

1992 Kentucky Laws Ch. 397 (H.B. 585)

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<<- Text ->>. Changes in tables are made but not highlighted.
Committee and floor amendments not incorporated into bill text appear following text.

Ch. 397 (H.B. 585)
West's No. 404

PROPERTY TAXES—AGRICULTURAL AND HORTICULTURAL LAND

AN ACT relating to property taxes.

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

Section 1. KRS 132.010 is amended to read as follows:

<< KY ST § 132.010 >>

As used in this chapter, unless the context otherwise requires:

- (1) "Cabinet" means the Revenue Cabinet.
- (2) "Taxpayer" means any person made liable by law to file a return or pay a tax.
- (3) "Real property" includes all lands within this state and improvements thereon.
- (4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.
- (5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.
- (6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent per one hundred dollars of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.
- (7) "Net assessment growth" means the difference between:
 - (a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and
 - (b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year.
- (8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:
 - (a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one school district to another;

- (b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;
- (c) The value of improvements to existing nonresidential property;
- (d) The value of new residential improvements to property;
- (e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;
- (f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;
- (g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;
- (h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and
- (i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means any tract of land, including all income-producing improvements <<-but excluding all residences->>, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government<<-, where such activities produced an average annual gross income including payments under a state or federal program according to the following scale:->>

<<-The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there must be an annual gross income of these amounts within two (2) years of purchase. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions->>.

(10) "Horticultural land" means any tract of land, including all income-producing improvements <<-but excluding all residences->>, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants<<-, where such activities produced an average annual gross income according to the following scale:->>

<<-The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there is evidence of anticipated annual gross income of these amounts. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions->>.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

- (a) Relative percentages of tillable land, pasture land, and woodland;
- (b) Degree of productivity of the soil;
- (c) Risk of flooding;
- (d) Improvements to and on the land that relate to the production of income;
- (e) Row crop capability including allotted crops;
- (f) Accessibility to all-weather roads and markets; and
- (g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

Section 2. KRS 132.450 is amended to read as follows:

<< KY ST § 132.450 >>

(1) Each property valuation administrator shall assess at its fair cash value all property which it is his duty to assess except as provided in paragraph <<+(c)+>><<-(g)->> of subsection (2) of this section. In the case of securities which are regularly bought and sold through stock exchanges, the price at which such property closed on the last regular business day preceding the assessment day shall be prima facie evidence of the fair cash value of such property. The property of one (1) person shall not be assessed wilfully or intentionally at a lower or higher relative value than the same class of property of another, and any grossly discriminatory valuation shall be construed as an intentional discrimination. The property valuation administrator shall make every effort, through visits with the taxpayer, personal inspection of the property, from records, from his own knowledge, from information in property schedules, and from such other evidence as he may be able to obtain, to locate, identify, and assess property.

(2)(a) <<-On or before March 1 of any year the owner or owners of land devoted exclusively to agricultural or horticultural use on which the property valuation administrator has placed a value in excess of the agricultural or horticultural value may file application for valuation at the agricultural or horticultural value with the property valuation administrator of the county in which the land is located, on forms prescribed by the cabinet. This application shall be valid until the property is transferred or the land use is changed; however, the owner may elect to have the subject property assessed as other than agricultural or horticultural land for any year or years by filing a statement to that effect with the property valuation administrator prior to the close of the five (5) day period beginning on the first Monday in June->>. In determining the total area of <<-such->> land <<+devoted to agricultural or horticultural use+>>, there shall be included the area of all land under farm buildings, greenhouses and like structures, lakes, ponds, streams, irrigation ditches and similar facilities, and garden plots devoted to growth of products for on-farm personal consumption but there shall be excluded, land used in connection with dwelling houses including, but not limited to, lawns, drives, flower gardens, swimming pools or other areas devoted to family recreation. Where contiguous land in agricultural or horticultural use in one (1) ownership is located in more than one county or taxing district, compliance with

the minimum requirements shall be determined on the basis of the total area <<-and income-->> of such land and not the area <<-or income-->> of land which is located in the particular county or taxing district.

(b) Land devoted to agricultural or horticultural use, where the owner or owners have petitioned for, and been granted, a zoning classification other than for agricultural or horticultural purposes qualifies for the agricultural or horticultural assessment until such time as the land changes from agricultural or horticultural use to the use granted by the zoning classification. <<-At the time of the change of use, the provisions imposed by paragraph (f) of this subsection shall take effect.-->>

(c) <<-Real property devoted to agricultural or horticultural use by any corporation other than one organized primarily for agricultural or horticultural purposes is excluded from the provisions of paragraph (g) of this subsection.-->>

<<-(d)-->> When the use of a part of a tract of land which is <<+ assessed+>> <<-valued and taxed-->> as agricultural or horticultural land is changed either by conveyance or other action of the owner, the right of the remaining land to be retained in the agricultural or horticultural <<- classification for-->> assessment <<-and taxation-->> shall not be impaired provided it meets the minimum requirements <<-for such classification, except that land on which there has been established a systematic pattern of change of use over a period of two (2) years is excluded from the provisions of paragraph (g) of this subsection-->>.

<<-(e) The owner or owners of land shall not be liable for deferred taxes for any year in which the land was not assessed for agricultural or horticultural use under the provisions of paragraph (g) of this subsection.-->>

<<-(f) Where a change in land use occurs in any tax year the owner of such land shall be subject to the deferred tax provisions of subsection (1) of KRS 132.454 for each of the preceding two (2) tax years in which the land was valued and taxed for agricultural or horticultural purposes.-->>

<<-(g)-->> When in the opinion of the property valuation administrator any land <<-on which an application has been filed,->> has a value in excess of that for agricultural or horticultural use the property valuation administrator shall enter into the tax records the value of the property according to its fair cash value. When the property valuation administrator determines that the land meets the requirements for valuation as agricultural or horticultural land, the valuation for tax purposes shall be its agricultural or horticultural value.

<<-(h) When an application for valuation of property as agricultural or horticultural is denied, the property valuation administrator shall cause written notice to be served on the property owner in the manner provided by subsection (4) of this section. The property owner may appeal such ruling to the county board of assessment appeals as provided in KRS 133.120 or in the case of a city or special district to the appropriate appeals body for the city or district.-->>

(3) <<-Notwithstanding any statutory provisions to the contrary, the provisions of this section and KRS 132.454 shall apply to the assessment and taxation of agricultural or horticultural land for state, county, city or special district purposes. Any city may by ordinance establish additional tax procedures which will enable it effectively to administer the provisions of this section and KRS 132.454.-->>

<<-(4)-->> <<+When land which has been valued and taxed as agricultural land for five (5) or more consecutive years under the same ownership, fails to qualify for the classification through no other action on the part of the owner or owners other than ceasing to farm the land, the land shall retain its agricultural classification for assessment and taxation purposes. Classification as agricultural land shall expire upon change of use by the owner or owners or upon conveyance of the property to a person other than a surviving spouse.+>>

<<+(4)+>> If the property valuation administrator assesses any property, except stocks and bonds at the market value listed in recognized publications, at a greater value than that listed by the taxpayer or assesses unlisted property, the property valuation administrator shall serve notice on the taxpayer of such action. The notice shall be given by first-class mail or as provided in the Kentucky Rules of Civil Procedure.

(5) Any taxpayer may designate on the property schedule any property which he does not consider to be subject to taxation, and it shall be the duty of the property valuation administrator to obtain and follow advice from the cabinet relative to the taxability of such property.

Section 3. KRS 133.120 is amended to read as follows:

<< KY ST § 133.120 >>

(1) Any taxpayer aggrieved by an assessment on real property made by the property valuation administrator may appeal to the board of assessment appeals. The taxpayer shall appeal his assessment by filing in person or sending a letter or other written petition stating the reasons for appeal, identifying the property for which the appeal is filed, and stating to the county clerk the

taxpayer's opinion of the fair cash value of the property within the twelve (12) day period in which the inspection is held. The county clerk shall notify the Revenue Cabinet of all assessment appeals and of the date and times of the hearings. The board of assessment appeals may review and change any assessment made by the property valuation administrator upon recommendation of the Revenue Cabinet, county judge/executive, mayor of any city using the county assessment, or the superintendent of any school district in which the property is located, provided such recommendation is made to the board in writing specifying the individual properties recommended for review. If the board of assessment appeals determines that any such assessment should be increased, then it shall give the taxpayer notice in the manner required by subsection (4) of KRS 132.450, specifying a date when the board will hear the taxpayer, if he so desires, in protest of such increase. Any real property owner who has listed his property with the property valuation administrator at its fair cash value likewise may ask the county board of assessment appeals to review the assessments of real properties he believes to be assessed at less than fair cash value, providing he specifies in writing the individual properties for which the review is sought and factual information upon which his request is based, such as comparable sales or cost data. Nothing in this section shall be construed as granting any property owner the right to request a blanket review of properties or the board the power to conduct such a review.

(2) The board of assessment appeals shall hold a public hearing for each individual taxpayer appeal in protest of the assessment by the property valuation administrator filed in accordance with the provisions of subsection (1) of this section, and after hearing all the evidence, shall fix the assessment of the property at its fair cash value. The Revenue Cabinet may be present at the hearing and present any pertinent evidence as it pertains to the appeal. The board shall report to the property valuation administrator any real property omitted from the tax roll. The property valuation administrator shall assess such property and immediately give notice to the taxpayer in the manner required by KRS 132.450<<+(5)>><<-(4)->>, specifying a date when the board of assessment appeals will hear the taxpayer, if he so desires, in protest of the action of the property valuation administrator.

(3) The board of assessment appeals shall have power to issue subpoenas, compel the attendance of witnesses, and adopt rules and regulations concerning the conduct of its business. Any member of the board shall have power to administer oaths to any witness in proceedings before the board.

(4) The powers of the board of assessment appeals shall be limited to those specifically granted by this section.

(5) No appeal under this section shall delay the collection or payment of any taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which he claims as true value and stated in the petition of appeal filed in accordance with the provisions of subsection (1) of this section. When the valuation is finally determined upon appeal, the court or the Kentucky Board of Tax Appeals shall certify the valuation to the county clerk and the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to such tax bill.

(6) Any member of the county board of assessment appeals may be required to give evidence in support of the board's findings in any appeal from its actions to the Kentucky Board of Tax Appeals. Any persons aggrieved by a decision of the board, including the property valuation administrator, taxpayer, and Revenue Cabinet, may appeal the decision to the Kentucky Board of Tax Appeals.

(7) It shall be the duty of the county attorney to represent the interest of the state and county in all hearings before the board of assessment appeals and on all appeals prosecuted from its decision. In the event the county attorney is unable to represent the state and county, he or the fiscal court shall arrange for substitute representation.

Section 4. KRS 132.454 is amended to read as follows:

<< KY ST § 132.454 >>

(1) When land which is valued and taxed as agricultural or horticultural land under paragraph <<+(c)>><<-(g)->> of subsection (2) of KRS 132.450 is converted to any other use, that portion of the land upon which the use is changed shall be subject to deferred taxes for the current tax year <<-and the immediately preceding two (2) tax years->>, <<+and>> the taxes <<+ shall+>> <<-to->> become a lien on the property. <<+The owner of the property at the time the land use change is initiated shall, within ninety (90) days, report the change to the property valuation administrator. The owner shall also provide to the property valuation administrator information concerning the most recent sale or lease of the property, copies of any appraisal or feasibility reports made, and any other information useful in determining the fair cash value of the property.+>>

(2) When land becomes subject to the deferred taxes provided for in subsection (1) of this section, the property valuation administrator <<+shall determine the fair cash value of the property for the current year. The notification and appeal provisions

of KRS Chapters 132 and 133 relating to the assessment of omitted real property shall be followed. After the assessment is finally determined the property valuation administrator+>> or other assessing official shall certify the difference in value subject to deferred tax for each of the years for which deferred taxes are due to the county clerk or other person responsible for preparation of tax bills who shall prepare a supplemental tax bill for each year computed at the rates applicable for the year for delivery to the sheriff or tax collector for collection. The bills shall be due and payable within thirty (30) days after the date of issue. If unpaid within thirty (30) days, a penalty of ten percent (10%) shall be added to these bills.

(3) The provisions of KRS Chapters 134 and 135 relating to the collection of delinquent taxes on real property shall apply to collection of the deferred taxes provided herein.

<<+(4) If the owner fails to report the change in use to the property valuation administrator, and if the property valuation administrator otherwise fails to initiate the deferred assessment procedure, the deferred tax liability shall be subject to assessment as "omitted property."+>>

Approved April 10, 1992.

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