

**142.353 Security to insure compliance -- Sale of security or bearer bond -- Restraining order or injunction.**

- (1) Whenever it is deemed necessary to insure compliance with the provisions of KRS 142.301 to 142.363, the department may require any person subject to the taxes imposed by KRS 142.303, 142.307, 142.309, 142.311, 142.314, 142.315, 142.316, 142.361, and 142.363 to place security with it. The amount of the security shall be fixed by the department but shall not be greater than three (3) times the estimated average liability of the provider or all providers in the same class as the provider, whichever is greater. This limitation shall apply regardless of the type of security placed with the department.
- (2) The amount of the security may be increased or decreased by the department, subject to the limitations provided in subsection (1) of this section.
- (3)
  - (a) If necessary, the department may sell the security at public auction in order to recover any tax, penalty, or interest due. However, security in the form of a bearer bond issued by the United States or any state or local governmental unit which has a prevailing market price may be sold by the department at a private sale at a price not lower than the prevailing market price.
  - (b)
    1. The department shall provide notice by certified mail, sent to the last known address as reflected in the records of the department, or by delivery, to the person who placed the security with the department of the date, time, and place of the sale.
    2. Delivery means mailing the notice to the person it is addressed to, leaving the notice at his place of business with the person in charge of the place of business, or, if there is no one in charge, leaving the notice at a conspicuous place at the place of business. If the place of business is closed, or the person to be served has no place of business, leaving it at his home, with a person of suitable age and discretion residing in the home. Notice by certified mail must be postmarked no later than ten (10) days prior to the sale. Notice by delivery must be given no later than ten (10) days prior to the sale.
  - (c) Any amount in excess of the amount due the department after the sale shall be returned to the person placing the security.
- (4) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of a provider's business until the security is obtained. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction over the provider.

**Effective:** June 20, 2005

**History:** Amended 2005 Ky. Acts ch. 85, sec. 533, effective June 20, 2005; and ch. 120, sec. 12, effective June 20, 2005. -- Amended 1996 Ky. Acts ch. 110, sec. 11, effective August 1, 1996. -- Created 1994 Ky. Acts ch. 512, sec. 112, effective July 15, 1994.

**Legislative Research Commission Note (6/20/2005).** This section was amended by 2005 Ky. Acts chs. 85 and 120, which do not appear to be in conflict and have been codified together.