

65.058 Definitions for section -- Forbearance period after acquisition of public water or wastewater system -- Duties of acquiring utility -- Duties of Energy and Environment Cabinet and Public Service Commission upon expiration of forbearance period.

- (1) As used in this section:
 - (a) "Acquiring utility" means a public water or wastewater system, or a utility described in KRS 278.010(3)(d) or (f);
 - (b) "Cabinet" means the Energy and Environment Cabinet;
 - (c) "Commission" means the Public Service Commission;
 - (d) "Forbearance period" means a three (3) year period of time that begins on the day that the sale of the public water or wastewater system to the acquiring utility closes;
 - (e) "Governing body" means the appointed officials having control and responsibility for the governance of the public water or wastewater system; and
 - (f) "Public water or wastewater system" means any of the following that serve a community:
 1. A water district, water association, or joint water commission formed under KRS Chapter 74;
 2. A sewer district or sanitation district formed under KRS Chapter 67, 76, or 220;
 3. A municipal water utility and water works, sewer utility, or sewage system or works, or combined electric and water plant formed under this chapter; and
 4. Any combination of two (2) or more of the entities listed in subparagraphs 1. to 3. of this paragraph.
- (2) Notwithstanding any provision of law to the contrary, when a public water or wastewater system is sold, the acquiring utility shall have a forbearance period during which the acquiring utility shall:
 - (a) Not be required to pay any of the acquired public water or wastewater system's fines or penalties imposed for violations of KRS Chapter 224 or 278, or the administrative regulations promulgated thereunder, including any fines and penalties imposed prior to April 12, 2024;
 - (b) Make all necessary improvements to the public water or wastewater system and its public works to correct past violations and bring the water system, wastewater system, or both into compliance with state and federal law; and
 - (c) Be given priority for any eligible financing from the Kentucky Infrastructure Authority to correct all deficiencies in the system identified in state and federal violations.
- (3) The public water or wastewater system shall maintain and make accessible all books and records associated with the actions taken during the forbearance period to the cabinet, the Kentucky Infrastructure Authority, and the commission to demonstrate compliance with this section. The acquiring utility shall comply with

any law requiring audits of its books, records, or operations of its facilities or works.

- (4) Within thirty (30) days of receiving a notice of intent to purchase a public water or wastewater system by the governing body or owner of the acquiring utility, the cabinet and the commission shall each prepare and submit a list to the acquiring utility detailing the fines, penalties, and other deficiencies that have accrued to the acquired public water or wastewater system and the length of time that those amounts may be deferred during the forbearance period.
- (5) After the forbearance period has expired, the cabinet and the commission shall either:
 - (a) Waive all fines and penalties incurred prior to the commencement of the forbearance period if all of the deficiencies giving rise to the fines and penalties have been resolved and:
 1. The deficient public water or wastewater system is placed under a management and operations agreement with all day-to-day management and operations handled by a well-operated utility; or
 2. The deficient public water or wastewater system is sold to an acquiring utility;
 - (b) Proceed to collect all past due fines and penalties if the deficiencies have not been resolved or the deficient public water or wastewater system is not under a management and operations agreement or sold to an acquiring utility; or
 - (c) Grant an extension of the forbearance period of no longer than six (6) months if the commission and the cabinet determine that all of the conditions for waiver of fines and penalties in paragraph (a) of this subsection will be satisfied by that time.

Notwithstanding any provision of law to the contrary, interest or additional charges shall not be imposed by the cabinet or the commission on those accrued amounts during the forbearance period.

- (6) An acquired public water or wastewater system to which a forbearance period has been applied under this section shall not be eligible for any additional forbearance periods.

Effective: April 12, 2024

History: Created 2024 Ky. Acts ch. 185, sec. 4, effective April 12, 2024.