

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; **and**

- 1 **(f) "Third-party purchaser" has the same meaning as KRS 134.010.**
- 2 (2) The legislative body of a consolidated local government may, by ordinance,
3 establish a tax delinquency diversion program for blighted property.
- 4 (3) The ordinance establishing the program shall designate the commission or an
5 alternative government entity as the body responsible for identifying and certifying
6 priority project areas and individual parcels of property for inclusion in the tax
7 delinquency diversion program.
- 8 (4) The commission or alternative government entity shall submit recommended
9 priority project areas and qualifying individual parcels of property to the governing
10 body of the consolidated local government for consideration.
- 11 (5) **Except as provided under subsection (7) of this section,** certificates of delinquency
12 related to property approved by the governing body of the consolidated local
13 government for inclusion in the tax delinquency diversion program shall not be
14 available for purchase ~~by any person~~ for a period of up to five (5) years following
15 the year in which the property is placed in the tax delinquency diversion program.
16 **Any property remaining in the tax delinquency diversion program at the**
17 **expiration of the five (5) year period shall be removed from the program and all**
18 **related certificates of delinquency shall be made available for purchase by third-**
19 **party purchasers at the next annual sale in accordance with Section 2 of this Act.**
- 20 (6) The commission or alternative government entity shall provide to the county
21 attorney a list of all properties included in the tax delinquency diversion plan, and
22 the county attorney shall place the identified properties on the protected list
23 required under~~by~~ KRS 134.504(10).
- 24 **(7) (a) A diverted tax delinquency purchaser may purchase a certificate of**
25 **delinquency related to property placed in a tax delinquency diversion**
26 **program. After ninety (90) days from the creation of the certificate of**
27 **delinquency, a diverted tax delinquency purchaser who is interested in**

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

- 5 1. Remove the certificate of delinquency from the protected list required
6 by KRS 134.504(10); and
- 7 2. Notify the county clerk and all other diverted tax delinquency
8 purchasers that the certificate of delinquency shall be available for
9 purchase.

10 (b) Once the requirements in paragraph (a) of this subsection are met, the
11 county clerk shall conduct a sale of the certificate of delinquency to diverted
12 tax delinquency purchasers. The sale shall be scheduled within ninety (90)
13 days of the date of the notification sent to the county clerk in paragraph
14 (a)2. of this subsection.

15 (8) (a) To qualify as a diverted tax delinquency purchaser, the third-party
16 purchaser shall register with the county attorney under this subsection and
17 be:

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

- 1 a. Is registered with the Kentucky Secretary of State;
 2 b. Has been registered with the Kentucky Secretary of State for a
 3 minimum of five (5) years;
 4 c. Has a principal place of business in Kentucky;
 5 d. Includes affordable housing in its stated purpose; and
 6 e. Is a tax-exempt organization under Section 501(c)(3) of the
 7 Internal Revenue Code.

8 (b) The county attorney shall decline to issue a certificate of registration to any
 9 applicant who does not meet the requirements established under paragraph
 10 (a) of this subsection.

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

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

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

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

20 (2) The department shall promulgate administrative regulations to establish a process
 21 for the purchase and sale of certificates of delinquency to third parties. The process
 22 developed by the department shall:

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

27 2. The sale in each county shall be scheduled at least ninety (90) days but

1 not more than one hundred thirty-five (135) days after the unpaid tax
2 claims are filed by the sheriff with the county clerk, unless the
3 provisions of subparagraph 3. of this paragraph apply. The department
4 may stagger the schedule so that sales are conducted on different dates
5 and times in different counties.

6 3. A county clerk who:

7 a. Due to the assessment schedule established by the department,
8 anticipates receiving certificates of delinquency relating to
9 unmined coal, oil, or gas reserves, or any other mineral or energy
10 resources assessed separately from the surface real property
11 pursuant to KRS 132.820 too late to be included in the annual sale
12 scheduled during the timeframes established by subparagraph 2. of
13 this paragraph; and

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

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

20 (b) Except as provided in KRS 134.127(1)(a), prohibit the payment of any newly
21 filed certificates of delinquency by a third party prior to the scheduled annual
22 sale of certificates of delinquency for that year for that county;

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

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

26 2. Involved in other litigation initiated by the county attorney or the
27 department, or in which the county attorney or department responds or

- 1 files a claim;
- 2 3. Under a payment plan that has been agreed to by the taxpayer and the
3 county attorney or the department, and on which the payment agreement
4 is in good standing; or
- 5 4. Related to property included in a tax delinquency diversion program
6 established ~~under~~^{pursuant to} KRS 99.727 **and on the protected list**
7 **required under KRS 134.504(10)**;
- 8 (d) Establish a process to be used by county clerks in determining the order in
9 which interested third-party purchasers may select and pay available
10 certificates of delinquency at the annual sale. The process shall, at a
11 minimum:
- 12 1. Be uniform in all counties to the extent practicable;
- 13 2. Establish a process, if there is more than one (1) purchaser registered to
14 purchase certificates of delinquency at the sale, that allows all interested
15 purchasers an opportunity to purchase certificates of delinquency on an
16 equitable basis. The sale shall not be structured in such a manner to
17 allow one (1) third party to purchase all of the certificates of
18 delinquency if there are other properly registered third parties that are
19 also interested in purchasing certificates of delinquency;
- 20 3. Establish fairness for all participants by prohibiting the participation of
21 multiple related entities, or multiple individuals representing related
22 interests as separate entities in the selection process at an annual sale.
23 The department shall define "related entities" and "related interests" as
24 part of the regulatory process; and
- 25 4. Establish a process to be used by county clerks in identifying, verifying,
26 and selling priority certificates of delinquency. The process shall:
- 27 a. Require third-party purchasers to submit a list of priority

- 1 certificates of delinquency to the county clerk up to ten (10) days
2 before the annual sale so that the clerk may identify and allocate
3 priority certificates of delinquency to third-party purchasers prior
4 to the annual sale;
- 5 b. Require that all priority certificates of delinquency allocated to a
6 third-party purchaser prior to the annual sale be removed from the
7 annual sale;
- 8 c. Allow any third-party purchaser holding a certificate of
9 delinquency on a parcel of property from a prior year to submit a
10 priority list and purchase any priority certificates of delinquency to
11 which the third-party purchaser is entitled, notwithstanding that
12 the third-party purchaser may be related to another third-party
13 purchaser participating in the sale; and
- 14 d. Give priority to the third-party purchaser holding a certificate of
15 delinquency from the most recent tax year if more than one (1)
16 third party holds an outstanding certificate of delinquency on a
17 parcel of property;
- 18 (e) Require all potential participants in the sale to register at least one (1) week in
19 advance with the county clerk;
- 20 (f) Require a review of the list of registered participants, either by the county
21 clerk or the department, prior to the sale to ensure that:
- 22 1. All registered participants seeking to pay multiple certificates of
23 delinquency are properly registered with the department as required by
24 KRS 134.129; and
- 25 2. No registered participants or related entities or related interests
26 prohibited from separate participation in the annual sale pursuant to the
27 provisions of paragraph (d)3. of this subsection and the administrative

- 1 regulations promulgated thereunder have separately registered to
2 participate in the annual sale;
- 3 (g) Establish advance deposit requirements for registered participants based upon
4 the maximum amount the registered participant may pay for desired
5 certificates of delinquency;
- 6 (h) Establish a registration fee to be paid to the clerk. The registration fee paid to
7 each county shall not exceed two hundred fifty dollars (\$250) annually and
8 may be tiered;
- 9 (i) Establish payment requirements, which may include nullification of the
10 payment and forfeiture of the advance deposit if a third-party purchaser fails
11 to produce full payment within the specified time; and
- 12 (j) Establish payment methods.
- 13 (3) Any person who, in any calendar year:
- 14 (a) Pays or plans to pay more than five (5) certificates of delinquency statewide;
- 15 (b) Pays or plans to pay more than three (3) certificates of delinquency in any
16 county; or
- 17 (c) Invests or plans to invest more than ten thousand dollars (\$10,000) in the
18 payment of certificates of delinquency on a statewide basis in any calendar
19 year;
- 20 shall register with the department annually as provided in KRS 134.129.
- 21 (4) The department shall be responsible for monitoring the sale of certificates of
22 delinquency.
- 23 (5) (a) At least thirty (30) but not more than forty-five (45) days before the scheduled
24 sale date, the county clerk shall cause a notice to be published in accordance
25 with the provisions of KRS Chapter 424. The notice shall list by property
26 owner, property address, and if available, parcel number or lot number, all
27 certificates of delinquency available for sale. The notice shall provide the

1 date, time, and location of the sale. In addition, the notice shall list, in a
2 separate section, all personal property certificates of delinquency held by the
3 county clerk.

4 (b) As compensation for advertising the sale, the county clerk shall receive five
5 dollars (\$5) for each certificate of delinquency and personal property
6 certificate of delinquency advertised. The fee shall be added to the amount of
7 the certificate of delinquency or personal property certificate of delinquency
8 and shall be paid by the person paying the certificate of delinquency or
9 personal property certificate of delinquency.

10 (c) The cost of placing the advertisement shall be paid by the county. The cost
11 shall be added to the amount of the certificate of delinquency or personal
12 property certificate of delinquency and shall be paid by the person paying the
13 certificate of delinquency or personal property certificate of delinquency. The
14 department shall establish a formula that may be used by counties in
15 allocating the advertising costs among the delinquent tax claims. The formula
16 shall take into account that a percentage of delinquent tax claims remains
17 unpaid.

18 (6) Any certificate of delinquency not paid at the annual sale, not subject to a payment
19 plan with the department or county attorney, and not known to be in litigation may
20 be paid to the county clerk at any time by any person after the sale, provided that:

21 (a) Any person required by KRS 134.129 to register with the department shall
22 hold a current certificate of registration at the time of purchase;

23 (b) Any person not previously registered with the county clerk during the
24 calendar year shall register with the county clerk and shall pay the registration
25 fee established by administrative regulation pursuant to subsection (2)(h) of
26 this section; and

27 (c) Any person previously registered with the county clerk during the calendar

1 year who has not paid the maximum registration fee for that year shall pay the
2 appropriate amount for each certificate of delinquency paid, as established by
3 administrative regulation pursuant to subsection (2)(h) of this section, until
4 the maximum registration has been paid.

5 (7) Any certificate of delinquency received by the county clerk too late to be included
6 in the annual sale in any year shall be retained by the clerk until the next scheduled
7 annual sale. During that time period, the clerk may accept payment on the
8 certificate of delinquency only from those individuals and entities listed in KRS
9 134.127(1)(a).