

1 AN ACT relating to eminent domain.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 262.900 TO 262.920 IS CREATED
4 TO READ AS FOLLOWS:

5 *(1) Notwithstanding any provision of law to the contrary, no entity authorized to*
6 *exercise the power of eminent domain shall take by eminent domain any privately*
7 *owned property that is subject to an agricultural conservation easement, except*
8 *where the proceeding is maintained by the Kentucky Transportation Cabinet in*
9 *furtherance of its statutory mandates, or by a utility for the purposes listed in*
10 *KRS 278.020(1)(a).*

11 *(2) (a) An owner of property subject to an agricultural conservation easement who*
12 *has been served with a summons of condemnation proceedings concerning*
13 *property subject to the agricultural conservation easement may request a*
14 *public hearing on the proposed taking of land to be held before the local*
15 *soil and water conservation district board of supervisors.*

16 *(b) The condemnor shall provide at the public hearing a written report*
17 *justifying the condemnation of the specific property at issue due to the lack*
18 *of feasible alternative locations to satisfy the purposes of the project.*

19 *(c) No action in the condemnation proceeding shall affect the property owner's*
20 *right to a public hearing under this subsection.*

21 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
22 READ AS FOLLOWS:

23 *Any person not a party to an eminent domain proceeding under KRS Chapter 416 who*
24 *owns real property adjoining condemned property and incurs damage to his or her real*
25 *property as a result of the condemnor's entry upon either the condemned property or*
26 *the person's property may file a claim for actual damages, court costs, and reasonable*
27 *attorney's fees against the condemnor.*

1 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO
2 READ AS FOLLOWS:

3 *An action under Section 2 of this Act shall be filed within five (5) years of the time that*
4 *the claimant discovers or should have discovered the damages caused to the property*
5 *by the condemnor.*

6 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO
7 READ AS FOLLOWS:

8 *Notwithstanding any provision of law to the contrary, no land condemned by eminent*
9 *domain under this chapter or any other grant of condemnation authority under state*
10 *law shall be used for the construction of a facility that generates electricity using solar*
11 *energy.*

12 ➔Section 5. KRS 262.850 is amended to read as follows:

13 (1) This section shall be known as "the Agricultural District and Conservation Act."

14 (2) It is the policy of the state to conserve, protect, and to encourage development and
15 improvement of its agricultural lands for the production of food and other
16 agricultural products. It is also the policy of this state to conserve and protect the
17 agricultural land base as a valuable natural resource which is both fragile and finite.
18 The pressure imposed by urban expansion, transportation systems, water
19 impoundments, surface mining of mineral resources, utility rights-of-way, and
20 industrial development has continually reduced the land resource base necessary to
21 sufficiently produce food and fiber for our future needs. It is the purpose of this
22 section to provide a means by which agricultural land may be protected and
23 enhanced as a viable segment of the state's economy and as an important resource.

24 (3) The local governing administrative body for an agricultural district shall be the
25 conservation district board of supervisors. The Soil and Water Conservation
26 Commission shall be responsible for statewide administration of the agricultural
27 district program and shall have sole authority to certify or deny agricultural district

1 petitions. The commission may apply for assistance and funds from the Federal
2 Farmland Protection Act of 1981, Pub. L. No. 97-377, which may be available for
3 the development of the agricultural district program and may accept easements as
4 provided in KRS 65.410 to 65.480.

5 (4) Any owner or owners of land may submit a petition to the local conservation
6 district board of supervisors requesting the creation of an agricultural district within
7 the county. The petition shall include a description of the proposed area, description
8 of each land parcel, location of the proposed boundaries, petitioners' names and
9 addresses, adjacent landowners' names and addresses, and other pertinent
10 information as required in the petition application. The boundary of an agricultural
11 district shall be contiguous. No land shall be included in an agricultural district
12 without the consent of the owner.

13 (5) Upon receipt of a petition, the local conservation district board of supervisors shall
14 notify the fiscal court and any local or regional planning or zoning body, if any, of
15 the proposed agricultural district, and shall notify each city that is located less than
16 one (1) mile from the boundaries of the proposed agricultural district, by sending a
17 copy of the petition and accompanying materials to that body.

18 (6) The following factors shall be considered by the local conservation district board of
19 supervisors and the Soil and Water Conservation Commission when considering the
20 formation of any agricultural district:

21 (a) The capability of the land to support agricultural production, as indicated by~~[-]~~
22 soil, climate, topography or other natural factors;

23 (b) The viability of active farmlands, as indicated by~~[-]~~ markets for farm
24 products, *the* extent and nature of farm improvements, *the* present status of
25 farming, *and* anticipated trends in agricultural economic conditions and
26 technology;

27 (c) That the proposed agricultural district meets the minimum size limit of fifty

- 1 (50) contiguous acres, unless the local conservation district board and the Soil
2 and Water Conservation Commission allow fewer than fifty (50) contiguous
3 acres if the proposed area meets a minimum annual production performance
4 established by the district board and approved by the commission;
- 5 (d) County development patterns and needs and the location of the district in
6 relation to any urban development boundaries within the county;
- 7 (e) Any matter which may be relevant to evaluate the petition; and
- 8 (f) Whether an application is from more than one (1) farm owner, in which case a
9 preference shall be given to the application.
- 10 (7) The local soil and water conservation district board of supervisors shall review the
11 petition application and submit a recommendation to the Soil and Water
12 Conservation Commission within one hundred (100) days of receipt. The local
13 conservation district recommendation shall be submitted to the commission in the
14 form of approval, approval with modifications, or denial of the petition
15 accompanied by justification for such a denial.
- 16 (8) The Soil and Water Conservation Commission shall review the recommendation of
17 the district board of supervisors and certify or deny the agricultural district's
18 petition within one hundred (100) days of receipt.
- 19 (9) Upon the approval of a petition by the Soil and Water Conservation Commission,
20 the commission shall notify the area development district in which the agricultural
21 district will lie, the local county clerk, the clerk of each city that is located less than
22 one (1) mile from the boundaries of the approved agricultural district, and the
23 secretary of the Governor's *Executive* Cabinet by sending a description of the
24 boundaries and the names and addresses of the property owners within the district.
- 25 (10) Land within the boundary of an agricultural district shall not be annexed.
- 26 (11) The owners of land within the boundary of an agricultural district shall be exempt
27 under KRS 74.177 from any assessment authorized for the extension of water

1 service lines until the land is removed from the district and developed for
2 nonagricultural use.

3 (12) Any member, or any successor heir of the member, of an agricultural district may
4 withdraw his or her property from the district upon notifying the local conservation
5 district board of supervisors in writing. The removal of the property from the
6 agricultural district shall be effective immediately upon the district board of
7 supervisors' receipt of the written notification, at which time the district board of
8 supervisors shall remove the property from the agricultural district and shall
9 immediately provide written notice of the changed boundaries to the those entities
10 listed in subsection (9) of this section.

11 (13) It shall be the policy of all state agencies to support the formation of agricultural
12 districts as a means of preserving Kentucky's farmlands and to mitigate the impact
13 of their present and future plans and programs upon the continued agricultural use
14 of land within an agricultural district.

15 (14) Agricultural districts shall be comprised only of agricultural land as defined in KRS
16 132.010.

17 (15) An agricultural district shall be established for five (5) years with a review to be
18 made by the local soil and water conservation district board of supervisors at the
19 end of the five-year period and every five (5) years thereafter. Each owner of land
20 shall agree to remain in the district for a five (5) year period, unless a member
21 elects to withdraw his or her property pursuant to subsection (12) of this section,
22 which is renewable at the end of the five (5) years. However, the board shall make a
23 review any time upon the written request of a local government which demonstrates
24 that the review is necessary in order to consider development needs of the local
25 government. The board shall consider whether the continued existence of the
26 district is justified, any adjustments which may be necessary due to urban or county
27 development, and other factors the board finds relevant. The board shall revise the

1 district as necessary based on the review and subject to approval of the State Soil
2 and Water Conservation Commission. Before the state commission takes final
3 action, all interested parties shall be given the opportunity to request the state
4 commission to amend or overturn the local board's decision.

5 (16) The withdrawal of a member from a district reducing the remaining acreage of
6 agricultural district land to less than fifty (50) acres or resulting in the remaining
7 land being noncontiguous shall not cause the decertification of the district. The
8 local district board of supervisors may consider a dissolution of the agricultural
9 district if the withdrawal results in the remaining property within the agricultural
10 district no longer meeting the definition of agricultural land as defined in KRS
11 132.010.

12 (17) **(a) No land within the boundaries of an agricultural district shall be subject to**
13 **a taking by eminent domain, except where the proceeding is maintained by**
14 **the Kentucky Transportation Cabinet in furtherance of its statutory**
15 **mandates or by a utility for the purposes listed in KRS 278.020(1)(a).**

16 **(b)** Any member of an agricultural district who has received a summons of
17 condemnation proceedings being instituted concerning the member's land
18 located in the district may request the local soil and water conservation district
19 board of supervisors to hold a public hearing on the proposed taking of land,
20 **at which the condemnor shall provide a written report justifying the**
21 **condemnation of the specific land due to the lack of feasible alternative**
22 **locations to satisfy the purposes of the project.**

23 **(c) No action in the condemnation proceeding shall affect the member's right**
24 **to a public hearing under this subsection**~~[However a hearing under this~~
25 ~~section shall not be held if the petitioner in the condemnation proceeding is a~~
26 ~~utility as defined in KRS 278.010(3) and obtained a certificate of convenience~~
27 ~~and necessity as required by KRS 278.020(1)].~~

1 (18) (a) The board shall notify the local property valuation administrator of the farms
2 which belong to an agricultural district and whenever a farm is withdrawn
3 from a district. The board shall also inform all members of a district of the
4 right to have their land assessed by the local property valuation administrator
5 at the land's agricultural use value and shall offer advice and assistance on
6 obtaining such an assessment.

7 (b) The board shall also notify the local property valuation administrator
8 whenever a farm is released or withdrawn from an agricultural district.

9 (19) The board may allow an amendment to an existing certified agricultural district if
10 approved by the commission.

11 ➔Section 6. KRS 382.850 is amended to read as follows:

12 (1) A conservation easement shall not be transferred by owners of property in which
13 there are outstanding subsurface rights without the prior written consent of the
14 owners of the subsurface rights.

15 (2) A conservation easement shall not operate to limit, preclude, delete, or require
16 waivers for the conduct of coal mining operations, including the transportation of
17 coal, upon any part or all of adjacent or surrounding properties[; and shall not
18 operate to impair or restrict any right or power of eminent domain created by
19 statute, and all such rights and powers shall be exercisable as if the conservation
20 easement did not exist].

21 **(3) Notwithstanding any provision of law to the contrary, no entity authorized to**
22 **exercise the power of eminent domain shall take by eminent domain any privately**
23 **owned property that is subject to a conservation easement, except the Kentucky**
24 **Transportation Cabinet in furtherance of its statutory mandates or a utility for**
25 **the purposes listed in KRS 278.020(1)(a).**

26 **(4) (a) An owner of property subject to a conservation easement who has been**
27 **served with a summons of condemnation proceedings concerning property**

1 subject to the conservation easement may request a public hearing on the
 2 proposed taking of land to be held before the local soil and water
 3 conservation district board of supervisors.

4 **(b) The condemnor shall provide a written report justifying the condemnation**
 5 **of the specific property at issue due to the lack of feasible alternative**
 6 **locations to satisfy the purposes of the project.**

7 **(c) No action in the condemnation proceeding shall affect the property owner's**
 8 **right to a public hearing under this subsection.**

9 ➔Section 7. KRS 416.560 is amended to read as follows:

10 (1) Notwithstanding any other provision of ~~the~~ law, a department, instrumentality or
 11 agency of a consolidated local government, city, county, or urban-county
 12 government, other than a waterworks corporation the capital stock of which is
 13 wholly owned by a city of the first class or a consolidated local government, having
 14 a right of eminent domain under other statutes shall exercise such right only by
 15 requesting the governing body of the consolidated local government, city, county,
 16 or urban-county **government** to institute condemnation proceedings on its behalf. If
 17 the governing body of the consolidated local government, city, county, or urban-
 18 county **government** agrees, it shall institute **condemnation**~~[such]~~ proceedings under
 19 KRS 416.570, and all costs involved in the condemnation shall be borne by the
 20 department, instrumentality, or agency requesting the condemnation.

21 (2) If any department, instrumentality, or agency of a consolidated local government,
 22 city, county, or urban-county government, other than a waterworks corporation the
 23 capital stock of which is wholly owned by a city of the first class or a consolidated
 24 local government, operates in more than one (1) governmental unit, it shall request
 25 the governing body of the consolidated local government, city, county, or urban-
 26 county government wherein the largest part of the individual tract of the property
 27 sought to be condemned lies, to institute condemnation proceedings on its behalf.

1 (3) A department, instrumentality, or agency of the Commonwealth of Kentucky, other
 2 than the Transportation Cabinet and local boards of education, having a right of
 3 eminent domain under other statutes shall exercise ~~that[such]~~ right only by
 4 requesting the Finance and Administration Cabinet to institute condemnation
 5 proceedings on its behalf. If the Finance and Administration Cabinet agrees, it shall
 6 institute such proceedings under KRS 416.570, and all costs involved in the
 7 condemnation shall be borne by the department, instrumentality, or agency
 8 requesting the condemnation.

9 (4) (a) Prior to the filing of the petition to condemn, the condemnor or its employees
 10 or agents shall have the right to enter upon any land or improvement which it
 11 has the power to condemn, in order to make studies, surveys, tests, sounding,
 12 and appraisals, provided that the condemnee~~[owner of the land or the party in~~
 13 ~~whose name the property is assessed]~~ has been notified in accordance with
 14 paragraph (b) of this subsection no later than ten (10) days prior to entry on
 15 the property.

16 (b) Notification under paragraph (a) of this subsection shall be sent by certified
 17 mail, return receipt requested, to the condemnee's last known address listed
 18 on the real property tax rolls of the county and shall include the following
 19 information:

- 20 1. That all or a portion of the property is necessary for a public project;
- 21 2. The nature of the project for which the parcel is considered necessary
 22 and the parcel designation of the property to be acquired;

- 23 3. That, within fifteen (15) business days after receipt of a request by the
 24 condemnee, the condemnor will provide copies, to the extent prepared,
 25 of:

- 26 a. Right-of-way maps or other documents that depict the proposed
 27 taking; and

1 **b. Construction plans that depict project improvements to be**
 2 **constructed on the property taken and improvements to be**
 3 **constructed adjacent to the remaining property, including but**
 4 **not limited to plan, profile, cross-section, drainage, and**
 5 **pavement marking sheets, and driveway connection detail;**

6 **4. If a condemnor has entered into a public-private partnership for the**
 7 **public project for which the property is considered necessary, a**
 8 **disclosure of the identities of existing and potential future private**
 9 **partners involved in the project. For purposes of this subparagraph,**
 10 **"public-private partnership" and "private partner" have the same**
 11 **meaning as in KRS 65.025; and**

12 **5. A statement of the condemnee's statutory rights under the Eminent**
 13 **Domain Act of Kentucky, KRS 416.540 to 416.670, or alternatively,**
 14 **copies of those provisions of law.**

15 **(c)** Any actual damages sustained by the owner of a property interest in the
 16 property entered upon by the condemnor shall be paid by the condemnor and
 17 shall be assessed by the court or the court may refer the matter to
 18 commissioners to ascertain and assess the damages sustained by the
 19 condemnee, which award shall be subject to appeal.

20 **(5) Failure to provide notice under subsection (4)(b) of this section shall result in a**
 21 **penalty of five percent (5%) of the compensation awarded to the condemnee**
 22 **under Section 12 of this Act to be assessed as costs.**

23 ➔Section 8. KRS 416.570 is amended to read as follows:

24 Except as otherwise provided in KRS 416.560, a condemnor seeking to condemn
 25 property or the use and occupation **of the property**~~thereof~~, shall file a verified petition
 26 in the Circuit Court of the county in which all or the greater portion of the property
 27 sought to be condemned is located, which petition shall state that it is filed under ~~the~~

1 provisions of KRS 416.550 to 416.670 and shall contain, in substance:

2 (1) Allegations sufficient to show that the petitioner is entitled, under the provisions of
3 applicable law, to exercise the right of eminent domain and to condemn the
4 property, or the use and occupation of the property~~thereof~~, sought to be taken in
5 the condemnation~~such~~ proceedings;

6 (2) A statement certifying that the:

7 (a) Proposed condemnation will not violate Section 1, 4, 5, or 6 of this Act;

8 (b) Condemnor has conducted due diligence; and

9 (c) Project for which the land proposed to be condemned cannot be reasonably
10 placed in an alternate location or routed in a manner that would be less
11 disruptive to layout or operations of current and potential uses of the
12 property;

13 (3) A particular description of the property and the use and occupation of the
14 property~~thereof~~ sought to be condemned; and

15 ~~(4)~~~~(3)~~ An application to the court to appoint commissioners to award the amount of
16 compensation the owner of the property sought to be condemned is entitled to
17 receive under Section 12 of this Act~~therefor~~.

18 ➔Section 9. KRS 416.580 is amended to read as follows:

19 (1) (a) The Circuit Court, or in the absence of the Circuit Judge from the county, the
20 Circuit Court Clerk, shall appoint as commissioners an independent real
21 estate appraiser certified under KRS Chapter 324A and three (3) impartial
22 housekeepers of the county who are owners of land. They shall be sworn to
23 faithfully and impartially discharge their duties under this section. The
24 commissioners shall view the land or material sought to be condemned and
25 award to the owner or owners such a sum as will fairly represent the reduction
26 in the market value of the entire property, all of or a portion of which is
27 sought to be condemned, said sum being the difference between the fair

1 market value of the entire property immediately before the taking and the fair
2 market value of the remainder of the property immediately after the taking ~~of~~
3 ~~thereof~~, together with the fair rental value of any temporary easements sought
4 to be condemned. Within fifteen (15) days from the date of their appointment
5 they shall return a written report to the office of the Circuit Court, stating the
6 above values in their award and shall describe in their report the property
7 sought to be condemned. They shall be allowed a reasonable fee which shall
8 be taxed as costs.

9 (b) If any person appointed to serve as commissioner fails, refuses, or becomes
10 incapable of acting, the court~~, or judge thereof~~ shall without
11 delay~~forthwith~~ appoint a qualified person to fill the vacancy. A majority of
12 the commissioners appointed and qualified have the power to act and to make
13 and sign the award and report. If a majority of the commissioners do not agree
14 on a decision, four (4)~~three (3)~~ new commissioners shall be appointed by
15 the court on application by any of the parties to the action.

16 (2) In eminent domain proceedings instituted pursuant to KRS 99.700 to 99.730, in
17 determining the fair market ~~of~~ value of blighted or deteriorated property, the
18 commissioners shall consider:

19 (a) The estimated cost of repairs necessary to bring the property up to the
20 minimum standards of the local housing or nuisance code as determined by an
21 independent appraiser, general building or residential contractor, or inspector;
22 or

23 (b) The cost of demolition of the property, if the commissioners determine that
24 demolition would be the most cost-effective manner of addressing the
25 blighted or deteriorated structures on the property.

26 ➔Section 10. KRS 416.610 is amended to read as follows:

27 (1) After the owner has been summoned twenty (20) days, the court shall examine the

1 report of the commissioners to determine whether it conforms to the provisions of
2 KRS 416.580. If the report of the commissioners is not in the proper form the court
3 shall require the commissioners to make such corrections as are necessary.

4 (2) If no answer or other pleading is filed by the owner or owners putting in issue the
5 right of the petitioner to condemn the property or the use and occupation ***of the***
6 ***property***~~[thereof]~~ sought to be condemned, the court shall enter an interlocutory
7 judgment which shall contain, in substance:

8 (a) A finding that the petitioner has the right~~[,]~~ under ~~[the provisions of]~~KRS
9 416.550 to 416.670 and other applicable law to condemn the property or the
10 use and occupation ***of the property***~~[thereof]~~;

11 (b) A finding that the report of the commissioners conforms to the provisions of
12 KRS 416.580;

13 (c) An authorization to take possession of the property for the purposes and under
14 the conditions and limitations, if any, set forth in the petition upon payment to
15 the owner or to the clerk of the court the amount of the compensation awarded
16 by the commissioners;

17 (d) Proper provision for the conveyance of the title to the land and material, to the
18 extent condemned, as adjudged therein in the event no exception is taken as
19 provided in KRS 416.620(1).

20 (3) Any exception from ***the***~~[such]~~ interlocutory judgment by either party or both parties
21 shall be confined solely to exceptions to the amount of compensation awarded by
22 the commissioners.

23 (4) If the owner has filed ***an*** answer or pleading putting in issue the right of the
24 petitioner to condemn the property or use and occupation thereof sought to be
25 condemned, the court shall, without intervention of ***a*** jury, proceed ***without***
26 ***delay***~~[forthwith]~~ to hear and determine whether or not the petitioner has ***that***~~[such]~~
27 right. If the court determines that petitioner has ***condemnation***~~[such]~~ rights, an

1 interlocutory judgment, as provided for in subsection (2) of this section, shall be
2 entered. If the court determines that petitioner does not have ~~that~~^{such} right, it
3 shall enter a final judgment which shall contain, in substance:

4 (a) A finding that the report of the commissioners conforms to ~~the provisions of~~
5 ~~‡~~KRS 416.580;

6 (b) A finding that the petitioner is not authorized to condemn the property or the
7 use and occupation of the property~~thereof~~ for the purposes and under the
8 conditions and limitations set forth in the petition, stating the particular
9 ground or grounds on which the petitioner is not so authorized;

10 (c) An order dismissing the petition and directing the petitioner to pay all costs,
11 expenses, and reasonable attorney's fees.

12 ➔Section 11. KRS 416.620 is amended to read as follows:

13 (1) Within thirty (30) days from the date of entry of an interlocutory judgment
14 authorizing the petitioner to take possession of the property, exceptions may be
15 filed by either party or both parties by filing with the clerk of the Circuit Court and
16 serving upon the other party or parties a statement of exceptions, which statement
17 shall contain any exceptions the party has to the award made by the commissioners.
18 The statement of exceptions shall be tried, but shall be limited to the questions
19 which are raised in the original statements of the exceptions, or as amended, but the
20 owner shall not be permitted to raise any question, nor shall the court reconsider
21 any question so raised, concerning the right of the petitioner to condemn the
22 property. All questions of fact pertaining to the amount of compensation to the
23 owner, or owners, shall be determined by a jury, which jury on the motion of either
24 party shall be sent by the court, in the charge of the sheriff, to view the land and
25 material. After a jury trial, and if possession previously has not been taken by the
26 condemnor of the land and material condemned, the condemnor~~it~~ may do so upon
27 the payment to the owner or to the clerk of the Circuit Court the amount of the

- 1 compensation adjudged by the Circuit Court to be due the owner.
- 2 (2) Appeals may be taken to the Court of Appeals from the final judgment of the
3 Circuit Court as in other cases except that an appeal by the owner shall not operate
4 as a supersedeas.
- 5 (3) The payment by the condemnor of the amount of compensation awarded and the
6 taking *of* possession of the lands and material condemned shall not prejudice its
7 right to except from the award of the commissioners or the judgment of any court,
8 nor shall the acceptance by the owner of the amount of the compensation awarded
9 prejudice his *or her* right to except from the award of the commissioners or the
10 judgment of any court.
- 11 (4) All costs, expenses, and reasonable attorney's fees in the Circuit Court shall be
12 adjudged against the condemnor.
- 13 (5) If the condemnor takes possession of the property condemned and the amount of
14 compensation is thereafter increased over that awarded by the commissioners, the
15 condemnor shall pay interest to the owner at the rate of six percent (6%) per annum
16 upon the amount of such increase from the date the condemnor took possession of
17 the property. If the condemnor takes possession of the property condemned and the
18 amount of compensation is thereafter decreased below that awarded by the
19 commissioners, the condemnor shall be entitled to a personal judgment against the
20 owner for the amount of the decrease plus interest at the rate of six percent (6%) per
21 annum from the date the owner accepted the amount of compensation the
22 condemnor paid into court or to the owner. If the owner at all times refuses to
23 accept the payment tendered by the condemnor, no interest shall be allowed in the
24 judgment against the owner for the amount of the decrease.
- 25 (6) Upon the final determination of exceptions, or upon expiration of thirty (30) days
26 from entry of the interlocutory judgment if no exceptions are filed, the Circuit Court
27 shall make such orders as may be proper for the conveyance of the title to the extent

1 condemned, to the property, and shall enter such final judgment as may be
2 appropriate.

3 ➔Section 12. KRS 416.660 is amended to read as follows:

4 (1) In all actions for the condemnation of lands under the provisions of KRS 416.550 to
5 416.670, except temporary easements, there shall be awarded to the landowners as
6 compensation ~~[such]~~ a sum that ~~[as]~~ will fairly represent the difference between the
7 fair market value of the entire tract, all or a portion of which is sought to be
8 condemned, immediately before the taking and the fair market value of the
9 remainder ~~[thereof]~~ immediately after the taking, including in the remainder all
10 rights which the landowner may retain in the lands sought to be condemned where
11 less than the fee simple interest ~~[therein]~~ is taken, together with the fair rental value
12 of any temporary easements sought to be condemned.

13 (2) Except as provided in subsection (3) of this section, the fair market value of
14 property in an eminent domain proceeding shall be the price on the valuation
15 date for the highest and best use of the property which a vendor, willing but not
16 obligated to sell, would accept for the property, and which a purchaser, willing
17 but not obligated to buy, would pay, excluding any increment in value
18 proximately caused by the public project for which the property condemned is
19 needed.

20 (3) The fair market value of property actively used for conservation, farm, or
21 agricultural purposes in an eminent domain proceeding shall be one hundred
22 twenty-five percent (125%) of the highest appraised value of the property.

23 (4) Any change in the fair market value prior to the date of condemnation which the
24 condemnor or condemnee establishes was substantially due to the general knowledge of
25 the imminence of condemnation or the construction of the project shall be disregarded in
26 determining fair market value. The taking date for valuation purposes shall be either the
27 date the condemnor takes the land, or the date of the trial of the issue of just

1 compensation, whichever occurs first.

2 ➔Section 13. KRS 416.675 is amended to read as follows:

- 3 (1) Every grant of authority contained in the Kentucky Revised Statutes to exercise the
4 power of eminent domain shall be subject to the condition that the authority be
5 exercised only to effectuate a public use of the condemned property.
- 6 (2) "Public use" shall mean the following:
- 7 (a) Ownership of the property by the Commonwealth, a political subdivision of
8 the Commonwealth, or other governmental entity;
- 9 (b) The possession, occupation, or enjoyment of the property as a matter of right
10 by the Commonwealth, a political subdivision of the Commonwealth, or other
11 governmental entity;
- 12 (c) The acquisition and transfer of property for the purpose of eliminating
13 blighted areas, slum areas, or substandard and insanitary areas in accordance
14 with KRS Chapter 99;
- 15 (d) The use of the property for the creation or operation of public utilities or
16 common carriers; or
- 17 (e) Other use of the property expressly authorized by statute.
- 18 (3) (a) No provision in the law of the Commonwealth shall be construed to authorize
19 the condemnation of private property for transfer to a private owner for the
20 purpose of economic development that benefits the general public only
21 indirectly, such as by increasing the tax base, tax revenues, or employment, or
22 by promoting the general economic health of the community.
- 23 (b) *For purposes of this subsection, "private owner" includes public-private*
24 *partnerships as defined in KRS 65.025, individuals, corporations or other*
25 *business entities, and nongovernmental entities.*
- 26 (c) ~~[However,]~~ This subsection ~~[provision]~~ shall not prohibit the sale or lease of
27 property to private entities that occupy an incidental area within a public

1 project or building, provided that no property may be condemned primarily
2 for the purpose of facilitating an incidental private use.

3 (4) The exercise of the power of eminent domain for the acquisition of property
4 financed by state road funds or federal highway funds shall be exempt from the
5 provisions of this section.