

1 AN ACT relating to the priority of purchase money deeds of trusts or mortgages.

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

3 ➔Section 1. KRS 382.270 is amended to read as follows:

4 ***Except as otherwise provided in Section 3 of this Act:***

5 **(1)** No deed or deed of trust or mortgage conveying a legal or equitable title to real  
6 property shall be lodged for record and, thus, valid against a purchaser for a  
7 valuable consideration, without notice thereof, or against creditors, until such deed  
8 or mortgage is acknowledged or proved according to law. However, if a deed or  
9 deed of trust or mortgage conveying a legal or equitable title to real property is not  
10 so acknowledged or proved according to law, but is or has been otherwise lodged  
11 for record, such deed or deed of trust or mortgage conveying a legal or equitable  
12 title to real property or creating a mortgage lien on real property shall be deemed to  
13 be validly lodged for record for purposes of KRS Chapter 382, and all interested  
14 parties shall be on constructive notice of the contents thereof; ~~and~~

15 **(2)** As used in this section "creditors" includes all creditors irrespective of whether or  
16 not they have acquired a lien by legal or equitable proceedings or by voluntary  
17 conveyance.

18 ➔Section 2. KRS 382.280 is amended to read as follows:

19 Except as **otherwise** provided in KRS 382.077 **and Section 3 of this Act**, all bona fide  
20 deeds of trust or mortgages shall take effect in the order that they are legally  
21 acknowledged or proved and lodged for record.

22 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO  
23 READ AS FOLLOWS:

24 **(1) As used in this section, "purchase money deed of trust or mortgage" means a**  
25 **deed of trust or mortgage given to a vendor of the real property or to a third-party**  
26 **lender to the extent that the proceeds of the loan are used to:**

27 **(a) Acquire title to the real property; or**

1 (b) Construct improvements on the real property if the deed of trust or  
 2 mortgage is given as part of the same transaction in which title is acquired.

3 (2) A purchase money deed of trust or mortgage, whether or not recorded, has  
 4 priority over any mortgage, lien, or other claim that attaches to the real property,  
 5 but is created by or arises against the purchaser-mortgagor prior to the  
 6 purchaser-mortgagor's acquisition of title to the real property.

7 (3) A purchase money deed of trust or mortgage given to a vendor of real property, in  
 8 the absence of a contrary intent of the parties to it, and subject to the operation of  
 9 Sections 1 and 2 of this Act, has priority over a purchase money deed of trust or  
 10 mortgage on that real property given to a person who is not its vendor.

11 ➔Section 4. KRS 65.8835 is amended to read as follows:

12 (1) The local government shall possess a lien on property owned by the person found  
 13 by a nonappealable final order as defined by KRS 65.8805(8), or by a final  
 14 judgment of the court, to have committed a violation of a local government  
 15 ordinance. The lien shall be for all civil fines assessed for the violation and for all  
 16 charges and fees incurred by the local government in connection with the  
 17 enforcement of the ordinance, including abatement costs. An affidavit of the code  
 18 enforcement officer shall constitute prima facie evidence of the amount of the lien  
 19 and the regularity of the proceedings pursuant to KRS 65.8801 to 65.8839. The lien:

20 (a) Shall be recorded in the office of the county clerk;

21 (b) Shall be notice to all persons from the time of its recording and shall bear  
 22 interest until paid;

23 (c) Subject to KRS 65.8836, shall take precedence over all other liens, except:

24 1. Liens for state, county, school board, and city taxes; and

25 2. Purchase money deeds of trust or mortgages granted priority under  
 26 Section 3 of this Act;

27 (d) Shall continue for ten (10) years following the date of the nonappealable final

1 order, or final judgment of the court; and

2 (e) May be enforced by judicial proceedings, including an action to foreclose.

3 (2) In addition to the remedy prescribed in subsection (1) of this section, the person  
4 found to have committed the violation shall be personally responsible for the  
5 amount of the lien, including all civil fines assessed for the violation and for all  
6 charges, fees, and abatement costs incurred by the local government in connection  
7 with the enforcement of the ordinance. The local government may bring a civil  
8 action against the person and shall have the same remedies as provided for the  
9 recovery of a debt.

10 (3) Nothing in this section shall otherwise affect the rights or obligations between the  
11 owner of the property and those persons who claim a security interest in the  
12 property.

13 ➔Section 5. KRS 65.8836 is amended to read as follows:

14 (1) A local government adopting the provisions of KRS 65.8801 to 65.8839 shall  
15 implement a system for notification to lienholders that meets the minimum  
16 requirements of subsection (2) of this section and shall comply with the procedures  
17 to permit remedial action by lienholders as provided in subsection (3) of this section  
18 in order to obtain and maintain the lien priority over previously filed liens granted  
19 in KRS 65.8835.

20 (2) A local government shall create a notification system that provides lienholders and  
21 others that elect to do so with electronic notifications of all final orders entered  
22 pursuant to KRS 65.8801 to 65.8839. The system shall meet the following  
23 minimum requirements:

24 (a) An individual or entity may register with the local government to receive  
25 information on each final order by providing a name, mailing address, phone  
26 number, and an electronic mailing address to the local government. The local  
27 government shall accept this information in any form submitted by a

1 registrant. It shall be the responsibility of the registrant to maintain and update  
2 its contact information with the local government, except that a local  
3 government shall inform a registrant of any evidence the local government  
4 receives that the electronic mailing address is invalid or not functional in order  
5 to provide the registrant an opportunity to submit an updated electronic  
6 mailing address;

7 (b) No less than once a month but no more frequently than once per week, the  
8 local government shall send electronic mail notification of all final orders  
9 issued pursuant to the provisions of KRS 65.8801 to 65.8839 since the last  
10 date of notification to each party registered pursuant to paragraph (a) of this  
11 subsection. The notification shall, at a minimum, include or provide an  
12 electronic link to a document or database meeting the requirements of this  
13 paragraph that includes:

- 14 1. The name of the person charged with a violation;
- 15 2. The physical address of the premises where the violation occurred;
- 16 3. The last known mailing address for the owner of the premises where the  
17 violation occurred if, in the exercise of reasonable diligence, it is  
18 ascertainable.
- 19 4. A specific description of the citation leading to the final order, including  
20 the citation detail set forth in KRS 65.8825(4)(a) to (h), which may be  
21 satisfied by including a copy of the full citation;
- 22 5. The findings of the final order, including the penalty or penalties  
23 imposed by the final order, which may be satisfied by providing a copy  
24 of the full final order; and
- 25 6. The status of the final order in regards to its ability to be appealed  
26 pursuant to KRS 65.8831, except that the local government shall provide  
27 an update to registrants if an appeal is filed on a final order pursuant to

1                   KRS 65.8831;

2           (c) At the same time the electronic notification required under paragraph (b) of  
3           this subsection is sent, a local government shall post this notification or  
4           provide a summary of the information regarding each final order required by  
5           paragraph (b) of this subsection in a conspicuous place on its public Web site,  
6           which shall be affiliated with the local government and contain other  
7           information about the local government. If the local government posts using  
8           summary form:

- 9           1. The summary shall be calculated to reasonably allow identification of
- 10           the specific properties which may be impacted by the lien; and
- 11           2. Upon request, the local government shall provide the complete record of
- 12           a final order created under paragraph (b) of this subsection without
- 13           charge; and

14           (d) A local government shall maintain the records created under this subsection  
15           for a period of ten (10) years following their issuance.

16   (3) (a) A lien holder of record may, within forty-five (45) days from the date of  
17           issuance of notification under subsection (2) of this section, correct the  
18           violation if it has not already been abated, or elect to pay all civil fines  
19           assessed for the violation and all charges and fees incurred by the local  
20           government in connection with the enforcement of the ordinance, including  
21           abatement costs. This subsection shall not prohibit the local government from  
22           taking immediate action if necessitated under KRS 65.8838.

23           (b) The lien provided by KRS 65.8835 shall not take precedence over previously  
24           recorded liens if:

- 25           1. The local government failed to comply with the requirements of
- 26           subsection (2) of this section for notification of the final order; or
- 27           2. A prior lienholder corrected the violation or paid all civil fines assessed

1 for the violation and all charges and fees incurred by the local  
 2 government in connection with the enforcement of the ordinance,  
 3 including abatement costs within forty-five (45) days as provided in  
 4 paragraph (a) of this subsection.

5 (c) A lien that does not take precedence over previously recorded liens under the  
 6 circumstances outlined in paragraph (b) of this subsection, shall, if the final  
 7 order remains partially unsatisfied, take precedence over all other subsequent  
 8 liens, except:

9 1. Liens for state, county, school board, and city taxes; and

10 2. *Purchase money deeds of trust or mortgages granted priority under*  
 11 *Section 3 of this Act.*

12 (d) Nothing contained in this subsection shall prohibit a local government from  
 13 recording a lien before the forty-five (45) day period established in paragraph  
 14 (a) of this subsection expires. If the lien is fully satisfied prior to the  
 15 expiration of the forty-five (45) day period established in paragraph (a) of this  
 16 subsection, the local government shall release the lien in the county clerk's  
 17 office where the lien is recorded within fifteen (15) days of satisfaction.

18 (4) The local government may delegate responsibility for compliance with this section  
 19 to the code enforcement board or its administrative staff as specified in the  
 20 ordinance establishing and governing the operation of the code enforcement board.

21 (5) The failure of a local government to comply with this section or the failure of a lien  
 22 to take precedence over previously filed liens as provided in subsection (3)(b) of  
 23 this section, shall not limit or restrict any other remedies that the local government  
 24 has against the property or the violator.

25 (6) The requirements of this section shall not apply to a local government when it  
 26 enforces KRS 65.8840.

27 ➔Section 6. KRS 91.270 is amended to read as follows:

- 1 (1) The treasurer and secretary of the sinking fund shall collect all taxes on personal  
 2 property based on income, licenses, and franchises in lieu of an ad valorem tax, and  
 3 shall pay them monthly to the director of finance, who shall give a receipt therefor.  
 4 The treasurer and secretary shall furnish monthly to the director of finance a  
 5 statement showing what persons have, during the previous month, paid such taxes,  
 6 the amount paid by each, and the total amount paid by him to the director of  
 7 finance.
- 8 (2) The revenue derived from taxes based on income, licenses, and franchises in lieu of  
 9 an ad valorem tax shall be paid at such time in the fiscal year, and apportioned and  
 10 distributed, as may be fixed by ordinance, for the same purposes as the revenue  
 11 derived from the ad valorem tax. In default of the payment of such taxes at the time  
 12 fixed by ordinance, a penalty of five percent (5%) shall be added thereto and interest  
 13 on the amount of such taxes shall be computed and paid by the delinquent from that  
 14 date at the rate of six percent (6%) per annum until paid.
- 15 (3) A lien superior to all other liens, except ~~the lien for~~ state **tax liens** ~~[taxes]~~ **and**  
 16 **purchase money deeds of trust or mortgages granted priority under Section 3 of**  
 17 **this Act**, whether such liens were acquired before or after the maturity of the taxes  
 18 referred to in this section, shall exist in favor of the city from the date the taxes are  
 19 due, for the amount of the taxes, interest, and penalties, upon all the real and  
 20 personal property of the delinquent taxpayer. The city may enforce the lien by  
 21 action in the name of the city in the Circuit Court, and in that action may also obtain  
 22 a personal judgment against the delinquent taxpayer for the tax, penalties, interest,  
 23 and costs of suit.
- 24 ➔Section 7. KRS 91.560 is amended to read as follows:
- 25 (1) The fee simple of all lands, in a city of the first class or in a consolidated local  
 26 government, and the full term and renewal of every leasehold carrying with it the  
 27 value of the improvements thereon, shall be subject, from and after the assessment

1 date each year, to a lien for the city taxes to be assessed thereon for the succeeding  
 2 year. The lien shall be superior to homestead right and to all encumbrances, whether  
 3 made before or after that date, except state taxes, and shall take precedence of  
 4 dower, curtesy, remainders, reversions, and other future estates.

5 (2) From the beginning of any action to collect taxes against real property, a lien for  
 6 each tax bill assessed against the same owner or set of joint owners shall also arise  
 7 upon every tract of land or improvement still owned by the owner or owners~~him or~~  
 8 ~~them~~, with a view to the sale of less than all the tracts for the entire tax bill, subject  
 9 to the priority granted to purchase money deeds of trust or mortgages under  
 10 Section 3 of this Act and such marshaling of burdens as against third parties as the  
 11 rules of equity require. The court may allow a purchaser or encumbrancer to release  
 12 any tract from the tax lien thereon, by paying its share of the tax, interest, and costs.

13 (3) The tax lien on real property provided for by this section shall attach though,  
 14 through error in the proceedings, the tax bill is unenforceable, in which case the lien  
 15 reaching back to the date named shall support the claim of the city or consolidated  
 16 local government for any taxes imposed afterward for the year in question under any  
 17 curative act of the General Assembly.

18 (4) The city or a consolidated local government shall have a lien on personal property  
 19 as provided in the case of real property for its taxes.

20 ➔Section 8. KRS 91A.070 is amended to read as follows:

21 (1) Any city may by ordinance elect to have all city ad valorem taxes, including  
 22 delinquent taxes, collected by the sheriff of the county. The election shall be  
 23 effective only if a copy of the ordinance is delivered to the sheriff as soon as  
 24 practicable, and a copy of the ordinance levying the taxes to be collected is  
 25 delivered to the county clerk as soon as practicable. If the city so elects:

26 (a) The county clerk shall place city ad valorem taxes due on the tax bills of  
 27 owners of property in the city, prepared in accordance with KRS 133.220 and



1 133.230.

2 (b) The sheriff shall collect all city ad valorem taxes, including delinquent taxes,  
3 in the same manner as county ad valorem taxes as provided in KRS Chapter  
4 134, and the sheriff shall be compensated in an amount calculated to defray  
5 additional costs to the sheriff for the services performed, but such amount  
6 shall not exceed the rates provided for tax collection by KRS Chapter 134. All  
7 procedures provided by KRS Chapter 134 concerning collection of delinquent  
8 taxes by counties shall be applicable.

9 (2) If a city does not elect to have city ad valorem taxes collected by the sheriff as  
10 provided in subsection (1) of this section, the city shall establish by ordinance  
11 procedures for the collection of ad valorem taxes which shall specify the following:

12 (a) The date that city ad valorem taxes are due and payable, except that ad  
13 valorem taxes on motor vehicles and motorboats shall be governed by the  
14 provisions of KRS 134.800 to 134.830;

15 (b) The manner of billing;

16 (c) The place and manner for payment, which may permit the payment of the  
17 taxes in installments under such terms and conditions specified in the  
18 ordinance;

19 (d) Discounts, if any, for early payment;

20 (e) Any penalties and interest for late payment or nonpayment; and

21 (f) Any other necessary procedures related to ad valorem tax administration not  
22 otherwise in conflict with state law.

23 (3) In cities proceeding under subsection (2) of this section, ad valorem taxes upon real  
24 or personal property shall be delinquent if not paid by the date due and payable by  
25 ordinance or statute. A lien superior to all other liens, except ~~a lien for~~ state **tax**  
26 **liens**~~[taxes]~~ **and purchase money deeds of trust or mortgages granted priority**  
27 **under Section 3 of this Act**, whether such liens were acquired before or after the

1 maturity of the taxes referred to in this section, shall exist in favor of the city from  
 2 the date the taxes are due, for the amount of the taxes, interest, and penalties, upon  
 3 all the real and personal property of the delinquent taxpayer. The city may enforce  
 4 the lien by action in the name of the city in the Circuit Court as provided by statute.  
 5 In that action it may also obtain a personal judgment against the delinquent taxpayer  
 6 for the tax, penalties, interest, and costs of the suit.

7 (4) Any city establishing penalties and interest for the late payment or nonpayment of  
 8 ad valorem property taxes under subsection (3) of this section may, by ordinance,  
 9 provide an amnesty program as determined by the city's legislative body for the  
 10 forgiveness or a reduction of a taxpayer's accumulated penalties and interest for late  
 11 payment or nonpayment of ad valorem property taxes in previous tax years.

12 ➔Section 9. KRS 98.013 is amended to read as follows:

13 (1) On and after July 1, 1952, a city of the first class shall have a lien upon all real  
 14 estate and rights to real estate belonging to or thereafter acquired by any recipient of  
 15 general assistance through said city's department of public welfare. The lien shall  
 16 become effective upon the first payment of assistance to the recipient after June 19,  
 17 1952, and shall be cumulative and shall include all amounts paid to the recipient.  
 18 The lien shall continue until it is satisfied, or becomes unenforceable.

19 (2) The lien shall not be effectual as against:

20 (a) A purchase money deed of trust or mortgage granted priority under Section  
 21 3 of this Act; and

22 (b) Any other mortgage, purchaser, or judgment creditor without actual notice  
 23 until notice thereof has been filed by the director of public welfare of the city  
 24 in the office of the county clerk of the county in which the property is located.  
 25 Such notice, from the date of the filing thereof, shall constitute notice of all  
 26 payments of assistance, whether paid prior or subsequent to the date of the  
 27 filing of the notice. Such notice shall be filed by the director of public welfare

1           in those cases in which it is discovered that the recipient has sufficient real  
2           estate to justify the filing of such a notice.

3 (3) The director of public welfare shall file an adequate notice of the existence of the  
4       lien provided for by this section which notice shall not specify the amount of  
5       assistance paid but the director of public welfare shall furnish to any authorized  
6       person upon proper request the total amount of the lien as of the date of the inquiry.

7 (4) The county clerk shall file, record, and index such notices as other liens on real  
8       estate are required by law to be filed, recorded, and indexed but shall index said lien  
9       only in the name of the recipient. The lien shall be designated "City's Lien."

10 (5) The clerk shall be entitled to a fee pursuant to KRS 64.012 for filing and indexing  
11       the lien. The department of public welfare of the city shall pay the fee but the fee  
12       shall become a part of the lien as an added cost to the recipient to be recovered at  
13       the time a lien is satisfied.

14 (6) The lien shall not be enforceable while the real estate is occupied by the surviving  
15       spouse or until he or she remarries, or is occupied by a dependent child, provided,  
16       no other action is brought to settle the estate.

17 (7) In any case in which it appears that it would be to the best interest of the recipient to  
18       sell his or her real estate and reinvest the proceeds in other real estate, the  
19       department of public welfare of the city may grant permission and waive the lien to  
20       the extent necessary for the purpose of effecting the transfer, but such lien shall  
21       attach to the reinvested property.

22 (8) Any claim under KRS 98.011 to 98.014 may be precipitated and the lien provided  
23       by this section may be enforceable during the lifetime of any person who has  
24       received general assistance in order to recover any amount obtained as a result of  
25       such person knowingly making a false statement or representation or knowingly  
26       failing to disclose a fact to procure, increase, or continue any material benefit for  
27       himself or herself.

1           ➔Section 10. KRS 131.515 is amended to read as follows:

- 2       (1) If any person liable to pay any tax administered by the department, other than a tax  
3       subject to KRS 134.420, neglects or refuses to pay the tax after demand, the tax due  
4       together with all penalties, interest, and other costs applicable provided by law shall  
5       be a lien in favor of the Commonwealth of Kentucky. The lien shall attach to all  
6       property and rights to property owned or subsequently acquired by the person  
7       neglecting or refusing to pay the tax.
- 8       (2) The lien imposed by subsection (1) of this section shall remain in force for ten (10)  
9       years from the date the notice of tax lien has been filed by the commissioner, or his  
10      or her designee with the county clerk of any county or counties in which the  
11      taxpayer's business or residence is located, or any county in which the taxpayer has  
12      an interest in property.
- 13      (3) The tax lien imposed by subsection (1) of this section shall not be valid as against:
- 14      (a) The holder of a purchase money deed of trust or mortgage granted priority  
15      under Section 3 of this Act; and
- 16      (b) Any other purchaser, judgment lien creditor, or holder of a security interest or  
17      mechanic's lien until notice of the tax lien has been filed by the commissioner  
18      or his or her designee with the county clerk of any county or counties in which  
19      the taxpayer's business or residence is located, or in any county in which the  
20      taxpayer has an interest in property.
- 21      (4) The recording of the tax lien imposed by subsection (1) of this section shall  
22      constitute notice of both the original assessment and all subsequent assessments of  
23      liability against the same taxpayer. Upon request, the department shall disclose the  
24      specific amount of liability at a given date to any interested party legally entitled to  
25      the information.
- 26      ~~(5)~~~~(4)~~ Even though notice of a tax lien has been filed as provided by subsection  
27      ~~(4)~~~~(3)~~ of this section, and notwithstanding the provisions of KRS 382.520, the tax

1       lien imposed by subsection (1) of this section shall not be valid with respect to a  
2       security interest which came into existence after tax lien filing by reason of  
3       disbursements made within forty-five (45) days after the date of tax lien filing or the  
4       date the person making the disbursements had actual notice or knowledge of tax  
5       lien filing, whichever is earlier, provided the security interest:

6       (a) Is in property which:

7           1. At the time of tax lien filing is subject to the tax lien imposed by  
8           subsection (1) of this section; and

9           2. Is covered by the terms of a written agreement entered into before tax  
10          lien filing; and

11       (b) Is protected under local law against a judgment lien arising, as of the time of  
12       tax lien filing, out of an unsecured obligation.

13       ➔Section 11. KRS 154A.420 is amended to read as follows:

14       (1) All proceeds from the sale of lottery tickets received by a person in the capacity of a  
15       lottery retailer shall constitute a trust fund until paid to the corporation either  
16       directly, or through the corporation's authorized collection representative. Proceeds  
17       shall include unsold instant tickets received by a lottery retailer and cash proceeds  
18       of sale of any lottery products, net of allowable sales commissions and credit for  
19       lottery prizes paid to winners by lottery retailers. Sales proceeds and unused instant  
20       tickets shall be delivered to the corporation or its authorized collection  
21       representative upon demand. The corporation shall, by administrative regulation,  
22       require retailers to place all lottery proceeds due the corporation in accounts in  
23       institutions insured by the Federal Deposit Insurance Corporation or Federal  
24       Savings and Loan Insurance Corporation not later than the close of the next banking  
25       day after the date of their collection by the retailer until the date they are paid over  
26       to the corporation. The corporation may require a retailer to establish a single  
27       separate electronic funds transfer account, where available, for the purpose of

1 receiving moneys from ticket sales, making payments to the corporation, and  
2 receiving payments from the corporation. Lottery retailers shall be personally liable  
3 for all proceeds. This section shall apply to all lottery tickets generated by computer  
4 terminal, other electronic device, and any other tickets delivered to lottery retailers.

5 (2) Whenever any person who receives proceeds from the sale of lottery tickets in the  
6 capacity of a lottery retailer becomes insolvent, or dies insolvent, the proceeds due  
7 the corporation from such person or his estate shall have preference over all debts or  
8 demands, except the portion of any loan proceeds secured by a purchase money  
9 deed of trust or mortgage granted priority under Section 3 of this Act.

10 (3) (a) A lien is hereby given to the corporation on all funds and other personal  
11 property, on all real property, and on all rights to real or personal property  
12 owned or subsequently acquired by each retailer in the amount of, and to  
13 secure, the retailer's obligations to remit lottery proceeds to the corporation.  
14 The lien shall be in the amount of all sums due to the corporation at any time,  
15 together with all interest, penalties, fees, commissions, charges, and other  
16 expenses incurred by reason of nonpayment of the lottery proceeds to the  
17 corporation or in the process of collecting those proceeds, and shall have  
18 priority over any other obligation or liability for which the funds or real or  
19 personal property are liable, except as provided in paragraphs (b) and (d) of  
20 this subsection. The lien shall be of equal rank with the tax liens of the state,  
21 or any city, county, or other taxing authority within the state. The lien shall  
22 arise upon the receipt of lottery proceeds by the retailer, whether or not the  
23 retailer is at that time obligated to remit all or any portion of those proceeds to  
24 the corporation, and shall be enforceable until the liability is paid or  
25 extinguished.

26 (b) The lien imposed by paragraph (a) of this subsection shall not be valid as  
27 against:

1            1. The holder of a purchase money deed of trust or mortgage granted  
2            priority under Section 3 of this Act; and

3            2. Any other purchaser, judgment lien creditor, or holder of a security  
4            interest or mechanic's lien until notice of the corporation's lien has been  
5            filed by the corporation with the county clerk of any county or counties  
6            in which the retailer's business or residence is located, or in any county  
7            in which the retailer has an interest in property.

8            (c) The recording of the lien imposed by paragraph (a) of this subsection shall  
9            constitute notice of both the original obligation to the corporation and all  
10           subsequent obligations to the corporation of the same retailer. Upon request,  
11           the corporation shall disclose the specific amount of liability at any given date  
12           to any interested party legally entitled to the information.

13           ~~(d)(e)~~ Even though notice of a lien has been filed as provided by paragraph  
14           ~~(c)(b)~~ of this subsection, and notwithstanding the provisions of KRS  
15           382.520, the lien imposed by paragraph (a) of this subsection shall not be  
16           valid with respect to a security interest which comes into existence after the  
17           notice of lien has been filed by reason of disbursements made within forty-five  
18           (45) days after the date the lien was filed or the date the person making the  
19           disbursements had actual notice of the lien filing, whichever is earlier, if the  
20           security interest:

- 21           1. Is in property which at the time of filing is subject to the lien imposed by  
22           paragraph (a) of this subsection, and is covered by the terms of a written  
23           agreement entered into before the lien is filed; and
- 24           2. Is protected under local law against a judgment lien arising as of the  
25           time of the lien filing, out of an unsecured obligation.

26           ~~(e)(d)~~ The corporation shall be afforded the same rights and remedies with  
27           respect to enforcement of any lien and collection of lottery proceeds as is

1           afforded state, county, city, and other taxing authorities by KRS Chapter 134.

2           ➔Section 12. KRS 205.745 is amended to read as follows:

- 3       (1) A child support lien or levy in favor of the cabinet shall be enforceable against all  
4       real and personal property of the obligor if he ***or she*** has failed to make child  
5       support payment in an amount equal to support payable for one (1) month and the  
6       child support has been assigned to the cabinet. In accordance with subsection (4) of  
7       this section, the lien or levy shall have first priority over any other lien assigned by  
8       any other agency, association, or corporation, ***except purchase money deeds of trust***  
9       ***or mortgages granted priority under Section 3 of this Act.***
- 10      (2) The cabinet shall file a notice of lien or levy with the county clerk of any county or  
11      counties in which the obligor has interest in property and the notice shall be  
12      recorded in the same manner as notices of lis pendens. The recordation shall  
13      constitute notice of both the original amount of child support due and all subsequent  
14      amounts due by the same obligor. Upon request, an authorized agent of the cabinet  
15      shall disclose the specific amount of liability to any interested party legally entitled  
16      to the information. The notice, when so filed, shall be conclusive to all persons of  
17      the lien or levy on the property having legal situs in that county. The lien or levy  
18      shall commence as to property of the obligor located in the Commonwealth at the  
19      time the notice is filed and shall continue until the original amount of child support  
20      due and any subsequent amounts, including interest, penalties, or fees, are fully  
21      paid. The lien or levy shall attach to all interest in real and personal property in the  
22      Commonwealth, then owned or subsequently acquired by the obligor. The clerk  
23      shall be entitled to a fee pursuant to KRS Chapter 64.
- 24      (3) The cabinet may force the sale of the property of the parent subject to the lien or  
25      levy for the payment of assigned child support, and distribute the proceeds in  
26      accordance with 42 U.S.C. secs. 651 et seq.
- 27      (4) The cabinet's lien or levy shall be superior to any mortgage or encumbrance created



1 after the notice of lien or levy is recorded, except purchase money deeds of trust or  
2 mortgages granted priority under Section 3 of this Act. The cabinet shall give full  
3 faith and credit to child support liens or levies created in other states without  
4 requirement of judicial notice or proceedings prior to enforcement, but the liens or  
5 levies shall subordinate to any child support lien or levy of the cabinet that relates to  
6 the same obligor and property.

7 (5) The cabinet shall not enforce the lien by foreclosure action on a principal residence  
8 of an obligor if to do so would deprive a minor child of the obligor of a homestead,  
9 unless the failure to enforce the lien by foreclosure would result in the loss of the  
10 home of the minor child of the custodial parent.

11 (6) In the event another lienholder initiates a foreclosure action against the property of  
12 the obligor, the cabinet may protect its interest in the property by filing an answer  
13 counterclaim and cross-claim and participate in the proceeds of any sale of the  
14 property as its interests may appear.

15 (7) The cabinet shall notify the obligor of the filing of its claim of lien or levy and the  
16 opportunity to contest and appeal the action in accordance with the requirements of  
17 KRS Chapter 13B.

18 (8) Liens or levies resulting from actions provided by this section shall be inapplicable  
19 to an account maintained at a financial institution that is or may be subject to the  
20 data match system established by KRS 205.774, and is subordinate to any prior lien,  
21 levy, or security interest perfected by a financial institution or other legitimate lien  
22 or levy holder.

23 (9) The cabinet may, after application to and approval of the Circuit Court, enforce the  
24 lien by the immobilization with vehicle boots of a vehicle registered in the obligor's  
25 name. The cabinet shall establish procedures for vehicle booting by the  
26 promulgation of administrative regulations in accordance with the provisions of  
27 KRS Chapter 13A. The procedures shall require that the following conditions are

1 verified before a vehicle is immobilized with a vehicle boot:

2 (a) There is an arrearage that equals or exceeds six (6) months without payment;

3 (b) The obligor has failed, after receiving appropriate notice, to comply with  
4 subpoenas or warrants relating to child support proceedings;

5 (c) A lien has been filed in the county where the vehicle is kept;

6 (d) The Department of Vehicle Regulation shows that the vehicle identification  
7 number for the vehicle to be booted is registered in the obligor's name;

8 (e) The vehicle to be booted is solely owned by the obligor, co-owned by the  
9 obligor and current spouse, or owned by a business in which the obligor is the  
10 sole proprietor;

11 (f) A notice of intent has been sent to the obligor, unless there is reason to believe  
12 that the obligor will leave town or hide the vehicle;

13 (g) The obligor does not contact the cabinet within ten (10) days of notice to  
14 negotiate a settlement; and

15 (h) A target date is set for booting.

16 The administrative regulations shall also require that the cabinet send a cancellation  
17 notice to the obligor and the sheriff if a decision is made to terminate the booting of  
18 a vehicle. Once a vehicle has been booted, the cabinet shall attempt to reach a  
19 payment agreement with the obligor including terms for the release of the vehicle. If  
20 an agreement is not reached with the obligor, the cabinet may proceed with the sale  
21 of the vehicle. If the cabinet sells a vehicle, the cabinet shall notify the Department  
22 of Vehicle Regulation to issue clear title to the new owner of the vehicle.

23 ➔Section 13. KRS 205.7785 is amended to read as follows:

24 (1) An interstate lien may be created and a notice of interstate lien may be filed on all  
25 of an obligor's real and personal property that is located in another state to enforce a  
26 child support obligation which has been judicially or administratively established in  
27 the Commonwealth. The lien shall be filed in the appropriate offices of the state or

1 county where the property of the obligor is located. All aspects of the lien, including  
 2 its priority and enforcement, are governed by the law of the state where the property  
 3 is located and shall remain until released by the authorized agent of the party which  
 4 filed the lien, or in accordance with the laws of the state of filing.

5 (2) A lien to enforce a child support obligation which is created in another state shall be  
 6 enforceable against all real and personal property of the obligor located in this state  
 7 upon the filing of a notice of interstate lien with the county clerk of any county or  
 8 counties in which the obligor has interest in property, and the notice shall be  
 9 recorded in the same manner as notices of lis pendens. The recordation shall  
 10 constitute notice of both the original amount of child support due and all subsequent  
 11 amounts due by the same obligor. Upon request, an authorized agent of the party  
 12 which filed the notice of interstate lien shall disclose the specific amount of liability  
 13 to any interested party legally entitled to that information. The notice, when so filed,  
 14 shall be conclusive notice to all persons of the lien on the property having legal situs  
 15 in that county. The lien shall commence as to property of the obligor located in the  
 16 Commonwealth at the time the notice is filed and shall continue until the original  
 17 amount of child support due and any subsequent amounts, including interest,  
 18 penalties, or fees, are fully paid. The lien shall attach to all interest in the real and  
 19 personal property in the Commonwealth, then owned or subsequently acquired by  
 20 the obligor. The clerk shall be entitled to a fee pursuant to KRS 64.012 for filing the  
 21 lien and the same fee for releasing the lien.

22 (3) A child support lien created in another state shall be on a parity with state, county,  
 23 and municipal ad valorem tax liens, and superior to the lien of any mortgage or  
 24 other encumbrance created after the notice of interstate lien is recorded, **except:**

25 **(a) Purchase money deeds of trust or mortgages granted priority under Section**  
 26 **3 of this Act; and**~~[-; however, it shall be subordinate to any -]~~

27 **(b)** Child support ~~liens~~**liens**~~[-]~~ which ~~have~~**have**~~[-]~~ been filed by the cabinet as to the

1 same obligor and property.

2 (4) The authority by which the child support lien is created in another state and filed in  
3 this state shall be certified on the notice of interstate lien by a person who is  
4 authorized to certify on behalf of the party that is filing the notice of interstate lien.

5 (5) The secretary of the cabinet may promulgate administrative regulations under the  
6 provisions of KRS Chapter 13A to implement this section.

7 ➔Section 14. KRS 205.8471 is amended to read as follows:

8 (1) The Commonwealth shall have a lien against all property of any provider or  
9 recipient who is found to have defrauded the Medicaid program for an amount equal  
10 to the sum defrauded plus any interest and penalties levied under KRS 205.8451 to  
11 205.8483. The lien shall attach to all property and rights to property owned by the  
12 provider or recipient and all property subsequently acquired after a finding of fraud  
13 by the Cabinet for Health and Family Services.

14 (2) The lien imposed by subsection (1) of this section shall not be defeated by gift,  
15 devise, sale, alienation, or any other means, and shall include the sum defrauded and  
16 all interest, penalties, fees, or other expenses associated with collection of the debt.  
17 The lien shall have priority over any other lien or obligation against the property,  
18 except as provided in subsection (3) of this section.

19 (3) The lien imposed by subsection (1) of this section shall not be valid as against:

20 **(a) The holder of a purchase money deed of trust or mortgage granted priority**  
21 **under Section 3 of this Act; and**

22 **(b)** Any **other** purchaser, judgment lien creditor, or holder of a security interest or  
23 mechanic's lien which was filed prior to the date on which notice of the lien  
24 created by this section is filed by the secretary for health and family services  
25 or **the secretary's**~~his~~ designee with the county clerk of the county or counties  
26 in which the provider's business or residence is located, or in any county in  
27 which the taxpayer has an interest in property.

1 **(4)** The notice of lien **imposed by subsection (1) of this section** shall be recorded in the  
2 same manner as the notice of lis pendens.

3 ~~**(5)**~~~~**(4)**~~ The secretary for health and family services shall issue a partial release of any  
4 part of the property subject to lien upon payment by the debtor of that portion of the  
5 debt and any interest, penalty, or fees covered by the lien on that property.

6 ~~**(6)**~~~~**(5)**~~ The secretary for health and family services may enforce the lien created  
7 pursuant to this section in the manner provided for the enforcement of statutory  
8 liens under KRS 376.110 to 376.130.

9 ➔Section 15. KRS 299.140 is amended to read as follows:

10 Every policy issued by a company shall specify the sum of money that the company  
11 promises to pay upon the contingency insured against, which shall not be larger than the  
12 amount of one (1) assessment upon the entire membership, and shall specify the number  
13 of days after satisfactory proof of the happening of the contingency at the end of which  
14 payment shall be made. Upon the occurrence of the contingency, unless the contract has  
15 been voided by fraud or for want of validity, the company shall be obligated to the  
16 beneficiary for payment at the time and to the amount specified in the policy. This  
17 indebtedness shall be a lien upon all the property, effects, and bills receivable of the  
18 company, with priority over all indebtedness thereafter incurred, except **the portion of**  
19 **any loan proceeds secured by a purchase money deed of trust or mortgage granted**  
20 **priority under Section 3 of this Act or** as otherwise provided in the case of the  
21 distribution of assets of an insolvent company.

22 ➔Section 16. KRS 304.20-220 is amended to read as follows:

23 The liens existing pursuant to KRS 131.515 and 134.420 shall take precedence over any  
24 claim of right of an insured owner, mortgagee, assignee, or other interested party, except  
25 as otherwise provided **in Section 3 of this Act or** by the laws of the United States.

26 ➔Section 17. KRS 337.075 is amended to read as follows:

27 (1) A lien may be placed on all property, both real and personal, of an employer who

1 has been assessed civil penalties by the commissioner for violations of the wages  
 2 and hours provisions of this chapter, but not before all administrative and judicial  
 3 appeals have been exhausted. The lien shall be in favor of the Labor Cabinet and  
 4 shall be an amount totaling the unpaid wages and penalties due, together with  
 5 interest at a rate of twelve percent (12%) per annum from the date the notice of the  
 6 violation is final, but not before all administrative and judicial appeals have been  
 7 exhausted. The lien shall be attached to all property and rights to property owned or  
 8 subsequently acquired by the employer. The commissioner or the commissioner's  
 9 designee shall record the lien as provided in subsection (2) of this section. The lien  
 10 shall show the date on which the notice of violation was issued, the date of the  
 11 violation, the name and last known address of the employer against whom the  
 12 assessment was made, and the amount of unpaid wages, penalties, and interest. The  
 13 lien shall be superior to the lien of any mortgage or encumbrance thereafter created,  
 14 except purchase money deeds of trust or mortgages granted priority under  
 15 Section 3 of this Act, and shall continue for ten (10) years from the time of the  
 16 recording, unless sooner released or otherwise discharged.

17 (2) The lien shall be filed in any of the following offices in which the employer owns  
 18 property or rights to property and any filing fees associated with filing the lien shall  
 19 be pursuant to KRS 64.012:

- 20 (a) The office of the county clerk of the county in which the defendant employer  
 21 resides; ~~[-]~~
- 22 (b) The office of the county clerk of the county in which the defendant employer  
 23 has its principal place of business; or ~~[-]~~
- 24 (c) The office of the county clerk of any county in which the defendant employer  
 25 has property or an interest in property.

26 ➔Section 18. KRS 338.201 is amended to read as follows:

27 (1) A lien may be placed on all property, both real and personal, of an employer who

1 has violated any requirement of this chapter, if the citation issued by the  
 2 commissioner has been upheld by a final order of the review commission, but not  
 3 before all administrative and judicial appeals have been exhausted. The lien shall be  
 4 in favor of the Labor Cabinet and shall be an amount totaling the penalties due,  
 5 together with interest at a rate of twelve percent (12%) per annum from the date the  
 6 order of the review commission is final, but not before all administrative and  
 7 judicial appeals have been exhausted. The lien shall be attached to all property and  
 8 rights to property owned or subsequently acquired by the employer. The  
 9 commissioner or the commissioner's designee shall record the lien as provided in  
 10 subsection (2) of this section. The lien shall show the date on which the citation was  
 11 issued, the date of the violation, the name and last known address of the employer  
 12 against whom the assessment was made, and the amount of penalties and interest.  
 13 The lien shall be superior to the lien of any mortgage or encumbrance thereafter  
 14 created, except purchase money deeds of trust or mortgages granted priority  
 15 under Section 3 of this Act, and shall continue for ten (10) years from the time of  
 16 the recording, unless sooner released or otherwise discharged.

17 (2) The lien shall be filed in any of the following offices in which the employer owns  
 18 property or rights to property and any filing fees associated with filing the lien shall  
 19 be pursuant to KRS 64.012:

20 (a) The office of the county clerk of the county in which the defendant employer  
 21 resides; ~~or~~

22 (b) The office of the county clerk of the county in which the defendant employer  
 23 has its principal place of business; or ~~or~~

24 (c) The office of the county clerk of any county in which the defendant employer  
 25 has property or an interest in property.

26 ➔Section 19. KRS 341.310 is amended to read as follows:

27 (1) A lien on a parity with state, county, and municipal ad valorem tax liens, and

1 superior to the lien of any mortgage or other encumbrance heretofore or hereafter  
2 created, except purchase money deeds of trust or mortgages granted priority  
3 under Section 3 of this Act, is hereby created in favor of the cabinet upon all  
4 property of any subject employer from whom contributions, interest, or penalties are  
5 or may hereafter become due. The lien shall commence from such time as any  
6 assessment becomes delinquent and it shall continue until the amount of the original  
7 assessment and any subsequent assessments of liability for contributions, interest,  
8 penalties, or fees are fully paid. The lien shall attach to all interest in property, either  
9 real or personal, then owned or subsequently acquired by the person against whom  
10 the assessment is made. The cabinet may file notice of the lien with the county clerk  
11 of any county or counties in which the subject employer's business or residence is  
12 located, or in any county in which the subject employer has interest in property and  
13 such notice shall be recorded in the same manner as notices of lis pendens are and  
14 the file shall be designated "miscellaneous state tax liens." Such recordation shall  
15 constitute notice of both the original assessment and all subsequent assessments of  
16 liability against the same subject employer. Upon request, the cabinet shall disclose  
17 the specific amount of liability at a given date to any interested party legally entitled  
18 to such information. The notice, when so filed, shall be conclusive notice to all  
19 persons of the lien on the property having legal situs in that county, except that  
20 nothing in this chapter shall be construed to alter or change in any way the law  
21 relative to the rights and duties of a holder in due course as provided in KRS  
22 Chapter 355, Art. 3, or affect the rights of any person taking the property or a lien  
23 thereon for value without actual or constructive notice. The clerk shall be entitled to  
24 a fee pursuant to KRS 64.012 for filing the lien and the subsequent release or partial  
25 release, and said fee shall become a part of the lien as an added cost of the  
26 delinquent subject employer to be paid by him as a part of the amount necessary to  
27 release the lien and shall not be the responsibility of the Commonwealth.



1 (2) In addition and as an alternative to any other remedy, the secretary may enforce the  
2 lien by petition in the name of this state to the Franklin Circuit Court, if the  
3 ministerial acts necessary to enforce the lien by the sale of the lien property or any  
4 part of it are performed by the appropriate officers of the Circuit Court of the county  
5 in which the property is situated under the direction of and reporting to the Franklin  
6 Circuit Court. The manner of enforcement shall be the same as that provided for the  
7 enforcement of other tax liens.

8 (3) (a) The secretary may issue a certificate of release of lien upon the furnishing of a  
9 corporate surety bond satisfactory to the secretary by such employing unit in  
10 the amount of one hundred twenty-five percent (125%) of the sum of such  
11 contributions, interest, and penalty, for which lien is claimed, conditioned  
12 upon the prompt payment of such contribution, together with interest and  
13 penalty thereon, by such employing unit to the cabinet in accordance with the  
14 provisions set forth in such bond.

15 (b) The secretary may issue a certificate of partial release of any part of the  
16 property subject to the lien if he finds that the fair market value of that part of  
17 such property remaining subject to the lien is at least equal to the amount of  
18 all other liens upon such property plus double the amount of the liability for  
19 contributions, interest, and penalties thereon remaining unsatisfied.

20 (c) The secretary may issue a certificate of partial release of any part of the  
21 property or individual piece of property subject to the lien if he or she finds  
22 that the interest of the Commonwealth in the property to be so released has no  
23 value.

24 ➔Section 20. KRS 342.770 is amended to read as follows:

25 (1) Upon the filing of a claim, the commissioner shall ascertain whether the employer,  
26 or any other person against whom a claim is filed and who is not exempt by KRS  
27 342.630 or 342.650, has secured payment of compensation by either securing

1 insurance coverage or qualifying as a self-insurer pursuant to KRS 342.340. Upon  
 2 determination that any employer under this chapter has failed to comply with the  
 3 provisions of KRS 342.340, the commissioner shall record, as provided by  
 4 subsection (2) of this section, a certificate prepared and furnished him or her by the  
 5 general counsel showing the date on which such claim was filed, the date of the  
 6 injury alleged, the name and last known address of the employer against whom it  
 7 was filed, and the fact that the employer has not secured the payment of  
 8 compensation as required. Upon recordation, such certificate constitutes a valid lien  
 9 against the assets of the employer in favor of the uninsured employers' fund for the  
 10 whole amount which may be due as compensation. Such lien shall be superior to the  
 11 lien of any mortgage or other encumbrance thereafter created, *except purchase*  
 12 *money deeds of trust or mortgages granted priority under Section 3 of this Act,*  
 13 and shall continue for ten (10) years from the time of such recording, unless sooner  
 14 released or otherwise discharged. A copy of such certificate shall be served upon the  
 15 employer by the commissioner.

16 (2) The certificate constituting a lien in favor of the uninsured employers' fund shall be  
 17 filed in the following offices:

18 (a) The office of the county clerk of the county in which the defendant employer  
 19 resides; ~~and~~

20 (b) The office of the county clerk of the county in which the defendant employer  
 21 has its principal place of business; *and* ~~and~~

22 (c) The office of the county clerk in the counties where such employer's property  
 23 is located.

24 ➔Section 21. KRS 376.160 is amended to read as follows:

25 Any lien provided for in KRS 376.150 and 376.180 shall be superior to the lien of any  
 26 mortgage or other encumbrance thereafter created, *except purchase money deeds of trust*  
 27 *or mortgages granted priority under Section 3 of this Act,* and shall be for the whole

1 amount due the employees as such, or due for such materials or supplies. Liens of  
2 employees for wages coming due to them within six months before the property or effects  
3 shall come to be distributed among the creditors shall be superior to the lien of any  
4 mortgage or other encumbrance theretofore or thereafter created, **except purchase money**  
5 **deeds of trust or mortgages granted priority under Section 3 of this Act.** No president or  
6 other chief officer, nor any director or stockholder of any such company, shall be deemed  
7 an employee within the meaning of KRS 376.150.

8       ➔Section 22. KRS 376.210 is amended to read as follows:

- 9 (1) Any person, firm, or corporation who performs labor or furnishes materials or  
10 supplies for the construction, maintenance, or improvement of any canal, railroad,  
11 bridge, public highway, or other public improvement in this state by contract,  
12 express or implied, with the owner thereof or by subcontract thereunder shall have a  
13 lien thereon, and upon all the property and the franchises of the owner, except  
14 property owned by the state, a subdivision or agency thereof, or by any city, county,  
15 urban-county, or charter county government. If the property improved is owned by  
16 the state or by any subdivision or agency thereof, or by any city, county, urban-  
17 county, or charter county government, the person furnishing the labor, materials, or  
18 supplies shall have a lien on the funds due the contractor from the owner of the  
19 property improved. Except as provided in KRS 376.195, the lien shall be for the full  
20 contract price of the labor, materials, and supplies furnished, and shall be superior  
21 to all other liens thereafter created, **except purchase money deeds of trust or**  
22 **mortgages granted priority under Section 3 of this Act.**
- 23 (2) Any person undertaking or expecting to furnish labor, materials, or supplies as  
24 provided in this section may acquire the lien herein provided by filing in the clerk's  
25 office of each county in which he **or she** has undertaken to furnish labor, materials,  
26 or supplies, except as provided in subsection (3), a statement in writing that he **or**  
27 **she** has undertaken and expects to furnish labor, materials, or supplies and the price

1 at which they are to be furnished, and the lien for labor, material, or supplies  
2 furnished thereafter shall relate back and take effect from the date of the filing of  
3 the statement. In all cases of original construction, the liens shall be prior to all liens  
4 theretofore or thereafter created on the part so constructed and on no other part.

5 (3) In all cases where the labor, materials, or supplies are furnished for the  
6 improvement of any public highway or other public property owned by the state or  
7 by any city, county, urban-county, or charter county government, the statement shall  
8 be filed in the county clerk's office of the county in which is located the seat of  
9 government of the owner of the property improved, and the lien shall attach only to  
10 any unpaid balance due the contractor for the improvement from the time a copy of  
11 the statement, attested by the county clerk, is delivered to the owner or the owner's  
12 authorized agent with whom the contract for improving the public highway or other  
13 public property was made.

14 ➔Section 23. KRS 376.240 is amended to read as follows:

15 Upon the filing of the statement of lien provided for in subsection (2) of KRS 376.230 in  
16 the county clerk's office and the delivery of an attested copy thereof to the public  
17 authority making the contract for the improvement of any bridge, public highway, or  
18 other public property owned by the state or any county or city, and the filing with the  
19 public authority of a signed copy of a letter addressed to the contractor or subcontractor at  
20 his or her address given in the contract, with a post office receipt showing that an attested  
21 copy of the lien statement has been sent by the lien claimant to the contractor or  
22 subcontractor by certified mail, return receipt requested or by registered mail, the  
23 claimant shall have a lien superior to any lien subsequently perfected, except purchase  
24 money deeds of trust or mortgages granted priority under Section 3 of this Act, on any  
25 unpaid balance due the contractor under the contract of improvement.

26 ➔Section 24. KRS 376.265 is amended to read as follows:

27 (1) As used in this section, unless the context requires otherwise:

- 1 (a) "Charges" means all rates, charges, and other amounts payable for services  
2 rendered by a municipal utility, including and without limitation penalties,  
3 interest, reasonable attorney's fees, and other costs of enforcing the lien;
- 4 (b) "Municipal utility" means any public agency that owns or operates a system or  
5 facilities for the provision of gas, electric, sewer, water, or  
6 telecommunications service to retail customers;
- 7 (c) "Public agency" has the same meaning as specified in KRS 65.230;
- 8 (d) "Retail business ratepayer" means any nonresidential ratepayer of a municipal  
9 utility that is in arrears on the utility bill in an amount in excess of ten  
10 thousand dollars (\$10,000); and
- 11 (e) "Service" means gas, electric, sewer, or water service provided by the  
12 municipal utility.
- 13 (2) Any municipal utility shall have a lien on the real property of a retail business  
14 ratepayer served by the municipal utility. The lien shall be for the collection of rates  
15 and charges for retail utility service provided to the retail business ratepayer. In no  
16 instance shall this lien attach to the real property of an owner who has leased the  
17 property to a retail business ratepayer unless the property owner is responsible for  
18 paying the utility charges under the lease agreement.
- 19 (3) The lien shall arise and attach as services are provided to the retail business  
20 ratepayer and shall remain in place until the rates and charges for the services are  
21 paid in full. The lien is deemed a statutory lien within the meaning of 11 U.S.C. sec.  
22 101(53).
- 23 (4) The rights to a lien under this section:
- 24 (a) Are in addition to any other rights or remedies a municipal utility may have  
25 under the law or pursuant to a contract; and
- 26 (b) Are not intended to impair or alter any of the municipal utility's other rights or  
27 remedies, including the ability to require an additional deposit or to shut off

1 and discontinue service.

2 (5) The lien may take priority over a mortgage, a contract lien, or a bona fide  
3 conveyance for value, except purchase money deeds of trust or mortgages granted  
4 priority under Section 3 of this Act, if:

5 (a) The municipal utility files notice which is duly recorded or lodged for record  
6 according to law;

7 (b) The utility claiming the prior lien files a statement of lien in the office of the  
8 county clerk of the county where the service has been furnished before the  
9 recording of the mortgage, the contract lien, or the conveyance; and

10 (c) The statement of lien is in the form prescribed in subsections (6) and (7) of  
11 this section.

12 (6) The statement of lien shall be subscribed and sworn to by an authorized  
13 representative of the municipal utility and shall identify the following:

14 (a) The municipal utility claiming the lien, including an address and a contact  
15 person;

16 (b) The property, by legal description, against which the lien is claimed;

17 (c) The nature of the service provided;

18 (d) The contract, if any, pursuant to which the services were provided; and

19 (e) The amounts, if any, due for services provided.

20 (7) (a) The statement of lien shall be recorded in the office of the county clerk of the  
21 county where the service is furnished or the property or some portion of the  
22 property serviced by the municipal utility is situated. The utility shall send a  
23 copy of the statement of lien by regular mail, postage prepaid, to the owner of  
24 the property at the owner's last known address or to the address associated  
25 with the tax bill for the property. The copy of the statement of lien shall be  
26 sent within ten (10) business days of its filing in the office of the county clerk.

27 (b) At any time, a municipal utility may supplement the statement of lien by

1 recording the supplement in the same manner as the original statement of lien.

2 Any supplement to the statement of lien shall relate back to the date of the  
3 original recording of the statement of lien.

4 (8) The county clerk shall endorse each statement of lien on the date of its filing and the  
5 clerk shall make an abstract of the statement, endorse the abstract, and place it in a  
6 book to be kept by the clerk for that purpose. The book shall contain the following:

7 (a) The endorsed and indexed abstracts;

8 (b) The date of filing the statement;

9 (c) The name of the municipal utility;

10 (d) The name of the person against whose property the lien is filed; and

11 (e) A description of the property charged with the lien.

12 (9) The clerk shall receive a fee pursuant to KRS 64.012 from the person filing the  
13 statement as full compensation, which shall be taxed and collected as other costs.

14 (10) An action to enforce the lien under this section shall be by equitable proceedings  
15 and conducted as other proceedings in equity in similar cases. The petition shall  
16 allege the facts necessary to secure a lien, describe the property charged, and the  
17 plaintiff's interest in enforcing the lien. Lienholders may unite in the action to  
18 enforce the lien as plaintiffs, and those who are not plaintiffs shall be made  
19 defendants. The debtor or the debtor's personal representative, heirs, devisees, and  
20 all other persons having liens on or interests in the property sought to be subjected  
21 shall be made defendants.

22 (11) The clerk of the court in which the petition is filed shall issue the proper process  
23 against the defendants. After the expiration of ten (10) days from the filing of the  
24 petition, the clerk of the court in which the petition was filed shall:

25 (a) Draw up an order referring the action to the master commissioner of the court  
26 and file it with the petition;

27 (b) Deliver the pleadings and papers of the action to the commissioner; and

1 (c) Make a memorandum of the action in the minute book.

2 (12) If, for any cause, it should be improper to refer the case to the master commissioner,  
3 the master commissioner is directed to select some suitable person to act as a new  
4 commissioner for the case and refer the case to him or her. However, before  
5 proceeding to act on the case, the new commissioner shall take an oath before the  
6 clerk and execute bond with sufficient surety. The bond shall be preserved by the  
7 clerk and reported to the court.

8 (13) The owner or claimant of property against which a lien has been asserted may file a  
9 bond for double the amount of the lien claimed with the county clerk in the county  
10 where the lien was filed. Bond may be asserted at any time before a judgment is  
11 rendered enforcing the lien, and the bond shall have good sureties approved by the  
12 clerk and be conditioned upon the obligors satisfying any judgment that may be  
13 rendered in favor of the person asserting the lien. The bond shall be preserved by  
14 the clerk, and upon its execution, the lien upon the property shall be discharged. The  
15 person asserting the lien may make the obligors in the bond parties to any action to  
16 enforce its claim. Any judgment recovered may be against all or any of the obligors  
17 on the bond.

18 ➔Section 25. KRS 405.470 is amended to read as follows:

19 (1) The secretary may collect delinquent child support by issuing an order to withhold  
20 and deliver earnings or property of any kind, real and personal, including booting of  
21 vehicle in accordance with administrative regulations promulgated under KRS  
22 205.745, which the secretary has reason to believe are due, owing or belonging to  
23 the parent.

24 (2) Fifty percent (50%) of the disposable earnings against which a support debt is  
25 asserted shall be exempt and may be delivered to the obligor. The only other  
26 exemptions allowed shall be those provided in KRS 427.060.

27 (3) The order shall continue to operate until the child support debt is paid in full and



1 shall take priority over all other debts and creditors of such debtor, except the  
2 portion of any loan proceeds secured by a purchase money deed of trust or  
3 mortgage granted priority under Section 3 of this Act.

4 →Section 26. KRS 451.200 is amended to read as follows:

5 A liability incurred by any person as receiver or depository of money or property  
6 committed to his charge by order of the court shall rank with debts due to the state and  
7 shall have priority over other debts owed by the receiver or depository and precedence  
8 over any mortgage or lien upon the property of the receiver or depository made after his  
9 or her appointment or designation, except purchase money deeds of trust or mortgages  
10 granted priority under Section 3 of this Act.