

1 AN ACT relating to the collection of delinquent tax bills.

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

3 ➔Section 1. KRS 134.504 is amended to read as follows:

4 (1) The department shall be responsible for the collection of certificates of delinquency
5 and personal property certificates of delinquency. The provisions of this section
6 relating to certificates of delinquency shall also apply to personal property
7 certificates of delinquency unless otherwise specifically noted. The department shall
8 offer the collection duties related to certificates of delinquency and personal
9 property certificates of delinquency to the county attorney in each county, unless the
10 department determines that a county attorney has previously failed to perform
11 collection duties in a reasonable and acceptable manner.

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

14 (3) The terms of the contract shall:

15 **(a)** Specify the duties to be undertaken by the county attorney, which shall
16 include, at a minimum, the duties set forth in subsection (4) of this section;

17 **(b)** ~~[-The terms of the contract shall also -]~~Provide that, if the county attorney fails
18 to perform the duties required by the contract during the contract period, the
19 department may assume all collection responsibilities; **and**

20 **(c)** **Allow the county attorney the option to enforce collection of a certificate of**
21 **delinquency by the procedure authorized in Sections 2 to 20 of this Act.**

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

24 (a) Within thirty (30) days after the establishment of a certificate of delinquency,
25 the county attorney or the department shall mail a notice by regular mail to the
26 owner of record on the assessment date at the address on the records of the
27 property valuation administrator, or to the in-care-of address if an in-care-of

- 1 address is provided as required by subsection (5) of this section. The notice
2 shall:
- 3 1. Include the name, address, and telephone number of a contact person in
4 the county attorney's office or the department, as the case may be;
 - 5 2. Advise that:
 - 6 a. The certificate of delinquency is a lien of record against the
7 property on which the taxes are due;
 - 8 b. The amounts due are a personal obligation of the taxpayer on the
9 assessment date; and
 - 10 c. The certificate bears interest at the rate of twelve percent (12%)
11 and, if not paid, will be subject to collection by the county attorney
12 or the department as provided by law;
 - 13 3. Include the total amount due as of the date of the notice;
 - 14 4. Advise that anytime after ninety (90) days from the creation of the
15 certificate of delinquency, the certificate of delinquency may be paid by
16 a third-party purchaser and, that if so paid, the certificate of delinquency
17 will be subject to collection by the third-party purchaser as provided by
18 law. The notice shall also advise that a third-party purchaser may impose
19 substantial additional administrative costs and fees associated with
20 collection in addition to the amount due on the certificate of
21 delinquency, and that collection actions may include foreclosure. This
22 provision shall not be included in notices sent for personal property
23 certificates of delinquency; and
 - 24 5. Advise that the taxpayer may qualify for a payment plan with the county
25 attorney or the department, if the taxpayer meets the requirements
26 established by the county attorney or the department, and if terms are
27 agreed to prior to the date of the sale;

- 1 (b) The county attorney or the department shall file in the office of the county
2 clerk a list of the names and addresses to which the thirty (30) day notice was
3 mailed along with a certificate attesting that the notices were mailed in
4 accordance with the requirements of this section;
- 5 (c) 1. All thirty (30) day notices returned as undeliverable shall be submitted
6 by the county attorney or department to the property valuation
7 administrator, and a list of the returned notices shall be filed with the
8 county clerk, who shall record the list in the order book of the county.
- 9 2. The property valuation administrator shall attempt to correct inadequate
10 or erroneous addresses and, if property has been transferred, shall
11 determine the new owner, current mailing address, and in-care-of
12 address, if any, as provided in KRS 382.135.
- 13 3. The property valuation administrator shall return the notices with the
14 corrected information to the county attorney or the department within
15 twenty (20) days of receipt.
- 16 4. Upon receipt of the new information from the property valuation
17 administrator, the county attorney or the department shall resend the
18 notice required by paragraph (a) of this subsection using the updated
19 information;
- 20 (d) 1. At least twenty (20) days after the mailing of the thirty (30) day notice
21 required by paragraph (a) of this subsection, but within sixty (60) days
22 of the establishment of a certificate of delinquency, the county attorney
23 or department shall send a second notice, by regular mail, to owners of
24 record whose tax bills remain delinquent, or to the in-care-of addresses
25 or corrected address, if information regarding a new property owner has
26 been received by the county attorney or the department under the
27 provisions of paragraph (c) of this subsection. The notice shall include,

- 1 at a minimum, the following information:
- 2 a. The name, address, and telephone number of a contact person in
- 3 the county attorney's office or the department, as the case may be;
- 4 b. A statement that a sale of tax claims will be held by the county
- 5 clerk on the date established by the department for the sale. The
- 6 text of the statement shall include the actual sale date, as well as a
- 7 statement noting that the certificate of delinquency may be paid by
- 8 a third-party purchaser at the sale, and if the certificate of
- 9 delinquency is paid by a third-party purchaser, it will be subject to
- 10 collection by the third-party purchaser as provided by law, that
- 11 significant additional collection fees will be imposed by the third-
- 12 party purchaser, and that collection actions may include
- 13 foreclosure. This statement shall not be included in notices sent to
- 14 owners of property subject to a personal property certificate of
- 15 delinquency; and
- 16 c. A statement that the taxpayer may qualify for a payment plan with
- 17 the county attorney or the department, if the taxpayer meets the
- 18 requirements established by the county attorney or the department
- 19 and if terms are agreed to prior to the date of the sale.
- 20 2. The county attorney or the department shall file in the office of the
- 21 county clerk a list of the names and addresses to which the sixty (60) day
- 22 notice was mailed, along with a certificate attesting that the notices were
- 23 mailed in accordance with the requirements of this section.
- 24 3. If the notice required by paragraph (c) of this subsection is returned as
- 25 undeliverable, and the property valuation administrator is not able to
- 26 provide a corrected or updated address, the county attorney or the
- 27 department shall address the sixty (60) day notice to "Occupant" and

1 shall mail the notice to the address of the property to which the
2 certificate of delinquency applies;

3 (e) The county attorney or the department shall deliver to the property valuation
4 administrator, at the same time the notice required by paragraph (d) of this
5 subsection is sent, a list of the owners whose tax bills remain delinquent. The
6 property valuation administrator shall review this list in accordance with KRS
7 132.220 to establish that the properties on the list can be identified and
8 physically located; and

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

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

22 (6) (a) Failure of the county attorney or the department to mail the notices required in
23 subsection (4) of this section shall not affect the validity of the claim of the
24 state, county, school district, and taxing district. However, the county attorney
25 or the department shall not receive any compensation, commission, or
26 payment related to any certificate of delinquency for which the notices
27 required by the provisions of subsection (4) of this section are not sent.

1 (b) For each notice mailed, one dollar (\$1) shall be added to the amount of the
 2 certificate of delinquency, to offset the cost of mailing, and, upon collection,
 3 the county attorney or the department shall be paid ~~the~~^[such] amounts as
 4 reimbursement for mailing costs.

5 (7) (a) As compensation for the collection duties performed pursuant to a contract
 6 with the department, a county attorney shall be paid twenty percent (20%) of
 7 the amount due each taxing unit during the contract period, whether the
 8 amount is paid voluntarily, through sale, or under court order, and whether the
 9 amount is paid to the county clerk or the county attorney. The fee for the
 10 county attorney shall be added to the amount of the certificate of delinquency
 11 and shall be paid by the person paying the certificate of delinquency.

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

15 (c) 1. If a county attorney files a court action or files a cross-claim, the county
 16 attorney:

17 a. May collect actual, reasonable attorneys' fees and costs that
 18 arise due to the prosecution of collection remedies or the
 19 protection of a certificate of delinquency that is involved in
 20 litigation; and

21 b. Shall be paid an additional fee of thirteen percent (13%) of the
 22 amount of the certificate of delinquency ~~or~~^[and] shall be
 23 reimbursed for costs incident to the court action, whichever is
 24 greater. The additional fee and costs incident to the litigation shall
 25 be added to the certificate of delinquency and shall be paid by the
 26 person paying the certificate of delinquency.

27 2. For purposes of paragraph (c)1.a.:

1 a. Actual attorneys' litigation fees up to two thousand dollars
 2 (\$2,000) may be reasonable if the fees are based upon
 3 documented work performed at a rate commensurate with hourly
 4 rates customarily charged by private attorneys in that
 5 jurisdiction for similar services. A flat rate, without hours
 6 documented for work performed, may be reasonable if the flat
 7 fee is determined to be discounted from the usual and customary
 8 rates for comparable work; and

9 b. Any attorney's litigation fee in excess of two thousand dollars
 10 (\$2,000) shall be allowed if authorized by the court upon a
 11 finding that the county attorney incurred actual attorneys'
 12 litigation fees in excess of two thousand dollars (\$2,000) and that
 13 those attorneys' litigation fees were warranted based upon the
 14 complexity of the issues presented in the litigation.

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

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

26 (b) The county attorney may, upon written request of the taxpayer for good cause
 27 and with agreement of the affected taxing jurisdiction or fee recipient, waive

1 or reduce fees and penalties that are part of a certificate of delinquency during
2 settlement or negotiation with a taxpayer in accordance with guidance
3 provided by the department.

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

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

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

- 17 1. Under a payment plan with the county attorney on which payments are
18 current;
- 19 2. Involved in litigation initiated by the county attorney or in which the
20 county attorney responds or files an answer;
- 21 3. Involved in bankruptcy litigation in which the county attorney has filed a
22 claim; or
- 23 4. Included on a list of protected properties submitted to the county
24 attorney by a vacant property review commission or an alternative
25 government entity as provided in KRS 99.727.

26 The list shall include sufficient detail for the county clerk to accurately
27 identify the property.

1 (c) The county attorney shall notify the county clerk of the failure of any payment
2 agreement and, upon notification to the clerk, the certificate of delinquency
3 shall be available for purchase.

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

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

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

22 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
23 READ AS FOLLOWS:

24 *As used in Sections 2 to 20 of this Act, unless the context otherwise requires:*

25 *(1) "Land taxes" mean general taxes on real property and include the taxes both on*
26 *land and improvements thereon;*

27 *(2) "Tax bill" means the statement of the land taxes and the lien thereon, levied and*

1 assessed by any taxing authority; and

2 (3) "Tax lien" means the lien of any tax bill established under KRS 134.420.

3 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
4 READ AS FOLLOWS:

5 In addition to those powers granted to counties by statute for the collection of ad
6 valorem taxes, a county may enforce collection of any tax bill due to the county by the
7 procedure authorized in Sections 2 to 20 of this Act, except the statute of limitations
8 shall, in all cases, be that set forth in KRS 134.546.

9 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
10 READ AS FOLLOWS:

11 (1) The county clerk shall, as early in the month of July as practicable, make a list of
12 all the tax bills remaining in whole or in part unpaid on the date due and
13 payable. The list shall be filed at once with the county treasurer. A false report or
14 a failure to report shall not invalidate subsequent proceedings for collection of
15 the tax.

16 (2) The list of delinquent tax bills prepared under subsection (1) of this section shall
17 contain:

18 (a) A description of the land by district, block, lot, and sub-lot and include the
19 street address;

20 (b) A statement of the amount of each tax bill upon the parcel, including all tax
21 bills which are delinquent, the year of the assessment, the block, lot, and
22 sub-lot of each tax bill, the date from which and the rate at which interest
23 and penalties shall be computed, and an appropriate designation of the
24 owner or holder of each tax bill; and

25 (c) The name of the last-known person appearing on the county's records in
26 whose name the tax bills were listed or charged for the year preceding the
27 calendar year in which the list is filed.

1 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) If any of the land or lots against which delinquent taxes are owed remain
4 unreleased or unpaid six (6) calendar months from the date due and payable, the
5 county may file suit in the Circuit Court against the land or lots to enforce the tax
6 lien.

7 (2) The county treasurer shall note on the tax bill the fact that suit has been
8 commenced.

9 (3) The county treasurer shall note on the list of tax bills prepared under Section 4 of
10 this Act that suit has been filed and shall give the court docket the number of
11 each suit and the date the suit commenced.

12 (4) It shall be a defense to an action for recovery of land taxes against real property
13 that the action was not commenced within eleven (11) years after delinquency.

14 (5) Any person interested in or the owner of any tract of land or lot contained in the
15 county's records of delinquent tax bills may release the tract of land or lot, or any
16 part thereof, from the county's lien thereon, by paying the land taxes due to the
17 county, together with interest from the date of delinquency.

18 (6) If suit has commenced against any tract of land or lot for the collection of land
19 taxes, the person desiring to have the land released before judgment, in addition
20 to the original taxes, interest, and costs, including attorneys' fees, shall pay to the
21 county all necessary costs incurred in the court where the suit is pending, and the
22 county shall account to the clerk of the court in which the suit is filed for the
23 court costs collected.

24 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
25 READ AS FOLLOWS:

26 (1) The county may enforce county tax liens by bringing suit in rem against property
27 so encumbered. This means of enforcement shall not be the exclusive remedy

1 available to the county and shall be in addition to all other remedies available at
2 law or equity. Any number of parcels of real estate may be joined in one (1)
3 petition or suit. Each separate tract or parcel of real estate joined in any one (1)
4 action shall be included in a separate count to distinguish it from other parcels
5 within the same action.

6 (2) Each separate tract or parcel of real estate joined in any one (1) action shall be
7 listed by the county by its tax district, block, lot, and sub-lot and shall be
8 separately indexed and docketed by the Circuit Court clerk in a book kept by the
9 clerk for that purpose. For each parcel of real estate, the Circuit Court clerk shall
10 be allowed a fee of fifty cents (\$0.50) which shall be taxed and paid as other costs.

11 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
12 READ AS FOLLOWS:

13 (1) A suit for the enforcement of the tax liens brought under Sections 2 to 20 of this
14 Act shall be instituted by filing with the Circuit Court clerk a petition, containing
15 a caption in substantially the following form:

16 Circuit Court
17 Division
18 No. _____
19 County of _____ Plaintiff
20 VS.
21 Parcels of Land Encumbered
22 with Delinquent Tax Liens Defendants

23 (2) The petition shall contain a separate count for each parcel of real estate included
24 in the action. Each count in the petition shall set forth those items of information
25 required of the county in subsection (2) of Section 4 of this Act and shall list the
26 name of any taxing authority or person of record owning or holding any tax bill
27 or claiming any right, title, or interest in or to, or lien upon, any parcel of real

1 estate as set out in the petition, and a claim. The specific right, title, or interest
2 either owned or claimed, or lien held, by any taxing authority other than the
3 county or by other interested persons of record need not be set forth in the action.

4 (3) The petition shall conclude with a claim that all county tax liens upon the real
5 estate be enforced; that the court determine the amounts and priorities of all tax
6 bills, together with interest, penalties and costs; that the court order the real
7 estate to be sold by the master commissioner under KRS 426.560 to 426.715,
8 except as otherwise provided in Section 11 of this Act, and that a report of the
9 sale be made by the master commissioner to the court for further proceedings
10 under Sections 2 to 20 of this Act.

11 (4) The petition so filed shall have the same effect, with respect to each parcel of real
12 estate described, as a separate suit instituted to enforce the tax lien against any
13 one (1) of the parcels of real estate. The invalidity of any separate count shall not
14 in any way affect the validity of the remainder of the proceedings with respect to
15 any other count in the action.

16 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
17 READ AS FOLLOWS:

18 (1) Any action brought under this section or Sections 6, 7, 9, 10, or 11 of this Act
19 shall constitute an action in rem and the pleadings therein shall consist of a
20 petition and an answer.

21 (2) An answer may be filed by any person or taxing authority owning or claiming
22 any right, title, or interest in or to any tax bill constituting a tax lien on the real
23 estate described in the petition or by any person owning or claiming any right,
24 title, or interest in or to, or lien upon, the real estate. An answer shall include the
25 nature and amount of the interest and any defense or objection to the
26 enforcement of the tax liens listed in the petitions, and may include the
27 allegations usually incorporated by the appropriate pleadings.

1 (3) An answer shall contain the caption and number of the case, and the count
 2 number or numbers, as set out in the petition, of the parcels of real estate
 3 concerned. The answer shall be filed with the Circuit Court clerk and a copy
 4 thereof served on the county not later than fifty (50) days after the date of the first
 5 publication of the notice of enforcement.

6 (4) In the event of failure to answer within the fifty (50) day period, a default
 7 judgment may be taken on all parcels of real estate for which no answer has been
 8 filed.

9 (5) Any taxing authority owning or claiming any interest, right or title in or to any
 10 tax bill described in the petition filed under Section 7 of this Act may either file a
 11 cross-claim or join the action as a co-plaintiff under Sections 2 to 20 of this Act,
 12 notwithstanding KRS Chapter 134.

13 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
 14 READ AS FOLLOWS:

15 (1) Within thirty (30) days after the filing with the Circuit Court clerk of an
 16 enforcement suit for the collection of unpaid taxes under Sections 2 to 20 of this
 17 Act, the county shall cause a notice of enforcement to be published two (2) times,
 18 once each week, during successive weeks, and on the same day of each week,
 19 otherwise in accordance with KRS Chapter 424.

20 (2) The notice shall be in substantially the following form:

21 NOTICE OF ENFORCEMENT OF LIEN FOR DELINQUENT LAND TAXES BY
 22 ACTION IN REM

23 Public Notice is hereby given that on the _____ day of _____, 20____,
 24 _____ County, Kentucky, filed a petition, being Action Number _____, in
 25 the Circuit Court of _____ County, Kentucky, for the enforcement of liens for
 26 delinquent land taxes against the real estate situated in the county, all as described in
 27 the petition.

1 The object of the suit is to obtain from the court a judgment enforcing the county's tax
2 and other liens against the real estate and ordering the sale of the real estate for the
3 satisfaction of the liens thereon (except right of redemption in favor of the United
4 States of America, if any), including principal, interest, penalties, and costs. Action is
5 being brought against the real estate only and no personal judgment shall be entered
6 therein.

7 The count number assigned by the county to each parcel of real estate, a
8 description of each the parcel by street address and the property valuation
9 administrator's tax parcel number (district, block, lot, and sub-lot), a statement of the
10 total principal amount of all delinquent county tax bills against each parcel of real
11 estate, all of which, as to each parcel, is more fully set out and mentioned by count in
12 the aforesaid petition, and the name of any taxing authority or person of record
13 owning or holding any tax bill or claiming any right, title, or interest in or to, or lien
14 upon, any parcel of real estate as set out in the petition, are respectively as follows:
15 (Here set out the respective count numbers, property descriptions, names of taxpayers
16 of record and statements of total principal amounts of tax bills, and names of those
17 other interested persons of record next above referred to.)

18 The total principal amounts of delinquent taxes set out in this notice do not
19 include the lawful interest, penalties, and costs which have accrued against the
20 respective parcels of real estate.

21 Any person or taxing authority owning or holding any tax bill or claiming any
22 right, title, or interest in or to, or lien upon, any parcel of real estate must file an
23 answer to the suit in the office of the Circuit Court clerk of _____ County in
24 _____, and a copy of the answer with the county of _____ in accordance
25 with the Kentucky Rules of Civil Procedure, on or before the _____ day of _____,
26 20_____, and in the answer shall set forth in detail the nature and the amount of
27 interest and any defense or objection to the enforcement of the tax liens, or any

1 affirmative relief the person or taxing authority may be entitled to assert with respect
2 thereto.

3 Any person having any right, title, or interest in or to, or lien upon, any parcel of
4 real estate may have the county's claims against the parcel dismissed from the action
5 by paying all of the sums mentioned therein to the county of _____ including
6 principal, interest, penalties, and costs then due, at any time prior to the enforcement
7 sale of the real estate by the master commissioner.

8 In the event of failure to answer on or before the date herein fixed as the last day
9 for filing answer in the suit, by any person having the right to answer, the person shall
10 be forever barred and foreclosed as to any defense or objection he or she might have to
11 the enforcement of the liens for delinquent taxes and the judgment of enforcement may
12 be taken by default. Redemption may be made for a period of sixty (60) days after the
13 master commissioner's enforcement sale, if the sale price is less than the parcel's
14 current assessed value as certified by the Department of Revenue. Each person having
15 any right, title, or interest in or to, or any lien upon, any parcel of real estate described
16 in the petition so failing to answer or redeem, as aforesaid, shall be forever barred and
17 foreclosed of any right, title, or interest in or to, or lien upon, or any equity of
18 redemption in the real estate.

19 _____ County, Kentucky

20 _____ (name of county)

21 _____

22 Attorney

23 _____

24 _____

25 _____

26 Address

27 _____

1 Phone

2 _____

3 Date of first publication

4 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
5 READ AS FOLLOWS:

6 (1) The county shall also cause to be prepared and mailed by first class mail, certified
7 by a United States postal service certificate of mailing, within thirty (30) days
8 after the filing of the petition, a brief notice of the filing of the suit to any taxing
9 authority or person of record owning or holding any tax bills or claiming any
10 right, title, or interest in or to, or lien upon, any parcel of real estate as set out in
11 the petition.

12 (2) The notice shall be substantially as follows:

13 To the person to whom this notice is addressed:

14 Public records indicate that you may own or claim some right, title, or interest in
15 or to, or hold a lien upon a certain parcel of real estate located at (here insert the street
16 address and the property valuation administrator's tax parcel number) and set out in
17 count number _____ in a certain petition bearing Action No. _____ filed in the
18 Circuit Court of _____ County, Kentucky on _____, 20____, wherein an
19 enforcement of the liens of various delinquent tax bills is sought and a court order
20 asked for the purpose of selling the real estate at a public sale for payment of all
21 delinquent tax bills, together with interest, penalties, and costs. Publication of notice of
22 enforcement was commenced on the _____ day of _____, 20____.

23 Public records in the office of the county clerk or other public office indicate you
24 may own or claim some interest in this parcel by reason of (Here insert specific
25 reference to any public document of record as disclosed in a thorough examination of
26 title status.).

27 Unless all delinquent county taxes are paid upon the parcel of real estate

1 described in the petition and unless the owners of the real estate shall either have
 2 discharged any county tax liens or satisfied any judgment rendered on the liens in
 3 favor of the county, prior to the time of the enforcement sale of the real estate by the
 4 master commissioner, or within sixty (60) days after the sale if the purchase price at
 5 sale is less than the parcel's certified assessed value, the owner or any taxing authority
 6 or person of record claiming any right, title, or interest in or to, or lien upon, any
 7 parcel of real estate shall be forever barred and foreclosed of all right, title and interest
 8 and equity of redemption in and to the parcel of real estate; provided, however, that
 9 any person shall have the right to file an answer in the suit on or before the
 10 day of _____, 20____, in the office of the Circuit Court clerk and copy thereof to
 11 _____ County, in accordance with the Kentucky rules of civil procedure, setting
 12 forth in detail the nature and amount of the interest and any defense or objection to the
 13 enforcement.

14 Dated _____, 20_____ County, Kentucky
 15 _____ (Name of county)

16 _____

17 Attorney

18 _____

19 _____

20 _____

21 Address

22 _____

23 Phone

24 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
 25 READ AS FOLLOWS:

26 (1) The court shall order the master commissioner to sell, under KRS 426.560 to
 27 426.715, except as otherwise provided in this section, each parcel separately by

1 individual count number. The court shall further order that a report of the sale
 2 be made by the master commissioner to the court for further proceedings under
 3 Sections 2 to 20 of this Act.

4 (2) Prior to the master commissioner's setting each parcel for sale pursuant to court
 5 order, the county shall file with the Circuit Court clerk an affidavit as to the most
 6 recent certified tax assessment of each parcel to be sold. The most recent certified
 7 assessment of a property shall be the property valuation administrator's last
 8 assessment which shall have been certified by the Department of Revenue to the
 9 county clerk, as required by KRS 133.180.

10 (3) The most recent certified assessment as sworn to in the affidavit furnished by the
 11 county shall be used in all actions brought under Sections 2 to 20 of this Act to
 12 determine the owner's equity of redemption under subsection (2) of Section 15 of
 13 this Act.

14 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
 15 READ AS FOLLOWS:

16 Affidavits of publication of notice and of posting, mailing, or other acts required by
 17 Sections 2 to 20 of this Act shall be filed in the office of the circuit clerk prior to the
 18 trial, and when so filed shall constitute part of the evidentiary document in the
 19 enforcement suit. The affidavits shall be prima facie evidence of the performance of
 20 acts therein described, and may be so used in the trial of the suit unless challenged by
 21 verified answer duly filed in the suit.

22 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
 23 READ AS FOLLOWS:

24 (1) Any suit to collect delinquent tax bills which may be pending at the time of the
 25 commencement of any suit brought under Sections 2 to 20 of this Act, affecting
 26 the same land, shall be consolidated with the suit brought under Sections 2 to 20
 27 of this Act. The parties to the pending suit shall file answers, but any tax bill

1 sought to be collected in any pending suit may be included in any list included as
2 a part of any petition filed by the county. If so included, the inclusion shall act as
3 an abatement of any pending suit, and all amounts then due on any tax bill,
4 including interest, penalties and costs, shall be listed and charged, and shall
5 continue in force the liens against the respective parcel of real estate listed in the
6 petition filed under Sections 2 to 20 of this Act.

7 (2) Any suit described in subsection (1) of this section shall be tried as all other
8 actions, and the statute of limitations shall not prevent the parties to the pending
9 suit from asserting all rights and defenses which they then have.

10 (3) Any cross-claim of a taxing authority under Sections 2 to 20 of this Act may
11 include a claim for the immediate enforcement of any ad valorem tax owed to the
12 taxing authority, notwithstanding KRS Chapter 134.

13 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
14 READ AS FOLLOWS:

15 After the trial of the issues, the court shall render judgment as promptly as
16 circumstances permit. If the court finds that no tax bill was delinquent when the suit
17 was instituted or tried, the judgment of the court shall be that the cause be dismissed as
18 to the parcels of real estate described in the tax bill. If the evidence warrants, the
19 judgment may be for the principal amount of the tax bill upon which the suit was
20 brought, together with interest, penalties, and court costs computed as of the date of
21 the judgment. The court may decree that the lien upon the parcel of real estate
22 described in the tax bill be enforced and the real estate be sold by the master
23 commissioner and the cost continued for further proceedings as provided by Sections 2
24 to 20 of this Act.

25 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
26 READ AS FOLLOWS:

27 (1) At any time prior to the sale of the property, any person having any right, title or

- 1 interest in, or lien upon, any parcel of real estate described in the petition may
2 discharge any county lien or satisfy a judgment in favor of the county as to the
3 parcel of real estate by paying to the county all of the sums mentioned therein,
4 including the principal, interest, penalties, and costs then due.
- 5 (2) If the property is sold pursuant to the judgment or order of the court and does not
6 bring its most recent assessed value certified by the Department of Revenue to the
7 county clerk as required by KRS 133.180, the owner may redeem it within sixty
8 (60) days from the day of the sale, by paying the purchaser the original purchase
9 money and interest at eighteen percent (18%) per annum. Any owner who
10 redeems his or her land shall take a receipt from the purchaser and lodge it with
11 the clerk of the court. The receipt shall be entered upon the records of the court.
- 12 (3) The owner may tender the redemption money to the purchaser or the purchaser's
13 agent or attorney, if found in the county where the land lies or in the county in
14 which the judgment was obtained or order of sale made. If the money is refused,
15 or if the purchaser does not reside in either of the counties, the owner may,
16 before the expiration of the right of redemption, go to the clerk of the court in
17 which the judgment was rendered or the order made, and make affidavit of the
18 tender and refusal, or that the purchaser or his or her agent or attorney do not
19 reside in either of the counties. The owner may then pay to the clerk the
20 redemption money, and the clerk shall give receipt therefor and file the affidavit
21 among the papers of the action.
- 22 (4) When the right of redemption exists, the owner may remain in possession of the
23 property until it expires. Real property sold shall not be conveyed to the purchaser
24 until the right of redemption has expired. If it is redeemed, the sale shall, from
25 and after the redemption or from and after the deposit of the redemption money
26 with the clerk, be null and void.
- 27 (5) In the event of failure to redeem within the period provided for redemption, the

1 owner or any other party in interest shall be barred forever of all right, title, and
2 interest in and to the parcel of real estate described in the petition.

3 (6) Upon redemption as permitted by this section, the person redeeming shall be
4 entitled to a certificate of redemption from the county describing the property in
5 the same manner as it is described in the petition and the county shall thereupon
6 note on his or her records the word "redeemed" and the date of the payment
7 opposite the description of the parcel of real estate.

8 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
9 READ AS FOLLOWS:

10 (1) Upon the confirmation of the sale by the court and the expiration of the right of
11 redemption provided in Section 15 of this Act, the title to any real estate
12 purchased from the master commissioner under Sections 2 to 20 of this Act shall
13 vest in the purchaser. The title of the real estate shall be an absolute estate in fee
14 simple, subject to rights-of-way of public utilities on which tax has been
15 otherwise paid and subject to any right of redemption of the United States of
16 America, if any. All persons, including the Commonwealth of Kentucky, infants,
17 incompetents, absentees, and nonresidents who may have had any right, title,
18 interest, claim, or equity of redemption in or to, or lien upon the land shall be
19 barred of all right, title, interest, claim, lien, or equity of redemption, and the
20 court shall order that immediate possession of the real estate be given to the
21 purchaser. Any person so barred shall thereafter have as his or her exclusive
22 remedy a claim for a share of the proceeds of the sale of the real estate by the
23 master commissioner.

24 (2) The title shall be subject to the liens of any tax bill which may have attached to
25 the parcel of real estate prior to the time of the filing of the petition affecting the
26 parcel of real estate not then delinquent, or which may have attached after the
27 filing of the petition and prior to the expiration of the period provided for

1 redemption and not including any answer to the petition.

2 (3) If the parcel of real estate is sold to the county or to a land bank authority created
 3 under KRS 65.350 to 65.375, the title shall be free of any liens to the extent of the
 4 interest of any taxing authority in any of the real estate.

5 (4) The title shall not be subject to the lien of special tax bills, which have attached to
 6 the parcel of real estate, but the lien of the special tax bill shall attach to the
 7 proceeds of the master commissioner's sale or to the proceeds of the ultimate sale
 8 of the parcel by the county.

9 (5) Failure of any party other than the purchaser to follow the procedures set out in
 10 Sections 2 to 20 of this Act shall not affect the vesting of title in the purchaser.

11 ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
 12 READ AS FOLLOWS:

13 (1) After the master commissioner sells any parcel of real estate, the court shall,
 14 upon its own motion or upon motion of any interested party, set the cause down
 15 for hearing to confirm the sale, even though the parcels are not all of the parcels
 16 of real estate described in the notice of the master commissioner's sale.

17 (2) If the sale is confirmed, the court shall order the proceeds of the sale applied in
 18 the following order:

19 (a) To the payment of all costs including court costs, publication costs, and
 20 costs otherwise associated with the action and sale of the parcel described in
 21 the particular count; and

22 (b) To the payment of all tax bills on the property, including principal, interest,
 23 and penalties. If after the payment there is any sum remaining of the
 24 proceeds of the commissioner's sale of the property, the court shall try and
 25 determine the other issues in the suit with respect to that particular count. If
 26 any of the answering parties has specifically appealed, the court, provided
 27 that the answering parties have, prior to the appeal, executed an appropriate

1 supersedeas bond, shall retain custody of the funds pending disposition of
 2 the appeal, and upon disposition of the appeal shall make distribution. If
 3 there are not sufficient proceeds of the sale to pay all claims in any class
 4 described, the court shall order them to be paid in accordance with the
 5 priorities.

6 (3) If there are any funds remaining of the proceeds after the commissioner's sale
 7 and after the distribution of the funds as set out in this section and no person
 8 entitled to any funds, whether or not a party to the suit, shall have appeared
 9 within two (2) years after the sale and claimed the funds, the funds shall escheat
 10 to the state as provided in KRS Chapter 393.

11 ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
 12 READ AS FOLLOWS:

13 The county, any interested person, or anyone on behalf of a person who is declared
 14 incompetent may appeal from the judgment confirming or disapproving the
 15 commissioner's sale and the distribution of proceeds. No questions may be raised upon
 16 the appeal that could have been raised upon an appeal from the judgment of the sale.
 17 The appeals shall be taken within thirty (30) days after the date of the judgment. The
 18 necessity for giving bond and the provisions thereof shall be the same as in the case of
 19 appeal from the judgment of sale.

20 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
 21 READ AS FOLLOWS:

22 If any party redeems any parcel of real estate from the lien of any tax bill, the party
 23 shall, in addition to all other amounts then due, including principal, interest, and costs,
 24 also pay costs to the county as follows:

25 (1) One dollar (\$1) per parcel of real estate for issuance of certificate of redemption;
 26 (2) Five dollars (\$5) per parcel of real estate, if notice of publication has been
 27 commenced; and

1 (3) Five dollars (\$5) as an additional charge per parcel of real estate if notice of the
2 commissioner's sale has been commenced.

3 →SECTION 20. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO
4 READ AS FOLLOWS:

5 Any property or real estate acquired by the county by virtue of purchase at the
6 commissioner's sale shall be held by the county and any property so held may be sold,
7 transferred, leased, or otherwise utilized by the county within its sole discretion.