

VACANT PROPERTY REVIEW COMMISSION

A GUIDE FROM KLC MUNICIPAL LAW

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April 2021





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In order to play any game, you must first learn the rules. The same holds true for the law surrounding vacant property review commissions. It is impossible to carry out the duties of vacant property review commissions unless you familiarize yourself with the applicable state statutes, as well as your local ordinances, that govern.

Statutes are not contained in some magical spell book. There is no forbidden wisdom in a statutory code book. You do not need a law school education to understand their meaning. We wanted to remove some of the mystique from the law by compiling this simple pdf document. It contains the entire portion of Kentucky Revised Statutes which pertain to vacant property review commissions.

Feel free to use this guide in any way that you deem fit. The reason we wanted to present this as a pdf though is because a pdf does have just a little bit of magic, truth be told. A pdf is word searchable. If you have the pdf on a laptop during a meeting and an issue comes up - you can plug the words in and hopefully the relevant portion of the law pertaining to vacant property review commissions will pop up. Failing that, you can always call the KLC Municipal Law Department at 800.876.4552.

The KLC Municipal Law Team

99.700 Legislative findings and policy

(1) It is hereby found:

- (a) That there exist within the jurisdiction of many local governments in this Commonwealth blighted and deteriorated properties in neighborhoods which cause the deterioration of those and contiguous neighborhoods and constitute a serious and growing menace which is injurious to the public health, safety, morals, and general welfare of the residents of the Commonwealth, and are beyond remedy and control solely by regulatory process in the exercise of the police power;
- (b) That the existence of blighted and deteriorated properties within neighborhoods, and the growth and spread of blight and deterioration or the threatened deterioration of other neighborhoods and properties:
 - 1. Contribute substantially and increasingly to the spread of disease and crime, and to losses by fire and accident;
 - 2. Necessitate expensive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, and punishment, for the treatment of juvenile delinquency, for the maintenance of adequate police, fire and accident protection, and for other public services and facilities;
 - 3. Constitute an economic and social liability;
 - 4. Substantially impair or arrest the sound growth of the community;
 - 5. Retard the provision of decent, safe, and sanitary housing accommodations;
 - 6. Depreciate assessable values;
 - 7. Cause an abnormal exodus of families from these neighborhoods; and
 - 8. Are detrimental to the health, the well-being, and the dignity of many residents of these neighborhoods;
- (c) That this menace cannot be effectively dealt with by private enterprise without the aids provided herein; and
- (d) That the benefits which would result from eliminating the blighted properties that cause the blight and deterioration of neighborhoods will accrue to the inhabitants of the neighborhoods in which these conditions exist and to the inhabitants of this Commonwealth generally.

(2) It is hereby declared:

- (a) That it is the policy of this Commonwealth to protect and promote the health, safety, and welfare of the people of the Commonwealth by eliminating the blight and deterioration of neighborhoods through the elimination of blighted and deteriorated properties within these neighborhoods;

- (b) That the elimination of such blight and deterioration and the preparation of the properties for sale or lease, for development or redevelopment, constitute a public use and purpose for which public money may be expended and private property acquired and are governmental functions in the interest of the health, safety, and welfare of the people of the Commonwealth; and
- (c) That the necessity in the public interest for the provisions enacted herein is hereby declared to be a legislative determination.

99.705 Definitions for KRS 99.700 to 99.730

As used in KRS 99.700 to 99.730:

- (1) “Alternative government entity” means an entity established by the legislative body of a local government pursuant to KRS 65.350 to 65.375, 99.330 to 99.510, 99.520 to 99.590, or 99.610 to 99.680, with a purpose compatible with the purposes expressed in KRS 99.700;
- (2) “Blighted” or “deteriorated” property means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood:
 - (a) Which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with the housing, building, plumbing, fire, nuisance, or related codes;
 - (b) Which because of physical condition, use, or occupancy is considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations, and unsafe fences or structures;
 - (c) Which, because it is dilapidated, unsanitary, unsafe, vermin-infested, or lacking in the facilities and equipment required by the housing or nuisance code of the local government in which it is located, has been designated by the department responsible for enforcement of the housing or nuisance code as unfit for human habitation;
 - (d) Which is a fire hazard, or is otherwise dangerous to the safety of persons or property;
 - (e) From which the utilities, plumbing, heating, sewerage, or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use;
 - (f) Which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin;
 - (g) Which has been tax delinquent for a period of at least three (3) years; or
 - (h) Which has not been brought into compliance with the housing, building, plumbing, electrical, fire, or nuisance code of the local government within which it is located within the time constraints placed upon the owner by the appropriate code enforcement agency;
- (3) “Commission” means a vacant property review commission established under KRS 99.710;
- (4) “Local government” means any city, county, urban-county government, consolidated local government, unified local government, or charter county;

- (5) “Nuisance code” means an ordinance or ordinances adopted by a local government pursuant to KRS 82.700 to 82.725 or a similar ordinance or ordinances adopted by a local government pursuant to any other authority; and
- (6) “Redevelopment” means the planning or replanning, design or redesign, acquisition, clearance, development, and disposal or any combination of these, of a property in the preparation of such property for residential, commercial, public, or related uses, as may be appropriate or necessary.

99.710 Ordinance adopting provisions of state statutes on blighted or deteriorated areas; vacant property review commission

- (1) If the legislative body of a local government finds and declares that there exist within the jurisdiction of the local government blighted or deteriorated properties and that there is need for the exercise of powers, functions, and duties conferred by KRS 99.700 to 99.730 within the jurisdiction of the local government, the legislative body may adopt the provisions of KRS 99.700 to 99.730 by ordinance.
- (2) The ordinance adopting the provisions of KRS 99.700 to 99.730 shall:
 - (a) Establish a vacant property review commission, which shall certify properties as blighted or deteriorated to the legislative body. The ordinance shall specify the duties of, the number of members that will serve on, the requirements of membership, and the makeup of the commission. Members of the commission shall be appointed by the mayor or the county judge/executive, as the case may be, and approved by the legislative body; or
 - (b) Assign the duties that would otherwise be fulfilled by a vacant property review commission under KRS 99.700 to 99.730 to an alternative government entity.
- (3) The governing body of a local government adopting the provisions of KRS 99.700 to 99.730 may also, by ordinance, authorize the commission or alternative government entity to identify and certify properties for inclusion in a tax delinquency diversion program established by the local government as provided in KRS 99.727.
- (4) No officer or employee of the local government whose duties include enforcement of housing, building, plumbing, fire, nuisance, or related codes shall be appointed to the commission or serve on the governing body of an alternative government entity.
- (5) Nothing in KRS 99.705 to 99.730 shall prevent the duties of a vacant property review commission from being assigned to a local government code enforcement board established pursuant to KRS 65.8801 to 65.8839.

99.715 Acquisition and disposal of blighted property by local government

A local government may acquire, by eminent domain pursuant to KRS Chapter 416, any property determined to be blighted or deteriorated pursuant to KRS 99.700 to 99.730, and shall have the power to hold, clear, manage, or dispose of property so acquired pursuant to the provisions of KRS 99.700 to 99.730.

99.720 Certification of blight deterioration; notice to owner demanding abatement

- (1) The legislative body shall not institute eminent domain proceedings pursuant to KRS 99.700 to 99.730 unless the commission or alternative government entity has certified that the property is blighted or deteriorated. A property which has been referred to the commission or alternative government entity by a local government as blighted or deteriorated may only be certified to the legislative body as blighted or deteriorated after the commission or alternative government entity has determined:
 - (a) That the owner of the property or designated agent has been sent an order by the appropriate local government agency to eliminate the conditions which are in violation of local codes or law;
 - (b) That the property is vacant;
 - (c) That the property is blighted and deteriorated; and
 - (d) That the commission or alternative government entity has notified the property owner or designated agent that the property has been determined to be blighted or deteriorated and the time period for correction of such condition has expired and the property owner or agent has failed to comply with the notice.
- (2) The findings required by subsection (1) of this section shall be in writing and included in the report to the legislative body.
- (3)
 - (a) The commission or alternative government entity shall notify the owner of the property or a designated agent that a determination of blight or deterioration has been made and that failure to eliminate the conditions causing the blight shall render the property subject to condemnation by the local government under KRS 99.700 to 99.730.
 - (b) Notice shall be mailed to the owner or designated agent by certified mail, return receipt requested. However, if the address of the owner or a designated agent is unknown and cannot be ascertained by the commission or alternative government entity in the exercise of reasonable diligence, copies of the notice shall be posted in a conspicuous place on the property affected.
 - (c) The written notice sent to the owner or his or her agent or posted on the property shall describe the conditions that render the property blighted and deteriorated, and shall demand abatement of the conditions within ninety (90) days of the receipt of such notice.
- (4) An extension of the ninety (90) day time period may be granted by the commission or alternative government entity if the owner or designated agent demonstrates that such period is insufficient to correct the conditions cited in the notice.

99.725 Eminent domain proceedings by local government

The legislative body of the local government may institute eminent domain proceedings pursuant to KRS Chapter 416 against any property which has been certified as blighted or deteriorated by the commission or alternative government entity if it finds:

- (1) That such property has deteriorated to such an extent as to constitute a serious and growing menace to the public health, safety and welfare;
- (2) That such property is likely to continue to deteriorate unless corrected;

- (3) That the continued deterioration of such property may contribute to the blighting or deterioration of the area immediately surrounding the property; and
- (4) That the owner of such property has failed to correct the deterioration of the property.

99.727 Consolidated local government may establish a tax delinquency diversion program for blighted property

- (1) As used in this section:
 - (a) “Census block” means an area within the jurisdiction of a local government identified by the United States Census Bureau using a unique four (4) digit number;
 - (b) “Certificate of delinquency” has the same meaning as in KRS 134.010;
 - (c) “Individual parcel” means a parcel of property not located in a priority project area that has been designated by the commission or alternative government entity as blighted, and for which the area in which the property is located:
 - 1. Exhibits conditions that are favorable for development;
 - 2. Has the resources needed for urban redevelopment; and
 - 3. Has characteristics that can be promoted as part of a campaign to retain existing residents and attract new residents to the area; and
 - (d) “Priority project area” means a specific group of properties identified by census block, which are located in an area where:
 - 1. There are a significant number of blighted properties;
 - 2. Existing conditions are favorable for development;
 - 3. Existing resources needed for urban redevelopment are present; and
 - 4. Existing characteristics of the area can be promoted as part of a campaign to retain existing residents and attract new residents to the area.
- (2) The legislative body of a consolidated local government may, by ordinance, establish a tax delinquency diversion program for blighted property.
- (3) The ordinance establishing the program shall designate the commission or an alternative government entity as the body responsible for identifying and certifying priority project areas and individual parcels of property for inclusion in the tax delinquency diversion program.
- (4) The commission or alternative government entity shall submit recommended priority project areas and qualifying individual parcels of property to the governing body of the consolidated local government for consideration.
- (5) Certificates of delinquency related to property approved by the governing body of the consolidated local government for inclusion in the tax delinquency diversion program shall not be available for



purchase by any person for a period of up to five (5) years following the year in which the property is placed in the tax delinquency diversion program.

- (6) The commission or alternative government entity shall provide to the county attorney a list of all properties included in the tax delinquency diversion plan, and the county attorney shall place the identified properties on the protected list required by KRS 134.504(10).

99.730 Acquisition by certain employees prohibited; disclosure of previous interest required; payment under eminent domain proceedings

- (1) No officer or employee of a local government, the vacant property review commission, or an alternative government entity, who in the course of his or her duties is required to participate in the determination of property blight or deterioration or the issuance of notices on code violations which may lead to a determination of blight or deterioration, shall acquire any interest in any property declared to be blighted or deteriorated.
- (2) If any such officer or employee owns or has financial interest, direct or indirect, in any property certified to be blighted or deteriorated, he or she shall immediately disclose, in writing, such interest to the commission or alternative government entity and to the legislative body, and such disclosure shall be entered in the minutes of the commission or alternative government entity and of the legislative body. Failure to so disclose such interest shall constitute misconduct in office.
- (3) No payment shall be made to any officer or employee for any property or interest acquired by the local government from such officer or employee unless the amount of such payment is fixed by court order in eminent domain proceedings, or unless payment is unanimously approved by the legislative body.