

CHAPTER 23

(HB 256)

AN ACT relating to the Kentucky Housing Corporation and declaring an emergency.

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

➔Section 1. KRS 198A.010 is amended to read as follows:

As used in this chapter, the following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

- (1) **"Area median income" means the greater of the statewide median family income or the median family income for the area in which the residence is located, as calculated each year by the federal Department of Housing and Urban Development for use in determining eligibility for housing programs;**
- (2) "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be issued by the corporation under this chapter but shall not include any fund notes;
- (3)~~(2)~~ "Commonwealth" means the Commonwealth of Kentucky;
- (4)~~(3)~~ "Corporation" means the Kentucky Housing Corporation created by this chapter;
- (5)~~(4)~~ "Sponsors" means persons, corporations, associations, partnerships, or other entities, consumer housing cooperatives and limited dividend housing corporations, associations, partnerships, or other entities organized pursuant to the Kentucky Revised Statutes for the primary purpose of providing housing to persons and families of lower and moderate income, and shall include without limitation organizations engaged in the production, origination, and development of residential housing units intended to qualify for financial assistance pursuant to Section 8 of the United States Housing Act of 1937, as amended;
- (6)~~(5)~~ "Development costs" means the costs approved by the corporation as appropriate expenditures and credits which may be incurred by sponsors of residential housing, prior to commitment and initial advance of the proceeds of a construction loan or of a mortgage loan, including but not limited to:
 - (a) Payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the corporation, payments for the purchase of properties;
 - (b) Legal and organizational expenses, including payments of attorney's fees, project manager, clerical, and other staff salaries, office rent, and other incidental expenses;
 - (c) Payment of fees for preliminary feasibility studies and advances for planning, engineering, and architectural work;
 - (d) Expenses for tenant surveys and market analyses;
 - (e) Necessary application and other fees; and
 - (f) Credits allowed by the corporation to recognize the value of service provided at no cost by the sponsors, builders, and/or developers;
- (7)~~(6)~~ "Fund notes" means the notes authorized to be issued by the corporation under the provisions of KRS 198A.080;
- (8)~~(7)~~ "Governmental agency" means any city, county, or other political subdivision of the Commonwealth, the Commonwealth and any department, division, or public agency thereof, the federal government or any political subdivision of any other state, any public housing authority or any nonprofit corporation or other entity legally empowered to act on behalf of any of the foregoing to perform the duties of a public housing authority, or any two (2) or more thereof;
- (9)~~(8)~~ "Housing development fund" means the housing development fund created by KRS 198A.080;
- (10)~~(9)~~ "Insured construction loan" means a construction loan for land development or residential housing which is secured by a mortgage either insured or guaranteed by or for which there is a commitment to insure or guarantee by:
 - (a) The United States of America or any agency or instrumentality thereof; or

- (b) Any other entity which has been duly approved for the insuring of such loans by the United States of America or by the Commonwealth of Kentucky or any agency or instrumentality thereof;
- ~~(11)~~~~(10)~~ "Insured mortgage" or "insured mortgage loan" means a mortgage loan for land development for residential housing or for residential housing either made, insured, or guaranteed by or for which there is a commitment to make, insure, and guarantee by:
- (a) The United States of America or any agency or instrumentality thereof; or
- (b) Any other entity, including private mortgage insurance, which has been duly approved for the insuring of such loans by the United States of America or by the Commonwealth or any agency or instrumentality thereof and shall also refer to and mean any loan for residential housing not secured by mortgage which is insured or guaranteed to at least eighty-five percent (85%) of its principal amount by the United States of America or any agency or instrumentality thereof;
- ~~(12)~~~~(11)~~ "Land development" means the process of acquiring land primarily for residential housing construction for persons and families of lower and moderate income and making, installing, or constructing nonresidential housing improvements, including water, sewer, and other utilities, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or works, whether on or off the site, which the corporation deems necessary or desirable to prepare the land primarily for residential housing construction;
- ~~(13)~~~~(12)~~ "Obligations" means any bonds, bond anticipation notes, or fund notes authorized to be issued by the corporation under the provisions of this chapter;
- ~~(14)~~~~(13)~~ "Persons and families of lower and moderate income" shall include only those individuals whose family income combined does not exceed the income requirements defined under Section 143 of the Internal Revenue Code of 1986, as amended;
- ~~(15)~~~~(14)~~ "Residential housing" means a specific work or improvement undertaken primarily to provide dwelling accommodations for persons and families of lower and moderate income, including the acquisition, construction, or rehabilitation of land, buildings, and improvements, and other nonhousing facilities as may be incidental; *and*
- ~~(16)~~~~(15)~~ "Tenant programs and services" means services and activities for persons and families living in residential housing, including the following:
- (a) Counseling on household management, housekeeping, budgeting, and money management;
- (b) Child care and similar matters;
- (c) Access to available community services related to job training and placement, education, health, welfare, and other community services;
- (d) Guard and other matters related to the physical security of the housing residents;
- (e) Effective management-tenant relations, including tenant participation in all aspects of housing administration, management, and maintenance;
- (f) Physical improvements of the housing, including buildings, recreational and community facilities, safety measures, and removal of code violations;
- (g) Advisory services for tenants in the creation of tenant organizations which will assume a meaningful and responsible role in the planning and carrying out of housing affairs; and
- (h) Procedures whereby tenants, either individually or in a group, may be given a hearing on questions relating to management policies and practices, either in general or in relation to an individual or family.

➔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 and 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;
- (28) (a) To make a grant to reduce principal and interest payments on a mortgage or a rental payable by a regular member of the United States Armed Forces who names Kentucky as home of record for military purposes, during that member's deployment on active duty outside the United States, or 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 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 identified in paragraph (a) of this subsection 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; ~~and~~
- (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 KRS 224.01-410. 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 corporation shall report on the establishment and use of this program to the Legislative Research Commission by October 1 of each year; **and**
- (30) ***To establish single family mortgage lending programs outside of the mortgage revenue bond funds. To qualify for these programs, a person shall meet reasonable standards established by the corporation and shall have a combined family income that is equal to or less than one hundred seventy-five percent (175%) of the greater of the state or area median income.***

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

➔Section 3 KRS 198A.065 is amended to read as follows:

- (1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that in order to provide for the greatest possible participation by the corporation in programs for the insurance or guarantee of mortgage loans for the construction or rehabilitation of residential housing projects by the United States of America, or an agency or instrumentality thereof; or by any other entity, including private mortgage insurance, which has been duly approved for these loans by the United States of America or by the Commonwealth or any agency or instrumentality thereof, if the criteria for state approval are specified in administrative regulations promulgated under KRS Chapter 13A by the state agency granting the approval; or for mortgage loans that are insured or reinsured by the corporation under KRS 198A.040(25), it is appropriate and proper that there be provision by which the maximum amounts of income for persons and families of lower and moderate income established by this chapter may be waived in certain circumstances so that the corporation may insure or reinsure mortgage loans or qualify for insurance or guarantee of mortgage loans.
- (2) Notwithstanding the requirements of KRS 198A.010(~~14~~)(~~13~~), 198A.060(1), or any other provisions of law to the contrary, the corporation may, by action of its board of directors, suspend or terminate any income-eligibility requirements established by this chapter, subject to subsection (3) of this section, upon written request of any private mortgage insurance company or any agency or instrumentality of the United States of America which has insured or guaranteed mortgage loans made by the corporation for the construction or rehabilitation of a specific residential housing project or for any mortgage loan insured or reinsured by the corporation under KRS 198A.040(25), upon a finding by the board of directors of the existence of one (1) or more of the following conditions with respect to that project:
 - (a) Serious rental or occupancy problems which threaten the financial stability of the project, defined as a project which cannot meet its debt service obligation from available rental income; or
 - (b) A default as to one (1) or more of the terms of the mortgage loan; or
 - (c) A foreclosure of the mortgage loan; or
 - (d) A conveyance of real estate by a deed in lieu of foreclosure.
- (3) If the corporation suspends or terminates income eligibility requirements relating to a project financed by a loan which is insured or guaranteed by a private mortgage insurance company or the corporation, the corporation shall file with the Legislative Research Commission notice of, and an explanation of the need for, the suspension or termination. The Commission shall refer the notice and explanation to the appropriate interim joint subcommittee for review. The corporation shall also provide to the reviewing subcommittee information relating to the management of, and plans for, the project.

➔Section 4 KRS 198A.090 is amended to read as follows:

- (1) Except as provided in subsection (6) of this section, the corporation may provide for the issuance, at one (1) time or from time to time, of bonds of the corporation if the cumulative outstanding indebtedness of the corporation's bonds does not exceed five billion dollars (\$5,000,000,000), in order to carry out and effectuate its corporate purposes and powers.
- (2) In anticipation of the issuance of bonds, the corporation may provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on the bonds or notes shall be payable solely from the funds provided for the payment. Notes may be made payable from the proceeds of bonds or renewal notes or, if bond or renewal note proceeds are not available, notes may be paid from any available revenues or assets of the corporation.
- (3) The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at a price and under terms and conditions determined by the corporation. Bonds or notes shall bear interest at a rate determined by the corporation. Notes shall mature at a time not exceeding ten (10) years from their date and bonds shall mature at a time not exceeding forty (40) years from their date, as determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination and the place of payment of principal and interest, which may be any bank or trust company within or without the Commonwealth. If an officer whose signature or a facsimile of whose signature appears on any bonds, notes, or coupons attached to them shall cease to be an officer before the delivery thereof, the signature or facsimile shall be valid and sufficient for all purposes as if he had remained in office until delivery. The corporation may provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration

of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation, authorizing the sale of its bonds or notes, the bonds or notes may be sold in a manner, either at public or private sale, and for a price the corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter, if the sale is approved by the corporation.

- (4) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued and shall be disbursed in the manner and under the restrictions, if any, the corporation may provide in the resolution authorizing the issuance of bonds or notes or in the trust agreement securing the same.
- (5) Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds or notes which become mutilated, destroyed, or lost.
- (6) (a) Prior to the issuance of any bonds or notes that are not secured by:
1. Direct obligations or obligations guaranteed by the United States of America; or
 2. Obligations of federal agencies to the extent that the obligations are backed by the full faith and credit of the United States of America; or
 3. Repurchase agreements with any primary dealer in securities fully secured by obligations described in subparagraphs 1. and 2. of this paragraph if the market value of the security is maintained at one hundred three percent (103%) of the principal amount of the repurchase agreement and the security is held by an independent third-party custodian financial institution; or
 4. Insured or guaranteed construction loans or mortgage loans as defined by KRS 198A.010~~(9)~~ and ~~(10)~~ **and (11)**; or
 5. Guaranty insurance policies which guarantee payment of the principal and interest on the bonds issued by a nationally recognized entity authorized to issue guarantees and rated in the highest rating category by at least one (1) of the nationally recognized rating services;
- the corporation shall obtain the approval of the issuance from the General Assembly in accordance with the provisions of KRS 56.870(1), unless the provisions of paragraph (b) of this subsection apply. This requirement shall not apply to refunding bond or note issues which are for the purpose of achieving debt service savings and which do not extend the term of the refunded bonds or notes.
- (b) The corporation may provide for the issuance, at any one (1) time or from time to time, of bonds which do not satisfy the requirements of paragraph (a) of this subsection without approval of the issuance by the General Assembly if the cumulative outstanding indebtedness of the corporation that does not meet the requirements of paragraph (a) of this subsection does not exceed thirty million dollars (\$30,000,000).
- (c) The corporation shall annually report on its housing and bonding programs to the Interim Joint Committee on Appropriations and Revenue.
- (7) The Finance and Administration Cabinet shall provide to the corporation fiscal consultant services regarding revenue bond management as necessary.

➔Section 5 Whereas in order to assist the Kentucky Housing Corporation to provide more viable home mortgage options to a greater number of Kentuckians as soon as possible, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 15, 2011.