

## 2018 Kansas Statutes

**65-34,179. Same; eligibility.** (a) A property shall be eligible for a CELR from the department if the purchaser submits a complete application to the department and the department finds that:

- (1) The property is contaminated, not including contamination resulting from radon, lead-based paint or asbestos;
  - (2) the purchaser is not the party responsible for the contamination;
  - (3) the property is:
    - (A) Not currently owned by the purchaser;
    - (B) currently owned by the purchaser and was acquired through seizure, condemnation, foreclosure or default; or
    - (C) currently owned by the purchaser and the purchaser is the state of Kansas and any department or branch of state government, or any agency, authority, institution or other instrumentality thereof; or any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof;
  - (4) if the purchaser is a current owner, the purchaser could not have reasonably foreseen the threat of contamination and failed to take reasonable steps to prevent the contamination;
  - (5) there is no direct or indirect familial relationship or any contractual, corporate or financial relationship between the purchaser and the owner or the party responsible for the contamination, other than that by which such purchaser's interest in the property was conveyed or financed; and
  - (6) the property is not ineligible for a CELR pursuant to the provisions of K.S.A. 65-34,180, and amendments thereto, and the purchaser has met the conditions required by K.S.A. 65-34,180, and amendments thereto.
- (b) It shall be the sole responsibility of the purchaser to provide the needed documentation to the department for the department to make an eligibility determination. These documents shall include:
- (1) Phase I or Phase II environmental reports that are completed within industry standards;
  - (2) environmental assessment reports that are completed within industry standards; or
  - (3) other reports that will expedite the department's determination requested by the department.
- (c) In making eligibility determinations, the department shall have authority to consider such additional factors as deemed relevant by the department, including the current and potential future use of the property.
- (d) The department shall make a determination of eligibility or noneligibility within 15 business days of receiving the application and all required information.
- (e) Only property acquired after July 1, 2016, shall be eligible for a CELR.

**History:** L. 2016, ch. 70, § 3; July 1.