

1 AN ACT relating to delinquent tax liens.

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

3 ➔Section 1. KRS 134.490 is amended to read as follows:

4 (1) (a) Within thirty (30)[fifty (50)] days after the delivery of a certificate of

5 delinquency by the clerk to a third-party purchaser, the third-party purchaser

6 shall send a notice to the delinquent taxpayer informing the delinquent

7 taxpayer that the certificate of delinquency has been purchased by the third-

8 party purchaser.

9 (b) *The third-party purchaser shall send this notice once every six (6)*

10 *months*[At least annually thereafter,] until the notice required by subsection

11 (2) of this section is sent[~~, the third party purchaser shall send a notice to the~~

12 ~~delinquent taxpayer~~].

13 (c) The notices included in this subsection shall be sent by certified mail with

14 proof of mailing and include the information required by subsection (3)(d) of

15 this section. A copy of each notice shall be sent to each mortgagee who holds

16 a mortgage on the property that is the subject of the certificate of delinquency.

17 (2) Anytime after the expiration of the one (1) year tolling period established by KRS

18 134.546, the third-party purchaser may institute an action to collect the amount due

19 on a certificate of delinquency. At least forty-five (45) days before instituting a

20 legal action, the third-party purchaser shall send a notice to the taxpayer and a copy

21 of the notice to each mortgagee who holds a mortgage on the property by certified

22 mail with proof of mailing. The notice shall:

23 (a) Inform the taxpayer that enforcement action will be taken;

24 (b) Include a statement advising the taxpayer that substantial additional

25 administrative costs and fees associated with collection in addition to the

26 amount due on the certificate of delinquency may be imposed and that

27 collection actions may include foreclosure; and

(c) Include the information required by subsection (3) of this section.

The notice shall be in addition to any notice sent under subsection (1) of this section.

(3) (a) 1. For certificates of delinquency for all property except property described in paragraph (b) of this subsection, third-party purchasers or their designees shall obtain from the office of the property valuation administrator of the county in which the real property is located the most recent address for the property owner.

2. To obtain information from the office of the property valuation administrator, the third-party purchaser shall, at the option of the property valuation administrator, either:

a. Obtain information from an up-to-date public access list or website[Web site] offered by the property valuation administrator; or

b. Submit a list of addresses, map identification numbers, or parcel numbers for which updated information is requested to the property valuation administrator, who shall update his or her records with regard to the properties for which information is requested and provide the updated information to the third-party purchaser within ten (10) days.

3. For this service, the property valuation administrator may charge a fee not to exceed two dollars (\$2) for each address provided or obtained.

4. Except as provided in paragraph (b) of this subsection, the third-party purchaser shall send the notices required by subsections (1) and (2) of this section to the address provided by the property valuation administrator. Unless the provisions of subparagraph 7. of this paragraph apply, the third-party purchaser shall not be required to send a

1 notice to any party other than the owner of record as provided by the
2 property valuation administrator at the time the notice is sent and the
3 mortgagee as required by subsections (1) and (2) of this section.

4 5. If, due to insufficient staffing, the property valuation administrator is
5 unable to provide the requested information to the third-party purchaser
6 within ten (10) days of submission, the property valuation administrator
7 shall immediately notify the third-party purchaser, and the third-party
8 purchaser may send the notices required by subsections (1) and (2) of
9 this section to the address reflected in the public records of the property
10 valuation administrator.

11 6. Any notices sent pursuant to information obtained under this paragraph
12 that are returned as undeliverable shall be re-sent by certified mail with
13 proof of mailing addressed to the "Occupant" at the address of the
14 property that is the subject of the certificate of delinquency. These
15 notices shall be sent within twenty (20) days of receipt of the returned
16 notice.

17 7. If a third-party purchaser becomes aware of a more recent or more
18 accurate address for a delinquent taxpayer that is different from the
19 address reflected in the records of the property valuation administrator,
20 the third-party purchaser shall send notices to the updated address in the
21 manner required by this subsection, and shall notify the property
22 valuation administrator of the updated address.

23 8. If a third-party purchaser receives an address from the property
24 valuation administrator during an address check after a first notice is
25 sent and returned as undeliverable, and the address is the same as was
26 originally provided, the third-party purchaser shall send the notice
27 addressed to "Occupant" at the address of the property that is the subject

3 (b) 1. For certificates of delinquency relating to unmined coal, oil or gas
4 reserves, or any other mineral or energy resources assessed separately
5 from the surface real property pursuant to KRS 132.820, third-party
6 purchasers or their designees shall obtain from the department the most
7 recent address for the property owner.

8 2. To obtain information about a particular property, the third-party
9 purchaser shall submit to the department a list of addresses, map
10 identification numbers, parcel numbers, and any other information the
11 department may require. The department shall:
12 a. Update its records with regard to the properties for which
13 information is requested; and
14 b. Provide the updated information to the third-party purchaser
15 within ten (10) business days.

16 3. For this service, the department may charge a fee not to exceed two
17 dollars (\$2) for each address provided.

18 4. The third-party purchaser shall send the notices required by subsections
19 (1) and (2) of this section relating to unmined coal, oil or gas reserves,
20 or any other mineral or energy resources assessed separately from the
21 surface real property pursuant to KRS 132.820 to the address provided
22 by the department. Unless the provisions of subparagraph 5.f. of this
23 paragraph apply, the third-party purchaser shall not be required to send a
24 notice to any party other than the owner of record as provided by the
25 department at the time the notice is sent and the mortgagee as required
26 by subsections (1) and (2) of this section.

27 5. a. Any notice sent pursuant to subsections (1) and (2) of this section

based on information obtained pursuant to this paragraph and returned as undeliverable shall be submitted to the department within ten (10) days of receipt of the returned notice.

- b. The department shall attempt to obtain an updated address for the owner of the property subject to the certificate of delinquency from the individual or entity filing the property tax return for the property.
- c. The individual or entity filing the property tax return shall provide an address of the property owner upon request of the department.
- d. The department shall provide any updated address information to the third-party purchaser.
- e. If updated information is provided, the notices shall be re-sent by certified mail with proof of mailing to the updated address of the owner within ten (10) days of the receipt of the updated information from the department.
- f. If a third-party purchaser becomes aware of a more recent or more accurate address for a delinquent taxpayer that is different from the address reflected in the records of the department, the third-party purchaser shall send notices to the updated address in the manner required by this subsection, and shall notify the department of the updated address.

third-party purchaser shall maintain complete and accurate records of all notices sent pursuant to this section.

notices required by this section shall include the following information:

- A statement that the certificate of delinquency is a lien of record against the property for which delinquent taxes are owed;
- A statement that the certificate bears interest at the rate provided in KRS

1 134.125;

2 3. A statement that if the certificate is not paid, it will be subject to
3 collection as provided by law, and that collection actions may include
4 foreclosure. The notice required by subsection (2) of this section shall
5 also include a statement of the intent to institute legal action to collect
6 the amount due;

7 4. A complete listing of the amount due, as of the date of the notice,
8 broken down as follows:

9 a. The purchase price of the certificate of delinquency;

10 b. Interest accrued subsequent to the purchase of the certificate of
11 delinquency; and

12 c. Fees imposed by the third-party purchaser;

13 5. If the third-party purchaser is required to register with the department as
14 provided in KRS 134.128(3), for certificates of delinquency purchased
15 after June 1, 2012, a statement informing the taxpayer that upon written
16 request and the payment of a processing fee, the third-party purchaser
17 will offer a payment plan; and

18 6. Information, in a format and with content as determined by the
19 department, detailing the provisions of the law relating to third-party
20 purchaser fees and charges.

21 (e) In addition, the notice shall provide the following information to the taxpayer:

22 1. The legal name of the third-party purchaser;

23 2. The third-party purchaser's physical address;

24 3. The third-party purchaser's mailing address for payments, if different
25 from the physical address; and

26 4. The third-party purchaser's telephone number.

27 If the information required by this paragraph changes, the third-party

1 purchaser shall, within thirty (30) days of the change becoming effective, send
2 a notice to each taxpayer by certified mail with proof of mailing with the
3 corrected information. The third-party purchaser shall also update contact
4 information included in the records of the county clerk within ten (10) days of
5 the change becoming effective. Failure to send the original notice or any
6 correction notices shall result in the suspension of the accrual of all interest
7 and any fees incurred by the third-party purchaser after that date until proper
8 notice is given as required by this subsection.

9 (4) If a person entitled to pay a certificate of delinquency to a third-party purchaser
10 makes payment on the certificate of delinquency to the county clerk under the
11 conditions described in KRS 134.127(3)(d), the payment shall constitute payment in
12 full, and no other amounts may be collected by the third-party purchaser from the
13 person.

14 (5) (a) For certificates of delinquency purchased after June 1, 2012, at the written
15 request of a delinquent taxpayer, a third-party purchaser required to register
16 with the department as provided in KRS 134.128(3) shall provide a monthly
17 installment payment plan to a taxpayer.

18 (b) The taxpayer and third-party purchaser shall sign an agreement detailing the
19 terms of the installment payment plan.

20 (c) The third-party purchaser may impose a processing fee, not to exceed eight
21 dollars (\$8) per month to offset the administrative cost of providing the
22 payment plan. No other fees, charges, interest, or other amounts not expressly
23 authorized by this chapter shall be charged, assessed, or collected by the third-
24 party purchaser.

25 (d) The existence of an agreement to provide a payment plan shall not impact the
26 right of the third-party purchaser to pursue legal action if the delinquent
27 taxpayer fails to follow the terms of the installment payment agreement.

1 (e) Upon default of a delinquent taxpayer:

2 1. The third-party purchaser shall retain all amounts paid, which shall be
3 applied to the outstanding balance due; and

4 2. The third-party purchaser shall not be required to offer the delinquent
5 taxpayer another opportunity for an installment payment plan.

6 (f) If a third-party purchaser who was required to offer payment plans pursuant to
7 paragraph (a) of this subsection, subsequently does not purchase a sufficient
8 number of certificates of delinquency to require registration with the
9 department, the third-party purchaser shall continue to offer payment plans
10 under the conditions established by this subsection for all delinquent
11 taxpayers whose certificates of delinquency were purchased during a period in
12 which the third-party purchaser was required to register with the department.

13 (g) A third-party purchaser who is not required to register with the department as
14 provided in KRS 134.128(3), or who holds certificates of delinquency
15 purchased prior to June 1, 2012, may voluntarily offer installment payment
16 plans to delinquent taxpayers in accordance with the provisions of this
17 subsection.

18 (h) The department may establish additional terms and conditions for installment
19 payment plans in an administrative regulation.

20 (6) Any person to whom a third-party purchaser transfers or assigns a certificate of
21 delinquency shall be considered a third-party purchaser under this chapter.

22 ➔Section 2. KRS 134.504 is amended to read as follows:

23 (1) The department shall be responsible for the collection of certificates of delinquency
24 and personal property certificates of delinquency. The provisions of this section
25 relating to certificates of delinquency shall also apply to personal property
26 certificates of delinquency unless otherwise specifically noted. The department
27 shall offer the collection duties related to certificates of delinquency and personal

1 property certificates of delinquency to the county attorney in each county, unless
2 the department determines that a county attorney has previously failed to perform
3 collection duties in a reasonable and acceptable manner.

4 (2) Any county attorney desiring to perform the collection duties shall enter into a
5 contract with the department on an annual basis.

6 (3) The terms of the contract shall specify the duties to be undertaken by the county
7 attorney, which shall include, at a minimum, the duties set forth in subsection (4) of
8 this section. The terms of the contract shall also provide that, if the county attorney
9 fails to perform the duties required by the contract during the contract period, the
10 department may assume all collection responsibilities.

11 (4) The following duties shall be performed by the department or the county attorney,
12 as the case may be, with regard to each certificate of delinquency:

13 (a) Within thirty (30) days after the establishment of a certificate of delinquency,
14 the county attorney or the department shall mail a notice by regular mail to the
15 owner of record on the assessment date at the address on the records of the
16 property valuation administrator, or to the in-care-of address if an in-care-of
17 address is provided as required by subsection (5) of this section. The notice
18 shall:

19 1. Include the name, address, and telephone number of a contact person in
20 the county attorney's office or the department, as the case may be;

21 2. Advise that:

22 a. The certificate of delinquency is a lien of record against the
23 property on which the taxes are due;

24 b. The amounts due are a personal obligation of the taxpayer on the
25 assessment date; and

26 c. The certificate bears interest at the rate of twelve percent (12%)
27 and, if not paid, will be subject to collection by the county attorney

or the department as provided by law;

3. Include the total amount due as of the date of the notice;
4. Include in bold print in at least twelve (12) point font, a statement advising the taxpayer that anytime after ninety (90) days from the creation of the certificate of delinquency, the certificate of delinquency may be paid by a third-party purchaser and, that if so paid, the certificate of delinquency will be subject to collection by the third-party purchaser as provided by law. The notice shall also advise that a third-party purchaser may impose substantial additional administrative costs and fees associated with collection in addition to the amount due on the certificate of delinquency, and that collection actions may include foreclosure. This provision shall not be included in notices sent for personal property certificates of delinquency; **[and]**
5. Advise that the taxpayer may qualify for a payment plan with the county attorney or the department, if the taxpayer meets the requirements established by the county attorney or the department, and if terms are agreed to prior to the date of the sale; **and**

6. Notify the taxpayer about the homestead exemption application process under KRS 132.810.

20 (b) The county attorney or the department shall file in the office of the county
21 clerk a list of the names and addresses to which the thirty (30) day notice was
22 mailed along with a certificate attesting that the notices were mailed in
23 accordance with the requirements of this section;

24 (c) 1. All thirty (30) day notices returned as undeliverable shall be submitted
25 by the county attorney or department to the property valuation
26 administrator, and a list of the returned notices shall be filed with the
27 county clerk, who shall record the list in the order book of the county.

- 1 2. The property valuation administrator shall attempt to correct inadequate
- 2 or erroneous addresses and, if property has been transferred, shall
- 3 determine the new owner, current mailing address, and in-care-of
- 4 address, if any, as provided in KRS 382.135.
- 5 3. The property valuation administrator shall return the notices with the
- 6 corrected information to the county attorney or the department within
- 7 twenty (20) days of receipt.
- 8 4. Upon receipt of the new information from the property valuation
- 9 administrator, the county attorney or the department shall resend the
- 10 notice required by paragraph (a) of this subsection using the updated
- 11 information;
- 12 (d) 1. At least twenty (20) days after the mailing of the thirty (30) day notice
- 13 required by paragraph (a) of this subsection, but within sixty (60) days
- 14 of the establishment of a certificate of delinquency, the county attorney
- 15 or department shall send a second notice, by regular mail, to owners of
- 16 record whose tax bills remain delinquent, or to the in-care-of addresses
- 17 or corrected address, if information regarding a new property owner has
- 18 been received by the county attorney or the department under the
- 19 provisions of paragraph (c) of this subsection. The notice shall include,
- 20 at a minimum, the following information:
 - 21 a. The name, address, and telephone number of a contact person in
 - 22 the county attorney's office or the department, as the case may be;
 - 23 b. A statement that a sale of tax claims will be held by the county
 - 24 clerk on the date established by the department for the sale. The
 - 25 text of the statement shall include the actual sale date, as well as a
 - 26 statement noting that the certificate of delinquency may be paid by
 - 27 a third-party purchaser at the sale, and if the certificate of

1 delinquency is paid by a third-party purchaser, it will be subject to
2 collection by the third-party purchaser as provided by law, that
3 significant additional collection fees will be imposed by the third-
4 party purchaser, and that collection actions may include
5 foreclosure. This statement shall not be included in notices sent to
6 owners of property subject to a personal property certificate of
7 delinquency; and

8 c. A statement that the taxpayer may qualify for a payment plan with
9 the county attorney or the department, if the taxpayer meets the
10 requirements established by the county attorney or the department
11 and if terms are agreed to prior to the date of the sale.

12 2. The county attorney or the department shall file in the office of the
13 county clerk a list of the names and addresses to which the sixty (60)
14 day notice was mailed, along with a certificate attesting that the notices
15 were mailed in accordance with the requirements of this section.

16 3. If the notice required by paragraph (c) of this subsection is returned as
17 undeliverable, and the property valuation administrator is not able to
18 provide a corrected or updated address, the county attorney or the
19 department shall address the sixty (60) day notice to "Occupant" and
20 shall mail the notice to the address of the property to which the
21 certificate of delinquency applies;

22 (e) The county attorney or the department shall deliver to the property valuation
23 administrator, at the same time the notice required by paragraph (d) of this
24 subsection is sent, a list of the owners whose tax bills remain delinquent. The
25 property valuation administrator shall review this list in accordance with KRS
26 132.220 to establish that the properties on the list can be identified and
27 physically located; and

1 (f) Anytime after the expiration of the one (1) year tolling period established by
2 KRS 134.546, the county attorney or department may institute an action to
3 collect the amount due on a certificate of delinquency owned by the taxing
4 jurisdictions and in the possession of the county clerk. At least forty-five (45)
5 days before instituting a legal action, the county attorney or department shall
6 send, by regular mail, a notice of intent to initiate legal action to enforce the
7 lien. The notice shall be sent to the owner of record of the property or to the
8 in-care-of address or corrected address if either has been provided pursuant to
9 this section.

10 (5) If property subject to a certificate of delinquency has been transferred in any year
11 after the assessment date, the property valuation administrator shall determine the
12 in-care-of address supplied in the deed pursuant to KRS 382.135 and shall provide
13 that information to the county attorney or the department.

14 (6) (a) Failure of the county attorney or the department to mail the notices required in
15 subsection (4) of this section shall not affect the validity of the claim of the
16 state, county, school district, and taxing district. However, the county attorney
17 or the department shall not receive any compensation, commission, or
18 payment related to any certificate of delinquency for which the notices
19 required by the provisions of subsection (4) of this section are not sent.
20 (b) For each notice mailed, one dollar (\$1) shall be added to the amount of the
21 certificate of delinquency, to offset the cost of mailing, and, upon collection,
22 the county attorney or the department shall be paid such amounts as
23 reimbursement for mailing costs.

24 (7) (a) As compensation for the collection duties performed pursuant to a contract
25 with the department, a county attorney shall be paid twenty percent (20%) of
26 the amount due each taxing unit during the contract period, whether the
27 amount is paid voluntarily, through sale, or under court order, and whether the

1 amount is paid to the county clerk or the county attorney. The fee for the
2 county attorney shall be added to the amount of the certificate of delinquency
3 and shall be paid by the person paying the certificate of delinquency.

4 (b) If payment in full is voluntarily made by the taxpayer to the county attorney
5 or county clerk within five (5) days of the filing of the tax claim with the
6 county clerk, the county attorney fee shall be waived.

7 (c) If a county attorney files a court action or files a cross-claim, the county
8 attorney shall be paid an additional fee of thirteen percent (13%) of the
9 amount of the certificate of delinquency and shall be reimbursed for costs
10 incident to the court action. The additional fee and costs incident to the
11 litigation shall be added to the certificate of delinquency and shall be paid by
12 the person paying the certificate of delinquency.

13 (d) If more than one (1) county attorney renders necessary services to collect on a
14 certificate of delinquency, the county attorney serving the last notice or
15 rendering the last substantial service preceding collection shall be entitled to
16 the fee.

17 (8) (a) The county attorney shall establish a system to accept installment payments
18 from delinquent taxpayers. The county attorney may, during the contract
19 period, enter into an agreement with a delinquent taxpayer to accept
20 installment payments on the certificates of delinquency. The agreement shall
21 not waive the county attorney's right to initiate court action or other
22 authorized collection activities if the taxpayer does not make payments in
23 accordance with the agreement.

24 (b) The county attorney may, upon written request of the taxpayer for good cause
25 and with agreement of the affected taxing jurisdiction or fee recipient, waive
26 or reduce fees and penalties that are part of a certificate of delinquency during
27 settlement or negotiation with a taxpayer in accordance with guidance

1 provided by the department.

2 (9) Any action by the county attorney authorized by this chapter shall be filed on
3 relation of the commissioner. A copy of any judgment obtained by the county
4 attorney shall be sent to the department.

5 (10) (a) The county attorney shall notify the county clerk and the department of the
6 filing of a suit at the time the suit is filed and of payment agreements at the
7 time such agreements are entered into. The county clerk shall note on the
8 certificate of delinquency the filing of the lawsuit or the existence of the
9 payment agreement, and these certificates of delinquency shall not be
10 available for purchase or payment by a third-party purchaser.

11 (b) The county attorney shall provide to the county clerk at least ten (10) days but
12 not more than twenty (20) days prior to the annual sale date for the county
13 established pursuant to KRS 134.128, a protected list of current year
14 certificates of delinquency that are:

24 The list shall include sufficient detail for the county clerk to accurately
25 identify the property.

26 (c) The county attorney shall notify the county clerk of the failure of any payment
27 agreement and, upon notification to the clerk, the certificate of delinquency

1 shall be available for purchase.

2 (11) The department may make its delinquent tax collection databases and other
3 technical resources, including but not limited to tax refund offsetting, available to
4 the county attorney upon request from the county attorney. The county attorney
5 seeking assistance shall enter into any agreements required by the department to
6 protect taxpayer confidentiality, to ensure database integrity, or to address the
7 concerns of the department.

8 (12) (a) If a county attorney chooses not to contract for collection duties, or if a county
9 attorney fails to perform the duties required by the contract, the department
10 shall assume responsibility for all uncollected certificates of delinquency and
11 personal property certificates of delinquency, including, at the option of the
12 department, those with pending court action or for which the county attorney
13 has entered into an installment payment agreement.

14 (b) If the department assumes or retains responsibility for the collection of
15 certificates of delinquency and personal property certificates of delinquency,
16 the twenty percent (20%) fee that would have been paid to the county attorney
17 under subsection (7) of this section, and any other fees or costs established by
18 this section for the county attorney shall be paid to the department for deposit
19 in the delinquent tax fund provided for under KRS 134.552.