceeds ten percent (10%) of the total dollar amount of the delinquent bills offered for sale, or the sum of two hundred thousand dollars (\$200,000), whichever is less, the sheriff shall notify the Finance and Administration Cabinet of the offers of purchase within five (5) business days of the closing date when the offers were received. Upon receipt of the notice, the Finance and Administration Cabinet shall purchase the delinquent tax bills upon which the sheriff has received an offer of purchase and shall tender payment to the sheriff within fifteen (15) business days of the receipt of the sheriff's notice. Upon purchase of the tax claims, the state shall be the owner of the tax bills and may contract with the county attorney to collect all amounts due on its behalf under the terms and conditions of the county attorney's contract with the Revenue Cabinet to collect delinquent taxes. If the county attorney has not contracted with the Revenue Cabinet to collect delinquent taxes, the Revenue Cabinet shall collect all

amounts due on behalf of the Finance and Administration Cabinet. If the Finance and Administration Cabinet does not purchase all of the delinquent tax bills, within fifteen (15) days of the closing date, the sheriff shall complete the sale of those tax claims for which the sheriff has received responsible offers to purchase. When a sale is made the tax bill shall be known as a certificate of delinquency and the sheriff shall inscribe thereon the date of sale, the sale price, and the name and address of the purchaser, in the place and manner prescribed by the Revenue Cabinet, and the purchaser shall be entitled to a certified copy of the certificate of delinquency.

- (2) If no responsible offer in the amount of the tax claim is received, the sheriff shall purchase it for the state, county, and taxing districts having an interest in the tax claim. In such case, the tax bill shall also be known as a certificate of delinquency, and the sheriff shall inscribe thereon the same information required when one other than the state, county, or taxing district is the purchaser.
- (3) The sheriff shall file all certificates of delinquency in the county clerk's office immediately upon completion of the tax sale and the clerk shall retain them. The county clerk shall acknowledge receipt of the certificates by signing a receipt form that has been prepared in a manner prescribed by the Revenue Cabinet. If the sheriff fails to file the certificates, he shall be liable on his official bond for the aggregate amount of the certificates not returned, but the claim of the purchaser shall not be affected by this neglect. If the sheriff fails to return any certificate, the purchaser may file his certified copy with the clerk, with the same effect as the original.
- (4) *The clerk shall make, execute, and deliver a certified copy of a certificate of delinquency to the payor, or the clerk may provide for a certified electronic register of the certificates of delinquency in the clerk's record in lieu of delivering a certified copy of the certificate of delinquency.*
- (5) *The certificate of delinquency is assignable by endorsement. The clerk shall note the assignment on the certificate of delinquency or the clerk may provide for a certified electronic certificate of delinquency in the clerk's records in lieu of delivering a certified copy of the certificate of delinquency. An assignment when noted on the record in the office of the county clerk vests in the assignee all rights and title of the original purchaser.*

Section 3. KRS 134.460 is amended to read as follows:

- (1) Certificates of delinquency shall bear interest from the date of issuance until collected at the rate of twelve percent (12%) per annum *simple interest. A fraction of a month is counted as an entire month.*
- (2) Certificates of delinquency shall be prima facie evidence that:
  - (a) The property represented by the certificate was subject to taxes levied thereon, and was assessed as required by law.
  - (b) The tax bill was valid and correct in all respects.
  - (c) The taxes were not paid at any time before the issuance of the certificate.

Section 4. KRS 134.480 is amended to read as follows:

- (1) The delinquent taxpayer or any person owning or having a legal or equitable interest in real property covered by a certificate of delinquency may at any time pay the total amount of the

certificate to any purchaser thereof, and any person whatsoever may likewise pay a certificate of delinquency when the state, county, or taxing district was the purchaser. When a certificate is paid to an owner other than the state, county, or taxing district, ***the assignee shall mark paid in full on*** the certified copy of the certificate ***and shall surrender the certified copy of the certificate of delinquency***~~[be surrendered]~~ to the person making payment, and if he is the person primarily liable on the certificate he may ***file it with the county clerk and***~~[, by exhibiting it to the county clerk,]~~ have the certificate released of record. When a certificate of delinquency has been fully paid to the state, county, and taxing districts, the clerk shall note the name and address of the person making the payment, the amount paid by him, and such other information as the Revenue Cabinet may require. ***The clerk shall mark the certificate of delinquency paid in full.*** Payment in such instance by one other than the person primarily liable on the certificate will amount to an assignment thereof. ***The clerk shall note the assignment on the certificate of delinquency and provide the assignee a certified copy of the certificate of delinquency, or the clerk may provide for a certified electronic certificate of delinquency in the clerk's records in lieu of delivering a certified copy of the certificate of delinquency.*** Anyone other than the person primarily liable who pays a certificate or purchases it from an owner other than the state, county, and taxing district may, by paying a fee of fifty cents (\$0.50), have the clerk record the payment or purchase and such recordation shall constitute an assignment thereof. Failure to obtain such an assignment shall render the claim of such payor or purchaser to any real estate represented thereby inferior to rights of other bona fide purchasers, payors, or creditors. Any owner of a certificate of delinquency once having paid the assignment fee may have a change of his address noted of record by the clerk without paying an additional charge, otherwise he shall pay a fee of fifty cents (\$0.50) to the clerk for entering such change on the certificate.

- (2) The county clerk may receive payment of the amount due on certificates of delinquency owned by the state, county, and taxing districts, and he shall give a receipt to the payor and make a report to the Revenue Cabinet, the county treasurer, and the proper officials of the taxing districts as often as such units may require, and not less than once in every thirty (30) days. The clerk may accept payment of taxes due by any commercially acceptable means, including credit cards. He shall pay to the Revenue Cabinet for deposit with the State Treasurer all moneys collected by him due the state, to the county treasurer all moneys due the county, and to the authorized officers of the taxing districts the amount due each such district. He shall pay the amount of fees, costs, commissions, and penalties to the persons, agencies, or parties entitled thereto. He shall retain ten percent (10%) of the amount due each taxing unit for his services as a fee. This fee shall be added to the amount of the tax claim and paid by the persons paying the tax claim.
- (3) If the person entitled to pay a certificate of delinquency sends a registered letter addressed to the owner of record of the certificate, other than the state, county, or taxing district, and the letter is returned by mail unclaimed, the sender thereof may make payment to the county clerk, who shall make the necessary assignment or release and deposit the money to the account of the owner of record in the nearest bank having its deposits insured with the Federal Deposit Insurance Corporation. The clerk may deduct the sum of fifty cents (\$0.50) as a fee for such service. The name of the bank in which the money is deposited shall be noted on the certificate.

- (4) If any clerk fails to pay to the person entitled thereto, upon demand, the money received in payment of a certificate of delinquency, he and his sureties shall be liable for the same and twenty percent (20%) interest thereon annually from the time he received it until paid.
- (5) Copies of the records provided for in KRS 134.450 and this section, certified by the county clerk, shall be evidence of the facts stated in them in all the courts of this state.

Section 5. KRS 134.500 is amended to read as follows:

- (1) Uncollectible tax claims shall bear interest at twelve percent (12%) per annum *simple interest* from the date the certificate of delinquency is issued. *A fraction of a month is counted as an entire month. The sheriff's add-on fee provided in KRS 134.430, the clerk's add-on fee provided in Section 4 of this Act, and the county attorney's add-on fee provided in this section shall be excluded from the interest calculation.* All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he makes his next regular settlement.
- (2) The cabinet shall be responsible for the collection of certificates of delinquency and delinquent personal property tax bills; however, the cabinet shall first offer the collection duties to the county attorney, unless the cabinet determines that the county attorney has previously failed to perform collection duties in a reasonable and acceptable manner. Any county attorney desiring to perform the duties associated with the collection of delinquent tax claims shall enter into a contract with the cabinet on an annual basis. The terms of the contract shall specify the duties to be undertaken by the county attorney. These duties shall include but are not limited to the following actions:
  - (a) Within fifty (50) days after the issuance of a certificate of delinquency to the state, county, and taxing district, the county attorney or the Revenue Cabinet shall cause a notice of the purchase to be mailed by regular mail to the property owner at the address on the records of the property valuation administrator. The notice shall advise the owner that the certificate is a lien of record against all property of the owner, and bears interest at the rate of twelve percent (12%) per annum, and if not paid will be subject to collection by the county attorney as provided by law.
  - (b) The county attorney shall file in the office of the county clerk a list of the names and addresses to which the notice was mailed along with a certificate that the notice was mailed in accordance with the requirements of this section.
  - (c) All notices returned as undeliverable shall be submitted to the property valuation administrator. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the notices with the corrected information to the county attorney prior to the expiration of the one (1) year tolling period provided in KRS 134.470.
  - (d) Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the county attorney shall cause a notice of his intention to enforce the lien to be mailed to all owners whose tax bills remain delinquent. No second notice shall be required for addresses previously determined to be undeliverable and for which the property valuation administrator has not provided corrected information.

- (e) Failure to mail the notices shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the notices shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage. The county attorney shall deliver at the same time a list of the owners whose tax bills remain delinquent to the property valuation administrator. The property valuation administrator shall review this list in accordance with the provisions of KRS 132.220 to establish that the properties on the list can be identified and physically located.
- (3) The county attorney who enters into a contract with the cabinet shall have a period of two (2) years after the expiration of the one (1) year tolling period provided in KRS 134.470 to collect delinquent tax bills or to initiate court action for their collection. At the expiration of the two (2) years the cabinet may assume responsibility for all uncollected bills except those with pending court action.
- (4) The county attorney who enters into a contract with the cabinet and performs his duties in respect to the certificate of delinquency and delinquent personal property tax bills shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and the fee shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. This fee shall be added to the amount of the tax claims and paid by the persons paying the tax claims. They shall not be paid by the taxing districts or deducted from the taxes due the taxing districts. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the fee. When the county attorney's office, in an effort to collect a certificate of delinquency, or delinquent personal property tax bills files a court action which is litigated by the taxpayer, an additional county's attorney fee equal to thirteen percent (13%) of the total tax plus ten percent (10%) penalty, may be added to the certificate or the bill and shall become part of the tax claim.
- (5) If a county attorney chooses not to contract for these collection duties or if a county attorney fails to perform the duties required by the contract, the cabinet shall assume responsibility for the collection process. In the performance of those duties, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of the amount due on the certificate of delinquency conferred generally upon the cabinet by Kentucky Revised Statutes including, but not limited to, KRS Chapters 131, 134, and 135. The twenty percent (20%) fee that would have otherwise been paid to the county attorney shall be paid to the cabinet for deposit in the delinquent tax fund provided for under KRS 134.400.
- (6) Any action on behalf of the state, county, and taxing districts authorized by this section or by KRS 134.470, 134.490, or 134.540 shall be filed on relation of the secretary, and the petition may be sent to the cabinet, which may require revision in instances where it deems revision or amendment necessary. The cabinet shall advise the county attorney in all actions, and may send him special assistance when the secretary deems assistance necessary. A copy of the judgment shall also be sent to the cabinet. If the cabinet sends assistance to a county attorney who contracts to prosecute the suits or proceedings, the county attorney shall be entitled to his full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

- (7) The cabinet may make its delinquent tax collection databases and other technical resources, including but not limited to income tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the cabinet to protect taxpayer confidentiality, to ensure database integrity, or to address other concerns of the cabinet.

**Approved April 6, 2000**