

416.010 Institution of condemnation action by railroad.

When any company authorized to construct a railroad is unable to contract with the owner of any land or material necessary for its use for the purpose thereof, it shall institute a condemnation action pursuant to the Eminent Domain Act of Kentucky.

History: Amended 1976 Ky. Acts ch. 140, sec. 119. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 835.

416.015 Repealed, 1976.

Catchline at repeal: Alternate procedure.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1958 Ky. Acts ch. 108, sec. 1, effective June 19, 1958.

416.020 Repealed, 1976.

Catchline at repeal: Appointment of commissioners -- Evaluation of property --
Commissioners' report.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Recodified 1942 Ky. Acts
ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 835, 836.

416.030 Repealed, 1976.

Catchline at repeal: Process issued when report filed.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 837.

416.040 Repealed, 1976.

Catchline at repeal: Confirmation of report as to parties not excepting.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Amended 1952 Ky. Acts ch. 84, sec. 66, effective July 1, 1953. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 838.

416.050 Repealed, 1976.

Catchline at repeal: Trial of exceptions -- Judgment.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 839.

416.060 Repealed, 1976.

Catchline at repeal: Appeal to circuit court.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 839, 840.

416.070 Repealed, 1976.

Catchline at repeal: Transfer of case to circuit court when title to land is involved.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 839.

416.080 Repealed, 1976.

Catchline at repeal: When company entitled to possession of condemned property.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 839.

416.090 Railroad right-of-way cannot be condemned.

No part of the right-of-way of any railroad company, or any interest or easement therein, shall be taken by any condemnation proceedings, or without the consent of the railroad company, for the use or occupancy of any part of such right-of-way on, over and along the right-of-way longitudinally, by any telegraph, telephone, electric light, power or other wire company, with its poles, cables, wires, conduits or other fixtures. Nothing in this section is intended to prevent any such wire company from obtaining the right to cross the right-of-way of a railroad company, under existing laws, in such manner as not to interfere with the ordinary use or ordinary travel and traffic of the railroad.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 840a.

416.100 Condemnation by county judge/executive for road purposes.

When any county judge/executive desires to condemn land under the authority of KRS 178.110, the county judge/executive shall proceed pursuant to the Eminent Domain Act of Kentucky.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 384, sec. 521, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 140, sec. 120. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4302.

416.110 Condemnation by fiscal court for road purposes.

- (1) When any fiscal court desires to condemn land under the authority of KRS 178.120, it shall adopt a resolution ordering the condemnation of the required land. The resolution shall set forth the facts contemplated by KRS 178.120, give a general description of the land, and the name of the owner if known, and shall direct the county attorney to institute the proceedings.
- (2) The county attorney shall file the petition for condemnation in the Circuit Court in the name of the county, and shall attach to the petition as an exhibit a certified copy of the resolution of the fiscal court. The resolution shall be prima facie evidence of the public use and necessity for the condemnation. Thereafter the proceedings shall be as provided in the Eminent Domain Act of Kentucky.

Effective: January 2, 1978

History: Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 418, effective January 2, 1978. -- Amended 1976 Ky. Acts ch. 140, sec. 121. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4302a-2 to 4302a-12.

Legislative Research Commission Note. According to the provisions of KRS 416.540 to 416.680 (the Eminent Domain Act of Kentucky), the petition for condemnation shall be filed in the circuit court, followed by proceedings relating to the condemnation action.

416.115 Repealed, 1976.

Catchline at repeal: Alternative method of condemnation for roads and bridges and for public purposes.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Amended 1962 Ky. Acts ch. 142, sec. 1. -- Amended 1950 Ky. Acts ch. 28, sec. 1. -- Created 1944 Ky. Acts ch. 19, sec. 1.

416.120 Repealed, 1980.

Catchline at repeal: Condemnation for park purposes in cities of first class.

History: Repealed 1980 Ky. Acts ch. 239, sec. 4. -- Amended 1976 Ky. Acts ch. 140, sec. 122. -- Amended 1968 Ky. Acts ch. 152, sec. 162. -- Amended 1942 Ky. Acts ch. 34, sec. 3. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2852.

416.130 Dam and electric companies may make surveys and condemn property.

- (1) Every corporation organized for the purpose of constructing, or empowered to construct, a dam in any stream in this state for the purpose of improving navigation or developing, distributing and selling water power or electricity, and every corporation authorized under the laws of this state to conduct the business of producing and supplying electricity for the purpose of light, heat or power, may cause examinations and surveys to be made for its proposed dams, reservoirs, ponds, locks, bridges, power stations, roads, conduits and transmission lines, as well as the land that may be overflowed by the erection of any dam or other structure, and for such purposes may, by its officers, agents or servants, enter from time to time upon any lands or waters for the purpose of making such surveys or examinations, subject to liability for actual damage done. Before entering upon any land for such purposes, the corporation shall deposit with the clerk of the county in which the property is located, a bond to the Commonwealth in a penal sum fixed by the county judge/executive at not more than double the last assessed valuation of the property to be surveyed or examined, conditioned to indemnify all persons for actual damages sustained on account of making any examination or survey. When the location of the dam or other structure, and the land that may be overflowed by the erection of the dam, is determined, the corporation shall cause a survey and map to be made of the land to be taken and entered upon, which map shall be signed by the president and secretary and filed in the office of the county clerk of the county in which the land shown on the map is situated.
- (2) When any such corporation cannot, by agreement with the owner, acquire the property rights, privileges or easements needed for any of the uses or purposes referred to in subsection (1) of this section, the corporation may condemn such property, property rights, privileges or easements in the manner provided in the Eminent Domain Act of Kentucky. Any corporation constructing or maintaining such dam shall be liable for any damages resulting from overflowing any property, public or private.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 384, sec. 522, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 140, sec. 123. -- Repealed, reenacted, and amended 1956 Ky. Acts ch. 52, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599b-1, 1599b-2.

416.140 Companies transmitting or selling electricity, gas, or gasoline may acquire rights for lines and appliances along roads and streams.

- (1) Subject to the provisions of subsections (2) and (3) of this section, any person authorized under the laws of this state to conduct the business of producing or supplying water, electricity, gas or gasoline for purposes of light, heat, domestic use or power, or who is engaged in the business of the transmission or sale of water, electricity, gas or gasoline for such purposes, the aforesaid businesses being for a public purpose, may construct and maintain transmission or distribution lines, including placing and maintenance of pipes, poles, wires, crossarms and all other equipment incident thereto, for use in the transmission and sale of such water, electricity, gas or gasoline under, on, along or over any right-of-way used as a state highway, county road, public way or dedicated road outside the limits of a city, and over, under or across any of the waters of this state outside the limits of a city, and may construct and maintain along any right-of-way used for purposes of such state highway or county road all erections and appliances that are necessary to transform, convert and apply such water, electricity, gas or gasoline to the public purposes of lighting, heat, domestic use or power and to distribute and deliver it to the consumers.
- (2) The fixtures of the company shall not interfere with, obstruct or endanger the travel on and along the highway or road, nor obstruct the navigation of the waters, and the location of all transmission lines and other appliances shall be subject to the reasonable direction and regulation of the authorities having control of the highways, roads and waters through and over which the lines are constructed or proposed to be constructed.
- (3) Before any persons named in subsection (1) of this section shall proceed to place his wires, poles or other appliances on or over any part of the right-of-way of a state highway, he shall first obtain from the Department of Highways a permit so to do. Any poles, wires or other obstructions, heretofore or hereafter placed along, under, on or over any state highway that are found by the Department of Highways to be unreasonably interfering in any way with the convenient, safe and continuous use and maintenance of such highway shall, upon thirty (30) days' notice to the person or his chief agent, by the Department of Highways, be removed or relocated by such person at his own expense, except as otherwise provided in KRS 177.035. Whenever an order of the Department of Highways requires such removal or change in the location of any telephone, telegraph, electric light or other poles, signboards, fences, gasoline tanks and pumps, gas, water, sewerage, oil or other pipelines, or other similar construction or obstructions from the right-of-way of a state highway, and the owner thereof fails to remove or change the same at his own expense, except as otherwise provided in KRS 177.035, to conform to the order within the time stated in the notice, the Department of Highways shall proceed to cause the obstruction to be removed; the expense thereby incurred shall be paid out of any money available therefor, and shall be charged against the owner and levied and collected and paid into the State Treasury as provided by law.

History: Amended 1974 Ky. Acts ch. 74, Art. IV, sec. 20(1). -- Amended 1972 Ky. Acts ch. 195, sec. 17. -- Amended 1966 Ky. Acts ch. 213, sec. 1. --

Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599c-1, 1599c-3.

416.150 Condemnation by telephone companies.

Any telephone company desiring to condemn a right-of-way under the authority of subsection (2) of KRS 278.540 shall proceed pursuant to the Eminent Domain Act of Kentucky.

History: Amended 1976 Ky. Acts ch. 140, sec. 124. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4679c-3, 4679d-2.

416.160 Repealed, 1976.

Catchline at repeal: Summons issued; jury called; challenges; oath; compensation of jury and officers.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4679c-4, 4679c-11.

416.170 Repealed, 1976.

Catchline at repeal: Assessment of damages.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4679c-5, 4679c-6.

416.180 Repealed, 1976.

Catchline at repeal: Verdict and judgment; form of.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4679c-6, 4679c-7.

416.190 Repealed, 1976.

Catchline at repeal: Mortgage on property sought to be condemned; procedure.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4679c-9.

416.200 Repealed, 1976.

Catchline at repeal: Appeals.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Amended 1960 Ky. Acts ch. 104, sec. 23, effective June 16, 1960. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4679c-8.

**416.210 Right of burial association or corporation to condemn land for cemetery --
Governmental approval needed -- Procedure.**

Any burial association or corporation may, with the approval of the appropriate city, county, urban-county, consolidated local government, or charter county legislative body, condemn land by first recording, in the county clerk's office of the county where the land lies, a resolution that it needs the land to furnish a burial site for the public. It may condemn a sufficient roadway to have access to the land, not wider than one hundred (100) feet. It may also condemn enough land, not exceeding five (5) acres, adjacent to any land used for a cemetery for a chapel site. If the building of any state highway requires a change in the entrance to any cemetery, the burial association or corporation may condemn any adjacent land, not wider than one hundred (100) feet for the new entrance. The condemnation procedure shall be in the Circuit Court of the county pursuant to the Eminent Domain Act of Kentucky. This section shall not permit condemnation of more than forty (40) acres at any one time.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 44, sec. 1, effective July 12, 2006. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 419, effective January 2, 1978. -- Amended 1976 Ky. Acts ch. 140, sec. 125. -- Amended 1946 Ky. Acts ch. 141, sec. 3. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 199a-8, 199a-9.

Formerly codified as KRS 271.420, renumbered 1946 Ky. Acts ch. 141, sec. 3.

416.220 Owner of real estate providing public sleeping accommodations and meals -- Condemnation for water supply -- Furnishing of water to owner of property condemned.

- (1) The owner of real estate serving the public, providing sleeping accommodations and meals, when pure water is not available in adequate quantities, shall have the right to condemn on the banks of any navigable stream a tract of land not more than twenty (20) feet square and above the high water mark for a pumping station site and a right-of-way for a pipeline from said site to the deep water of the navigable stream and from said pumping station site to the point on the owner's real estate where the water is desired for use. The said property owner may condemn a right-of-way for an electric power line over the most direct course to the pumping station site. In the event the owner of such real estate finds it more desirable to make connections with the water system of a municipality or a water supply line leading from a navigable stream to the municipality or other source of supply, then said real estate owner may, at his option, condemn a right-of-way for a pipeline from said city water system or water supply line or other source of supply to the point on the owner's real estate where the water is desired for use, including such area as may be required to install and maintain pumps and meters for said water system and an electric line to conduct power to said pump with necessary electric control lines or apparatus. The owner of property condemning right-of-way for a water line under this section, may agree to supply the subject owner a quantity of water in lieu of cash compensation for the easement, and such agreement to supply water to the subject property owner shall not be construed to place a burden on the condemning party to supply water service to others or meet the obligation of a public utility to render water service.
- (2) The provisions of KRS 381.660, 381.670, and 381.680 shall be complied with except that when the pumping station site and pipeline are located on cliff land and do not cross any tillable land the pumps and pipe may be located above ground.
- (3) The procedure for condemnation shall be that set forth in the Eminent Domain Act of Kentucky.

History: Amended 1976 Ky. Acts ch. 140, sec. 126. -- Amended 1954 Ky. Acts ch. 47, sec. 1. -- Created 1946 Ky. Acts ch. 219, sec. 1.

416.230 Condemnation for oil or gas pipelines and related facilities -- Petition.

A corporation, partnership or individual seeking to condemn lands and material or the use and occupation of lands, under the provisions of KRS 278.502, may file a verified petition in the office of the Circuit Court clerk of the county in which all or the greater portion of the land and material is located. The petition shall state that it is filed under the provisions of KRS 278.502 and shall be conducted pursuant to the Eminent Domain Act of Kentucky.

History: Amended 1976 Ky. Acts ch. 140, sec. 127. -- Created 1948 Ky. Acts ch. 186, sec. 2.

416.240 Repealed, 1976.

Catchline at repeal: Appointment of commissioners; duties; report.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1948 Ky. Acts ch. 186, sec. 3.

416.250 Repealed, 1976.

Catchline at repeal: Process against owner.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1948 Ky. Acts ch. 186, sec. 4.

416.260 Repealed, 1976.

Catchline at repeal: Answer or other pleading by owner.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Amended 1952 Ky. Acts ch. 84, sec. 67, effective July 1, 1953. -- Created 1948 Ky. Acts ch. 186, sec. 5.

416.270 Repealed, 1976.

Catchline at repeal: Examination of report of commissioners; correction of report; judgment if right to condemn is not questioned; appeal; judgment where right to condemn is questioned; right of immediate possession.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Amended 1952 Ky. Acts ch. 84, sec. 68. -- Created 1948 Ky. Acts ch. 186, sec. 6.

416.280 Repealed, 1976.

Catchline at repeal: Appeal from judgment authorizing petitioner to take possession; appeal from judgment dismissing petition; right to possession pending appeal.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Amended 1968 Ky. Acts ch. 152, sec. 163. -- Amended 1966 Ky. Acts ch. 255, sec. 271. -- Created 1948 Ky. Acts ch. 186, sec. 7.

416.290 Repealed, 1976.

Catchline at repeal: Custody of money paid into court.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1948 Ky. Acts ch. 186, sec. 8.

416.300 Repealed, 1976.

Catchline at repeal: Determination of rights of conflicting claimants to land.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1948 Ky. Acts ch. 186, sec. 9.

416.310 Repealed, 1976.

Catchline at repeal: Application of Rule of Civil Procedure.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1948 Ky. Acts ch. 186, sec. 10.

416.320 Repealed, 1976.

Catchline at repeal: Damages allowed for market value reduction of entire tract.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1952 Ky. Acts ch. 208, sec. 1, effective June 19, 1952.

416.330 Limitation on right of ingress and egress for pipeline.

Where the pipeline is reasonably accessible over the easement sought to be condemned, ingress and egress to and from the pipeline and appurtenances shall be limited to the easement itself.

Effective: June 19, 1952

History: Created 1952 Ky. Acts ch. 208, sec. 1, effective June 19, 1952.

416.340 Water associations may condemn property.

Any water association supplying water to no less than 100 customers, which has been formed under the provisions of KRS Chapter 273, may exercise the power of eminent domain in accordance with the provisions of the Eminent Domain Act of Kentucky.

History: Amended 1976 Ky. Acts ch. 140, sec. 128. -- Created 1970 Ky. Acts ch. 213, sec. 1.

416.350 Right of condemnation by owner to gain ingress or egress to public road.

- (1) The owner of any tract or parcel of land on which his residence is located, who has no means of ingress or egress to any public road or highway, may acquire by condemnation pursuant to the Eminent Domain Act of Kentucky a convenient right-of-way in order to attend courts and elections and discharge other duties required of him by law; such right-of-way shall not exceed in width thirty (30) feet over the lands intervening and lying between such tract or parcel of land and the public road nearest or most convenient thereto.
- (2) The right of condemnation conferred in subsection (1) of this section shall not exist in any of the following situations:
 - (a) Where the current owner or any of his predecessors in title purchased a tract or parcel of land having no means of ingress or egress to a public road or highway;
 - (b) Where the current owner or any of his predecessors in title sold a part of a tract or parcel of land, leaving the part retained without any means of ingress or egress to a public road or highway; or
 - (c) Where the current owner or any of his predecessors in title has had a part of his land taken by condemnation, the part not taken has no means of ingress or egress to a public road or highway, and the current owner or any of his predecessors in title has been compensated, by reason of the condemnation, for such loss of ingress or egress to a public road or highway.

History: July 15, 1980

History: Created 1980 Ky. Acts ch. 228, sec. 1, effective July 15, 1980.

416.360 Acquisition of real property necessary to locate or relocate public utility facilities by public agency with power of eminent domain for public improvement projects.

- (1) Any public agency which has the right to exercise the power of eminent domain for street, road, highway, or other public improvement projects may acquire in its own name, by condemnation or otherwise, any real property that is necessary to locate or relocate any public utility facilities as required for the construction, reconstruction, rehabilitation, or maintenance of the project. The public agency and the affected public utility shall first enter into an agreement for this acquisition. The agreement shall include all relevant terms and conditions of the acquisition, including a description of the real property to be acquired. Notwithstanding any other provisions of law, a public agency which acquires any real property for public utility facilities pursuant to this section shall, pursuant to the terms of the agreement, convey to the affected utility any real property so acquired.
- (2) The right of a public utility to exercise the power of eminent domain shall not in any way be affected by this section. Nothing in this section shall empower the condemnation of property owned by the Commonwealth of Kentucky or in which the Commonwealth of Kentucky has an interest.
- (3) For purposes of this section, "real property" includes any estate, easement, fixtures, or other interests or rights in and to real property.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 227, sec. 1, effective July 15, 1996.

416.410 Repealed, 1976.

Catchline at repeal: Definitions for KRS 416.420 to 416.530.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1970 Ky. Acts ch. 73, sec. 2.

416.420 Repealed, 1976.

Catchline at repeal: Right to condemn.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1970 Ky. Acts ch. 73, sec. 3.

416.430 Repealed, 1976.

Catchline at repeal: Filing petition.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1970 Ky. Acts ch. 73, sec. 4.

416.440 Repealed, 1976.

Catchline at repeal: Appointment, report of commissioners.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1970 Ky. Acts ch. 73, sec. 5.

416.450 Repealed, 1976.

Catchline at repeal: Issuing summons.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1970 Ky. Acts ch. 73, sec. 6.

416.460 Repealed, 1976.

Catchline at repeal: Filing answer.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1970 Ky. Acts ch. 73, sec. 7.

416.470 Repealed, 1976.

Catchline at repeal: Trial by court on pleadings -- Interloctory judgment.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Amended 1972 Ky. Acts ch. 195, sec. 19. -- Created 1970 Ky. Acts ch. 73, sec. 8.

416.480 Repealed, 1976.

Catchline at repeal: Trial of exceptions to interlocutory judgment -- Questions as to compensation to be tried by jury -- Appeals.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1970 Ky. Acts ch. 73, sec. 9.

416.490 Repealed, 1976.

Catchline at repeal: Money paid into court.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1970 Ky. Acts ch. 73, sec. 10.

416.500 Repealed, 1976.

Catchline at repeal: Conflicting claimants to condemned land.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1970 Ky. Acts ch. 73, sec. 11.

416.510 Repealed, 1976.

Catchline at repeal: Proceedings governed by civil rules.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1970 Ky. Acts ch. 73, sec. 12.

416.520 Repealed, 1976.

Catchline at repeal: Standard for determining compensation.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1970 Ky. Acts ch. 73, sec. 13.

416.530 Repealed, 1976.

Catchline at repeal: Citation.

History: Repealed 1976 Ky. Acts ch. 140, sec. 129. -- Created 1970 Ky. Acts ch. 73, sec. 1.

416.540 Definitions.

- (1) "Condemn" means to take private property for a public use 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 and shall include the right of private persons, corporations or business entities to do so under authority of law.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 73, sec. 2, effective July 12, 2006. -- Created 1976 Ky. Acts ch. 140, sec. 2.

416.550 Right to condemn.

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. 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.

History: Created 1976 Ky. Acts ch. 140, sec. 3.

416.560 Initiation of condemnation proceedings -- Costs -- Right of entry -- Damages.

- (1) Notwithstanding any other provision of the law, a department, instrumentality or agency of a consolidated local government, city, county, or urban-county government, other than a waterworks corporation the capital stock of which is wholly owned by a city of the first class or a consolidated local government, having a right of eminent domain under other statutes shall exercise such right only by requesting the governing body of the consolidated local government, city, county, or urban-county to institute condemnation proceedings on its behalf. If the governing body of the consolidated local government, city, county, or urban-county agrees, it shall institute such proceedings under KRS 416.570, and all costs involved in the condemnation shall be borne by the department, instrumentality, or agency requesting the condemnation.
- (2) If any department, instrumentality, or agency of a consolidated local government, city, county, or urban-county government, other than a waterworks corporation the capital stock of which is wholly owned by a city of the first class or a consolidated local government, operates in more than one (1) governmental unit, it shall request the governing body of the consolidated local government, city, county, or urban-county government wherein the largest part of the individual tract of the property sought to be condemned lies, to institute condemnation proceedings on its behalf.
- (3) A department, instrumentality, or agency of the Commonwealth of Kentucky, other than the Transportation Cabinet and local boards of education, having a right of eminent domain under other statutes shall exercise such right only by requesting the Finance and Administration Cabinet to institute condemnation proceedings on its behalf. If the Finance and Administration Cabinet agrees, it shall institute such proceedings under KRS 416.570, and all costs involved in the condemnation shall be borne by the department, instrumentality, or agency requesting the condemnation.
- (4) Prior to the filing of the petition to condemn, the condemnor or its employees or agents shall have the right to enter upon any land or improvement which it has the power to condemn, in order to make studies, surveys, tests, sounding, and appraisals, provided that the owner of the land or the party in whose name the property is assessed has been notified ten (10) days prior to entry on the property. Any actual damages sustained by the owner of a property interest in the property entered upon by the condemnor shall be paid by the condemnor and shall be assessed by the court or the court may refer the matter to commissioners to ascertain and assess the damages sustained by the condemnee, which award shall be subject to appeal.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 346, sec. 230, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 45, sec. 1, effective July 14, 2000. -- Amended 1982 Ky. Acts ch. 239, sec. 1, effective July 15, 1982. -- Created 1976 Ky. Acts ch. 140, sec. 4.

416.570 Filing of petition.

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 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.

History: Created 1976 Ky. Acts ch. 140, sec. 5.

416.580 Commissioners -- Appointment -- Report -- Compensation -- Vacancy -- Majority required.

- (1) The Circuit Court, or in the absence of the Circuit Judge from the county, the Circuit Court Clerk, shall appoint as commissioners three (3) impartial housekeepers of the county who are owners of land. They shall be sworn to faithfully and impartially discharge their duties under this section. The commissioners shall view the land or material sought to be condemned and award to the owner or owners such a sum as will fairly represent the reduction in the market value of the entire property, all of or a portion of which is sought to be condemned, said sum being the difference between the market value of the entire property immediately before the taking and the market value of the remainder of the property immediately after the taking thereof, together with the fair rental value of any temporary easements sought to be condemned. Within fifteen (15) days from the date of their appointment they shall return a written report to the office of the Circuit Court, stating the above values in their award and shall describe in their report the property sought to be condemned. They shall be allowed a reasonable fee which shall be taxed as costs.
- (2) In the event any person appointed to serve as commissioner fails, refuses or becomes incapable of acting, the court, or judge thereof shall forthwith appoint a qualified person to fill the vacancy. A majority of the commissioners appointed and qualified have the power to act and to make and sign the award and report. If a majority of the commissioners do not agree on a decision, three (3) new commissioners shall be appointed by the court on application by any of the parties to the action.

History: Created 1976 Ky. Acts ch. 140, sec. 6.

416.590 Issuing summons.

Upon the application of the petitioner, and the filing of any necessary affidavits, the clerk of the court shall issue process against the owner to show cause why the petitioner does not have the right to condemn the lands, or the use and occupation thereof sought to be condemned. The summons shall contain a statement of the amount of the award and shall state that an answer or other pleading, if any, must be filed within twenty (20) days from date of service. The clerk shall make such orders as to nonresidents and persons under disability as are required by the statutes and Rules of Civil Procedure in actions against them in Circuit Courts.

History: Created 1976 Ky. Acts ch. 140, sec. 7.

416.600 Filing answer.

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.

History: Created 1976 Ky. Acts ch. 140, sec. 8.

416.610 Trial by court on pleadings -- Interlocutory judgment.

- (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 416.550 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.

History: Created 1976 Ky. Acts ch. 140, sec. 9.

416.620 Trial of exceptions to interlocutory judgment -- Questions as to compensation to be tried by jury -- Appeals.

- (1) Within thirty (30) days from the date of entry of an interlocutory judgment authorizing the petitioner to take possession of the property, exceptions may be filed by either party or both parties by filing with the clerk of the Circuit Court and serving upon the other party or parties a statement of exceptions, which statement shall contain any exceptions the party has to the award made by the commissioners. The statement of exceptions shall be tried, but shall be limited to the questions which are raised in the original statements of the exceptions, or as amended, but the owner shall not be permitted to raise any question, nor shall the court reconsider any question so raised, concerning the right of the petitioner to condemn the property. All questions of fact pertaining to the amount of compensation to the owner, or owners, shall be determined by a jury, which jury on the motion of either party shall be sent by the court, in the charge of the sheriff, to view the land and material. After a jury trial, and if possession previously has not been taken by the condemnor of the land and material condemned, it may do so upon the payment to the owner or to the clerk of the Circuit Court the amount of the compensation adjudged by the Circuit Court to be due the owner.
- (2) Appeals may be taken to the Court of Appeals from the final judgment of the Circuit Court as in other cases except that an appeal by the owner shall not operate as a supersedeas.
- (3) The payment by the condemnor of the amount of compensation awarded and the taking possession of the lands and material condemned shall not prejudice its right to except from the award of the commissioners or the judgment of any court, nor shall the acceptance by the owner of the amount of the compensation awarded prejudice his right to except from the award of the commissioners or the judgment of any court.
- (4) All costs in the Circuit Court shall be adjudged against the condemnor.
- (5) If the condemnor takes possession of the property condemned and the amount of compensation is thereafter increased over that awarded by the commissioners, the condemnor shall pay interest to the owner at the rate of six percent (6%) per annum upon the amount of such increase from the date the condemnor took possession of the property. If the condemnor takes possession of the property condemned and the amount of compensation is thereafter decreased below that awarded by the commissioners, the condemnor shall be entitled to a personal judgment against the owner for the amount of the decrease plus interest at the rate of six percent (6%) per annum from the date the owner accepted the amount of compensation the condemnor paid into court or to the owner. If the owner at all times refuses to accept the payment tendered by the condemnor, no interest shall be allowed in the judgment against the owner for the amount of the decrease.
- (6) Upon the final determination of exceptions, or upon expiration of thirty (30) days from entry of the interlocutory judgment if no exceptions are filed, the Circuit Court shall make such orders as may be proper for the conveyance of the title to the extent

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

History: Created 1976 Ky. Acts ch. 140, sec. 10.

416.630 Money paid into court.

All money paid into court or paid or transferred to the clerk of a court under the provisions of KRS 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.

History: Created 1976 Ky. Acts ch. 140, sec. 11.

416.640 Conflicting claimants to condemned land.

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 416.550 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.

History: Created 1976 Ky. Acts ch. 140, sec. 12.

416.650 Proceedings governed by Rules of Civil Procedure.

All proceedings under KRS 416.550 to 416.670 shall be governed by the provisions of the Rules of Civil Procedure except where the provisions of KRS 416.550 to 416.670 specifically or by necessary implication provide otherwise.

History: Created 1976 Ky. Acts ch. 140, sec. 13.

416.660 Standards for determining compensation -- Changes in value -- Taking date.

- (1) In all actions for the condemnation of lands under the provisions of KRS 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.

History: Created 1976 Ky. Acts ch. 140, sec. 14.

416.670 Limitations on condemnation powers -- Rights of current landowner.

- (1) Development shall be started on any property which has been acquired through condemnation within a period of eight (8) years from the date of the deed to the condemnor or the date on which the condemnor took possession, whichever is earlier, for the purpose for which it was condemned. The failure of the condemnor to so begin development shall entitle the current landowner to repurchase the property at the price the condemnor paid to the landowner for the property. The current owner of the land from which the condemned land was taken may reacquire the land as aforementioned.
- (2) Any condemnor who fails to develop property acquired by condemnation or who fails to begin design on highway projects pursuant to KRS Chapter 177 within a period of eight (8) years after acquisition, shall notify the current landowner of the provisions of subsection (1) of this section. If the current landowner refuses to purchase property described in this section, public notice shall be given in a manner prescribed in KRS Chapter 424 within thirty (30) days of the refusal, and the property shall be sold at auction. Provided, however, that this section shall not apply to property acquired for purposes of industrial development pursuant to KRS Chapter 152.
- (3) If there are two (2) or more current owners of the land from which the condemned land was taken because the remaining land was subdivided, and if they have a common boundary with the condemned land, the condemned land shall be reacquired by allowing all owners of a parcel of the remaining land with a common boundary and from which the condemned land was taken to offer sealed bids for the condemned land within thirty (30) days of notification by the condemnor. The condemnor shall accept the highest and best sealed bid equal to or greater than the price paid at the time of condemnation. If there are no sealed bids or if all sealed bids are below the original price paid by the condemnor for the property, the property shall be sold at auction.

Effective: July 15, 1980

History: Amended 1980 Ky. Acts ch. 231, sec. 1, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 384, sec. 117, effective June 17, 1978. -- Created 1976 Ky. Acts ch. 140, sec. 15.

416.675 Public use required -- No condemnation for indirect benefit -- Exemption.

- (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, or 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.

Effective: July 12, 2006

History: Created 2006 Ky. Acts ch. 73, sec. 1, effective July 12, 2006.

416.680 Short title.

KRS 416.540 to 416.670 shall be known as the "Eminent Domain Act of Kentucky."

History: Created 1976 Ky. Acts ch. 140, sec. 1.

416.990 Penalties.

Any person who places any obstruction, including poles, wires, signboards, fences, gas, water, sewerage, oil or other pipelines, on any part of the right-of-way of any state highway, or under any such highway, before obtaining the permit required by subsection (3) of KRS 416.140, or who fails to remove any obstruction when given notice as provided in that subsection, shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100), and each day the obstruction is continued without a permit or after such notice to remove shall constitute a separate offense.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1599c-1.