

**224.73-150 Conditions for appointment of receiver to manage and operate privately owned small wastewater treatment plant -- Attachment and control of plant's assets -- Hearings, permitted actions, and orders.**

- (1) The cabinet may seek to have a receiver appointed to assume the management and operation of a privately owned small wastewater treatment plant if the plant:
  - (a) Presents a threat or likely threat to the public health or the environment;
  - (b) Is in substantial and recurring noncompliance with its discharge permit as issued by the cabinet; or
  - (c) The owner is unable or unwilling to operate or to provide for the proper operation of the plant.
- (2) If the cabinet, after following the procedures and conducting a hearing in accordance with KRS 224.10-410 or 224.10-420 and the administrative regulations promulgated thereunder, enters an order in which it finds that a plant meets any of the conditions of subsection (1) of this section, and after notification to the Public Service Commission if the plant is a utility as defined in KRS 278.010(3)(f), the cabinet may bring an action in the Franklin Circuit Court for an order attaching the assets of the plant and placing those assets under the sole control and responsibility of a receiver.
- (3) Within twenty (20) days after commencing an action in Franklin Circuit Court, the cabinet shall file a certified copy of the record of the administrative proceeding in which the secretary of the cabinet entered his or her findings.
- (4) During the pendency of any receivership, the receiver may bring or defend any cause of action on behalf of the owner of the plant as the court may authorize, including an action to raise rates or institute surcharges as necessary to properly operate, maintain, restore, and rehabilitate the plant and to pay the costs, fees, and expenses of the receiver.
- (5) The receiver shall control and manage the assets and operations of the plant until the Franklin Circuit Court, after reasonable notice and hearing, orders the receiver to return control of those assets to the plant's owner or to liquidate and transfer those assets as provided by law.
- (6)
  - (a) Notwithstanding subsection (2) of this section, the cabinet, after notification to the Public Service Commission if the plant is a utility as defined in KRS 278.010(3)(f), may petition the Franklin Circuit Court to appoint a temporary receiver to operate and manage the assets of the plant meeting the conditions set out in subsection (1) of this section.
  - (b) After notice to the owner of the plant, and after notification to the Public Service Commission if the plant is a utility as defined in KRS 278.010(3)(f), the court may grant a petition for the appointment of a temporary receiver, on terms and conditions as it deems appropriate, upon a showing by a preponderance of the evidence:
    1. That the plant is an immediate threat to the public health, safety, or the environment;
    2. There is an immediate threat to the continued availability of service to

the customers served by the plant; and

3. That the delay required for the cabinet to follow the procedures and conduct a hearing in accordance with subsection (2) of this section would place the public health or safety, the environment, or continued wastewater treatment service at unnecessary risk.

**Effective:** July 14, 2018

**History:** Created 2018 Ky. Acts ch. 196, sec. 3, effective July 14, 2018.