

## CHAPTER 73

## (HB 508)

AN ACT relating to eminent domain.

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

SECTION 1. A NEW SECTION OF KRS 416.540 TO 416.680 IS CREATED TO READ AS FOLLOWS:

- (1) *Every grant of authority contained in the Kentucky Revised Statutes to exercise the power of eminent domain shall be subject to the condition that the authority be exercised only to effectuate a public use of the condemned property.*
- (2) *Public use shall mean the following:*
  - (a) *Ownership of the property by the Commonwealth, a political subdivision of the Commonwealth, or other governmental entity;*
  - (b) *The possession, occupation, or enjoyment of the property as a matter of right by the Commonwealth, a political subdivision of the Commonwealth, or other governmental entity;*
  - (c) *The acquisition and transfer of property for the purpose of eliminating blighted areas, slum areas, or substandard and insanitary areas in accordance with KRS Chapter 99;*
  - (d) *The use of the property for the creation or operation of public utilities or common carriers; or*
  - (e) *Other use of the property expressly authorized by statute.*
- (3) *No provision in the law of the Commonwealth shall be construed to authorize the condemnation of private property for transfer to a private owner for the purpose of economic development that benefits the general public only indirectly, such as by increasing the tax base, tax revenues, employment, or by promoting the general economic health of the community. However, this provision shall not prohibit the sale or lease of property to private entities that occupy an incidental area within a public project or building, provided that no property may be condemned primarily for the purpose of facilitating an incidental private use.*
- (4) *The exercise of the power of eminent domain for the acquisition of property financed by state road funds or federal highway funds shall be exempt from the provisions of this section.*

Section 2. KRS 416.540 is amended to read as follows:

- (1) "Condemn" means to take private property for a public ~~use~~~~[purpose]~~ under the right of eminent domain;
- (2) "Condemnor" shall mean and include any person, corporation or entity, including the Commonwealth of Kentucky, its agencies and departments, county, municipality and taxing district authorized and empowered by law to exercise the right of eminent domain;
- (3) "Condemnee" means the owner of the property interest being taken;
- (4) "Court" means the Circuit Court;
- (5) "Property" means real or personal property, or both, of any nature or kind that is subject to condemnation;
- (6) "Eminent domain" means the right of the Commonwealth to take for a public ~~use~~~~[purpose]~~ and shall include the right of private persons, corporations or business entities to do so under authority of law.

**Approved March 28, 2006.**