

382.850 Transfer of easement -- Effect on mining operations and on eminent domain powers -- Definition of "feasible alternative location" -- Requirement to demonstrate lack of feasible alternative location in certain eminent domain actions.

- (1) As used in this section, "feasible alternative location" means a location that:
 - (a) Impacts the same property but does not impact the conservation easement on the property; and
 - (b) Does not materially increase the cost of the project.
- (2) A conservation easement shall not be transferred by owners of property in which there are outstanding subsurface rights without the prior written consent of the owners of the subsurface rights.
- (3) A conservation easement shall not operate to limit, preclude, delete, or require waivers for the conduct of coal mining operations, including the transportation of coal, upon any part or all of adjacent or surrounding properties; and shall not operate to impair or restrict any right or power of eminent domain created by statute, and all such rights and powers shall be exercisable as if the conservation easement did not exist.
- (4)
 - (a) Notwithstanding subsection (3) of this section, in a condemnation action under the Eminent Domain Act of Kentucky, KRS 416.540 to 416.670, involving privately owned property that is subject to a conservation easement, the condemnor shall provide a sworn written report to the court justifying the condemnation of the specific property at issue due to the lack of feasible alternative locations to satisfy the purposes of the project unless the condemnation action:
 1. Is initiated by a city, county, municipal utility, investor-owned utility, utility cooperative, water district, or water association; and
 2. Involves easements for utilities that do not interfere with agricultural operations or result in a taking of agricultural infrastructure.
 - (b) If the court, in its discretion, determines that the report does not demonstrate a lack of feasible alternative locations to satisfy the purposes of the project, the condemnation action shall be dismissed in accordance with KRS 416.610(4).
- (5) This section shall not prevent a property owner from:
 - (a) Challenging the necessity of condemnation for the project; or
 - (b) Offering additional feasible alternative locations to satisfy the purposes of the project.

Effective: April 13, 2026

History: Amended 2026 Ky. Acts ch. 112, sec. 1, effective April 13, 2026. -- Created 1988 Ky. Acts ch. 251, sec. 6, effective July 15, 1988.