

CHAPTER 86

(HB 318)

AN ACT relating to local government regulation of real and personal property.

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

➔Section 1. KRS 65.8811 is amended to read as follows:

- (1) (a) A code enforcement board shall consist of no fewer than three (3) members who shall be appointed by the executive authority of the local government, subject to the approval of the legislative body.
- (b) A joint code enforcement board shall ***be appointed as set out in the terms of an interlocal agreement and shall*** include representation on the board of all participating local governments. ***Two (2) or more participating local governments may share an appointment or appointments***~~[and members shall be appointed]~~ as set out in the terms of the interlocal agreement.
- (2) The initial appointments to a code enforcement board shall be as follows:
 - (a) One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of one (1) year;
 - (b) One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of two (2) years; and
 - (c) One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be appointed for a term of three (3) years.

All subsequent appointments shall be made for a term of three (3) years.

- (3) (a) Each member of a code enforcement board shall have resided within the boundaries of the local government unit for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.
- (b) Board members serving on joint code enforcement boards shall have resided within the boundaries of the local government they represent for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.
- (4) A member may be reappointed, subject to approval of the legislative body ***or, in the case of a joint appointment, approval of the legislative bodies.***
- (5) Any vacancy on a code enforcement board shall be filled within sixty (60) days by the executive authority, subject to the approval of the legislative body. ***Joint appointments shall require an agreement of the executive authorities and approval of the legislative bodies in filling the vacancy.*** If a vacancy is not filled within sixty (60) days, the remaining members of the code enforcement board shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.
- (6) Any member of a code enforcement board may be removed by the appointing authority ***or authorities*** for misconduct, inefficiency, or willful neglect of duty. Any appointing authority ***or authorities exercising***~~[who exercises]~~ the power to remove a member of a code enforcement board shall submit a written statement to the member and to the legislative body of the local government ***or local governments***, setting forth the reasons for removal. The member so removed shall have the right of appeal to the Circuit Court.
- (7) All members of a code enforcement board shall, before entering upon their duties, take the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky.
- (8) The members of a code enforcement board may be reimbursed for expenses or compensated, or both, as specified in the ordinance creating the board.
- (9) No member of a local government code enforcement board shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the unit of local government ***that is subject to the jurisdiction of***~~[that has created]~~ the code enforcement board.
- (10) Each legislative body that elects to establish a code enforcement board is encouraged to provide opportunities for education regarding pertinent topics for the members of the code enforcement board.

➔Section 2. KRS 65.8825 is amended to read as follows:

- (1) Enforcement proceedings before a code enforcement board or hearing officer shall be initiated by the issuance of a citation by a code enforcement officer.
- (2) When a code enforcement officer, based upon personal observation or investigation, has reasonable cause to believe that a person has committed a violation of a local government ordinance, the officer is authorized to issue a citation by:
 - (a) Personal service to the alleged violator;
 - (b) Leaving a copy of the citation with any person eighteen (18) years of age or older who is on the premises, if the alleged violator is not on the premises at the time the citation is issued; ~~{or}~~
 - (c) ***Mailing a copy of the citation by regular first-class mail to the last known recorded mailing address of the alleged violator; or***
 - (d) ***If, in the exercise of reasonable diligence, the issuance of a citation using the methods set out in paragraphs (a) to (c) of this subsection is not possible, then the citation is properly served by*** posting a copy of the citation in a conspicuous place on the premises ~~and mailing a copy of the citation by regular, first class mail of the United States Postal Service to the owner of record of the property if no one is on the premises at the time the citation is issued.~~
- (3) When authorized by ordinance, a code enforcement officer may, in lieu of immediately issuing a citation, give notice that a violation shall be remedied within a specified period of time. If the person to whom the notice is given fails or refuses to remedy the violation within the time specified, the code enforcement officer is authorized to issue a citation.
- (4) The citation issued by the code enforcement officer shall be in a form prescribed by the local government and shall contain, in addition to any other information required by ordinance or rule of the board:
 - (a) The date and time of issuance;
 - (b) The name and address of the person to whom the citation is issued;
 - (c) The date and time the offense was committed;
 - (d) The facts constituting the offense;
 - (e) The section of the code or the number of the ordinance violated;
 - (f) The name of the code enforcement officer;
 - (g) The civil fine that will be imposed for the violation if the person does not contest the citation if the local government has elected to use the alternative authorized under KRS 65.8808(2)(b);
 - (h) The maximum civil fine that may be imposed if the person elects to contest the citation;
 - (i) The procedure for the person to follow in order to pay the civil fine or to contest the citation; and
 - (j) A statement that if the person fails to pay the civil fine set forth in the citation or contest the citation, within the time allowed, the person shall be deemed to have waived the right to a hearing before the code enforcement board or hearing officer to contest the citation and that the determination that a violation was committed shall be final, and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court.
- (5) After issuing a citation to an alleged violator, the code enforcement officer shall notify the code enforcement board by delivering the citation to the administrative official designated by ordinance or by the board. The code enforcement officer, hearing officer, or code enforcement board may also elect to provide notice of the issuance of the citation to any lienholder with an interest in the subject premises.
- (6) When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven (7) days of the date the citation is issued by either paying the civil fine set forth in the citation or requesting, in writing, a hearing to contest the citation. If the person fails to respond to the citation within seven (7) days, the person shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be considered final. In this event, the citation, as issued, shall be deemed a final order determining that the violation was committed and imposing the civil fine set forth in the citation, and the alleged violator shall be deemed to have waived the right to appeal the final order to District Court. Notice of the final order shall be provided to the cited violator ***by***:

- (a) *Regular first-class mail;*
- (b) *Certified mail, return receipt requested;*
- (c) *Personal delivery; or*
- (d) *Leaving a copy of the order at that person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the order* ~~in the manner set forth in KRS 65.8828(5).~~

➔Section 3. KRS 65.8836 is amended to read as follows:

- (1) A local government adopting the provisions of KRS 65.8801 to 65.8839 shall implement a system for notification to lienholders that meets the minimum requirements of subsection (2) of this section and shall comply with the procedures to permit remedial action by lienholders as provided in subsection (3) of this section in order to obtain and maintain the lien priority over previously filed liens granted in KRS 65.8835.
- (2) A local government shall create a notification system that provides lienholders and others that elect to do so with electronic notifications of all final orders entered pursuant to KRS 65.8801 to 65.8839. The system shall meet the following minimum requirements:
 - (a) An individual or entity may register with the local government to receive information on each final order by providing a name, mailing address, phone number, and an electronic mailing address to the local government. The local government shall accept this information in any form submitted by a registrant. It shall be the responsibility of the registrant to maintain and update its contact information with the local government, except that a local government shall inform a registrant of any evidence the local government receives that the electronic mailing address is invalid or not functional in order to provide the registrant an opportunity to submit an updated electronic mailing address;
 - (b) No less than once a month but no more frequently than once per week, the local government shall send electronic mail notification of all final orders issued pursuant to the provisions of KRS 65.8801 to 65.8839 since the last date of notification to each party registered pursuant to paragraph (a) of this subsection. The notification shall, at a minimum, include or provide an electronic link to a document or database meeting the requirements of this paragraph that includes:
 - 1. The name of the person charged with a violation;
 - 2. The physical address of the premises where the violation occurred;
 - 3. The last known mailing address for the owner of the premises where the violation occurred *if, in the exercise of reasonable diligence, it is ascertainable.*
 - 4. A specific description of the citation leading to the final order, including the citation detail set forth in KRS 65.8825(4)(a) to (h), which may be satisfied by including a copy of the full citation;
 - 5. The findings of the final order, including the penalty or penalties imposed by the final order, which may be satisfied by providing a copy of the full final order; and
 - 6. The status of the final order in regards to its ability to be appealed pursuant to KRS 65.8831, except that the local government shall provide an update to registrants if an appeal is filed on a final order pursuant to KRS 65.8831;
 - (c) *At the same time the electronic notification required under paragraph (b) of this subsection is sent,* a local government shall post ~~this~~^{the} notification ~~required under paragraph (b) of this subsection~~ or provide a summary of the information regarding each final order required by paragraph (b) of this subsection in a conspicuous place on its public Web site, which shall be affiliated with the local government and contain other information about the local government ~~within ten (10) days of the issuance of the final order~~. If the local government posts using summary form:
 - 1. The summary shall be calculated to reasonably allow identification of the specific properties which may be impacted by the lien; and
 - 2. Upon request, the local government shall provide the complete record of a final order created under paragraph (b) of this subsection without charge; and
 - (d) A local government shall maintain the records created under this subsection for a period of ten (10) years following their issuance.

- (3) (a) A lien holder of record may, within forty-five (45) days from the date of issuance of notification under subsection (2) of this section, correct the violation if it has not already been abated, or elect to pay all civil fines assessed for the violation and all charges and fees incurred by the local government in connection with the enforcement of the ordinance, including abatement costs. This subsection shall not prohibit the local government from taking immediate action if necessitated under KRS 65.8838.
- (b) The lien provided by KRS 65.8835 shall not take precedence over previously recorded liens if:
1. The local government failed to comply with the requirements of subsection (2) of this section for notification of the final order; or
 2. A prior lienholder corrected the violation or paid all civil fines assessed for the violation and all charges and fees incurred by the local government in connection with the enforcement of the ordinance, including abatement costs within forty-five (45) days as provided in paragraph (a) of this subsection.
- (c) A lien that does not take precedence over previously recorded liens under the circumstances outlined in paragraph (b) of this subsection, shall, if the final order remains partially unsatisfied, take precedence over all other subsequent liens except liens for state, county, school board and city taxes.
- (d) Nothing contained in this subsection shall prohibit a local government from recording a lien before the forty-five (45) day period established in paragraph (a) of this subsection expires. If the lien is fully satisfied prior to the expiration of the forty-five (45) day period established in paragraph (a) of this subsection, the local government shall release the lien in the county clerk's office where the lien is recorded within fifteen (15) days of satisfaction.
- (4) The local government may delegate responsibility for compliance with this section to the code enforcement board or its administrative staff as specified in the ordinance establishing and governing the operation of the code enforcement board.
- (5) The failure of a local government to comply with this section or the failure of a lien to take precedence over previously filed liens as provided in subsection (3)(b) of this section, shall not limit or restrict any other remedies that the local government has against the property or the violator.
- (6) ~~The requirements of this section shall not be mandatory for a local government's compliance with KRS 65.8840.~~
- ~~(7) The requirements of this section shall not apply to a local government when it enforces KRS 65.8840.~~

➔Section 4. KRS 65.350 is amended to read as follows:

As used in KRS 65.350 to KRS 65.375:

- (1) "Authority" means the land bank authority established pursuant to KRS 65.210 to 65.300 and KRS 65.350 to 65.375;
- (2) "Agreement" means the interlocal cooperation agreement entered into by the parties pursuant to KRS 65.210 to 65.300 and KRS 65.350 to 65.375;
- (3) "Local government" means every city, regardless of classification, every county, and every consolidated local government and urban-county government;
- (4) "**Party**" or "parties" means **one (1) or more**~~the~~ parties to **an**~~the~~ agreement, **which**~~that~~ shall include any local government, the local school district, which may include county and independent school districts, within the county and the Commonwealth of Kentucky;
- (5) "Property" means real property, including any improvements thereon;~~and~~
- (6) "Tax delinquent property" means any property on which the taxes levied and assessed by any party remain in whole or in part unpaid on the date due and payable; **and**
- (7) "**Local government lien**" means any lien established by or in favor of a local government under **KRS Chapter 65, 82, 91, 91A, or 134.**

➔Section 5. KRS 65.355 is amended to read as follows:

- (1) Any local government, the county or independent school district within the county, and the Commonwealth of Kentucky may enter into an interlocal cooperation agreement pursuant to KRS 65.210 to 65.300 for the purpose of establishing a land bank authority pursuant to KRS 65.350 to 65.375.

- (2) The authority shall be a public body corporate and politic with the power to sue and be sued, issue deeds in its name, and any other powers necessary and convenient to carry out these powers or that may be granted to the authority by the parties.
- (3) The authority shall be established to acquire the tax delinquent properties of the parties, **properties that have become blighted or deteriorated as defined by KRS 99.705 and properties that have local government liens filed against them**, ~~in order~~ to **facilitate** ~~foster~~ the public purpose of returning **property** ~~land~~ that is in a non-revenue generating, non-tax producing status to effective utilization, **including but not limited to providing** ~~in order to provide~~ housing, new industry, and jobs for the citizens of the county. The authority shall have the powers provided in KRS 65.370 and 65.375 and in the interlocal cooperation agreement.

➔Section 6. KRS 65.365 is amended to read as follows:

~~{(4)}~~ Upon the creation of a land bank authority, the authority shall maintain a ~~{mailing}~~ list of **electronic mail addresses for all** city, county, or regional housing authorities, and the Kentucky Housing Corporation, that have requested to be notified prior to any action by the authority to dispose of property in its inventory. It shall be the responsibility of an interested housing authority to provide the authority with the following information:

- ~~(1){(a)}~~ **The** name of the organization;
- ~~(2){(b)}~~ **The electronic** mailing address for the organization; and
- ~~(3){(c)}~~ The name and title of a contact person for the organization.

➔Section 7. KRS 65.370 is amended to read as follows:

- (1) The authority shall hold in its own name, for the benefit of the parties, all properties conveyed to it by the parties, all tax delinquent properties **or properties having local government liens** acquired by it pursuant to **Section 8 of this Act** ~~this section~~, and all properties otherwise acquired **by other means**.
- (2) ~~It shall be the duty of~~ The authority **shall** ~~to~~ administer the properties **held** ~~acquired~~ by it, as follows:
 - (a) All property **held** ~~acquired~~ by the authority shall be inventoried, ~~and appraised~~ and the inventory shall be maintained as a public record;
 - (b) The authority shall organize and classify the property on the basis of suitability for use;
 - (c) The authority shall maintain all property held by it in accordance with applicable laws and codes; and
 - (d) The authority shall have the power to manage, maintain, protect, rent, lease, repair, insure, alter, ~~sell~~ ~~sale~~, trade, exchange, or otherwise dispose of any property on terms and conditions as determined by KRS 65.350 to 65.375 and by the authority. The authority may assemble tracts or parcels of property ~~for public parks or other public purposes~~, and ~~to that end~~ may exchange parcels, and **may** otherwise effectuate the purposes **of the agreement and of KRS 65.350 to 65.375** ~~by agreement with any party~~.
- (3) Before the authority may rent, lease, sell, trade, exchange, or otherwise dispose of any property it shall:
 - (a) Establish a price for rent or lease purposes;
 - (b) Establish a purchase price for sale purposes; or
 - (c) Establish the conditions for **sale, rent**, trade, exchange, or other disposal of the property.
- (4) The authority shall publish pursuant to KRS Chapter 424, the information required pursuant to subsection (3) of this section, at least **seven (7)** ~~thirty (30)~~ days before any property may be disposed of from the inventory. Immediately following publication the authority shall notify by **electronic** ~~first class~~ mail all housing authorities on the mailing list required pursuant to KRS 65.365 of the authority's intent to dispose of a specified property and the established price to rent, lease, or purchase the property, **and** ~~for the~~ conditions for ~~trade, exchange, or other~~ disposal of the property.
- (5) No property shall be acquired pursuant to KRS 65.350 to 65.375 by any entity for investment purposes only and with no intent to use the property other than to transfer the property at a future date for monetary gain.
- (6) **When a property is acquired by the authority, all state, county, city, and school district taxes shall be extinguished** ~~No property acquired by a housing authority pursuant to KRS 65.350 to 65.375 shall be transferred to a similar group without prior approval of the authority~~.

- (7) *When the authority sells or otherwise disposes of property, except property acquired and disposed of pursuant to Section 8 of this Act, all proceeds shall be retained by the authority*~~[The acquisition and disposal of property by the authority shall not be governed or controlled by any regulations or laws of the parties, unless specifically provided in the agreement].~~
- (8) *For the first five (5) years following conveyance of the property by the authority to an owner that is subject to ad valorem property taxes, fifty percent (50%) of the ad valorem property taxes collected from the property by all parties to the agreement, except school districts, shall be remitted to the authority*~~[No property located within the boundaries of a local government may be sold, traded, exchanged, or otherwise disposed of, unless the transaction is approved by the member appointed by the affected local government].~~

➔Section 8. KRS 65.375 is amended to read as follows:

- (1) If any party obtains a judgment against a tax delinquent property within the county for the taxes and, to satisfy the judgment, the property is ordered sold at a tax sale pursuant to KRS 91.504 or other provision of the Kentucky Revised Statutes, if no person bids an amount equal to the full amount of all tax bills, interest, and costs owing on the property at the sale, the authority shall be deemed to have bid the full amount of all tax bills, interest, and costs due to all parties of the authority regardless of whether or not they are all parties to the lawsuit. The authority shall not be required to make actual payment to the court for the amount deemed to have been bid. The court, notwithstanding any other provision of law, shall treat the amount deemed to have been bid as cash received. Upon proper motion by the authority, the court shall make a deed of the property to the "Land Bank Authority." The title to the property shall be an absolute estate in fee simple, free and clear of all tax bills, interests, and costs owing to the parties of the authority but shall be subject to rights of way of public utilities on which tax has otherwise been paid and subject to any right of redemption of the United States of America, if any.
- (2) ~~[When a property is acquired by the authority, all state, county, city, and school district taxes shall be extinguished.~~
- (3) ~~]~~At the time that the authority sells or otherwise disposes of property *obtained pursuant to this section* as part of its land bank program, the proceeds from the sale shall be distributed as follows:
- (a) The party or parties bringing the action that resulted in the acquisition of the property by the land bank authority shall be reimbursed, to the extent proceeds are available, for all costs incurred; and
 - (b) Any remaining proceeds shall be distributed to the parties in proportion to their respective tax bills. Conveyance of a property to a party shall not constitute disposal.

Signed by Governor March 21, 2017.