

RESOLUTION NO. _____ - 2021

A RESOLUTION OF THE URBAN COUNTY COUNCIL ENCOURAGING THE COMMISSIONER OF THE KENTUCKY DEPARTMENT OF REVENUE, THE FAYETTE COUNTY SHERIFF, THE FAYETTE COUNTY CLERK, AND THE FAYETTE COUNTY ATTORNEY, AS APPLICABLE, TO WAIVE PENALTIES AND FEES FOR DELINQUENT AD VALOREM TAXES UNDER KRS 131.175 FOR THOSE WHO APPLY AND CAN SHOW FAILURE TO TIMELY PAY AD VALOREM TAXES, PENALTIES, AND FEES WAS DUE TO THE COVID-19 PANDEMIC, ESPECIALLY LANDLORDS OF RESIDENTIAL PROPERTY IN LEXINGTON-FAYETTE COUNTY.

WHEREAS, Lexington-Fayette County has experienced an unprecedented health pandemic related to COVID-19, which has resulted in economic turmoil and significant economic losses to many residents of Lexington-Fayette County, including renters and landlords of rental property; and

WHEREAS, the Lexington-Fayette Urban County Government has created programs for renters and small businesses to aid in economic recovery from the COVID-19 pandemic; and

WHEREAS, many residents of Lexington-Fayette County have been unable to pay rent, ad valorem taxes, or penalties and fees related thereto, due to job loss, illness, or other reason related to the COVID-19 pandemic; and

WHEREAS, landlords have also been negatively affected financially by the COVID-19 pandemic, with little recourse against those unable to pay rent, which may have led to delinquency in the payment of ad valorem taxes;

WHEREAS, KRS 131.175 allows for the Commissioner of Revenue of the Kentucky Department of Revenue to waive penalties and fees related to delinquent ad valorem taxes collected by the Department, the Fayette County Sheriff, or the Fayette County Clerk, if “failure to . . . pay [ad valorem taxes] timely is due to reasonable cause.”

WHEREAS, 103 KAR 1:040 includes “death or serious illness of taxpayer or immediate family”, “undue hardship”, and “miscellaneous” reasons in the determination of “reasonable cause”; and

WHEREAS, “miscellaneous” reasons include those that “appear[] to a person of ordinary prudence and intelligence as a reasonable cause for delay in filing a return or paying a tax and which clearly negates negligence, willful disregard of administrative regulations, or fraud may be accepted”; and

WHEREAS, many residents and landlords have experienced death or serious illness due to COVID-19 in the last year; and

WHEREAS, many residents have experienced significant loss of income due to the COVID-19 pandemic to which makes paying penalties and fees for delinquent ad valorem taxes an undue burden;

WHEREAS, landlords have experienced an unprecedented decrease in renter's ability to pay rent to which eviction for non-payment of rent has been prohibited for much of the COVID-19 pandemic; and

WHEREAS, renter's inability to pay rent due to the COVID-19 pandemic, and a landlord's federally-mandated prohibition on evictions for non-payment of rent, are both clear reasons that appear to the Urban County Council to be entirely unrelated to any negligence, willful disregard, or fraud by landlords; and

WHEREAS, the COVID-19 pandemic's negative effects on the lives of residents in Lexington-Fayette County which may have caused the delinquency of ad valorem taxes are not due to the negligence, willful disregard, or fraud of those affected; and

WHEREAS, the Kentucky Department of Revenue allows the Fayette County Sheriff, the Fayette County Clerk, and the Fayette County Attorney, depending on the timing of the delinquency, to make the determination as to reasonable cause and waiver of penalties and fees for delinquent ad valorem taxes (November 12, 2009 Memorandum from the Executive Director of the Office of Property Valuation within the Kentucky Department of Revenue to Kentucky Sheriffs, Kentucky County Clerks, Kentucky County Clerks, and Kentucky Property Valuation Administrators, which is attached hereto and incorporated herein by reference); and

WHEREAS, according to this 2009 Memorandum, "A taxpayer's demonstration of reasonable cause relieves the taxpayer of paying a penalty and interest because payment would be unfair to the taxpayer in light of the circumstances surrounding the nonpayment of tax"; and

WHEREAS, the Urban County Council believes payment of these penalties and fees would be unfair to residents and landlords of residential property "in the light of the circumstances surrounding the nonpayment of tax" for those that can show the effect of the COVID-19 pandemic on its ability to timely pay ad valorem taxes, penalties, and fees.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the preamble set forth following the title to this Resolution is incorporated herein as if set out in full.

Section 2 – That the Council of the Lexington-Fayette Urban County Government hereby encourages the Commissioner of the Kentucky Department of Revenue, the Fayette County Sheriff, the Fayette County Clerk, and the Fayette County Attorney, as applicable, to waive the penalties and fees for delinquent ad valorem taxes for those who apply for such waiver and can show the effect of the COVID-19 pandemic on its ability to pay ad valorem taxes, penalties, and fees, including landlords of residential property.

Section 3 – That the Clerk of the Urban County Council is hereby authorized and directed to send a copy of this Resolution to Commissioner Thomas Miller; Fayette County Sheriff Kathy H. Witt; Fayette County Clerk Donald Blevins, Jr.; and the Fayette County Attorney Larry S. Roberts.

Section 4 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL
0811-21:EPT:X:\CASES\CO\21-LE0001\LEG\00726159.DOCX