

### **393.125 Sale by department.**

- (1) Except as otherwise provided in this section, the department, within three (3) years of the receipt of abandoned property, may sell it to the highest bidder at a public sale at a location in the state which, in the judgment of the department, affords the most favorable market for the property. The department may decline the highest bid and reoffer the property for sale if the department considers the bid to be insufficient. The department need not offer the property for sale if the department considers that the probable cost of sale will exceed the proceeds of the sale. At least three (3) weeks prior to a sale conducted under this section, the department shall publish a notice of the sale in a newspaper of general circulation in the county in which the property is to be sold.
- (2) Securities listed on an established stock exchange shall be sold at prices prevailing on the exchange at the time of sale. Other securities may be sold over the counter at prices prevailing at the time of sale or by any reasonable method selected by the department. If securities are sold by the department before the expiration of three (3) years after their delivery to the department, a person making a claim under this chapter before the end of the three (3) year period is entitled to the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever is greater, plus dividends, interest, and other increments thereon up to the time the claim is made, less any deduction for expenses of sale. A person making a claim under this chapter after the expiration of the three (3) year period is entitled to receive the securities delivered to the department by the holder, if they still remain in the custody of the department, or the net proceeds received from the sale, and is not entitled to receive any appreciation in the value of the property occurring after the delivery to the department, except in the case of intentional misconduct or malfeasance by the department.
- (3) A purchaser of property at a sale conducted by the department pursuant to this chapter takes property free of all claims of the owner or previous holder and of all persons claiming through or under them. The department shall execute all documents necessary to complete the transfer of ownership.

**Effective:** July 15, 1998

**History:** Created 1998 Ky. Acts ch. 560, sec. 8, effective July 15, 1998.

**Legislative Research Commission Note** (3/24/2009). This statute was not amended by 2009 Ky. Acts ch. 86, however, sec. 14 of that Act provided: "Notwithstanding KRS 393.125, unclaimed securities held by the Department of the Treasury may be sold with the receipts, net of estimated claims to be paid, available for appropriation to the General Fund during the 2008-2010 biennium. The secretary of the Finance and Administration Cabinet shall determine when to initiate the sale of securities based on the market structure and the financial status of the Commonwealth at the time."

**Legislative Research Commission Note** (4/24/2008). This statute was not amended by 2008 Ky. Acts ch. 132; however, sec. 14 of that Act provided: "Notwithstanding KRS 393.125, unclaimed securities held by the Department of the Treasury may be sold with the receipts, net of estimated claims to be paid, available for appropriation to the General Fund during the 2008-2010 biennium. The secretary of the Finance and Administration Cabinet shall determine when to initiate the sale of securities

based on the market structure and the financial status of the Commonwealth at the time."

**2010-2012 Budget Reference.** See State/Executive Branch Budget, 2010 (1st Extra. Sess.) Ky. Acts ch. 1, Pt. III, 35 at 139.