

# **Kentucky Lien Law**

**KRS 376**

## Table of Contents

<b>Kentucky Lien Law .....</b>	<b>1</b>
<b>KRS 376 .....</b>	<b>1</b>
<b>376.010 Mechanics' and materialman's liens -- Filing of statement of amount claimed -- Notice to owner or agent -- Definitions of "labor" and "supplies." .....</b>	<b>4</b>
<b>376.020 Lien follows property if executory contract for sale is rescinded.....</b>	<b>6</b>
<b>376.030 Eviction of owner -- Rights of lienholder. ....</b>	<b>6</b>
<b>376.040 Forfeiture or surrender of lease -- Removal of improvements.....</b>	<b>6</b>
<b>376.050 Mortgage for building or improvement purposes to state facts -- Misapplication of proceeds. ....</b>	<b>6</b>
<b>376.060 Sale or mortgage of property subject to lien -- Proceeds to be applied to payment of lien. ....</b>	<b>7</b>
<b>376.070 Contractor or architect to apply payments to claims -- Exception where lien waived. ....</b>	<b>7</b>
<b>376.075 Engineers', architects', landscape architects', real estate brokers', and land surveyors' liens -- When lien not required of real estate broker -- Filing statement of amount claimed.....</b>	<b>8</b>
<b>376.080 Lien dissolved unless statement filed with county clerk and copy mailed to property owner -- Form of statement. ....</b>	<b>9</b>
<b>376.090 Limitation on action to enforce lien -- Priority of lien. ....</b>	<b>10</b>
<b>376.100 Release of lien by execution of bond. ....</b>	<b>10</b>
<b>376.110 Action to enforce lien -- Referred to master commissioner -- Special commissioner. ....</b>	<b>11</b>
<b>376.120 Notice to parties of time and place of hearing by commissioner. ....</b>	<b>12</b>
<b>376.130 Taking of depositions and hearing of evidence by the commissioner -- Auditing of accounts and report on claims.....</b>	<b>12</b>
<b>376.140 Lien on gas, oil or other mineral leasehold -- Provisions governing such a lien..</b>	<b>13</b>
<b>376.150 Lien of employees on property of a mine, railroad, public improvement company, manufacturing establishment or other business -- Of persons furnishing supplies for operation of a railroad. ....</b>	<b>13</b>
<b>376.160 Priority of liens -- Persons not deemed employees. ....</b>	<b>14</b>
<b>376.170 Distribution of income when operation of property is continued.....</b>	<b>15</b>
<b>376.180 Lien attaches when business is transferred, suspended or attached -- Enforcement.....</b>	<b>15</b>

**376.190 Joinder of parties -- Limitation on action or filing of claim for lien..... 15**

**376.195 Definitions for KRS 376.195 and 376.210. .... 16**

**376.210 Lien for labor, material, or supplies furnished on public improvement -- Assertion, filing, and enforcement..... 17**

**376.212 Bond to discharge lien created by KRS 376.210 -- Requirements -- Liability of obligors on bond..... 18**

**376.220 Limit of amount of lien -- Pro rata distribution -- Liability for filing claim in excess of amount due. .... 18**

**376.230 Lien dissolved unless statement timely filed with county clerk -- Form and content of statement -- Duties and fees of clerk..... 19**

**376.240 Perfecting a lien on funds due contractor from public authority..... 20**

**376.250 Withholding by public authority of funds due contractor and their payment to lien claimant -- Protest by contractor -- Suit by lien claimant. .... 20**

**376.260 Action to enforce lien -- Notice -- Limitation -- Proof of use of materials..... 21**

**376.265 Lien on real property for service to retail business by municipal utility -- Priority - Statement of lien -- Action to enforce -- Release of lien by execution of bond. .... 22**

**376.268 Definitions for KRS 376.270 and 376.275. .... 24**

**376.320 Notice of sale of article for charges -- Distribution of proceeds. .... 25**

**376.445 Contents of lien statement -- Indorsement and filing by county clerk -- Fee..... 25**

**376.475 Filing requirement -- Indexing -- Dissolution for nonenforcement..... 26**

**376.990 Penalties. .... 26**

**376.010 Mechanics' and materialman's liens -- Filing of statement of amount claimed -- Notice to owner or agent -- Definitions of "labor" and "supplies."**

- (1) Any person who performs labor or furnishes materials, for the erection, altering, or repairing of a house or other structure or for any fixture or machinery therein, for the excavation of cellars, cisterns, vaults, wells, or for the improvement in any manner of real property including the furnishing of agricultural lime, fertilizer, concrete pipe or drainage tile, crushed rock, gravel for roads or driveways, and materials used in the construction or maintenance of fences, by contract with, or by the written consent of, the owner, contractor, subcontractor, architect, or authorized agent, shall have a lien thereon, and upon the land upon which the improvements were made or on any interest the owner has therein, to secure the amount thereof with interest as provided in KRS 360.040 and costs. The lien on the land or improvements shall be superior to any mortgage or encumbrance created subsequent to the beginning of the labor or the furnishing of the materials, and the lien, if asserted as hereinafter provided, shall relate back and take effect from the time of the commencement of the labor or the furnishing of the materials. The lien shall not be for a greater amount in the aggregate than the contract price of the original contractor, and should the aggregate amount of the liens exceed the price agreed upon between the original contractor and the owner there shall be a pro rata distribution of the original contract price among the lienholders.
- (2) The lien shall not take precedence over a mortgage or other contract lien or bona fide conveyance for value without notice, duly recorded or lodged for record according to law, unless the person claiming the prior lien shall, before the recording of the mortgage or other contract lien or conveyance, file in the office of the county clerk of the county wherein he has furnished or expects to furnish labor or materials, a statement showing that he has furnished or expects to furnish labor or materials, and the amount in full thereof. The lien shall not, as against the holder of a mortgage or other contract lien or conveyance, exceed the amount of the lien claimed or expected to be claimed as set forth in the statement. The statement shall, in other respects, be in the form prescribed by KRS 376.080.
- (3) No person who has not contracted directly with the owner or his agent shall acquire a lien under this section unless he notifies in writing the owner of the property to be held liable or his authorized agent, within seventy-five (75) days on claims amounting to less than \$1,000 and one hundred twenty (120) days on claims in excess of \$1,000 after the last item of material or labor is furnished, of his intention to hold the property liable and the amount for which he will claim a lien. It shall be sufficient to prove that the notice was mailed to the last known address of the owner of the property upon which the lien is claimed, or to his duly authorized agent within the county in which the property to be held liable is located.
- (4) No person who has not contracted directly with the owner or his authorized agent shall acquire a lien under this section on an owner-occupied single or double family dwelling, the appurtenances or additions thereto, or upon other improvements for agricultural or personal use to the real property or real property contiguous thereto and held by the same owner, upon which the owner-occupant's dwelling is located,

unless he notifies in writing the owner of the property to be held liable or his authorized agent not more than seventy-five (75) days after the last item of material or labor is furnished, of the delivery of the material or performance of labor and of his intention to hold the property liable and the amount for which he will claim a lien. It shall be sufficient to prove that the notice was mailed to the last known address of the owner of the property upon which the lien is claimed, or to his duly authorized agent. This notice is in lieu of the notice provided for in subsection (3). Notwithstanding the foregoing provisions of this subsection, the lien provided for under this section shall not be applicable to the extent that an owner-occupant of a single or double family dwelling or owner of other property as described in this subsection has, prior to receipt of the notice provided for in this subsection, paid the contractor, subcontractor, architect, or authorized agent for work performed or materials furnished prior to such payment. The contractor or subcontractor cannot be the authorized agent under this subsection. This subsection shall apply to the construction of single or double family homes constructed pursuant to a construction contract with a property owner and intended for use as the property owner's dwelling.

- (5) For purposes of this section, "labor" includes but is not limited to all supplies and work done by teams, trucks, machinery, and mechanical equipment, whether the owner furnishes a driver or operator or not.
- (6) (a) "Supplies" includes small tools and equipment reasonably necessary in performing the work required to be done, including picks, shovels, sledge hammers, axes, pulleys, wire cables, ropes, and other similar items costing not more than fifty dollars (\$50) per item, and tires and tubes furnished for use on vehicles engaged in the performance of the work.
- (b) "Supplies" also includes the cost of labor, materials, and repair parts supplied or furnished for keeping all machinery and equipment used in the performance of the work in good operating condition; and shall include the agreed or reasonable rental price of equipment and machinery used in performing the work to be done:
  1. The lien for rental equipment or machinery shall not be more than the aggregate sum of six (6) months' rental, and the aggregate amount of such rental shall not exceed sixty percent (60%) of the agreed value of the machinery or equipment; and
  2. The liens for supplies as defined in this subsection are subordinate to the liens for labor, material, and supplies as defined in this section.

**Effective:** July 15, 2002

**History:** Amended 2002 Ky. Acts ch. 66, sec. 1, effective July 15, 2002. -- Amended 1994 Ky. Acts ch. 167, sec. 1, effective July 15, 1994. -- Amended 1988 Ky. Acts ch. 259, sec. 1, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 385, sec. 1, effective July 13, 1984. -- Amended 1978 Ky. Acts ch. 384, sec. 501, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 173, sec. 1. -- Amended 1972 Ky. Acts ch. 191, sec. 1. -- Amended 1952 Ky. Acts ch. 9, sec. 1, effective June 19, 1952. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2463.

**376.020 Lien follows property if executory contract for sale is rescinded.**

If the owner claims by executory contract and for any cause the contract is rescinded or set aside, the lien provided for in KRS 376.010 shall follow the property into the hands of the person to whom the property may come or with whom it may remain by reason of the rescissions, but only to the extent that the actual value of the property is enhanced by the improvements so placed upon it.

**History:** Amended 1944 Ky. Acts ch. 173, sec. 22. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2464.

**376.030 Eviction of owner -- Rights of lienholder.**

If the owner or claimant of the property is evicted from possession by the judgment of a court, and is entitled to compensation for improvements, the holder of a lien under KRS 376.010 shall, to the extent of the lien, debt and costs, be substituted to the rights of the person evicted and shall have satisfaction of his debt and costs out of the sum adjudged for improvements.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2465.

**376.040 Forfeiture or surrender of lease -- Removal of improvements.**

If labor is performed or materials furnished by contract with the lessee of real property for a term of years, and if before the expiration of the term by lapse of time the lessee's interest therein shall, from any cause, be forfeited or surrendered to the lessor, and if the lessor refuses to pay for the labor or materials furnished, the person furnishing the labor or materials may remove the same from the premises, if this can be done without material injury to any previous improvement on the premises.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2466.

**376.050 Mortgage for building or improvement purposes to state facts -- Misapplication of proceeds.**

- (1) Any mortgage taken to secure a loan made for the purpose of erecting, improving or adding to a building shall state such facts.
- (2) No person shall willfully misappropriate or misapply the proceeds received from such a loan.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2467.

**376.060 Sale or mortgage of property subject to lien -- Proceeds to be applied to payment of lien.**

If the owner of any legal or equitable interest in land or improvements thereon contracts for labor or material used in the erection, repair or improvement of any structure thereon under such circumstances that a lien for the payment therefor may attach to the property, and sells or mortgages the property before the expiration of the time provided for the filing and recording of a mechanic's or materialman's lien, he shall, on receiving the consideration for the sale or the proceeds of the loan, pay in full any sum owing for the labor and materials, unless released in writing by the person furnishing the labor or materials. If the sum received is insufficient to make such payment in full, the owner shall make pro rata payments on all claims for such labor and materials.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2467a-1.

**376.070 Contractor or architect to apply payments to claims -- Exception where lien waived.**

- (1) Any contractor, architect or other person who builds, repairs or improves the property of another under such circumstances that a mechanic's or materialman's lien may be imposed on the property shall, from the proceeds of any payment received from the owner, pay in full all persons who have furnished material or performed labor on the property.
- (2) If any payment by the owner to the contractor, architect or other person is not sufficient to pay in full all bills for material and labor, then such claims shall be paid on a pro rata basis to the amount of payments received, unless otherwise agreed between the contractor, architect or other person and the holder of the claim for material or labor.
- (3) This section shall not apply where persons furnishing material or performing labor have waived in writing their right to file mechanics' or materialmen's liens.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2467b-1, 2467b-2, 2467b-3.

**376.075 Engineers', architects', landscape architects', real estate brokers', and land surveyors' liens -- When lien not required of real estate broker -- Filing statement of amount claimed.**

- (1) Any professional engineer, licensed architect, licensed landscape architect, real estate broker, or professional land surveyor who performs professional services or services as defined in KRS 322.010(4) for professional engineers, KRS 323.010(3) for architects, KRS 323A.010(3) for landscape architects, KRS 324.010(1) for real estate brokers, and KRS 322.010(10) for professional land surveyors shall have a lien on the building, structure, land, or project relative to which the services were performed, to secure the amount of the charges for services with interest as provided in KRS 360.040 and costs.
- (2) The provisions of KRS 376.010(1) and (2) shall determine when a lien created under this section shall take precedence over a mortgage or other contract lien or bona fide conveyance for value without notice.
- (3) No person who has not contracted directly with the owner or his agent shall acquire a lien under this section.
- (4) Any lien provided for under this section shall be dissolved unless the claimant, within six (6) months after he ceases to provide services, files in the office of the county clerk of the county in which the property is situated a statement of the amount due the claimant, with all just credits and setoffs known to him, together with a description of the property intended to be covered by the lien sufficiently accurate to identify it, the name of the owner, if known, and whether the services were furnished by contract with the owner or with a contractor or architect. This statement shall be subscribed and sworn to by the person claiming the lien or by someone in his behalf.
- (5) Any lien created under this section shall be dissolved unless an action is brought to enforce the lien within twelve (12) months from the day of filing the statement in the clerk's office as required by subsection (4) of this section. If the lienholder complies with all filing requirements under this section, and does so within the time fixed, his lien shall be valid and effective against any creditor of, or bona fide or other purchaser from, the owner of the property.
- (6) The provisions of this section shall in no way abridge or conflict with the provisions of KRS 376.210 which provide for liens on public improvements, and any potential lien or valid lien of a professional engineer, architect, landscape architect, real estate broker, or professional land surveyor on a public improvement shall be governed by KRS 376.210.
- (7) No real estate broker shall acquire a lien under this section relative to newly constructed residential real estate unless the purchaser has agreed in writing to directly compensate such broker for performing brokerage services related to the transaction.
- (8) No real estate broker shall acquire a lien under this section unless:
  - (a) The owner or the owner's authorized agent:
    1. Lists the subject property with the broker under the terms of a written

- agreement to sell, lease, or otherwise convey any interest in the subject property; or
2. Agrees in a written agreement to pay the broker a fee for his or her services as a buyer's representative; and
- (b) The broker or the broker's affiliated sales associate provides licensed services that result, during the term of a written agreement described in paragraph (a) of this subsection, in the procuring of a person or entity ready, willing, and able to purchase, lease, or otherwise accept a conveyance of the property or any interest in the property:
1. Upon terms contained in a written agreement described in paragraph (a) of this subsection; or
  2. Upon terms that are otherwise acceptable to the owner or the owner's authorized agent as evidenced by a written agreement to convey any interest in the property signed by the owner or the owner's authorized agent.

**Effective:** July 15, 2002

**History:** Amended 2002 Ky. Acts ch. 107, sec. 1, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 214, sec. 45, effective January 1, 1999. -- Amended 1992 Ky. Acts ch. 118, sec. 1, effective July 14, 1992. -- Amended 1984 Ky. Acts ch. 111, sec. 151, effective July 13, 1984. -- Amended 1978 Ky. Acts ch. 384, sec. 502, effective June 17, 1978. -- Created 1974 Ky. Acts ch. 270, sec. 1.

**376.080 Lien dissolved unless statement filed with county clerk and copy mailed to property owner -- Form of statement.**

- (1) Any lien provided for in KRS 376.010 shall be dissolved unless the claimant, within six (6) months after he ceases to labor or furnish materials, files in the office of the county clerk of the county in which the building or improvement is situated a statement of the amount due him, with all just credits and set-offs known to him, together with a description of the property intended to be covered by the lien sufficiently accurate to identify it, the name of the owner, if known, and whether the materials were furnished or the labor performed by contract with the owner or with a contractor or subcontractor. Lien statement forms shall require the name and address of the claimant. If the claimant is a corporation, the statement shall require the name and address of the corporation's process agent, or some other address at which service of process under the Rules of Civil Procedure may be accomplished. If no name and address is included in the statement, service of process in an action involving the real property may be accomplished by serving the person who signs the lien statement. This statement shall be subscribed and sworn to by the person claiming the lien or by someone in his behalf. The claimant shall send by regular mail a copy of the statement to the property owner at his last known address within seven (7) days of filing the statement with the county clerk. Any lien provided for in KRS 376.010 shall be dissolved if a copy of the statement is not sent to the property owner as provided in this subsection.
- (2) The county clerk shall endorse upon each statement the date of its filing, and shall make an abstract of the statement in a book to be kept by him for that purpose,

properly endorsed and indexed, containing the date of filing, the name of the person seeking to enforce the lien, the amount claimed, the name of the person against whose property the lien is filed, and a description of the property charged with the lien. The clerk shall receive a fee pursuant to KRS 64.012 from the person filing the statement as full compensation, which shall be taxed and collected as other costs.

**Effective:** July 13, 1990

**History:** Amended 1990 Ky. Acts ch. 468, sec. 1, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 259, sec. 2, effective July 15, 1988. -- Amended 1978 Ky. Acts ch. 84, sec. 13, effective June 17, 1978; and ch. 384, sec. 503, effective June 17, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2468, 2469.

### **376.090 Limitation on action to enforce lien -- Priority of lien.**

- (1) Any lien provided for in KRS 376.010 shall be deemed dissolved unless an action is brought to enforce the lien within twelve (12) months from the day of filing the statement in the clerk's office, as required by KRS 376.080. If the debtor against whose property the lien is claimed dies before the expiration of the time prescribed for bringing the action, a further period of six (6) months from the date of the qualification of his personal representative shall be allowed within which the action may be brought.
- (2) Any lien provided for in KRS 376.010 shall, if the lienholder complies with the requirements of KRS 376.080 and subsection (1) of this section, and does so within the time therein fixed, be valid and effectual against any creditor of, or bona fide or other purchaser from, the owner of the property.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2470, 2477.

### **376.100 Release of lien by execution of bond.**

The owner or claimant of property against which a lien has been asserted, or any contractor or other person contracting with the owner or claimant of such property for the furnishing of any improvements or services for which a lien is created by this chapter or any subcontractor or other person in privity with the contractor, may, at any time before a judgment is rendered enforcing the lien, execute before the county clerk in which the lien was filed a bond for double the amount of the lien claimed with good sureties to be approved by the clerk, conditioned upon the obligors satisfying any judgment that may be rendered in favor of the person asserting the lien. The bond shall be preserved by the clerk, and upon its execution the lien upon the property shall be discharged. The person asserting the lien may make the obligors in the bond parties to any action to enforce his claim, and any judgment recovered may be against all or any of the obligors on the bond.

**Effective:** June 8, 2011

**History:** Amended 2011 Ky. Acts ch. 96, sec. 1, effective June 8, 2011. -- Amended 1986 Ky. Acts ch. 390, sec. 1, effective July 15, 1986. -- Amended 1978 Ky. Acts ch. 384, sec. 504, effective June 17, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2478.

**376.110 Action to enforce lien -- Referred to master commissioner -- Special commissioner.**

- (1) An action to enforce a lien provided for in KRS 376.010 shall be by equitable proceedings, and conducted as other proceedings in equity in similar cases except as otherwise provided. The petition shall allege the facts necessary to secure a lien, and shall describe the property charged and the interest the plaintiff seeks to subject. As many of the lien-holders as wish to do so may unite in the action as plaintiffs, and those who are not plaintiffs shall be made defendants. The debtor or his personal representative or heirs or devisees, and all other persons having liens on or interests in the property sought to be subjected, shall be made defendants. The clerk of the court in which the petition is filed shall issue the proper process against the resident defenders, enter warning orders against the nonresidents and appoint an attorney to defend for them, and appoint guardians for the infants. After the expiration of ten (10) days from the filing of the petition, the clerk of the court in which the petition was filed shall draw up an order referring the action to the master commissioner of the court and file it with the petition, deliver to the commissioner the pleadings and papers of the action, and make a memorandum thereof in his minute book.
- (2) If for any cause it should be improper to refer the case to the master commissioner, he is then directed to select some suitable person to act as commissioner for the occasion and refer the case to him; but before such person shall proceed to act, he shall, before the clerk, take an oath, and execute bond, with sufficient surety, similar in all respects to the bond required to be executed by the master commissioner, which bond shall be preserved by the clerk, and reported to the court.

**Effective:** January 2, 1978

**History:** Amended 1976 (1st Extra Sess.) Ky. Acts ch. 14, sec. 287, effective January 2, 1978. -- Amended 1942 Ky. Acts ch. 125, secs. 1 and 2. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2471, 2476.

**376.120 Notice to parties of time and place of hearing by commissioner.**

- (1) The commissioner shall immediately ascertain the name of each person who has filed a lien against the property sought to be subjected, and fix a time and place at which he will hear proof touching claims against the property. Any person holding a lien against the property, whether arising under the provisions of KRS 376.010 or otherwise, is required to present his claim with the evidence in its support to the commissioner. The owner of the property, or any other person whose interest may be affected by the action, may contest any claim presented.
- (2) Any person shall be deemed a party to the action, though not made so by the pleadings or by the service of process, who presents to the commissioner a claim against the property sought to be subjected or who appears before the commissioner to contest the claim of another.
- (3) The commissioner shall give reasonable written notice to all parties to the action, and to any other lien-holders known to him or those that reside in the county, or to their attorneys, of the time and place of receiving proof of claims. He shall also post a similar notice on the front door of the courthouse of the county.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2472, 2474, 2475.

**376.130 Taking of depositions and hearing of evidence by the commissioner -- Auditing of accounts and report on claims.**

The commissioner shall issue subpoenas for witnesses to appear before him at his sittings, and upon their failure to attend he shall issue attachments as in other cases. The commissioner shall have the same power and authority as an examiner in taking depositions, and shall be governed by the same rules and regulations in respect to the evidence which may be produced before him. He may adjourn from day to day and from time to time, until his duties in the action have been completed and he is ready to report. He shall audit the statements, and make up his report showing the amount due to each claimant, the nature and character of the respective liens, and the evidence upon which each claim was allowed.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2473.

**376.140 Lien on gas, oil or other mineral leasehold -- Provisions governing such a lien.**

- (1) Any person who performs labor or furnishes materials, supplies, fixtures, machinery or other things of value to a lessee holding or owning a leasehold, or any right conferred by a lease, relating to oil, gas or other minerals, in the development or improvement of the leasehold, by contract with or by the written consent of the owner or the agent or representative of the owner of the leasehold, shall have a lien on the leasehold or the entire interest of the lessee including oil or gas wells, machinery and equipment, to secure the payment for the labor or things furnished. If the labor or things are furnished at the written request or by the written consent of any contractor or subcontractor, or the agent of either, the lien herein given shall be for the benefit of whoever may furnish any of the labor or things mentioned. The lien herein provided for shall be effective against the leasehold, or the entire interest of the lessee therein, including all improvements thereon belonging to the lessee.
- (2) If the lessee claims by executory contract, and if for any cause, the contract shall be rescinded or set aside, the lien provided for in subsection (1) of this section shall follow the leasehold into the hands of the person to whom the same may go, or with whom it may remain by reason of the rescission. If by the rescission the interest covered by the lease becomes vested in the lessor, the interest so covered by the lease shall be subject to said lien. If the lessee should be evicted from the possession of the leasehold by the judgment of a court, the lien shall nevertheless be effective against the leasehold and the improvements placed thereon by the lessee or those under whom he claims, while he or they were in possession thereof. If the lease expires or is forfeited, or the lessee in any other way loses his rights thereunder, the lien provided for shall nevertheless be effective against the leasehold, whoever may be the owner thereof, to the extent of the interest held by the lessee at the time the labor was performed or the things mentioned furnished, and this shall be true although the interest of the lessee may revert to the lessor. The lienholder may elect to remove any improvements from the premises if it can be done without material injury to any previous improvements on the leasehold, and when the election is made and improvement is removed the owner of the leasehold shall be given credit by the value of the improvements so removed and the lien-holder may enforce his lien to the extent of any balance remaining unpaid.
- (3) The provisions of KRS 376.010 and KRS 376.080 to 376.130 shall apply to the lien provided for in subsection (1) of this section. When necessary for the purposes of such application, "owner" shall be construed to mean "lessee" and "property" to mean "leasehold."

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2479a-1, 2479a-2, 2479a-3, 2479a-4, 2479a-5, 2479a-6, 2479a-7.

**376.150 Lien of employees on property of a mine, railroad, public improvement company, manufacturing establishment or other business -- Of persons furnishing supplies for operation of a railroad.**

- (1) When the property or effects of any mine, railroad or canal, or other public

improvement company, or of any rolling mill, foundry or other manufacturing establishment, or of any other business, whether incorporated or not, are assigned for the benefit of, or are to be distributed among creditors, whether by operation of law or by its own act, the employees of the owner or operator of the business shall have a lien upon the property and effects which have been involved in the business and upon the accessories connected therewith, including any interest in real property used in carrying on the business.

- (2) Any person who has furnished materials or supplies for carrying on or operating any railroad shall likewise have a lien upon the property of the company involved in the business and upon the accessories connected therewith, including the interest of the company in the real property used in carrying on the business.

**Effective:** June 19, 1952

**History:** Amended 1952 Ky. Acts ch. 52, sec. 1, effective June 19, 1952. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2487.

### **376.160 Priority of liens -- Persons not deemed employees.**

Any lien provided for in KRS 376.150 and 376.180 shall be superior to the lien of any mortgage or other encumbrance thereafter created, and shall be for the whole amount due the employees as such, or due for such materials or supplies. Liens of employees for wages coming due to them within six months before the property or effects shall come to be distributed among the creditors shall be superior to the lien of any mortgage or other encumbrance theretofore or thereafter created. No president or other chief officer, nor any director or stockholder of any such company, shall be deemed an employee within the meaning of KRS 376.150.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2488.

**376.170 Distribution of income when operation of property is continued.**

If the trustee or other person having the administration or distribution of the property or effects continues to operate the business, he shall, at the end of each calendar month, after payment of current expenses and any debt due the United States or this state, distribute the remaining money in his hands pro rata among the persons to whom a lien is given by KRS 376.150 and 376.180, except twenty percent (20%) thereof which he may, if necessary, reserve for contingent expenses.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2489.

**376.180 Lien attaches when business is transferred, suspended or attached -- Enforcement.**

When any company or establishment referred to in KRS 376.150 suspends, sells or transfers its business, or when the property or effects engaged in the business are taken in attachment or execution so that the business is stopped or suspended, a lien shall attach as provided in KRS 376.150 and may be enforced by proceedings in equity.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2490.

**376.190 Joinder of parties -- Limitation on action or filing of claim for lien.**

The plaintiff in an action to enforce a lien given by KRS 376.150 or 376.180 may unite with him as co-plaintiffs any similar lien-holders who consent thereto, and shall make all lien-holders and encumbrancers parties. Where the parties are numerous, any one (1) or more may be designated by the court to prosecute or defend for the same class. Action to enforce the lien shall be filed within sixty (60) days from the date of the assignment, or from the date when the property goes into the hands of a receiver or trustee, or from the date when the business is stopped, suspended or sold; or the claims for which a lien is asserted shall be filed in said time with the person authorized to receive and report claims.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2491.

**376.195 Definitions for KRS 376.195 and 376.210.**

As used in this section and in subsection (1) of KRS 376.210:

- (1) "Labor" includes all work done by teams, trucks, machinery, and mechanical equipment, whether the owner furnishes a driver or operator or not, but it shall not include labor performed by any officer, superintendent or stockholder of any corporation even though he may perform manual labor on the public work;
- (2) "Materials" includes all materials of every kind or character used in the public improvement which shall remain as a part of the completed improvement, and all the materials substantially consumed or the value thereof substantially destroyed in making the public improvement, including explosives, gasoline, oil, grease, form lumber and other similar articles; and,
- (3) "Supplies" includes small tools and equipment reasonably necessary in performing the work required to be done, including picks, shovels, sledge hammers, axes, pulleys, wire cables, ropes, and other similar items costing not more than fifty dollars (\$50) per item, and tires and tubes furnished for use on vehicles engaged in the performance of the work;
- (4) "Supplies" also includes the cost of labor, materials, and repair parts supplied or furnished for keeping all machinery and equipment used in the performance of the work in good operating condition; and, shall include the agreed or reasonable rental price of equipment and machinery used in performing the work to be done;
  - (a) The lien for rental of equipment or machinery shall not be more than the aggregate sum of six (6) months' rental, and the aggregate amount of such rental shall not exceed sixty percent (60%) of the agreed value of the machinery or equipment; and
  - (b) The liens for supplies as defined in this subsection are subordinate to the liens for labor, material and supplies as defined in subsections (1) to (3) of this section.

**History:** Amended 1968 Ky. Acts ch. 152, sec. 155. -- Amended 1966 Ky. Acts ch. 255, sec. 261. -- Amended 1964 Ky. Acts ch. 126, sec. 1. -- Created 1954 Ky. Acts ch. 103, sec. 2.

**376.210 Lien for labor, material, or supplies furnished on public improvement -- Assertion, filing, and enforcement.**

- (1) Any person, firm, or corporation who performs labor or furnishes materials or supplies for the construction, maintenance, or improvement of any canal, railroad, bridge, public highway, or other public improvement in this state by contract, express or implied, with the owner thereof or by subcontract thereunder shall have a lien thereon, and upon all the property and the franchises of the owner, except property owned by the state, a subdivision or agency thereof, or by any city, county, urban-county, or charter county government. If the property improved is owned by the state or by any subdivision or agency thereof, or by any city, county, urban-county, or charter county government, the person furnishing the labor, materials, or supplies shall have a lien on the funds due the contractor from the owner of the property improved. Except as provided in KRS 376.195, the lien shall be for the full contract price of the labor, materials, and supplies furnished, and shall be superior to all other liens thereafter created.
- (2) Any person undertaking or expecting to furnish labor, materials, or supplies as provided in this section may acquire the lien herein provided by filing in the clerk's office of each county in which he has undertaken to furnish labor, materials, or supplies, except as provided in subsection (3), a statement in writing that he has undertaken and expects to furnish labor, materials, or supplies and the price at which they are to be furnished, and the lien for labor, material, or supplies furnished thereafter shall relate back and take effect from the date of the filing of the statement. In all cases of original construction the liens shall be prior to all liens theretofore or thereafter created on the part so constructed and on no other part.
- (3) In all cases where the labor, materials, or supplies are furnished for the improvement of any public highway or other public property owned by the state or by any city, county, urban-county, or charter county government, the statement shall be filed in the county clerk's office of the county in which is located the seat of government of the owner of the property improved, and the lien shall attach only to any unpaid balance due the contractor for the improvement from the time a copy of the statement, attested by the county clerk, is delivered to the owner or the owner's authorized agent with whom the contract for improving the public highway or other public property was made.

**Effective:** July 15, 1998

**History:** Amended 1998 Ky. Acts ch. 397, sec. 3, effective July 15, 1998. -- Amended 1966 Ky. Acts ch. 255, sec. 262. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2492.

**376.212 Bond to discharge lien created by KRS 376.210 -- Requirements -- Liability of obligors on bond.**

- (1) Any contractor or other person contracting with the public authority for the furnishing of any improvements or services for which a lien is created by KRS 376.210 or any person in privity with the contractor or other person may, at any time before a judgment is rendered enforcing the lien, execute before the county clerk in the county in which the lien was filed a bond for double the amount of the lien claimed.
- (2) The bond executed under subsection (1) of this section shall be subject to the following conditions:
  - (a) The bond shall be approved by the clerk only if the bond is secured by:
    1. Cash;
    2. A letter of credit from a bank; or
    3. Surety insurance as defined by KRS 304.5-060 that is issued by a licensed insurer; and
  - (b) The bond shall require that the obligor satisfy any judgment that may be rendered in favor of the person asserting the lien.
- (3) The bond shall be preserved by the clerk, and upon its execution, the lien provided by KRS 376.210 shall be discharged.
- (4) The person asserting the lien may make the obligors on the bond parties to any action to enforce his claim, and any judgment received may be against any of the obligors on the bond.

**Effective:** June 8, 2011

**History:** Amended 2011 Ky. Acts ch. 96, sec. 2, effective June 8, 2011. -- Created 2000 Ky. Acts ch. 250, sec. 2, effective July 14, 2000.

**376.220 Limit of amount of lien -- Pro rata distribution -- Liability for filing claim in excess of amount due.**

- (1) The liens provided for in KRS 376.210 shall not be for a greater amount in the aggregate than the contract price of the original contractor, and should the aggregate amount of liens exceed the price agreed upon between the original contractor and the owner there shall be a pro rata distribution of the original contract price among the lien-holders.
- (2) On claims for labor, materials or supplies furnished for the improvement of any bridge, public highway or other public property owned by the state or by any county or city, the provisions of this section for a pro rata distribution of the original contract price among lien-holders shall not apply to liens on the unpaid balance due the contractors, except as provided in KRS 376.240.
- (3) If any person files a statement asserting a lien against any contractor on any fund due the contractor, for an amount in excess of the amount actually due, the person filing the lien shall be liable to any person damaged thereby to the extent of such damage, including reasonable court costs and attorney's fees incurred by the injured parties. Any such claim for damages may be asserted and prosecuted in the county

in which the lien statement was filed.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2493, 2495-4.

**376.230 Lien dissolved unless statement timely filed with county clerk -- Form and content of statement -- Duties and fees of clerk.**

- (1) The lien provided for in KRS 376.210 shall be dissolved unless the person who furnishes the labor, materials, or supplies shall, whichever is later, within sixty (60) days after the last day of the month in which any labor, materials, or supplies were furnished, or by the date of substantial completion, file in the county clerk's office of each county in which labor, materials, or supplies were furnished, except as hereinafter provided, a statement in writing verified by affidavit of the claimant or his or her authorized agent or attorney, setting forth the amount due for which the lien is claimed, the date on which labor, materials, or supplies were last furnished and the name of the canal, railroad, bridge, public highway, or other public improvement upon which it is claimed.
- (2) In all cases where a lien is claimed for labor, materials, or supplies furnished for the improvement of any bridge, public highway, or other public property owned by the state or by any county, charter county, urban-county, consolidated local government, or city, the statement of lien shall be filed only in the county clerk's office of the county in which the seat of government of the owner of the property is located.
- (3) The county clerk, upon the filing of the statement, shall make an abstract and entry thereof as now provided by law in case of mechanics' liens in the same book used for that purpose, and shall make proper index thereof. The clerk shall be paid by the party filing the claim, and for attesting any copy of the lien statement. If he or she is required to make the copy, he or she may make an additional charge as provided by law. The clerk's fees shall be determined pursuant to KRS 64.012. All of these charges may be recovered by the lien claimant as costs from the party and out of the fund against which the claim is filed.

**Effective:** June 26, 2007

**History:** Amended 2007 Ky. Acts ch. 136, sec. 7, effective June 26, 2007. -- Amended 2005 Ky. Acts ch. 104, sec. 1, effective June 20, 2005. -- Amended 1978 Ky. Acts ch. 84, sec. 14, effective June 17, 1978. -- Amended 1972 Ky. Acts ch. 296, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2494.

**376.240 Perfecting a lien on funds due contractor from public authority.**

Upon the filing of the statement of lien provided for in subsection (2) of KRS 376.230 in the county clerk's office and the delivery of an attested copy thereof to the public authority making the contract for the improvement of any bridge, public highway or other public property owned by the state or any county or city, and the filing with the public authority of a signed copy of a letter addressed to the contractor or subcontractor at his address given in the contract, with a post office receipt showing that an attested copy of the lien statement has been sent by the lien claimant to the contractor or subcontractor by certified mail, return receipt requested or by registered mail, the claimant shall have a lien superior to any lien subsequently perfected on any unpaid balance due the contractor under the contract of improvement.

**Effective:** June 21, 1974

**History:** Amended 1974 Ky. Acts ch. 315, sec. 80, effective June 21, 1974. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2494.

**376.250 Withholding by public authority of funds due contractor and their payment to lien claimant -- Protest by contractor -- Suit by lien claimant.**

- (1) When an attested copy of the lien statement and proof of the delivery of an attested copy as provided in KRS 376.240 is delivered to any public authority which has contracted for the construction or improvement of any bridge, public highway, or other public property owned by the state, a subdivision or agency thereof, or by any city, county, urban-county, or charter county government, the public authority shall endorse on the attested copy the date of its receipt, file the copy and deduct and withhold the amount thereof, plus pursuant to KRS 64.012 to cover the fee of the county clerk for filing the statement and attesting a copy, from any amount then due the contractor, and if a sufficient amount is not then due the contractor from the next payments which become due.
- (2) Unless the contractor, within thirty (30) days from the date of the delivery of the attested copy, files with the public authority a written protest putting in issue the correctness of the amount due the lien claimant or the liability of the fund for payment thereof, the amount withheld shall be paid by the public authority to the lien claimant and charged to the account of the contractor, which payment shall operate as a pro tanto release of the public authority from any claim of the contractor under the contract for the amount so paid. The filing in the county clerk's office of the statement of lien provided for in KRS 376.230(2) shall be constructive notice to the contractor of the filing of the claim.
- (3) If the contractor files a written protest as provided in subsection (2) of this section, the public authority with whom the protest is filed shall endorse thereon the date of its receipt. The public authority shall promptly send written notice of the protest to the lien claimant by certified mail, return receipt requested and shall not pay over to the lien claimant any of the money withheld from the contractor until authorized to do so by the contractor or until directed to do so by an order or judgment of court.
- (4) If suit is not instituted by the lien claimant for the enforcement of the lien and summons in the suit is not served on the public authority or its chairman within

thirty (30) days after the written notice of the protest is mailed to the claimant, then the lien shall automatically be released and the funds withheld pursuant to the filing of the lien statement shall be released and promptly paid to the contractor. If suit is filed and summons served within the time provided, the payment of the funds shall be withheld until ordered to be released or paid over by an order or judgment of the court, and then paid as directed by the order or judgment.

- (5) All suits for the enforcement of these liens on public funds shall be instituted in the Circuit Court of the county in which is located the property on which the improvement is made, except where the property is owned by a public university. Where the property is owned by a public university, the suit shall be instituted in the Circuit Court of the county in which is located the main campus of the public university. This court shall have exclusive jurisdiction for the enforcement of liens asserted against the public funds due the contractors, subject to the same rights of appeal as in other civil cases.

**Effective:** January 1, 2007

**History:** Amended 2006 Ky. Acts ch. 255, sec. 29, effective January 1, 2007. -- Amended 2000 Ky. Acts ch. 250, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 397, sec. 1, effective July 15, 1998. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2494, 2494-1.

### **376.260 Action to enforce lien -- Notice -- Limitation -- Proof of use of materials.**

- (1) Any lien acquired under KRS 376.210 shall be enforced by proper proceedings in equity, to which other lien-holders shall be made parties. If a court action is filed to enforce a lien acquired under KRS 376.210 and the owner of the property is the state, a subdivision or agency thereof, or any city, county, urban-county, or charter county government, that owner shall be given notice of the court action to enforce the lien, but that owner shall not be required to respond to or participate in the court action. The proceedings shall be begun within six (6) months from the filing of the claim in the county clerk's office, except as provided in subsection (4) of KRS 376.250.
- (2) If, in any suit brought for the enforcement of a lien, it is shown by evidence that the items embraced in the account were sold and delivered for use on a particular project or public work, that evidence shall make out a prima facie case that those items were used in the performance of the contract.

**Effective:** July 15, 1998

**History:** Amended 1998 Ky. Acts ch. 397, sec. 2, effective July 15, 1998. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2495, 2495-3.

**376.265 Lien on real property for service to retail business by municipal utility -- Priority -- Statement of lien -- Action to enforce -- Release of lien by execution of bond.**

- (1) As used in this section, unless the context requires otherwise:
  - (a) "Charges" means all rates, charges, and other amounts payable for services rendered by a municipal utility, including and without limitation penalties, interest, reasonable attorney's fees, and other costs of enforcing the lien;
  - (b) "Municipal utility" means any public agency that owns or operates a system or facilities for the provision of gas, electric, sewer, water, or telecommunications service to retail customers;
  - (c) "Public agency" has the same meaning as specified in KRS 65.230;
  - (d) "Retail business ratepayer" means any nonresidential ratepayer of a municipal utility that is in arrears on the utility bill in an amount in excess of ten thousand dollars (\$10,000); and
  - (e) "Service" means gas, electric, sewer, or water service provided by the municipal utility.
- (2) Any municipal utility shall have a lien on the real property of a retail business ratepayer served by the municipal utility. The lien shall be for the collection of rates and charges for retail utility service provided to the retail business ratepayer. In no instance shall this lien attach to the real property of an owner who has leased the property to a retail business ratepayer unless the property owner is responsible for paying the utility charges under the lease agreement.
- (3) The lien shall arise and attach as services are provided to the retail business ratepayer and shall remain in place until the rates and charges for the services are paid in full. The lien is deemed a statutory lien within the meaning of 11 U.S.C. sec. 101(53).
- (4) The rights to a lien under this section:
  - (a) Are in addition to any other rights or remedies a municipal utility may have under the law or pursuant to a contract; and
  - (b) Are not intended to impair or alter any of the municipal utility's other rights or remedies, including the ability to require an additional deposit or to shut off and discontinue service.
- (5) The lien may take priority over a mortgage, a contract lien, or a bona fide conveyance for value if:
  - (a) The municipal utility files notice which is duly recorded or lodged for record according to law;
  - (b) The utility claiming the prior lien files a statement of lien in the office of the county clerk of the county where the service has been furnished before the recording of the mortgage, the contract lien, or the conveyance; and
  - (c) The statement of lien is in the form prescribed in subsections (6) and (7) of this section.
- (6) The statement of lien shall be subscribed and sworn to by an authorized

representative of the municipal utility and shall identify the following:

- (a) The municipal utility claiming the lien, including an address and a contact person;
  - (b) The property, by legal description, against which the lien is claimed;
  - (c) The nature of the service provided;
  - (d) The contract, if any, pursuant to which the services were provided; and
  - (e) The amounts, if any, due for services provided.
- (7) (a) The statement of lien shall be recorded in the office of the county clerk of the county where the service is furnished or the property or some portion of the property serviced by the municipal utility is situated. The utility shall send a copy of the statement of lien by regular mail, postage prepaid, to the owner of the property at the owner's last known address or to the address associated with the tax bill for the property. The copy of the statement of lien shall be sent within ten (10) business days of its filing in the office of the county clerk.
- (b) At any time, a municipal utility may supplement the statement of lien by recording the supplement in the same manner as the original statement of lien. Any supplement to the statement of lien shall relate back to the date of the original recording of the statement of lien.
- (8) The county clerk shall endorse each statement of lien on the date of its filing and the clerk shall make an abstract of the statement, endorse the abstract, and place it in a book to be kept by the clerk for that purpose. The book shall contain the following:
- (a) The endorsed and indexed abstracts;
  - (b) The date of filing the statement;
  - (c) The name of the municipal utility;
  - (d) The name of the person against whose property the lien is filed; and
  - (e) A description of the property charged with the lien.
- (9) The clerk shall receive a fee pursuant to KRS 64.012 from the person filing the statement as full compensation, which shall be taxed and collected as other costs.
- (10) An action to enforce the lien under this section shall be by equitable proceedings and conducted as other proceedings in equity in similar cases. The petition shall allege the facts necessary to secure a lien, describe the property charged, and the plaintiff's interest in enforcing the lien. Lienholders may unite in the action to enforce the lien as plaintiffs, and those who are not plaintiffs shall be made defendants. The debtor or the debtor's personal representative, heirs, devisees, and all other persons having liens on or interests in the property sought to be subjected shall be made defendants.
- (11) The clerk of the court in which the petition is filed shall issue the proper process against the defendants. After the expiration of ten (10) days from the filing of the petition, the clerk of the court in which the petition was filed shall:
- (a) Draw up an order referring the action to the master commissioner of the court and file it with the petition;

- (b) Deliver the pleadings and papers of the action to the commissioner; and
  - (c) Make a memorandum of the action in the minute book.
- (12) If, for any cause, it should be improper to refer the case to the master commissioner, the master commissioner is directed to select some suitable person to act as a new commissioner for the case and refer the case to him or her. However, before proceeding to act on the case, the new commissioner shall take an oath before the clerk and execute bond with sufficient surety. The bond shall be preserved by the clerk and reported to the court.
- (13) The owner or claimant of property against which a lien has been asserted may file a bond for double the amount of the lien claimed with the county clerk in the county where the lien was filed. Bond may be asserted at any time before a judgment is rendered enforcing the lien, and the bond shall have good sureties approved by the clerk and be conditioned upon the obligors satisfying any judgment that may be rendered in favor of the person asserting the lien. The bond shall be preserved by the clerk, and upon its execution, the lien upon the property shall be discharged. The person asserting the lien may make the obligors in the bond parties to any action to enforce its claim. Any judgment recovered may be against all or any of the obligors on the bond.

**Effective:** July 15, 2010

**History:** Created 2010 Ky. Acts ch. 169, sec. 1, effective July 15, 2010.

### **376.268 Definitions for KRS 376.270 and 376.275.**

As used in KRS 376.270 and 376.275:

- (1) "Contents" means personal items located in a motor vehicle, but does not include manufacturer-installed or after-market accessories permanently affixed to the motor vehicle;
- (2) "Motor vehicle" includes vessels used or designed for navigation of or operation on waterways, rivers, lakes, and streams, as well as those used or designed for operation on the public highways; and
- (3) "Reasonable charges" means those charges which are usual and customary, not discriminatory, and which are typical charges for services provided by similar towing or storage companies with similar equipment and facilities operating in the region or comparable-size city or county from which the vehicle was towed or stored.

**Effective:** June 24, 2015

**History:** Amended 2015 Ky. Acts ch. 8, sec. 1, effective June 24, 2015. -- 1984 Ky. Acts ch. 241, sec. 1, effective July 13, 1984.

**376.320 Notice of sale of article for charges -- Distribution of proceeds.**

- (1) The mailing of a registered letter with the return address marked thereon, addressed to the owner at the address given at the time of delivery of the article to the person rendering any service set out in KRS 376.300 or 376.310, stating the time and place of sale, shall constitute notice of the sale. The notice shall be mailed at least fifteen (15) days before the date of sale. The cost of mailing the letter shall be added to the charges.
- (2) The person to whom the charges are payable shall, from the proceeds of sale, deduct the charges due plus the cost of notifying the owner, and hold the balance, if any, subject to the order of the owner. He shall immediately thereafter mail to the owner at his address, if known, notification of the sale and notice of the balance due him, and at any time within twelve (12) months, upon demand pay to the owner the balance. If the balance is unclaimed after twelve (12) months it shall be paid into the State Treasury, and held for a period of two (2) years subject to the order of the owner or his personal representative upon satisfactory proof of rightful ownership.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2504b-4, 2504b-5.

**376.445 Contents of lien statement -- Indorsement and filing by county clerk -- Fee.**

- (1) The lien statement referred to in KRS 376.440 shall be construed to mean a statement in writing in which is stated the amount due the claimant, with all just credits and setoffs known to him, together with a description of the property intended to be covered by the lien sufficiently accurate to identify it and the name of the owner. This statement shall be subscribed and sworn to by the person claiming the lien or by someone in his behalf.
- (2) The county clerk shall endorse upon each statement the date of its filing, and shall make an abstract of the statement in a book to be kept by him for that purpose, properly endorsed and indexed, containing the date of filing, the name of the person seeking to enforce the lien, the amount claimed, the name of the person against whose property the lien is filed, and a description of the property charged with the lien. The clerk shall receive a fee as provided for in KRS 64.012 from the person filing the statement as full compensation, which shall be taxed and collected as other costs.

**Effective:** June 17, 1978

**History:** Amended 1978 Ky. Acts ch. 84, sec. 22, effective June 17, 1978; and ch. 384, sec. 506, effective June 17, 1978. -- Created 1954 Ky. Acts ch. 102, sec. 2, effective June 17, 1954.

**Legislative Research Commission Note.** This section was amended by two 1978 acts which do not appear to be in conflict and which have been compiled together.

**376.475 Filing requirement -- Indexing -- Dissolution for nonenforcement.**

- (1) Any lien provided for in KRS 376.470 shall be dissolved unless the claimant, within six (6) months after he ceases to provide services for the animal, files in the office of the county clerk of the county in which the animal is located, a statement of the amount due him, together with a description of the animal intended to be covered by the lien sufficiently accurate to identify it, the name of the owner, and whether the services were furnished by contract or written consent of the owner or agent. This statement shall be subscribed and sworn to by the person claiming the lien or by someone in his behalf. The claimant shall send by regular mail a copy of the statement to the owner at his last known address within seven (7) days of filing the statement with the county clerk. Any lien provided for in KRS 376.470 shall be dissolved if a copy of the statement is not sent to the property owner as provided in this subsection.
- (2) The county clerk shall endorse upon each statement the date of its filing, and shall make an abstract of the statement in a book to be kept by him for that purpose, properly endorsed and indexed, containing the date of filing, the name of the person seeking to enforce the lien, the amount claimed, the name of the person against whose animal the lien is filed, and a description of the animal charged with the lien. The clerk shall receive a fee pursuant to KRS 64.012 from the person filing the statement as full compensation, which shall be taxed and collected as other costs.
- (3) Any lien created under this section shall be dissolved unless an action is brought to enforce the lien within twelve (12) months from the day of filing the statement in the clerk's office as required by subsection (1) of this section. If the lienholder complies with all filing requirements under this section, and does so within the time herein fixed, his lien shall be valid and effective against any creditor of, or bona fide or other purchaser from, the owner of the animal, except as provided in KRS 257.105(2).
- (4) The procedure to enforce a lien under KRS 376.470 shall be as provided in KRS 376.110, 376.120, and 376.130.

**Effective:** July 13, 1990

**History:** Created 1990 Ky. Acts ch. 452, sec. 3, effective July 13, 1990.

**376.990 Penalties.**

- (1) Any person who violates the provisions of subsection (2) of KRS 376.050 shall be guilty of a Class D felony.
- (2) Any person who violates any of the provisions of KRS 376.060 or 376.070 shall be guilty of a Class A misdemeanor.

**Effective:** July 14, 1992

**History:** Amended 1992 Ky. Acts ch. 463, sec. 43, effective July 14, 1992. --

Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2467, 2467a-2, 2467b-4.