

1 AN ACT relating to property placed in a tax delinquency diversion program.

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

3 ➔Section 1. KRS 99.727 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Census block" means an area within the jurisdiction of a local government
6 identified by the United States Census Bureau using a unique four (4) digit
7 number;

8 (b) "Certificate of delinquency" has the same meaning as in KRS 134.010;

9 (c) **"Diverted tax delinquency purchaser" means a third-party purchaser who**
10 **is registered under subsection (8) of this section to purchase a certificate of**
11 **delinquency related to property placed in a tax delinquency diversion**
12 **program;**

13 **(d)** "Individual parcel" means a parcel of property not located in a priority project
14 area that has been designated by the commission or alternative government
15 entity as blighted, and for which the area in which the property is located:

- 16 1. Exhibits conditions that are favorable for development;
- 17 2. Has the resources needed for urban redevelopment; and
- 18 3. Has characteristics that can be promoted as part of a campaign to retain
19 existing residents and attract new residents to the area;~~and~~

20 **(e)**~~(d)~~ "Priority project area" means a specific group of properties identified by
21 census block, which are located in an area where:

- 22 1. There are a significant number of blighted properties;
- 23 2. Existing conditions are favorable for development;
- 24 3. Existing resources needed for urban redevelopment are present; and
- 25 4. Existing characteristics of the area can be promoted as part of a
26 campaign to retain existing residents and attract new residents to the
27 area;

1 (f) "Third-party purchaser" has the same meaning as in KRS 134.010; and

2 (g) "Vacant and abandoned property" means a residential property that has
3 been continuously vacant for at least one (1) year with repeated housing,
4 building, or nuisance code violations.

5 (2) The legislative body of a consolidated local government may, by ordinance,
6 establish a tax delinquency diversion program for blighted property.

7 (3) The ordinance establishing the program shall designate the commission or an
8 alternative government entity as the body responsible for identifying and certifying
9 priority project areas and individual parcels of property for inclusion in the tax
10 delinquency diversion program.

11 (4) The commission or alternative government entity shall submit recommended
12 priority project areas and qualifying individual parcels of property to the governing
13 body of the consolidated local government for consideration.

14 (5) Except as provided under subsection (7) of this section, certificates of delinquency
15 related to property approved by the governing body of the consolidated local
16 government for inclusion in the tax delinquency diversion program shall not be
17 available for purchase ~~by any person~~ for a period of up to five (5) years following
18 the year in which the property is placed in the tax delinquency diversion program.

19 (6) The commission or alternative government entity shall provide to the county
20 attorney a list of all properties included in the tax delinquency diversion plan, and
21 the county attorney shall place the identified properties on the protected list
22 required under~~by~~ KRS 134.504(10).

23 (7) (a) A diverted tax delinquency purchaser may purchase a certificate of
24 delinquency related to vacant and abandoned property which has been
25 placed in a tax delinquency diversion program. After ninety (90) days from
26 the creation of the certificate of delinquency, a diverted tax delinquency
27 purchaser who is interested in purchasing the certificate of delinquency for

1 vacant and abandoned property shall send a notification to the county
2 attorney requesting that the certificate of delinquency be made available for
3 purchase. Within thirty (30) days of receipt of the notification, the county
4 attorney shall:

- 5 1. Verify with the commission or alternative government entity as
6 designated under subsection (3) of this section that the property in
7 question is vacant and abandoned;
- 8 2. Remove the certificate of delinquency from the protected list required
9 by KRS 134.504(10); and
- 10 3. Notify the county clerk and all other diverted tax delinquency
11 purchasers that the certificate of delinquency shall be available for
12 purchase.

13 (b) Once the requirements in paragraph (a) of this subsection are met, the
14 county clerk shall conduct a sale of the certificate of delinquency to diverted
15 tax delinquency purchasers. The sale shall be scheduled within ninety (90)
16 days of the date of the notification sent to the county clerk in paragraph
17 (a)3. of this subsection.

18 (8) (a) To qualify as a diverted tax delinquency purchaser, the third-party
19 purchaser shall register with the Department of Revenue under this
20 subsection and be:

- 21 1. A political subdivision of the Commonwealth created by the governing
22 body of a consolidated local government or operating within the
23 boundaries of a consolidated local government;
- 24 2. A state or local agency, board, or commission created by the governing
25 body of a consolidated local government or operating within the
26 boundaries of a consolidated local government;
- 27 3. A quasi-governmental entity created by the governing body of a

1 consolidated local government or operating within the boundaries of a
 2 consolidated local government; or

3 4. A nonprofit organization that:

4 a. Is registered with the Kentucky Secretary of State;

5 b. Has been registered with the Kentucky Secretary of State for a
 6 minimum of five (5) years;

7 c. Has a principal place of business in Kentucky;

8 d. Includes affordable housing in its stated purpose; and

9 e. Is a tax-exempt organization under Section 501(c)(3) of the
 10 Internal Revenue Code.

11 (b) The Department of Revenue shall:

12 1. Decline to issue a certificate of registration to any applicant who does
 13 not meet the requirements established under paragraph (a) of this
 14 subsection; and

15 2. Maintain a list of the applicants who are issued a certificate of
 16 registration. The list shall include the contact information and email
 17 address of each applicant.

18 (9) A diverted tax delinquency purchaser shall be subject to the same requirements
 19 as a third-party purchaser under KRS Chapter 134.

20 (10) The Department of Revenue shall promulgate administrative regulations to
 21 establish a process for the purchase and sale of certificates of delinquency related
 22 to property placed in a tax delinquency diversion program.

23 ➔Section 2. KRS 134.128 is amended to read as follows:

24 (1) The sale of certificates of delinquency by county clerks to persons other than those
 25 listed in KRS 134.127(1)(a) shall be conducted in accordance with the provisions of
 26 this section.

27 (2) The department shall promulgate administrative regulations to establish a process

1 for the purchase and sale of certificates of delinquency to third parties. The process
2 developed by the department shall:

3 (a) 1. Establish an annual statewide schedule for the sale of certificates of
4 delinquency in each county. The schedule shall be published on the
5 department's website~~[Web-site]~~ at least ten (10) days prior to the first
6 sale. The sale in each county shall be administered by the county clerk.

7 2. The sale in each county shall be scheduled at least ninety (90) days but
8 not more than one hundred thirty-five (135) days after the unpaid tax
9 claims are filed by the sheriff with the county clerk, unless the
10 provisions of subparagraph 3. of this paragraph apply. The department
11 may stagger the schedule so that sales are conducted on different dates
12 and times in different counties.

13 3. A county clerk who:

14 a. Due to the assessment schedule established by the department,
15 anticipates receiving certificates of delinquency relating to
16 unmined coal, oil, or gas reserves, or any other mineral or energy
17 resources assessed separately from the surface real property
18 pursuant to KRS 132.820 too late to be included in the annual sale
19 scheduled during the timeframes established by subparagraph 2. of
20 this paragraph; and

21 b. Wants to include those certificates in the annual sale for the year in
22 which the certificates of delinquency are created;

23 may submit a request to the department to hold the annual sale for that
24 county up to one hundred ninety-five (195) days after the bulk of the
25 unpaid tax claims are filed by the sheriff with the county clerk in
26 accordance with KRS 134.122;

27 (b) Except as provided in KRS 134.127(1)(a), prohibit the payment of any newly

1 filed certificates of delinquency by a third party prior to the scheduled annual
2 sale of certificates of delinquency for that year for that county;

3 (c) Prohibit the payment of any certificates of delinquency:

4 1. Involved in bankruptcy litigation in which the county attorney or
5 department has filed a claim;

6 2. Involved in other litigation initiated by the county attorney or the
7 department, or in which the county attorney or department responds or
8 files a claim;

9 3. Under a payment plan that has been agreed to by the taxpayer and the
10 county attorney or the department, and on which the payment agreement
11 is in good standing; or

12 4. Related to property included in a tax delinquency diversion program
13 established ~~under~~^{pursuant to} KRS 99.727 **and on the protected list**
14 **required under KRS 134.504(10)**;

15 (d) Establish a process to be used by county clerks in determining the order in
16 which interested third-party purchasers may select and pay available
17 certificates of delinquency at the annual sale. The process shall, at a
18 minimum:

19 1. Be uniform in all counties to the extent practicable;

20 2. Establish a process, if there is more than one (1) purchaser registered to
21 purchase certificates of delinquency at the sale, that allows all interested
22 purchasers an opportunity to purchase certificates of delinquency on an
23 equitable basis. The sale shall not be structured in such a manner to
24 allow one (1) third party to purchase all of the certificates of
25 delinquency if there are other properly registered third parties that are
26 also interested in purchasing certificates of delinquency;

27 3. Establish fairness for all participants by prohibiting the participation of

- 1 multiple related entities, or multiple individuals representing related
2 interests as separate entities in the selection process at an annual sale.
3 The department shall define "related entities" and "related interests" as
4 part of the regulatory process; and
- 5 4. Establish a process to be used by county clerks in identifying, verifying,
6 and selling priority certificates of delinquency. The process shall:
- 7 a. Require third-party purchasers to submit a list of priority
8 certificates of delinquency to the county clerk up to ten (10) days
9 before the annual sale so that the clerk may identify and allocate
10 priority certificates of delinquency to third-party purchasers prior
11 to the annual sale;
- 12 b. Require that all priority certificates of delinquency allocated to a
13 third-party purchaser prior to the annual sale be removed from the
14 annual sale;
- 15 c. Allow any third-party purchaser holding a certificate of
16 delinquency on a parcel of property from a prior year to submit a
17 priority list and purchase any priority certificates of delinquency to
18 which the third-party purchaser is entitled, notwithstanding that
19 the third-party purchaser may be related to another third-party
20 purchaser participating in the sale; and
- 21 d. Give priority to the third-party purchaser holding a certificate of
22 delinquency from the most recent tax year if more than one (1)
23 third party holds an outstanding certificate of delinquency on a
24 parcel of property;
- 25 (e) Require all potential participants in the sale to register at least one (1) week in
26 advance with the county clerk;
- 27 (f) Require a review of the list of registered participants, either by the county

1 clerk or the department, prior to the sale to ensure that:

2 1. All registered participants seeking to pay multiple certificates of
3 delinquency are properly registered with the department as required by
4 KRS 134.129; and

5 2. No registered participants or related entities or related interests
6 prohibited from separate participation in the annual sale pursuant to the
7 provisions of paragraph (d)3. of this subsection and the administrative
8 regulations promulgated thereunder have separately registered to
9 participate in the annual sale;

10 (g) Establish advance deposit requirements for registered participants based upon
11 the maximum amount the registered participant may pay for desired
12 certificates of delinquency;

13 (h) Establish a registration fee to be paid to the clerk. The registration fee paid to
14 each county shall not exceed two hundred fifty dollars (\$250) annually and
15 may be tiered;

16 (i) Establish payment requirements, which may include nullification of the
17 payment and forfeiture of the advance deposit if a third-party purchaser fails
18 to produce full payment within the specified time; and

19 (j) Establish payment methods.

20 (3) Any person who, in any calendar year:

21 (a) Pays or plans to pay more than five (5) certificates of delinquency statewide;

22 (b) Pays or plans to pay more than three (3) certificates of delinquency in any
23 county; or

24 (c) Invests or plans to invest more than ten thousand dollars (\$10,000) in the
25 payment of certificates of delinquency on a statewide basis in any calendar
26 year;

27 shall register with the department annually as provided in KRS 134.129.

- 1 (4) The department shall be responsible for monitoring the sale of certificates of
2 delinquency.
- 3 (5) (a) At least thirty (30) but not more than forty-five (45) days before the scheduled
4 sale date, the county clerk shall cause a notice to be published in accordance
5 with the provisions of KRS Chapter 424. The notice shall list by property
6 owner, property address, and if available, parcel number or lot number, all
7 certificates of delinquency available for sale. The notice shall provide the
8 date, time, and location of the sale. In addition, the notice shall list, in a
9 separate section, all personal property certificates of delinquency held by the
10 county clerk.
- 11 (b) As compensation for advertising the sale, the county clerk shall receive five
12 dollars (\$5) for each certificate of delinquency and personal property
13 certificate of delinquency advertised. The fee shall be added to the amount of
14 the certificate of delinquency or personal property certificate of delinquency
15 and shall be paid by the person paying the certificate of delinquency or
16 personal property certificate of delinquency.
- 17 (c) The cost of placing the advertisement shall be paid by the county. The cost
18 shall be added to the amount of the certificate of delinquency or personal
19 property certificate of delinquency and shall be paid by the person paying the
20 certificate of delinquency or personal property certificate of delinquency. The
21 department shall establish a formula that may be used by counties in
22 allocating the advertising costs among the delinquent tax claims. The formula
23 shall take into account that a percentage of delinquent tax claims remains
24 unpaid.
- 25 (6) Any certificate of delinquency not paid at the annual sale, not subject to a payment
26 plan with the department or county attorney, and not known to be in litigation may
27 be paid to the county clerk at any time by any person after the sale, provided that:

- 1 (a) Any person required by KRS 134.129 to register with the department shall
2 hold a current certificate of registration at the time of purchase;
- 3 (b) Any person not previously registered with the county clerk during the
4 calendar year shall register with the county clerk and shall pay the registration
5 fee established by administrative regulation pursuant to subsection (2)(h) of
6 this section; and
- 7 (c) Any person previously registered with the county clerk during the calendar
8 year who has not paid the maximum registration fee for that year shall pay the
9 appropriate amount for each certificate of delinquency paid, as established by
10 administrative regulation pursuant to subsection (2)(h) of this section, until
11 the maximum registration has been paid.
- 12 (7) Any certificate of delinquency received by the county clerk too late to be included
13 in the annual sale in any year shall be retained by the clerk until the next scheduled
14 annual sale. During that time period, the clerk may accept payment on the
15 certificate of delinquency only from those individuals and entities listed in KRS
16 134.127(1)(a).