

CHAPTER 52

(SB 89)

AN ACT relating to methamphetamine.

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

➔SECTION 1. A NEW SECTION OF KRS 65.8801 TO 65.8839 IS CREATED TO READ AS FOLLOWS:

A local government may provide by ordinance for the abatement and decontamination of a property where a methamphetamine contamination notice has been posted as provided in KRS 224.1-410.

➔Section 2. KRS 65.8840 is amended to read as follows:

- (1) As used in this section:
 - (a) "Abatement costs" means a local government's necessary and reasonable costs for and associated with clearing, preventing unauthorized entry to, or demolishing all or a portion of a structure or premises, or taking any other action with regard to a structure or premises necessary to remedy a violation and to maintain and preserve public health, safety, and welfare in accordance with any local government ordinance;
 - (b) "Automobile collector" means a person who collects and restores motor vehicles;
 - (c) "Code enforcement board" means an administrative body created and acting under the authority of KRS 65.8801 to 65.8839;
 - (d) "Code enforcement officer" means a city police officer, safety officer, citation officer, county police officer, sheriff, deputy sheriff, university police officer, airport police officer, or other public law enforcement officer with the authority to issue a citation;
 - (e) "Imminent danger" means a condition which is likely to cause serious or life-threatening injury or death at any time;
 - (f) "Local government" means any county, consolidated local government, urban-county government, charter county government, unified local government, or city of any class;
 - (g) "Ordinance" means an official action of a local government body, which is a regulation of a general and permanent nature and enforceable as a local law and shall include any provision of a code of ordinances adopted by a local government which embodies all or part of an ordinance;
 - (h) "Ordinary public view" means a sight line within normal visual range by a person on a public street or sidewalk adjacent to real property;
 - (i) "Owner" means a person, association, corporation, partnership, or other legal entity having a legal or equitable title in real property;
 - (j) "Parts car" means an automobile that is not intended to be operated along streets and roads, but is used to provide parts for the restoration of other automobiles; and
 - (k) "Premises" means a lot, plot, or parcel of land, including any structures upon it.
- (2)
 - (a) The provisions of this section may be enforced through a code enforcement board pursuant to KRS 65.8801 to 65.8839, or by any other means authorized by law, including but not limited to direct enforcement through the enactment of an ordinance as provided in subsection (7)~~(6)~~ of this section.
 - (b) If the provisions of this section are enforced through a code enforcement board pursuant to KRS 65.8801 to 65.8839, the provisions of subsections (8)~~(7)~~, (9)~~(8)~~, and (10)~~(9)~~ of this section shall not apply, and KRS 65.8801 to 65.8839 shall supersede any conflicting provisions of this section.
- (3) Except as provided in subsection (4) of this section, it shall be unlawful for the owner, occupant, or person having control or management of any premises within a local government to permit a public nuisance, health hazard, or source of filth to develop thereon through the accumulation of:
 - (a) Junked or wrecked automobiles, vehicles, machines, or other similar scrap or salvage materials, excluding inoperative farm equipment;

- (b) One (1) or more mobile or manufactured homes as defined in KRS 227.550 that are junked, wrecked, or inoperative and which are not inhabited;
 - (c) Rubbish; or
 - (d) The excessive growth of weeds or grass.
- (4) The provisions of subsection (3)(a) of this section shall not apply to:
- (a) Junked, wrecked, or inoperative automobiles, vehicles, machines, or other similar scrap or salvage materials located on the business premises of a:
 - 1. Licensed automotive recycling dealer as described in KRS 190.010(8);
 - 2. Used motor vehicle dealer as defined in KRS 190.010(6): or
 - 3. Motor vehicle auction dealer as defined in KRS 190.010(11);
 - (b) Junked, wrecked, or inoperative motor vehicles, including parts cars, stored on private premises by automobile collectors, whether as a hobby or a profession, if these motor vehicles and parts cars are stored out of ordinary public view by means of suitable fencing, trees, shrubbery, or other means; and
 - (c) Any motor vehicle as defined in KRS 281.010 that is owned, controlled, operated, managed, or leased by a motor carrier.
- (5) An owner shall not permit any structure upon his or her premises to become unfit and unsafe for human habitation, occupancy, or use or to permit conditions to exist on the structure or premises which are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures, or other residents of the local government.
- (6) ***A local government may provide by ordinance for the abatement and decontamination of a property where a methamphetamine contamination notice has been posted as provided in KRS 224.1-410. Pursuant to subsections (7) and (8) of this section, notice and an opportunity to request a hearing shall be afforded to an owner prior to decontamination of the property. A lien for all fees, charges, and costs incurred by the local government in the enforcement of an ordinance related to decontaminating a property where a methamphetamine contamination notice has been posted pursuant to KRS 224.1-410, shall be placed on the property pursuant to subsection (9) of this section. Notwithstanding subsections (12) and (13) of this section, the costs of abatement and decontamination of a property where a methamphetamine contamination notice has been posted are recoverable throughout the county.***
- (7)~~(6)~~ Any local government may establish by ordinance reasonable standards and procedures for the enforcement of this section. The procedures shall comply with all applicable statutes, administrative regulations, or codes. Any ordinance establishing these procedures may be enforced by any means authorized by law. Proper notice shall be given to owners before any action is taken pursuant to this section, and, prior to the ***decontamination of a property where a methamphetamine contamination notice has been posted pursuant to KRS 224.1-410 or the*** demolition of any unfit or unsafe structure, ***the opportunity***~~the right~~ to request a hearing shall be afforded the owner.
- (8)~~(7)~~ Unless imminent danger exists on the subject premises that necessitates immediate action, the local government shall send, within fourteen (14) days of a final determination after hearing or waiver of hearing by the owner, a copy of the determination to any lien holder of record of the subject premises by first-class mail with proof of mailing. The lien holder of record may, within forty-five (45) days from receipt of that notice, correct the violations cited or elect to pay all civil fines assessed for the violation and all charges and fees incurred by the local government in connection with the enforcement of the ordinance, including abatement costs, as permitted by subsection ***(9)***~~(8)~~ of this section.
- (9)~~(8)~~ A local government shall have a lien against the property for all civil fines assessed for the violation and for all charges and fees incurred by the local government in connection with the enforcement of the ordinance, including abatement costs. The affidavit of the code enforcement officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this section, and shall be recorded in the office of the county clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid. The lien created shall take precedence over all other liens, except state, county, school board, and city taxes, except as provided in subsection ***(10)***~~(9)~~ of this section. The local government shall possess the lien for ten (10) years following the date of the final, nonappealable order of a code enforcement board or final judgment of the court. The lien may be enforced by judicial proceeding.

- ~~(10)~~~~(9)~~ The lien provided in subsection ~~(9)~~~~(8)~~ of this section shall not take precedence or priority over a previously recorded lien if:
- (a) The local government failed to provide the lien holder a copy of the determination in accordance with subsection ~~(8)~~~~(7)~~ of this section; or
 - (b) The lien holder received a copy of the determination as required by subsection ~~(8)~~~~(7)~~ of this section, and the lien holder corrected the violations or paid all civil fines assessed for the violation and all charges and fees incurred by the local government in connection with the enforcement of the ordinance, including abatement costs.
- ~~(11)~~~~(10)~~ In addition to the remedy prescribed in subsection ~~(7)~~~~(6)~~ of this section or any other remedy authorized by law, the owner of a premises upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien, including all civil fines assessed for the violation and all charges, fees, and abatement costs incurred by the local government in connection with the enforcement of the ordinance. The local government may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed. The failure of a local government to comply with subsection ~~(8)~~~~(7)~~ of this section, and the failure of a lien to take precedence over previously filed liens as provided in subsection ~~(10)~~~~(9)~~ of this section, shall not limit or restrict any remedies that the local government has against the owner of the premises.
- ~~(12)~~~~(11)~~ The provisions of subsections ~~(7)~~~~(6)~~, ~~(9)~~~~(8)~~, and ~~(11)~~~~(10)~~ of this section shall not apply to an owner, occupant, or person having control or management of any land located in an unincorporated area if the owner, occupant, or person is not the generator of the rubbish or is not dumping or knowingly allowing the dumping of the rubbish and has made reasonable efforts to prevent the dumping of rubbish by other persons onto the premises.
- ~~(13)~~~~(12)~~ The provisions of this section shall not be enforced by a county government upon any premises situated in an unincorporated portion of the county that is assessed as agricultural land for tax purposes by the property valuation administrator.
- (14) *The right to request a hearing pursuant to this section shall be limited to a period of thirty (30) days after notice has been placed on the property and has been sent by certified mail return receipt requested.***

➔Section 3. KRS 132.012 is amended to read as follows:

As used in this section and in KRS 92.305 and 91.285, unless the context otherwise requires:

- (1) "Abandoned urban property" means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly developed urban area which has been vacant or unimproved for a period of at least one (1) year and which:
 - (a) Because it is dilapidated, unsanitary, unsafe, vermin infested, or otherwise dangerous to the safety of persons, it is unfit for its intended use; ~~or~~
 - (b) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or has become infested with rodents or other vermin; ~~or~~
 - (c) Has been tax delinquent for a period of at least three (3) years;
 - (d) ***Has had a methamphetamine contamination notice posted as provided in KRS 224.1-410 for a period of at least ninety (90) days and the owner has neither appealed the notice nor provided a certificate of decontamination during the ninety (90) days;*** or
 - ~~(e)~~~~(d)~~ Is located within a development area established under KRS 65.7049, 65.7051, and 65.7053.
- (2) For purposes of local taxation in cities of any class or consolidated local governments, there shall be a classification of real property known as abandoned urban property. The legislative body of a city of any class, county containing a city of the first class, or consolidated local government may levy a rate of taxation on abandoned urban property higher than the prevailing rate of taxation on other real property in the city, county containing a city of the first class, or consolidated local government. The limitation upon tax rates established by KRS 132.027 shall not apply to the rate of taxation on abandoned urban property.

➔Section 4. KRS 426.205 is amended to read as follows:

- (1) In an action otherwise properly brought to enforce a mortgage or lien against real property, *including a lien pursuant to KRS 65.8801 to 65.8839 or Section 2 of this Act, which has been* determined by the court to be vacant and abandoned, a sale of the property shall be ordered expeditiously.
- (2) Real property shall be considered vacant and abandoned, for purposes of this section only, if there has been no legal resident or other person legally entitled to occupy the property residing at the property for a period of forty-five (45) or more consecutive days and two (2) or more of the following or similar circumstances which would lead a reasonable person to believe that the property is vacant exist:
 - (a) Overgrown or dead vegetation;
 - (b) Accumulation of flyers, mail, or trash;
 - (c) Disconnected utilities;
 - (d) The absence of window coverings or furniture;
 - (e) Uncorrected hazardous conditions or vandalism; or
 - (f) Statements of neighbors, delivery persons, or government employees that the property is vacant.

Proof of vacancy and abandonment may be offered by affidavit filed at or after the time of filing of the complaint by the plaintiff or other lienholder.

- (3) If the court makes a finding in the order of sale that the property is vacant and abandoned, the master commissioner shall sell the property within seventy (70) days of the order.
- (4) The plaintiff or other mortgage or lienholder in whose favor the judgment and order of sale were entered shall apply for an order confirming the sale within twenty (20) days of the date of the sale and, unless there have been exceptions to the report of the master commissioner, the court shall act on such application not later than the next regularly scheduled civil motion or rule day.
- (5) The master commissioner shall make conveyance of the property on the date the court confirms the sale, or as soon thereafter as all costs and fees have been paid by the foreclosing mortgagee or lienholder, or as soon as a third-party purchaser has paid the purchase price.

Signed by Governor March 22, 2019.