

AN ACT relating to eminent domain.

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

➔Section 1. KRS 278.502 is amended to read as follows:

(1) As used in this section, the terms "oil or gas" and "oil and gas products" shall not include natural gas liquids, including ethane, propane, butane, isobutene, pentane, or any combination of natural gas liquids, other than those co-produced in Kentucky incidental to the production of oil or gas in this state.

(2) Any corporation or partnership organized for the purpose of, and any individual engaged in or proposing to engage in, constructing, maintaining, or operating oil or gas wells or pipelines for transporting or delivering oil or gas, including oil and gas products, in **public use as defined in KRS 416.675**~~[public service]~~ may, if it is unable to contract or agree with the owner after a good faith effort to do so, condemn the lands and material or the use and occupation of the lands that are necessary for constructing, maintaining, drilling, utilizing, and operating pipelines, underground oil or gas storage fields, and wells giving access thereto and all necessary machinery, equipment, pumping stations, appliances, and fixtures, including tanks and telephone lines, and other communication facilities, for use in connection therewith, and the necessary rights of ingress and egress to construct, examine, alter, repair, maintain, operate, or remove such pipelines or underground gas storage fields, to drill new wells and utilize existing wells in connection therewith, and remove pipe, casing, equipment, and other facilities relating to such underground storage fields and access wells. The **rights granted and the proceedings for condemnation under this section** shall be as provided in the Eminent Domain Act of Kentucky.

➔Section 2. KRS 416.680 is amended to read as follows:

KRS 416.540 to **416.680**~~[416.670]~~ shall be known as the "Eminent Domain Act of Kentucky."

➔Section 3. KRS 162.030 is amended to read as follows:

Each board of education may, when unable to make a contract satisfactory to the board with the owner for the purchase of real estate to be used for school purposes, initiate condemnation proceedings pursuant to the Eminent Domain Act of Kentucky (KRS 416.540 to 416.680~~[416.670]~~), and the title to land so obtained shall be vested in fee simple.

➔Section 4. KRS 175B.090 is amended to read as follows:

- (1) Each project constructed or operated under this chapter shall be maintained and kept in good condition and repair by the developing authority, which may contract with the department or with any local highway department for maintenance of a project.
- (2) All private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation shall be made out of funds provided under this chapter.
- (3) All counties, cities, towns, and other political subdivisions and all public agencies and commissions of the Commonwealth, notwithstanding any contrary provision of law, may lease, lend, grant, or convey to an authority any real property which may be necessary or convenient to the effectuation of the authorized purposes of the authority, including public roads and other real property already devoted to public use.
- (4) In obtaining property under this chapter, an authority shall pursue the acquisition under the procedures and mandates of KRS 416.540 to 416.680~~[416.670]~~.

➔Section 5. KRS 416.550 is amended to read as follows:

Whenever any condemnor cannot, by agreement with the owner thereof, acquire the property right, privileges or easements needed for any of the uses or purposes for which the condemnor is authorized by law, to exercise its right of eminent domain, the condemnor may condemn such property, property rights, privileges or easements pursuant

to the provisions of KRS ~~416.550 to 416.670~~ 416.540 to 416.680. It is not a prerequisite to an action to attempt to agree with an owner who is unknown or who, after reasonable effort, cannot be found within the state or with an owner who is under a disability.

→Section 6. KRS 416.570 is amended to read as follows:

Except as otherwise provided in KRS 416.560, a condemnor seeking to condemn property or the use and occupation thereof, shall file a verified petition in the Circuit Court of the county in which all or the greater portion of the property sought to be condemned is located, which petition shall state that it is filed under the provisions of KRS ~~416.550 to 416.670~~ 416.540 to 416.680 and shall contain, in substance:

- (1) Allegations sufficient to show that the petitioner is entitled, under the provisions of applicable law, to exercise the right of eminent domain and to condemn the property, or the use and occupation thereof, sought to be taken in such proceedings;
- (2) A particular description of the property and the use and occupation thereof sought to be condemned; and
- (3) An application to the court to appoint commissioners to award the amount of compensation the owner of the property sought to be condemned is entitled to receive therefor.

→Section 7. KRS 416.600 is amended to read as follows:

Any answer or other pleading filed by the owner in response to the summons shall be filed on or before the twenty (20) days after date of service and shall be confined solely to the question of the right of the petitioner to condemn the property sought to be condemned, but without prejudice to the owner's right to except from the amount of the compensation awarded in the manner provided in KRS ~~416.550 to 416.670~~ 416.540 to 416.680.

→Section 8. KRS 416.610 is amended to read as follows:

- (1) After the owner has been summoned twenty (20) days, the court shall examine the report of the commissioners to determine whether it conforms to the provisions of

KRS 416.580. If the report of the commissioners is not in the proper form the court shall require the commissioners to make such corrections as are necessary.

- (2) If no answer or other pleading is filed by the owner or owners putting in issue the right of the petitioner to condemn the property or the use and occupation thereof sought to be condemned, the court shall enter an interlocutory judgment which shall contain, in substance:
 - (a) A finding that the petitioner has the right, under the provisions of KRS 416.540 to 416.680~~[416.550 to 416.670]~~ and other applicable law to condemn the property or the use and occupation thereof;
 - (b) A finding that the report of the commissioners conforms to the provisions of KRS 416.580;
 - (c) An authorization to take possession of the property for the purposes and under the conditions and limitations, if any, set forth in the petition upon payment to the owner or to the clerk of the court the amount of the compensation awarded by the commissioners;
 - (d) Proper provision for the conveyance of the title to the land and material, to the extent condemned, as adjudged therein in the event no exception is taken as provided in KRS 416.620(1).
- (3) Any exception from such interlocutory judgment by either party or both parties shall be confined solely to exceptions to the amount of compensation awarded by the commissioners.
- (4) If the owner has filed answer or pleading putting in issue the right of the petitioner to condemn the property or use and occupation thereof sought to be condemned, the court shall, without intervention of jury, proceed forthwith to hear and determine whether or not the petitioner has such right. If the court determines that petitioner has such rights, an interlocutory judgment, as provided for in subsection (2) of this section, shall be entered. If the court determines that petitioner does not

have such right, it shall enter a final judgment which shall contain, in substance:

- (a) A finding that the report of the commissioners conforms to the provisions of KRS 416.580;
- (b) A finding that the petitioner is not authorized to condemn the property or the use and occupation thereof for the purposes and under the conditions and limitations set forth in the petition, stating the particular ground or grounds on which the petitioner is not so authorized;
- (c) An order dismissing the petition and directing the petitioner to pay all costs.

➔Section 9. KRS 416.630 is amended to read as follows:

All money paid into court or paid or transferred to the clerk of a court under the provisions of KRS 416.540 to 416.680~~[416.550 to 416.670]~~ shall be received by the clerk of the court and held subject to the order of the court, for which the clerk and his sureties on his official bond shall be responsible to the persons entitled thereto.

➔Section 10. KRS 416.640 is amended to read as follows:

Where there are conflicting claimants to the land sought to be condemned and all such parties are before the court, each claimant, for the purposes of the condemnation proceeding only, shall be deemed to be an owner, and the procedure for the condemnation of the land shall be as provided in KRS 416.540 to 416.680~~[416.550 to 416.670]~~ except that, before the condemnor shall be entitled to take possession of the land, it shall be required to pay the compensation awarded therein to the Circuit Court clerk to be held for the benefit of, and paid over to such persons as may thereafter be determined to be entitled to receive it. In such cases, the claimants may have their rights determined in a separate action, but the filing of such action or its pendency shall in no wise stay or delay said condemnation proceedings.

➔Section 11. KRS 416.650 is amended to read as follows:

All proceedings under KRS 416.540 to 416.680~~[416.550 to 416.670]~~ shall be governed by the provisions of the Rules of Civil Procedure except where the provisions of KRS

416.540 to 416.680~~[416.550 to 416.670]~~ specifically or by necessary implication provide otherwise.

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

- (1) In all actions for the condemnation of lands under the provisions of KRS 416.540 to 416.680~~[416.550 to 416.670,]~~ except temporary easements, there shall be awarded to the landowners as compensation such a sum as will fairly represent the difference between the fair market value of the entire tract, all or a portion of which is sought to be condemned, immediately before the taking and the fair market value of the remainder thereof immediately after the taking, including in the remainder all rights which the landowner may retain in the lands sought to be condemned where less than the fee simple interest therein is taken, together with the fair rental value of any temporary easements sought to be condemned.
- (2) Any change in the fair market value prior to the date of condemnation which the condemnor or condemnee establishes was substantially due to the general knowledge of the imminence of condemnation or the construction of the project shall be disregarded in determining fair market value. The taking date for valuation purposes shall be either the date the condemnor takes the land, or the date of the trial of the issue of just compensation, whichever occurs first.