

1 AN ACT relating to property theft.

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

3 ➔Section 1. KRS 514.020 is amended to read as follows:

- 4 (1) It is a defense to prosecution for theft that the actor:
- 5 (a) Was unaware that the property or service was that of another; or
- 6 (b) Acted under a claim of right to the property or service involved or a claim that
- 7 he or she had a right to acquire or dispose of it as he or she did; or
- 8 (c) Took property exposed for sale, intending to purchase and pay for it promptly,
- 9 or reasonably believing that the owner, if present, would have consented.
- 10 (2) It is no defense that theft was from the actor's spouse, except that misappropriation
- 11 of household and personal effects or other property normally accessible to both
- 12 spouses is theft only if it involves the property of the other spouse and only if it
- 13 occurs after the parties have ceased living together.
- 14 (3) It shall be prima facie evidence of intent to commit theft by deception when one
- 15 who has leased or rented the personal property of another fails to return the personal
- 16 property to its owner within four (4) days after the lease or rental agreement has
- 17 expired. It shall also be prima facie evidence of intent to commit theft by deception
- 18 when one presents to the owner identification which is false, fictitious or not current
- 19 as to name, address, place of employment or other items of identification for the
- 20 purpose of obtaining the lease or rental agreement. Nothing herein contained shall
- 21 relieve the owner from making demand for return of property so leased or rented.
- 22 Notice addressed and mailed to the lessee or renter at the address given at the time
- 23 of the making of the lease or rental agreement shall constitute proper demand.
- 24 **(4) Notwithstanding any defense available under subsection (1) of this section, it**
- 25 **shall be prima facie evidence of intent to commit theft by unlawful taking or**
- 26 **disposition when one alters, falsifies, forges, or misrepresents any written**
- 27 **instrument involved in the conveyance or financing of real property, including a**

1 residential or commercial deed, title, easement, or mortgage, for the purpose of:

2 (a) Depriving the rightful owner of the property;

3 (b) Inducing another to rely upon the false information to obtain ownership,
4 possession, or transfer of the real property;

5 (c) Obtaining any financial gain through the sale, lease, or placing of any
6 encumbrance on the property; or

7 (d) Engaging in any transaction that represents the person has the legal
8 authority to create, transfer, terminate, or otherwise affect a legal right,
9 interest, or obligation in the property.

10 ➔Section 2. KRS 514.030 is amended to read as follows:

11 (1) Except as otherwise provided in KRS 217.181, a person is guilty of theft by
12 unlawful taking or disposition when he or she unlawfully:

13 (a) Takes or exercises control over movable property of another with intent to
14 deprive him or her thereof; or

15 (b) Obtains immovable property of another or any interest therein with intent to
16 benefit himself or herself or another not entitled thereto.

17 (2) Theft by unlawful taking or disposition is a Class B misdemeanor unless:

18 (a) The property is a firearm, ~~{(regardless of the value of the firearm)}~~, in which
19 case it is a Class D felony;

20 (b) The property is anhydrous ammonia, ~~{(regardless of the value of the~~
21 ~~ammonia)}~~, in which case it is a Class D felony unless it is proven that the
22 person violated this section with the intent to manufacture methamphetamine
23 in violation of KRS 218A.1432, in which case it is a Class B felony for the
24 first offense and a Class A felony for each subsequent offense;

25 (c) The property is one (1) or more controlled substances valued collectively at
26 less than ten thousand dollars (\$10,000), in which case it is a Class D felony;

27 (d) The value of the property is five hundred dollars (\$500) or more but less than

- 1 one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;
- 2 (e) The value of the property is one thousand dollars (\$1,000) or more but less
3 than ten thousand dollars (\$10,000), in which case it is a Class D felony;
- 4 (f) The person has three (3) or more convictions under paragraph (d) of this
5 subsection within the last five (5) years, in which case it is a Class D felony.
6 The five (5) year period shall be measured from the dates on which the
7 offenses occurred for which the judgments of conviction were entered;
- 8 (g) The value of the property is ten thousand dollars (\$10,000) or more but less
9 than one million dollars (\$1,000,000), in which case it is a Class C felony;
- 10 (h) The value of the property is one million dollars (\$1,000,000) or more but less
11 than ten million dollars (\$10,000,000), in which case it is a Class B felony;
- 12 (i) The value of the property is ten million dollars (\$10,000,000) or more, in
13 which case it is a Class B felony;~~or~~
- 14 (j) **The property is immovable property, in which case the person shall be**
15 **charged one (1) level higher than the level otherwise specified in this**
16 **subsection; or**
- 17 (k) The offense occurs during a declared emergency as defined by KRS 39A.020
18 arising from a natural or man-made disaster, within the area covered by the
19 emergency declaration, and within the area impacted by the disaster, in which
20 case the person shall be charged one (1) level higher than the level otherwise
21 specified in this subsection.
- 22 (3) Any person convicted under subsection (2)(i) of this section shall not be released on
23 probation or parole until he or she has served at least fifty percent (50%) of the
24 sentence imposed, any statute to the contrary notwithstanding.
- 25 (4) If any person commits two (2) or more separate offenses of theft by unlawful taking
26 or disposition within one (1) year, the offenses may be combined and treated as a
27 single offense, and the value of the property in each offense may be aggregated for

1 the purpose of determining the appropriate charge. Offenses committed in different
2 jurisdictions within the Commonwealth may be combined pursuant to this
3 subsection and tried in any jurisdiction in which venue would be proper for at least
4 one (1) of the offenses. A defendant shall not be tried in more than one (1)
5 jurisdiction for the same offense or offenses.

6 ➔Section 3. KRS 15.113 is amended to read as follows:

7 (1) The Attorney General may investigate the use of personal identification and
8 financial information by persons for the purpose of theft, fraud, or both, or any
9 other illegal or fraudulent activity that may involve electronic commerce, the use of
10 public funds or property, or obtaining or attempting to obtain a benefit provided by
11 the government.

12 (2) The Attorney General shall coordinate with the Department of Financial
13 Institutions, the United States Secret Service, the Federal Trade Commission, the
14 Kentucky Bankers' Association, and any other agency or organization to prepare
15 and disseminate information to prevent identity theft.

16 **(3) The Attorney General shall create notices and publications designed to inform**
17 **and educate the public regarding the risks posed by deed fraud. The notices and**
18 **publications shall provide owners of real property with information concerning**
19 **the types of deed fraud, the risk associated with deed fraud, and the resources for**
20 **assistance that are available to property owners affected by deed fraud. The**
21 **Office of the Attorney General shall make the notices and publications available**
22 **on its website and to the offices of the sheriff and county clerk of each county.**

23 ➔Section 4. KRS 15.231 is amended to read as follows:

24 The Attorney General shall have concurrent jurisdiction with Commonwealth's attorneys
25 and county attorneys for the prosecution of offenses under and the enforcement of the
26 provisions of KRS 411.210, 434.872, 434.874, **subsection (1)(b) of Section 2 of this Act,**
27 514.160, 514.170, and 532.034.

1 ➔Section 5. KRS 134.119 is amended to read as follows:

- 2 (1) (a) The sheriff shall be the collector of all state, county, county school district,
3 and other taxing district property taxes unless the payment is directed by law
4 to be made to some other person. The sheriff may contract to collect taxes on
5 behalf of cities, independent school districts, or any other governmental unit
6 with the authority to levy a property tax, if the enabling legislation authorizing
7 imposition of the tax permits the governmental unit to contract for the
8 performance of tax collection duties.
- 9 (b) The provisions of this chapter relating to the collection of property taxes shall
10 apply to other property tax collectors to the extent that the governing body of
11 the city, school district, or taxing district appointing the tax collector has not
12 adopted alternative tax collection processes and procedures.
- 13 (2) Payment to the sheriff may be provided by any commercially acceptable means.
14 The sheriff may limit the acceptable methods of payment to those that ensure that
15 payment cannot be reversed or nullified due to insufficient funds.
- 16 (3) (a) 1. The sheriff shall accept payment from the day on which the tax bills are
17 mailed by the sheriff to the taxpayer as provided in KRS 133.220 and
18 133.230, through the day on which the sheriff files the uncollected tax
19 claims with the county clerk pursuant to KRS 134.122. During this time
20 period, the sheriff may accept full or partial payment for any outstanding
21 taxes or tax claims.
- 22 2. a. Any payments received by the sheriff by mail that:
23 i. Are received after the day on which uncollected tax claims
24 are filed with the county clerk pursuant to KRS 134.122; and
25 ii. Have a postmark that reflects a date on or before the day the
26 uncollected tax claims are filed with the county clerk;
27 shall be accepted and processed, and the amount due shall be the

- 1 amount due immediately before the transfer of the uncollected tax
2 claims by the sheriff to the county clerk.
- 3 b. Payments described in this subparagraph may be processed as
4 agreed by the sheriff and county clerk.
- 5 c. Absent an agreement between the sheriff and the county clerk, the
6 payment shall be accepted and processed by the sheriff.
- 7 d. If the sheriff accepts and processes the payment, the sheriff shall
8 notify the county clerk, and the county clerk shall update his or her
9 records to reflect payment of the certificate of delinquency.
- 10 e. The sheriff and the county clerk shall reconcile all transactions
11 addressed by this subparagraph by preparation of an addendum to
12 the original reconciliation provided by the sheriff to the county
13 clerk at the time of transfer. The addendum shall be prepared thirty
14 (30) days after the original transfer, and shall be filed by the
15 county clerk in the clerk's order book.
- 16 (b) All payments received by the sheriff shall be entered immediately by the
17 sheriff on his or her books. Partial payments shall be credited against the total
18 amount due and shall be apportioned by the sheriff among the entities
19 included on the tax bill in the same proportion the amount due to each bears to
20 the amount paid.
- 21 (c) The acceptance of any payment before the taxpayer's tax liability has been
22 finally determined shall not imply that the payment was the correct amount
23 due and shall not preclude the assessment and collection of additional taxes
24 due or the refund of any part of the amount paid that is in excess of the
25 amount determined to be due.
- 26 (d) The sheriff may accept payment of any tax or tax claim from any other person
27 on behalf of the taxpayer. Any person making a payment on behalf of a

1 taxpayer may, upon the written notarized request of the taxpayer, be treated as
2 a transferee as provided in KRS 134.121.

3 (e) The sheriff may accept payment of any amount due on a delinquent tax claim
4 from any of the persons described in subparagraphs 1., 2., and 3. of this
5 paragraph without permission of the taxpayer. The person seeking to make the
6 payment shall provide sufficient proof to the sheriff that he or she meets the
7 requirements to pay under this paragraph. The sheriff shall be held harmless if
8 he or she relies upon information provided and accepts payment from a person
9 not qualified to pay under this paragraph. Any person listed in subparagraph
10 1., 2., or 3. of this paragraph who makes full payment, may, upon written
11 request to the sheriff, be treated as a transferee under KRS 134.121:

12 1. Any person holding a legal or equitable estate in the real or personal
13 property upon which the delinquent taxes are due, other than a person
14 whose only interest in the property is a lien resulting from ownership of
15 a prior year certificate of delinquency;

16 2. A tenant or lawful occupant of real property, or a bailee or person in
17 possession of any personal property upon which the delinquent taxes are
18 due; or

19 3. Any person having a mortgage on real property or a security interest in
20 real or personal property upon which the delinquent taxes are due.

21 (4) If, upon expiration of the five percent (5%) penalty period established by KRS
22 134.015(2)(c), the real property tax delinquencies of a sheriff exceed fifteen percent
23 (15%) of the amount charged to the sheriff for collection, the department may
24 require the sheriff to make additional reasonable collection efforts. If the sheriff
25 fails to initiate additional reasonable collection efforts within fifteen (15) business
26 days following notification from the department that such efforts shall be made, the
27 department may assume responsibility for collecting the delinquent taxes. If the

1 department assumes the responsibility for collecting delinquent taxes, the
2 department shall receive the amounts that would otherwise be paid to the sheriff as
3 fees or commissions for the collection of tax bills.

4 (5) In collecting delinquent taxes, the sheriff:

5 (a) May distraint and sell personal property owned by a delinquent taxpayer in the
6 amount necessary to satisfy the delinquent tax claim. The sale shall be made
7 under execution for cash. If the personal property of the delinquent taxpayer
8 within the county is not sufficient to satisfy the delinquent tax claim, the
9 sheriff may sell so much of the personal property as is available; and

10 (b) Shall retain any amounts that come into his or her possession payable to a
11 delinquent taxpayer, other than claims allowed for attendance as a witness,
12 and shall apply such amounts to the amount due on the delinquent tax claim.

13 (6) (a) As compensation for collecting property taxes the sheriff shall be paid the
14 following amounts, regardless of whether the amounts are collected by the
15 sheriff prior to filing the tax claims with the county clerk, or by the county
16 clerk after the tax claims become certificates of delinquency or personal
17 property certificates of delinquency:

18 1. From the Commonwealth the sheriff shall be paid four and one-quarter
19 percent (4.25%) of the amount collected on behalf of the
20 Commonwealth;

21 2. From counties the sheriff shall be paid four and one-quarter percent
22 (4.25%) of the amount collected on behalf of the counties;

23 3. The sheriff shall be compensated as provided by law or as negotiated if
24 negotiation is permitted by law, for collecting taxes on behalf of any
25 taxing district;

26 4. The sheriff shall be compensated as provided in KRS 160.500 for
27 collecting school district taxes;

- 1 5. The sheriff shall be compensated as provided in KRS 91A.070 for
2 collecting taxes on behalf of any city; and
- 3 6. The sheriff shall be compensated as provided in KRS 75A.050 for
4 collecting taxes on behalf of any consolidated emergency services
5 district.
- 6 (b) The sheriff shall include the amounts he or she is entitled to under the
7 provisions of paragraph (a) of this subsection as part of the delinquent tax
8 claims filed with the county clerk. The amount so included shall become a
9 part of the certificate of delinquency, and shall be paid by the person paying
10 the certificate of delinquency rather than the taxing jurisdiction for which the
11 taxes were collected.
- 12 (7) As additional compensation for the collection of delinquent taxes, the sheriff shall
13 be entitled to an amount equal to ten percent (10%) of the total taxes due plus ten
14 percent (10%) of the ten percent (10%) penalty for all delinquent taxes. This fee
15 shall be added to the total amount due, and shall be paid by the person paying the
16 tax claim if payment is made to the sheriff, or the certificate of delinquency or
17 personal property certificate of delinquency if payment is made after the tax claim
18 has been filed with the county clerk.
- 19 (8) If, in the process of collecting property taxes, the sheriff becomes aware of a new
20 address for a taxpayer, the sheriff shall provide, on a form provided by the
21 department, the information relating to the new address to the property valuation
22 administrator, who shall update his or her records to reflect the new address.
- 23 **(9) The sheriff shall include with every notice to a taxpayer relating to the collecting**
24 **of property taxes a copy of the information notice or publication prepared by the**
25 **Office of the Attorney General under subsection (3) of Section 3 of this Act.**

26 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO
27 READ AS FOLLOWS:

- 1 (1) Each county clerk shall establish a property owner notification service that
2 notifies owners of real property in the county when any document is recorded
3 under the name of the property owner or the address of the property owner
4 registered with the county clerk of the county where the property is located.
- 5 (2) The property owner notification service shall be free and available to any
6 property owner who owns real property in the county upon the owner's voluntary
7 registration for the service.
- 8 (3) A county clerk shall not be liable for failure to provide notice under this section.