

1 AN ACT relating to fees charged by third-party purchasers of property tax
2 certificates of delinquency.

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

4 ➔Section 1. KRS 134.452 is amended to read as follows:

- 5 (1) Notwithstanding any other provisions of this chapter, a third-party purchaser of a
6 certificate of delinquency shall be entitled to collect only the following prelitigation
7 fees:
- 8 (a) The amount actually paid for the certificate of delinquency;
- 9 (b) Interest as provided in KRS 134.125, calculated on the amount actually paid
10 to the county clerk from the date the certificate of delinquency was purchased
11 until paid; and
- 12 (c) 1. Prelitigation attorneys' fees, which may include amounts incurred for
13 collection efforts and costs related to notification, processing, research,
14 communication, compliance, legal costs, documentation, and similar
15 expenses, from the date the third-party purchaser purchases the
16 certificate of delinquency from the county clerk, to the date on which the
17 notice required by KRS 134.490(2) is mailed by the third-party
18 purchaser.
- 19 2. The amount that may be collected by the third-party purchaser as
20 prelitigation attorneys' fees shall be subject to the following limitations:
- 21 a. i. If the amount paid for a certificate of delinquency is between
22 five dollars (\$5) and three hundred fifty dollars (\$350), actual
23 reasonable fees incurred up to **eighty percent (80%)**~~one~~
24 ~~hundred percent (100%)~~ of the amount of the certificate of
25 delinquency, not to exceed **two hundred eighty dollars**
26 **(\$280)**~~three hundred fifty dollars (\$350)~~;
- 27 ii. If the amount paid for a certificate of delinquency is between

- 1 three hundred fifty-one dollars (\$351) and seven hundred
2 dollars (\$700), actual reasonable fees incurred up to sixty
3 percent (60%)~~[eighty percent (80%)]~~ of the amount of the
4 certificate of delinquency, not to exceed four hundred
5 twenty dollars (\$420)~~[five hundred sixty dollars (\$560)]~~; and
- 6 iii. If the amount paid for a certificate of delinquency is above
7 seven hundred one dollars (\$701), actual reasonable fees
8 incurred up to fifty percent (50%)~~[seventy percent (70%)]~~ of
9 the amount of the certificate of delinquency, not to exceed
10 five hundred sixty dollars (\$560)~~[seven hundred dollars~~
11 ~~(\$700)]~~; and
- 12 b. If a third-party purchaser is the owner of more than one (1)
13 certificate of delinquency against the same taxpayer, actual and
14 reasonable prelitigation attorneys' fees for all certificates of
15 delinquency against the same taxpayer shall not exceed one and
16 one-half (1.5) times the maximum amount permitted in
17 subdivision a. of this subparagraph for the largest tax bill owed by
18 the taxpayer.
- 19 3. The amounts allowed by subparagraph 2. of this paragraph shall not
20 accrue to the account of the delinquent taxpayer, nor be charged by the
21 third-party purchaser against the delinquent taxpayer all at one (1) time
22 unless the amount of certificate of delinquency is one hundred seventy-
23 five dollars (\$175) or less. The third-party purchaser may accrue to the
24 account of the delinquent taxpayer, and charge the delinquent taxpayer
25 an amount equal to the lesser of prelitigation attorney's fees incurred by
26 the third-party purchaser since the prior notice was sent or one hundred
27 seventy-five dollars (\$175), for each notice sent to the delinquent

1 taxpayer, provided that:

2 a. The total aggregate amount of prelitigation attorneys' fees that may
3 accrue to the account of the delinquent taxpayer and be charged by
4 the third-party purchaser against the delinquent taxpayer shall not
5 exceed the limitations established by paragraph (a) of this
6 subsection; and

7 b. Additional fees shall not accrue to the account of the delinquent
8 taxpayer or be charged by the third-party purchaser against the
9 delinquent taxpayer more frequently than every ninety (90) days,
10 regardless of how many notices the third-party purchaser may
11 send.

12 (2) If the delinquent taxpayer and the third-party purchaser enter into a payment
13 agreement, the third-party purchaser may collect the installment payment processing
14 fee authorized by KRS 134.490(5).

15 (3) (a) In addition to the fees established by subsections (1), (2), and (4) of this
16 section, a third-party purchaser may collect actual, reasonable attorneys' fees
17 and costs that arise due to the prosecution of collection remedies or the
18 protection of a certificate of delinquency that is involved in litigation. Fees
19 and costs permitted under this subsection include fees and costs incurred from
20 the first day after the notice required by KRS 134.490(2) is sent through the
21 day any litigation is finally concluded.

22 (b) For purposes of this subsection:

23 1. Actual attorneys' litigation fees up to two thousand dollars (\$2,000) may
24 be reasonable if the fees are based upon documented work performed at
25 a rate commensurate with hourly rates customarily charged by private
26 attorneys in that jurisdiction for similar services. A flat rate, without
27 hours documented for work performed, may be reasonable if the flat fee

1 is determined to be discounted from the usual and customary rates for
2 comparable work; and

3 2. Any attorneys' litigation fee in excess of two thousand dollars (\$2,000)
4 shall be allowed if authorized by the court upon a finding that the third-
5 party purchaser incurred actual attorneys' litigation fees in excess of two
6 thousand dollars (\$2,000) and that those attorneys' litigation fees were
7 warranted based upon the complexity of the issues presented in the
8 litigation.

9 (4) The third-party purchaser may collect administrative fees incurred for preparing,
10 recording, and releasing an assignment of the certificate of delinquency in the
11 county clerk's office, not to exceed one hundred~~[fifteen]~~ dollars (\$100)~~[((\$115)]~~.

12 (5) The General Assembly recognizes that third-party purchasers play an important role
13 in the delinquent tax collection system, allowing taxing districts to receive needed
14 funds on a timely basis. The General Assembly has carefully considered the fees
15 and charges authorized by this section, and has determined that the amounts
16 established are reasonable based on the costs of collection and fees and charges
17 incurred in litigation.

18 (6) A certificate of delinquency owned by a third-party purchaser shall be deemed a
19 general intangible for the purposes of Article 9 of KRS Chapter 355.

20 ➔Section 2. Section 1 of this Act takes effect January 1, 2018, and shall apply to
21 certificates of delinquency purchased by third-party purchasers from county clerks at
22 annual sales held on or after that date.