

CHAPTER 68

(HB 443)

AN ACT relating to electronic data matches and levies.

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

Section 1. KRS 131.672 is amended to read as follows:

- (1) To assist the department in the collection of delinquent taxes and debts owed to the Commonwealth, the department shall ~~design, develop,~~ implement ~~and~~ and operate a financial institution match system for the purpose of identifying and seizing the financial assets of delinquent taxpayers and debtors as identified by the department. The provisions of KRS 131.670 to 131.676 shall be applied uniformly to all financial institutions within the Commonwealth ***holding accounts subject to levy as authorized by KRS 131.500 and shall not be implemented in any financial institution unless and until the department is prepared to implement the system in ninety percent (90%) of all financial institutions within a period of no longer than eighteen (18) months from the effective date of this Act, or unless the financial institution in which the system will be implemented and the department agree, in writing, to implement the system sooner in that financial institution***~~[as feasible]~~.
- (2) ***The department and the financial institution shall implement and operate the system identified in subsection (1) of this section by use of the***~~[Each financial institution in the Commonwealth shall, in conjunction with the department, develop and operate a data match system to facilitate the identification and seizure of financial assets of delinquent taxpayers and debtors identified by the department. If a financial institution has a] data match system ***operated by the financial institution as required by***~~developed pursuant to] KRS 205.772 and 205.774~~~~[(2)] for the purpose of administering the child support enforcement programs of the Commonwealth, and if the system is compatible with the requirements of KRS 131.670 to 131.676, the financial institution may utilize that system to comply with the provisions of this subsection]~~.~~
- (3)
 - (a) When the department determines that the name, record address, and either Social Security number or taxpayer identification number of an account with a financial institution matches the name, record address, and either the Social Security number or taxpayer identification number of a delinquent taxpayer or debtor, a lien or levy shall, subject to the provisions of subsection (4) of this section, arise against the assets in the account at the time of receipt of the notice by the financial institution at which the account is maintained.
 - (b) The department shall provide notice of the following to the debtor or delinquent taxpayer and the financial institution:
 1. The match;
 2. The lien or levy arising therefrom; and
 3. The action to be taken to surrender or encumber the account with the lien or levy for delinquent taxes.

Notice shall be provided to the debtor or delinquent taxpayer within two (2) business days of the date the notice is sent to the financial institution.
- (4) A financial institution ordered to surrender or encumber an account shall be entitled to collect its normally scheduled account activity fees to maintain the account during the period of time the account is seized or encumbered.
- (5) A financial institution may charge an account levied on by the department a fee of not more than twenty dollars (\$20), which may be deducted from the account prior to remitting any funds to the department.
- (6) The department shall bear the cost or, if paid by the delinquent taxpayer or debtor, reimburse the delinquent taxpayer or debtor for any bank charges incurred as a result of any erroneous lien or levy by the department, provided the erroneous lien or levy was caused by department error and, prior to the issuance of the erroneous lien or levy, the delinquent taxpayer or debtor timely responded to all contacts by the department and provided information or documentation sufficient to establish his or her position.
- (7) The department ~~shall~~~~may~~ promulgate administrative regulations to implement KRS 131.670 to 131.676.
- (8) ***For purposes of this section, "financial institution" has the same meaning as provided in KRS 205.772.***

Section 2. KRS 131.990 is amended to read as follows:

- (1) Any person who fails or refuses to obey a subpoena or order of the Kentucky Board of Tax Appeals made pursuant to KRS Chapter 13B shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500).
- (2)
 - (a) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(1) shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
 - (b) Any person who violates the provisions of KRS 131.190(1) by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
 - (c) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(4) shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
 - (d) Any person who violates the provisions of KRS 131.190(4) by divulging confidential taxpayer information shall be fined not more than five thousand dollars (\$5,000) or imprisoned for not more than five (5) years, or both.
 - (e) Any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the Department of Revenue, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, who violates the provisions of KRS 131.190(1) or (4) may, in addition to the penalties imposed under this subsection, be disqualified and removed from office or employment.
- (3) Any person who willfully fails to comply with the rules and regulations promulgated by the Department of Revenue for the administration of delinquent tax collections shall be fined not less than twenty dollars (\$20) nor more than one thousand dollars (\$1,000).
- (4) Any person who fails to do any act required or does any act forbidden by KRS 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
- (5) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty of one-half of one percent (0.5%) of the amount that should have been remitted under the provisions of KRS 131.155 for each failure to comply.
- (6)
 - (a) ***Any person or financial institution that fails to comply with the provisions of Section 1 of this Act and KRS 131.674 within ninety (90) days after notification by the Department of Revenue shall, unless the failure is due to reasonable cause as defined in KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no more than five thousand dollars (\$5,000) for each full month of noncompliance. The fine shall begin on the first day of the month beginning after the expiration of the ninety (90) days.***
 - (b) ***Any financial institution that fails or refuses to comply with the provisions of Section 1 of this Act and KRS 131.674 within one hundred twenty (120) days after the notification by the Department of Revenue shall, unless the failure is due to reasonable cause as defined in KRS 131.010, forfeit its right to do business within the Commonwealth, unless and until the financial institution is in compliance. Upon notification by the Department of Revenue, the executive director of the Office of Financial Institutions shall, as applicable, revoke the authority of the financial institutions or its agents to do business in the Commonwealth.***

Section 3. KRS 205.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 205.170 or subsections (1) to (3) of KRS 205.175 shall be guilty of a Class A misdemeanor.
- (2) Any person who violates subsection (4) of KRS 205.175 shall be guilty of a Class D felony.
- (3) Any person who willfully violates any of the provisions of KRS 205.310, or any rule or regulation thereunder, shall be guilty of a Class B misdemeanor. Each failure or violation shall constitute a separate offense.
- (4) Any bank, savings and loan association, credit union, or other financial institution which fails to comply with the provisions of subsection (1) of KRS 205.835 or which submits fraudulent information to the cabinet shall be guilty of a Class A misdemeanor.

- (5) Any bank, savings and loan association, credit union, investment company, savings institution, trust company, insurance or annuity company, pension or profit-sharing trust company, or other financial institution failing to comply with provisions of KRS 405.430(11) shall be subject to a penalty of five hundred dollars (\$500) for each failure to comply.
- (6) *Any person or financial institution that fails to comply with the provisions of KRS 205.772 or any administrative regulation promulgated under KRS 205.772, within ninety (90) days after notification by the cabinet shall, unless the failure is due to reasonable cause as defined in KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no more than five thousand dollars (\$5,000) for each full month of noncompliance. The fine shall begin on the first day of the month beginning after the expiration of the ninety (90) days.*

Approved March 21, 2007.