

1 AN ACT relating to abandoned and blighted property.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO
4 READ AS FOLLOWS:

5 *The General Assembly finds and declares that:*

6 *(1) Abandoned and blighted residential, commercial, and industrial buildings are a*
7 *nuisance and public safety threat to communities across the Commonwealth,*
8 *negatively affecting quality of life and surrounding property values. If not*
9 *rehabilitated, the buildings are likely to remain abandoned and subject to further*
10 *deterioration, resulting in increased costs to the Commonwealth, local*
11 *governments, and taxpayers;*

12 *(2) Providing a mechanism to transform abandoned and blighted buildings into*
13 *productive reuse and return to the market is an opportunity for communities*
14 *throughout the Commonwealth to revitalize, grow, and improve the quality of life*
15 *of its citizens; and*

16 *(3) If the owner of an abandoned and blighted residential, commercial, or industrial*
17 *building fails to maintain a building in compliance with applicable public safety*
18 *housing, building, and nuisance code requirements, it is in the public interest for*
19 *the court, pursuant to Sections 1 to 16 of this Act, to appoint a conservator to*
20 *bring the building into compliance with applicable code requirements before the*
21 *building sustains further deterioration preventing future productive economic*
22 *use.*

23 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO
24 READ AS FOLLOWS:

25 *As used in Sections 1 to 16 of this Act, unless the context otherwise requires:*

26 *(1) "Abandoned and blighted property" means a residential, commercial, or*
27 *industrial building that has been continuously vacant for at least one (1) year*

1 with repeated housing, building, or nuisance code citations and at least three (3)
2 of the following conditions:

3 (a) The building has not been brought into compliance with the housing,
4 building, or nuisance code requirements of the local government in which it
5 is located within time constraints placed upon the owner by the appropriate
6 code enforcement agency or agencies;

7 (b) The building is unfit for human habitation, occupancy, or use;

8 (c) The condition and vacancy of the building materially increases the risk of
9 fire to the building and to adjacent properties;

10 (d) The building, by reason of neglect or lack of maintenance, has become a
11 place for the accumulation of substantial trash and debris or a haven for
12 rodents or other vermin that create potential health and safety hazards;

13 (e) The building is subject to unauthorized entry leading to potential health and
14 safety hazards, and either the owner has failed to take reasonable and
15 necessary measures to secure the building or the local government has
16 secured the building in order to prevent such hazards after the owner has
17 failed to do so;

18 (f) The building is an attractive nuisance to children or for illicit purposes,
19 including drug use and vagrancy; or

20 (g) The building, because of its dilapidated appearance or other conditions,
21 substantially negatively affects the economic well-being of residents or
22 businesses in close proximity to the building;

23 (2) "Actively marketed" means:

24 (a) A "for sale" sign has been placed on the property with accurate contact
25 information;

26 (b) The owner has engaged the services of a licensed real estate agent, placed
27 weekly or more frequent advertisements in print, or listed the property for

1 sale in electronic media via Web site specifically designed for such activity;

2 and

3 (c) The owner has made a good-faith effort to sell the property at a price that

4 reflects the circumstances and market conditions;

5 (3) "Building" means a residential, commercial, or industrial building or structure

6 and the land appurtenant thereto;

7 (4) "Competent entity" means a person or entity, including a nonprofit corporation,

8 with experience in the rehabilitation of residential, commercial, or industrial

9 buildings and the ability to provide or obtain the necessary financing for such

10 rehabilitation;

11 (5) "Conservator" means a competent entity appointed by a court to take possession

12 of and undertake the rehabilitation of an abandoned and blighted building;

13 (6) "Conservator's fee" for rehabilitation or demolition of an abandoned and

14 blighted building means a fee equal to the greater of:

15 (a) A reasonable amount not to exceed twenty percent (20%) of the actual costs

16 incurred by a conservator for rehabilitation or demolition of the building as

17 described in the plan for rehabilitation or demolition approved by the court;

18 or

19 (b) Fifteen percent (15%) of the sale price of the property;

20 (7) "Costs of rehabilitation" means costs and expenses for construction,

21 stabilization, rehabilitation, maintenance, or demolition, including reasonable

22 non-construction costs associated with the project, including but not limited to

23 architectural, engineering, legal fees and costs, permits, financing fees, and a

24 conservator's fee;

25 (8) "Historic structure" means a property which is listed on the National Register of

26 Historic Places, is a contributing property in a national register historic district,

27 or is designated an historic property by the Kentucky Heritage Council;

1 (9) "Immediate family" means a parent, spouse, child, brother, or sister;

2 (10) "Local government" has the same meaning as in KRS 99.705;

3 (11) "Nonprofit corporation" means a corporation recognized by the United States
4 Department of Revenue as being tax exempt under 26 U.S.C. sec. 501(c) that has,
5 as one (1) of its purposes, remediation of blight, economic development, historic
6 preservation, or the promotion or enhancement of affordable housing
7 opportunities;

8 (12) "Owner":

9 (a) Means the holder or holders of title to, or of a legal or equitable interest in,
10 a residential, commercial, or industrial building for six (6) months or more;
11 and

12 (b) Includes an heir, assignee, trustee, beneficiary, and lessee, provided the
13 ownership interest is a matter of public record;

14 (13) "Party in interest" means a person or entity that has a direct and immediate
15 interest in a residential, commercial, or industrial building, including:

16 (a) The owner;

17 (b) Any mortgagee with a recorded interest in the property;

18 (c) Any other lienholder with a recorded interest in the property; and

19 (d) The city and county in which the building is located;

20 (14) "Rehabilitation" means improvements to a building in order to bring it into
21 compliance with all applicable housing, building, and nuisance code
22 requirements; and

23 (15) "Vacant" means abandoned, unoccupied, or empty continuously for at least one
24 (1) year, excluding unauthorized or illegal occupancies.

25 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO
26 READ AS FOLLOWS:

27 (1) A petition for the appointment of a conservator to take possession of and

1 undertake the rehabilitation of an abandoned and blighted building shall be filed
2 in the Circuit Court in the county in which the building is located by the city or
3 county in which the building is located. The proceeding on the petition shall
4 constitute an action in rem.

5 (2) The petition shall include:

6 (a) The name and last known address of the owner of the vacant building;

7 (b) Copies of citations charging the owner with being in violation of local
8 housing, building, plumbing, electrical, fire, health, or nuisance code
9 requirements, including proof of service pursuant to KRS 65.8825(2);

10 (c) A schedule of recorded mortgages, liens, or other encumbrances on the
11 property, including the names and addresses of all lienholders;

12 (d) Assessed value of the property for tax purposes;

13 (e) A recommendation as to which person or entity should be appointed
14 conservator, including the qualifications of the person or entity;

15 (f) A preliminary plan including the current condition of the building,
16 photographs, initial estimates for costs of rehabilitation of the building to
17 bring it into compliance with all applicable housing, building, electrical,
18 fire, health, and nuisance code requirements charged in the citations, and
19 an estimated timeline for completion;

20 (g) Anticipated funding sources for the preliminary plan; and

21 (h) A sworn statement by the petitioner that, to the best of his or her knowledge
22 and belief:

23 1. The building meets the conditions for conservatorship set forth in
24 Section 5 of this Act;

25 2. The building has not been legally occupied for at least the previous
26 twelve (12) months;

27 3. The property has not been actively marketed within the previous sixty

1 (60) days;

2 4. The property is not subject to a pending foreclosure action by an
3 individual or nongovernmental entity; and

4 5. The owner has been the holder of title to the property for six (6)
5 months or more.

6 (3) Upon filing the petition with the court, the petitioner shall file a notice of lis
7 pendens in the office of the clerk of the county in which the property is located.

8 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO
9 READ AS FOLLOWS:

10 (1) Service of process shall be provided in accordance with the Kentucky Rules of
11 Civil Procedure to the following parties in interest:

12 (a) The owner of the property at his or her last known address;

13 (b) The city and county in which the property is located, if the city or county is
14 not the petitioner;

15 (c) Any mortgagee with a recorded interest in the property; and

16 (d) Any other lienholder with a recorded interest in the property.

17 (2) Notice of the pendency and nature of the proceeding shall additionally be
18 provided by certified or registered mail to any property owner located within five
19 hundred (500) feet of the property at his or her last known address, including
20 notice the property owner may petition to intervene in the proceeding.

21 (3) The petitioner shall notify the parties in interest and any property owner located
22 within five hundred (500) feet of the property of the hearing date.

23 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO
24 READ AS FOLLOWS:

25 (1) The court shall act upon a petition filed by holding a hearing. A party in interest
26 may be heard with respect to the petition, the requested relief, or any other matter
27 which may come before the court in reference to the proceeding. Any party in

1 interest shall be permitted to present evidence to support or contest the petition,
2 including but not limited to the schedule of encumbrances.

3 (2) The court may appoint a competent entity as conservator if it finds all of the
4 following apply as of the date of filing the petition:

5 (a) The building has not been legally occupied for at least the previous twelve
6 (12) months;

7 (b) The owner fails to present sufficient evidence that the property was actively
8 marketed during the preceding sixty (60) day period;

9 (c) The property is not subject to a pending foreclosure action by an individual
10 or nongovernmental entity;

11 (d) The owner fails to present sufficient evidence the property was acquired by
12 the owner within the preceding six (6) months. The evidence shall not
13 include instances where the prior owner is a member of the immediate
14 family of the current owner, unless the transfer of title results from the
15 death of the prior owner; and

16 (e) The court finds at least three (3) of the conditions meeting the definition of
17 abandoned and blighted property in Section 2 of this Act have been
18 established.

19 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO
20 READ AS FOLLOWS:

21 (1) If the court finds after a hearing that the conditions for conservatorship have
22 been established, the court may:

23 (a) Appoint a conservator; and

24 (b) Grant such other relief as may be just and appropriate.

25 (2) In appointing a conservator, the court shall consider any recommendation
26 contained in the petition or otherwise presented by a party in interest.

27 (3) No member of the governing body of a local government or a public officer of a

1 local government in his or her individual capacity, or a member of the immediate
2 family of a member of the governing body or public officer of a local government,
3 is qualified to be appointed as a conservator in the action.

4 (4) A conservator appointed by the court may be required to post a bond in an
5 amount determined by the court, but not exceeding the assessed value of the
6 building at the time of the appointment, prior to proceeding as conservator.

7 (5) A conservator may be removed by the court at any time upon the request of the
8 conservator, or upon a showing by a party in interest that the conservator is not
9 carrying out duties or responsibilities under the appointment. If a conservator is
10 removed for failure to carry out duties or responsibilities under the appointment,
11 the conservator shall not be entitled to reimbursement for costs of rehabilitation.

12 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO
13 READ AS FOLLOWS:

14 (1) If the court finds after a hearing that the conditions for conservatorship have
15 been established, but the owner represents that the conditions will be abated in a
16 reasonable period, the court may allow the owner to proceed to remedy the
17 conditions.

18 (2) If the owner is allowed to proceed with abatement, the court may require the
19 owner to post a bond in the amount of the repair costs estimated in the petition as
20 a condition to retaining possession of the building.

21 (3) The court shall additionally enter an order providing that, if the conditions are
22 not abated by the owner by a specific date or that other specified remedial
23 activities have not occurred by a specific date or dates, an order appointing a
24 conservator shall be entered.

25 (4) In the event the owner brings the property into compliance with all applicable
26 housing, building, and nuisance code requirements or sells the property subject
27 to the conservatorship, the owner shall reimburse the petitioner for all reasonable

1 costs incurred by the petitioner in preparing and filing the petition.

2 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO
3 READ AS FOLLOWS:

4 (1) The conservator shall have all powers and duties necessary in order to bring the
5 building into compliance with all applicable housing, building, and nuisance
6 code requirements and to fulfill the conservator's responsibilities under Sections
7 1 to 16 of this Act. A conservator's powers and duties shall include but not be
8 limited to:

9 (a) Taking possession and control of the building and appurtenant land subject
10 to the conservatorship;

11 (b) Pursuing all claims or causes of action of the owner with respect to the
12 building;

13 (c) Contracting for the repair and maintenance of the building. The
14 conservator shall make a reasonable effort to solicit three (3) bids for
15 contracts valued at more than thirty thousand dollars (\$30,000);

16 (d) Borrowing money or incurring indebtedness for costs of rehabilitation of
17 the building as set out in Section 9 of this Act;

18 (e) Contracting for and paying for the restoration of utilities to the building;

19 (f) Applying for and obtaining construction permits;

20 (g) Purchasing materials, goods, and supplies to accomplish repairs to the
21 building;

22 (h) Renewing or entering into contracts providing for insurance coverage on
23 the building;

24 (i) Engaging and paying legal, accounting, appraisal, and other professionals
25 necessary to aid the conservator in the conduct of the conservatorship;

26 (j) If the building has been designated a historic structure, consulting with the
27 local government's historical commission or board of historical and

1 architectural review, a local historic preservation organization or, in the
2 absence thereof, the Kentucky Heritage Council for recommendations on
3 preserving the property's historic character;

4 (k) Applying for and receiving public grants or loans;

5 (l) Selling the building as set out in Section 12 of this Act; and

6 (m) Exercising all authority that an owner of the building would have to
7 rehabilitate and maintain the building.

8 (2) Notwithstanding the appointment of a conservator, nothing in Sections 1 to 16 of
9 this Act shall be construed to relieve the owner of any civil or criminal liability or
10 of any obligation to pay taxes, local government liens and charges, mortgages,
11 private liens, or other fees or charges, whether incurred before or after the
12 appointment of the conservator, and no such liability shall transfer to the
13 conservator.

14 (3) If any interest in the property subject to conservatorship is sold or transferred by
15 the owner during the pendency of the conservatorship, the sale or transfer shall
16 be subject to the conservatorship.

17 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO
18 READ AS FOLLOWS:

19 (1) A conservator may borrow money or incur indebtedness in order to cover the
20 costs of rehabilitation or to otherwise fulfill the conservator's obligations under
21 Sections 1 to 16 of this Act. In order to facilitate the borrowing of funds for the costs of
22 rehabilitation, the court shall grant priority status to a lien given to secure payment on
23 a debt incurred for purposes authorized under Sections 1 to 16 of this Act, provided
24 that the conservator first sought to obtain the necessary financing from the most senior
25 nongovernmental lienholder, if any, but the lienholder declined to provide financing to
26 cover the costs of rehabilitation.

27 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) While in possession of the building, the conservator shall:

3 (a) Maintain, safeguard, and insure the property;

4 (b) Develop a final plan for abatement of the conditions which caused the
5 petition to be granted or, if no feasible final plan can be developed, develop
6 alternatives, including the closing, sealing, or demolition of all or part of
7 the building in accordance with Section 11 of this Act;

8 (c) Submit the final plan to the court and all parties in interest; and

9 (d) Execute the final plan.

10 (2) The final plan shall include a cost estimate, a financing plan, sources of
11 financing, and a description of the work to be done for the rehabilitation of the
12 building in order to bring it into compliance with all applicable housing,
13 building, and nuisance code requirements, any duly adopted plan for the area in
14 which the building is located, and any historic preservation requirements, along
15 with an estimated timeline for completion.

16 (3) Any party in interest shall be allowed to comment on or request a hearing on the
17 final plan within thirty (30) days of receipt of the final plan by certified or
18 registered mail.

19 (4) While in possession of the building, the conservator shall additionally submit a
20 status report to the court and all parties in interest every six (6) months from the
21 date of appointment, or more frequently as the court may deem appropriate. The
22 status report shall include:

23 (a) A copy of any contracts entered into by the conservator regarding
24 improvement of the building and any related bids;

25 (b) An account of all expenses and improvements;

26 (c) The status of developing and implementing the final plan; and

27 (d) A description of proposed actions to be taken in the next six (6) months to

1 improve the building.

2 (5) Upon implementation of the final plan, the conservator shall submit to the court
3 and all parties in interest a full accounting of all actions taken to rehabilitate the
4 property, all income and expenditures received or incurred during
5 implementation of the final plan, and an estimate of the conservator's fee.

6 (6) The conservator may then petition the court for authorization to terminate the
7 conservatorship through either a public or private sale.

8 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO
9 READ AS FOLLOWS:

10 (1) If no feasible final plan can be developed for rehabilitation of the building in
11 order to bring it into compliance with all applicable housing, building, and
12 nuisance code requirements at a reasonable cost in relation to the present value
13 of the building without consideration of the value of the land on which the
14 building is located, the conservator may submit a plan for demolition and
15 removal of the building and all debris from the property to the court and all
16 parties in interest.

17 (2) The present value of the building in relation to the estimate for costs of
18 rehabilitation of the building in order to bring it into compliance with all
19 applicable housing, building, and nuisance code requirements may be established
20 by evidence of three (3) affidavits prepared by real estate appraisers, qualified
21 building contractors, or qualified building inspectors.

22 (3) A plan for demolition shall require a reasonable effort to be made to salvage
23 reusable materials for credit against the cost of demolition. The proceeds of any
24 moneys received from the sale of salvaged materials shall be used or applied
25 against the cost of demolition and removal of the building and all debris from the
26 property. Proper records shall be kept showing application of sales proceeds. Any
27 sale of salvaged materials may be made without the necessity of public

1 advertisement.

2 (4) Any party in interest shall be allowed to comment on or request a hearing on a
3 plan for demolition within thirty (30) days of receipt of the plan for demolition by
4 certified or registered mail.

5 (5) Upon demolition and removal of the building and all debris from the property,
6 the conservator shall submit to the court and all parties in interest a full
7 accounting of all actions taken, all income and expenditures received or incurred,
8 and an estimate of the conservator's fee.

9 (6) The conservator may then petition the court for authorization to terminate the
10 conservatorship through either a public or private sale.

11 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO
12 READ AS FOLLOWS:

13 (1) Upon application of the conservator, the court may order the sale of the property
14 free and clear of all existing liens, claims, and encumbrances subject to the
15 approval and supervision of the court by private sale pursuant to a written
16 contract of sale between the conservator and prospective purchaser, by public
17 auction, or by any other method that the court determines is fair to the owner of
18 the property and all parties in interest, is reasonable under the circumstances,
19 and will maximize the return from the property to the conservatorship estate.

20 (2) Before entering an order authorizing the sale of the property by the conservator,
21 the court may require that the conservator provide evidence of the value of the
22 property by affidavit of three (3) real estate appraisers or by any other evidence
23 that the court determines is appropriate.

24 (3) If the conservator has received a specific offer for sale that the conservator
25 desires to accept, the conservator shall provide to the court the identity of the
26 buyer and the proposed terms of the sale. If the conservator has not received a
27 specific offer for sale that the conservator desires to accept, the conservator shall

1 provide to the court the proposed procedures for conduct of the sale.

2 (4) Any sale of the property shall be made subject to the approval and supervision of
3 the court only after all of the following occur:

4 (a) The court finds the conditions that were the grounds for the petition have
5 been abated or corrected by the conservator and the owner has not
6 successfully petitioned to terminate the conservatorship as set out in Section
7 14 of this Act;

8 (b) Notice of the proposed sale and an opportunity for a hearing at which all
9 parties in interest may be heard is given in accordance with the Kentucky
10 Rules of Civil Procedure, provided if no party objects to the proposed sale or
11 requests a hearing within thirty (30) days, the court may proceed without a
12 hearing; and

13 (c) The court issues an order of sale that sets forth the required procedures for
14 or terms of the sale.

15 (5) If the proposed sale is by public auction or any other method other than a private
16 sale approved by the court, the conservator shall conduct and promote the sale in
17 a manner anticipated to raise the highest and best sale price.

18 (6) If the proposed sale is pursuant to a specific offer the conservator desires to
19 accept, the court may finally approve the sale and no separate confirmation order
20 is required. If the proposed sale is by public auction or any method other than a
21 private sale approved by the court, the conservator shall seek an order approving
22 the sale process and confirming the sale within ten (10) days of the date of the
23 sale.

24 (7) Notwithstanding any provision to KRS Chapter 134 to the contrary, any holder of
25 a local government lien may by written agreement waive or release all or a
26 portion of its lien priority upon sale of a property subject to the lien in accordance
27 with Sections 1 to 16 this Act.

1 ➔ SECTION 13. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) If the proceeds of the sale are insufficient to pay all existing liens, claims, and
4 encumbrances, the proceeds shall be distributed according to the priorities set out
5 in subsection (2) of this section and all unpaid liens, claims, or encumbrances
6 which have not been assumed under subsection (2) of this section shall be
7 extinguished.

8 (2) The proceeds of the sale shall be applied in accordance with the following
9 priorities to:

10 (a) Costs and expenses of sale;

11 (b) State and local government tax liens, unless priority is waived by a local
12 government in accordance with Section 12 of this Act;

13 (c) Principal and interest on any borrowing or incurrence of indebtedness
14 granted priority over existing liens and security interests under Section 9 of
15 this Act;

16 (d) Costs of rehabilitation;

17 (e) Properly recorded local government code enforcement liens existing
18 pursuant to KRS 65.8835;

19 (f) Other valid liens and security interests in accordance with their priority;

20 (g) The owner; and

21 (h) If the owner cannot be located, any proceeds from the sale which belong to
22 the owner shall be presumed to be abandoned and unclaimed and shall be
23 subject to the custody and control of the Commonwealth.

24 (3) Following confirmation of the sale by the court, the conservator shall execute
25 and deliver a deed within ten (10) days conveying title to the property to the
26 purchaser free and clear of all existing liens, claims, and encumbrances in
27 accordance with this section and KRS Chapter 132.

1 (4) As soon as reasonably possible following delivery of the deed to the purchaser,
2 the conservator shall submit to the court and all parties in interest a report of sale
3 in which the conservator certifies all of the following:

4 (a) That the sale was conducted in accordance with the order authorizing the
5 sale;

6 (b) The date of the sale;

7 (c) The name of the purchaser;

8 (d) The purchase price;

9 (e) The amount of the net proceeds of the sale;

10 (f) A copy of the closing statement, if a closing statement was prepared; and

11 (g) Any other information that the court may require.

12 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO
13 READ AS FOLLOWS:

14 Upon request by a party in interest or the conservator, the court may order the
15 termination of the conservatorship if it determines:

16 (1) The obligations, expenses, and improvements of the conservatorship, including
17 all costs of the conservator, have been fully paid or provided for and the purposes
18 of the conservatorship have been fulfilled;

19 (2) The owner or a mortgagee or lienholder has requested the conservatorship be
20 terminated and has provided adequate assurances to the court that the conditions
21 that constituted grounds for the petition will be promptly abated;

22 (3) The conservator is not carrying out required duties or responsibilities as set out
23 in Section 8 of this Act; or

24 (4) The building has been sold by the conservator and the proceeds have been
25 distributed as set out in Section 13 of this Act.

26 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO
27 READ AS FOLLOWS:

1 Sections 1 to 16 of this Act shall not apply if the property owner has vacated the
2 property in order to perform military service in time of war, armed conflict, or in order
3 to assist with relief efforts during a declared federal or state emergency as a member of
4 the United States Armed Forces or its Reserve component.

5 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO
6 READ AS FOLLOWS:

7 Sections 1 to 16 of this Act may be cited as the Abandoned and Blighted Property
8 Conservatorship Act.

9 ➔Section 17. This Act takes effect January 1, 2021.