

CHAPTER 83

(HB 94)

AN ACT relating to methamphetamine contamination.

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

SECTION 1. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that properties contaminated with hazardous chemical residues created by the manufacture of methamphetamine endanger innocent members of the public due to exposure to these residues where properties are not properly decontaminated prior to the subsequent rental, sale, or use of the properties. Remediation of properties has been frustrated by a lack of comprehensive standards and procedures for decontamination of properties found to have been involved with methamphetamine production. The purpose of this section where law enforcement has found evidence of the manufacture of methamphetamine is to protect the public health, safety, and welfare by providing specific cleanup standards and procedures.

(1) *As used in this section, the following definitions shall apply:*

- (a) *"Inhabitable property" means any building or structure and any related curtilage, water, water system, or sewer system used as a clandestine methamphetamine drug lab that is intended to be primarily occupied by people, including a mobile home, that may be sold, leased, or rented for any length of time. "Inhabitable property" shall not include a hotel, as defined in KRS 219.011;*
- (b) *"Surface material" means any porous or nonporous substance common to the interior of a building or structure, including but not limited to ceilings and walls, window coverings, floor and floor coverings, counters, furniture, heating and cooling duct work, and any other surface to which inhabitants of the building or structure may be exposed; and*
- (c) *"Related hazardous material or hazardous waste" means any hazardous waste as defined in this chapter or hazardous material as defined in KRS 174.405 that is related to the clandestine production of methamphetamine.*

(2) *The decontamination standard for methamphetamine inside inhabitable property is less than or equal to one-tenth of one (0.1) microgram of methamphetamine per one hundred (100) square centimeters of surface material, unless the cabinet promulgates an administrative regulation providing for a different standard. The cabinet may provide for other standards by administrative regulations as follows:*

- (a) *Standards for precursors to methamphetamine that are consistent with the standard for methamphetamine or standards for related hazardous material or hazardous waste; and*
- (b) *The number and locations of surface material samples to be collected based on the circumstances of the contamination and acceptable testing methods.*

In the absence of an administrative regulation as described in paragraph (b) of this subsection, at least three (3) samples must be collected from the surface material most likely to be contaminated at each property.

(3) (a) *Only contractors certified by the Environmental and Public Protection Cabinet shall be authorized to conduct the decontamination services for inhabitable properties. The cabinet shall maintain a list of vendors and contractors with current certification to provide decontamination services. In order to become a certified contractor, a contractor shall:*

1. *Register with the cabinet;*
2. *Post a surety bond or obtain other financial assurance in the amount of five hundred thousand dollars (\$500,000);*
3. *Provide a certificate issued by an insurance company licensed to do business in Kentucky, certifying that the contractor has a public liability insurance policy in an amount deemed sufficient by the cabinet for any personal or property damages that might occur to third parties arising from the performance of decontamination services for inhabitable properties by the contractor or his or her employees or agents;*

4. *Certify that decontamination will be performed safely, and in accordance with 803 KAR 2:403; and*
 5. *Certify that each cleanup conducted meets the decontamination standard required by subsection (2) of this section.*
- (b) *Upon registration, the Environmental and Public Protection Cabinet shall either accept or deny the contractor's certification. The cabinet may revoke the certification of any contractor for cause and may collect the forfeited financial assurance of any contractor found to be in violation of this section. Forfeited financial assurance may be used by the cabinet to decontaminate inhabitable properties.*
- (c) *The cabinet may promulgate administrative regulations to establish standards and procedures for contractor certification and to establish reasonable fees to implement this section.*
- (4) *When a state or local law enforcement agency becomes aware that an inhabitable property has been contaminated by its use as a clandestine methamphetamine drug lab, the agency shall, the day that it becomes aware of the contamination, report it by fax or e-mail to the local health department.*
 - (5) *Upon receipt of a fax or e-mail referred to in inhabitable property provided by a state or local law enforcement agency under subsection (4) of this section, a local health department shall act to protect the public from health hazards posed by methamphetamine contamination of inhabitable property. To carry out this responsibility, a local health department shall rely on its powers under KRS Chapter 212 to post a notice of methamphetamine contamination on each exterior door of the inhabitable property, except in the case of a multi-family housing unit. In that case, the local health department shall post a notice of methamphetamine contamination on each entrance door to that unit. The notice shall warn the public of the health hazards posed by the methamphetamine contamination of the inhabitable property.*
 - (6) *To effect the provisions and promote the purposes of this section, the Environmental and Public Protection Cabinet, the Cabinet for Health and Family Services, and the Justice Cabinet shall integrate their efforts with other state agencies to provide information and training to the public about the health hazards associated with methamphetamine laboratories.*
 - (7) *The Environmental and Public Protection Cabinet, the Cabinet for Health and Family Services, and the Justice Cabinet shall pursue funds from the federal government, through grants or any other funding source, to help pay for the cost of assessment and decontamination of inhabitable properties.*

Section 2. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

- (1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;
- (2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;
- (3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;
- (4) To make temporary loans from the housing development fund;
- (5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;
- (6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve, and rehabilitate such real property; and to sell, assign, exchange,

transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation;

- (7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;
- (8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;
- (9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the corporation is a party;
- (10) To acquire, establish, operate, lease, and sublease residential housing for persons and families of lower and moderate income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;
- (11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;
- (12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;
- (13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;
- (14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;
- (15) To encourage community organizations to participate in residential housing development;
- (16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter;
- (17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;
- (18) To sue and be sued in its own name, plead and be impleaded;
- (19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;
- (20) To adopt an official seal and alter the same at pleasure;
- (21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;
- (22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor, provided that any personal service contracts entered into shall be subject to review by the Government Contract Review Committee of the Legislative Research Commission;
- (23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;
- (24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the

corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

- (25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance, or waiver shall be made only upon the determination by the corporation:
- (a) That such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and
 - (b) That such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders, and developers;
- (26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities, and to owners of residential housing for the development, construction, rehabilitation, or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;
- (27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate income; and
- (28) (a) To make a grant to reduce principal and interest payments on a mortgage or a rental payable by a member of a state National Guard or a Reserve component, who names Kentucky as home of record for military purposes, during that member's federal active duty. To qualify for a grant, a member of a state National Guard or a Reserve component shall meet reasonable standards established by the corporation, including having family income equal to or less than two hundred percent (200%) of the state or area median income; and
- (b) To provide a member of a state National Guard or a Reserve component, who names Kentucky as home of record for military purposes, and that member's Kentucky resident spouse with the educational, technical, and ombudsman services that are necessary to maintain a mortgage during that member's federal active duty.
- (29) ***To establish a program to assist persons and families of lower and moderate income to help defray the cost of assessment and decontamination services required under Section 1 of this Act. To qualify for the program, a person shall meet reasonable standards established by the corporation. A person shall not be eligible for the program if convicted of a felony or found by the corporation to be responsible for contamination of the relevant property through methamphetamine production.***

The Kentucky Housing Corporation shall be exempt from the regulations of the Office of Insurance and the laws of the Commonwealth relating thereto.

Approved March 23, 2007.