

224.01-415 Brownfield Redevelopment Program -- Conditions under which property owner not liable for corrective action -- Administrative regulations.

- (1) A Brownfield Redevelopment Program is established and shall be administered by the cabinet.
- (2) In addition to any other defenses provided by law, a person that owns real property where a release of petroleum governed by KRS 224.01-405 or a release of a hazardous substance, pollutant, or contaminant governed by KRS 224.01-400 has occurred shall not be liable for performing characterization, correcting the effects of the release on the environment, or performing corrective action of the release if:
 - (a) The person certifies to the cabinet and the cabinet finds that:
 1. The release occurred prior to the property owner's acquisition of the property;
 2. The property owner made all appropriate inquiries into previous ownership and uses of the property in accordance with generally accepted practices;
 3. The property owner or a responsible party has provided all legally required notices under this chapter with respect to hazardous substances, pollutants, contaminants, petroleum, or petroleum products found at the property;
 4. The property owner is in compliance with all land use restrictions and will not impede the effectiveness or integrity of any institutional control required for the property;
 5. The property owner complied with any information requests by the cabinet under this chapter;
 6. The property owner is not and has not been affiliated with any person who is potentially liable for the release of hazardous substances, pollutants, contaminants, petroleum, or petroleum products on the property pursuant to KRS 224.01-400, 224.01-405, or 224.60-135 through:
 - a. Direct or indirect familial relationship;
 - b. Any contractual, corporate, or financial relationship, excluding relationships created by instruments conveying or financing title or by contracts for sale of goods or services; or
 - c. Reorganization of a business entity that was potentially liable; and
 7. The property owner has not caused or contributed to the release;
 - (b) The cabinet concurs in writing that the intended future use of the property will not interfere with remediation of the release as required by the cabinet, increase the impacts of the release on human health or the environment, or expose the public and environment to unacceptable harm; and
 - (c) The person provides any person conducting characterization, correcting of the effect of the release on the environment, or undertaking corrective or remedial action, as well as the cabinet, with access to the property so necessary

remediation activities can be completed.

- (3) The nonliability provided in this section shall not apply to any real property for which a false certification is made to the cabinet.
- (4) The cabinet may, by administrative regulation, establish procedures for the implementation of this section and KRS 224.60-135 and 224.60-138, which may include administrative forms, technical standards, and fees to cover the cost of the cabinet's reviews.

Effective: July 12, 2012

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