

135.040 Equitable action by Department of Revenue on unsatisfied execution or uncollectible tax bill -- County attorney to assist -- Limitation -- Penalty.

- (1) On the return of "no property found" on an execution issued upon a judgment in favor of the state, the Department of Revenue may institute equitable proceedings in the Franklin Circuit Court or any other court of competent jurisdiction, in the name of the state and on the relation of the commissioner of revenue. The choses in action or other equitable estate of the delinquent shall be subjected to the payment of the amount due on any such execution.
- (2) On the return to the fiscal court or the county clerk of any tax bill as uncollectible, a like suit may be instituted in the name of the state on the relation of the commissioner of revenue in any court of competent jurisdiction, and the choses in action or other equitable estate of the delinquent may be subjected to the amount due on any such tax bill. In such proceedings attachment may issue and other proceedings may be taken as are authorized on the return of "no property found" on an execution in favor of individuals.
- (3) The county attorneys of the respective counties shall assist the Department of Revenue in prosecuting the actions mentioned in this section.
- (4) No action shall be maintained under the provisions of subsection (1) of this section when the last execution issued has been returned "no property found" more than ten (10) years before the institution of the action, nor shall an action be maintained on the uncollectible tax bill under the provisions of subsection (2) of this section more than five (5) years after the date of the return by the sheriff or collector.
- (5) Every person against whom an execution has been returned "no property found" and upon which an equitable action is instituted, as provided in subsection (1) of this section, shall be liable for a penalty of twenty percent (20%) of the amount due on the execution. The penalty may be recovered in the action, with the amount due on the execution. The penalty shall go to the delinquent tax fund provided for under KRS 134.552, unless the county attorney assists in the prosecution, in which case one-half (1/2) shall go to the county attorney.

Effective: January 1, 2010

History: Amended 2009 Ky. Acts ch. 10, sec. 46, effective January 1, 2010. -- Amended 2005 Ky. Acts ch. 85, sec. 285, effective June 20, 2005. -- Amended 1978 Ky. Acts ch. 400, sec. 6, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 17, sec. 41, effective January 1, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4169, 4170.