

**CHAPTER 62****(SB 171)**

AN ACT relating to unemployment insurance.

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

Section 1. KRS 271B.14-220 is amended to read as follows:

- (1) A corporation administratively dissolved under KRS 271B.14-210, or revoked under the provisions of KRS 271A.615, which was repealed by 1988 Ky. Acts, ch. 23, sec. 248, may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution or revocation. The application shall:
  - (a) Recite the name of the corporation and the effective date of its administrative dissolution or revocation;
  - (b) State that the ground or grounds for dissolution or revocation either did not exist or have been eliminated;
  - (c) State that the corporation's name satisfies the requirements of KRS 271B.4-010;
  - (d) Contain a certificate from the Department of Revenue reciting that all taxes owed by the corporation have been paid;~~and~~
  - (e) ***Contain a certificate from the Division of Unemployment Insurance in the Department for Workforce Investment reciting that all employer contributions, interest, penalties, and service capacity upgrade fund assessments have been paid; and***
  - (f) Be accompanied by the reinstatement penalty and the current fee for filing each delinquent annual report provided for in KRS 271B.1-220.
- (2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution or revocation and prepare a certificate of existence that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing the notice by first class mail to the corporation at its registered office.
- (3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution or revocation and the corporation shall resume carrying on its business as if the administrative dissolution or revocation had never occurred.
- (4) Notwithstanding any other provision to the contrary, any corporation which was administratively dissolved or revoked and has taken the action necessary to wind up and liquidate its business and affairs under KRS 271B.14-050, and notify claimants under KRS 271B.14-060 and 271B.14-070, shall be prohibited from reinstatement.

Section 2. KRS 341.300 is amended to read as follows:

- (1) Contributions unpaid on the date on which they are due and payable, as prescribed by the secretary, shall be subject to interest at the rate of one and five-tenths percent (1.5%) per month or fraction thereof, not to exceed ninety percent (90%) of the amount of such contributions, from and after such date until payment is received by the Office of Employment and Training, Department of Workforce Investment, irrespective of whether such delinquency has been reduced to a judgment or not as provided in subsection (2) of this section or is the subject of an administrative appeal or court action. Such interest shall be paid into the unemployment compensation administration fund.
- (2) If, after due notice, any subject employer defaults in any payment of contributions, interest or penalties thereon, the amount due shall be collected by a civil action instituted in the Franklin Circuit Court or the Franklin District Court depending upon the jurisdictional amount in controversy including interest and penalties in the name of the state, and the subject employer adjudged in default shall pay the costs of the action. Civil actions brought under this section shall be heard by the court, without the intervention of a jury, at the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter and cases arising under the workers' compensation law.
- (3) At or after the commencement of an action under subsection (2) of this section attachment may be had against the property of the liable subject employer for such contributions, interest and penalties without the execution

of a bond, or after judgment has been entered an execution may be issued against the property of such employer without the execution of a bond.

- (4) An action for the recovery of contributions, interest, or penalties under this section shall be barred and any lien therefor shall be canceled and extinguished unless collected or suit for collection has been filed within *ten (10)*~~five (5)~~ years from the due date of such contributions, except in the case of the filing of a false or fraudulent report the contributions due shall not be barred and may at any time be collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

Section 3. KRS 341.410 is amended to read as follows:

The secretary acting through his duly authorized representatives shall, upon request, determine the insured status of a worker. If a worker is found to have fully insured status, as defined in KRS 341.090(3), the Division of Unemployment Insurance shall notify all interested parties. If found to be not fully insured, the division shall notify the worker. The secretary may, at any time ~~within a worker's benefit year~~, make ~~such~~ further determinations as may affect the worker's eligibility for benefits or may set aside, reconsider, modify, or amend a determination at any time on the basis of additional information or to correct a clerical mistake. The ~~secretary~~~~commission~~ may by regulation prescribe what constitutes a determination as used in this section and KRS 341.420(2) and (3). ***Any further determination made pursuant to this section may be appealed pursuant to KRS 341.420.***

Section 4. KRS 341.800 is amended to read as follows:

- (1) In addition to any other remedy provided by the laws of the Commonwealth, if any subject employer assessed or determined liable for the payment of contributions, including penalties and interest, refuses to pay contributions when due and has not sought administrative or judicial review of the assessment or determination as provided for in this chapter, or if such subject employer has exhausted or abandoned administrative or judicial review provided in this chapter so that the assessment or determination is final, due and owing, then the secretary or his delegate may cause a demand to be made on the subject employer for the payment thereof. If the contributions, including interest and penalties, remain unpaid for ten (10) days after demand, then the secretary or his delegate may collect the contributions, including interest and penalties, and the costs of such collection by levy upon all nonexempt real and personal property, disposable earnings, and right to property, belonging to the subject employer or on which there is a lien provided in this chapter for the payment of such contributions.
- (2) As soon as practicable after seizure of property, notice in writing shall be given by the secretary or his delegate to the owner of the property. The notice shall be given to the owner either in person or by certified mail to his last known address. Such notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.
- (3) The secretary or his delegate shall as soon as practicable after the seizure of the property cause a notification of the sale of the seized property to be published in the newspaper with the largest circulation within the county wherein such seizure is made. Such notice shall be published once each week for three (3) successive weeks. In addition, such notice shall be posted at the courthouse and three (3) other public places in the county where the seizure is made for fifteen (15) days next preceding sale. The notice shall specify the property to be sold, and the time, place, manner, and condition of the sale thereof.
- (4) If any property liable to levy is not divisible, so as to enable the secretary or his delegate by sale of a part thereof to raise the whole amount of the contributions, penalty, interest and cost of the levy, the whole of such property shall be sold.
- (5) The time of sale shall not be less than thirty (30) nor more than ninety (90) days from the time the seizure is made. The place of sale shall be within the county in which the property is seized, except by special order of the secretary.
- (6) The sale shall not be conducted in any manner other than by public auction, or by public sale under sealed bids. In the case of the seizure of several items of property, the secretary or his delegate may offer such items for sale separately, in groups, or in the aggregate and accept whichever method produces the highest aggregate amount.
- (7) The secretary or his delegate shall determine whether payment in full shall be required at the time of acceptance of a bid, or whether a part of such payment may be deferred for such period, not to exceed one (1) month, as he may determine to be appropriate. If payment in full is required at the time of acceptance of a bid

and is not then and there paid, the secretary or his delegate shall forthwith proceed to again sell the property as provided in subsection (6) of this section. If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid, within the prescribed period, suit may be instituted in the Franklin Circuit Court or the Circuit Court of the county where the sale was conducted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of twelve percent (12%) per annum from the date of the sale; or, in the discretion of the secretary, the sale may be declared to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in this section. In the event of such readvertisement and sale, any new purchaser shall receive such property or rights to property, free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by such defaulting purchaser shall be forfeited.

- (8) If the secretary or his delegate determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense, he shall appraise the value of such property and, if the owner of the property can be readily found, the secretary or his delegate shall give him notice of such determination of the appraised value of the property. The property shall be returned to the owner if, within such time as may be specified in the notice, the owner pays to the secretary or his delegate an amount equal to the appraised value, or gives bond in such form, with such sureties, and in such amount as the secretary or his delegate determines to be appropriate in the circumstances. If the owner does not pay such amount or furnish such bond in accordance with this subsection, the secretary or his delegate shall as soon as practicable make public sale of the property without regard to the advertisement requirements or the time limitations contained in subsections (3) and (5) of this section.
- (9) No proceedings under this section shall be commenced more than *ten (10)*~~five (5)~~ years after the assessment or determination becomes final.
- (10) The term "levy" as used in KRS 341.800 to 341.830 includes the power of distraint and seizure. A levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the secretary or his delegate may levy upon property or rights thereto, he may seize and sell such property and rights to property, whether real, personal, tangible or intangible.

Section 5. Section 1 of this Act takes effect July 1, 2008.

**Approved March 21, 2007.**