

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 99.700 TO 99.730 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) For purposes of establishing the basis for the use of eminent domain for the
6 remediation of a blighted property or possession of an abandoned property, a
7 commission or alternative government entity is authorized to petition a court of
8 competent jurisdiction to obtain an administrative warrant to gain access to
9 inspect a specific structure.

10 (2) The court may issue an administrative warrant for inspection of a structure upon
11 a showing by the commission or alternative government entity of probable cause
12 that a violation of an enforceable housing, maintenance, or building code has
13 occurred, the violation has not been cured, and the owner of the property has
14 denied the commission or alternative government entity access to the specific
15 structure.

16 (3) Evidence that may support a showing of probable cause includes but is not
17 limited to recent fire or police inspections, exterior evidence of deterioration, or
18 other similarly reliable evidence of present violations of an enforceable housing,
19 maintenance, or building code in the specific structure.

20 ➔SECTION 2. A NEW SECTION OF KRS 99.700 TO 99.730 IS CREATED TO
21 READ AS FOLLOWS:

22 (1) Notwithstanding any other provision of law, including any charter provision,
23 ordinance, statute, or special law, all commissions and alternative government
24 entities shall exercise the power of eminent domain in accordance with KRS
25 99.700 to 99.730, including all procedures, definitions, remedies, and limitations.

26 (2) Additional procedures, remedies, or limitations that do not deny or diminish the
27 substantive and procedural rights and protections of property owners under KRS

1 **99.700 to 99.730 may be provided by other law, ordinance, or charter.**

2 ➔Section 3. KRS 65.355 is amended to read as follows:

- 3 (1) Any local government, the county or independent school district within the county,
4 and the Commonwealth of Kentucky may enter into an interlocal cooperation
5 agreement pursuant to KRS 65.210 to 65.300 for the purpose of establishing a land
6 bank authority pursuant to KRS 65.350 to 65.375.
- 7 (2) The authority shall be a public body corporate and politic with the power to sue and
8 be sued, issue deeds in its name, and any other powers necessary and convenient to
9 carry out these powers or that may be granted to the authority by the parties.
- 10 (3) The authority shall be established to acquire the tax delinquent properties of the
11 parties, properties that have become blighted or **abandoned**~~[deteriorated]~~ as defined
12 ~~in~~~~[by]~~ KRS 99.705 and properties that have local government liens filed against
13 them, to facilitate the public purpose of returning property that is in a non-revenue
14 generating, non-tax producing status to effective utilization, including but not
15 limited to providing housing, new industry, and jobs for the citizens of the county.
16 The authority shall have the powers provided in KRS 65.370 and 65.375 and in the
17 interlocal cooperation agreement.

18 ➔Section 4. KRS 91.285 is amended to read as follows:

- 19 (1) Any city of the first class which finds and declares that there exists abandoned
20 urban property as defined in KRS 132.012(1) within the city or which finds that
21 there exists blighted or **abandoned**~~[deteriorated]~~ property pursuant to KRS 99.700
22 to 99.730 may levy a separate rate of taxation on abandoned urban property
23 pursuant to KRS 132.012(2).
- 24 (2) Prior to levying a tax upon abandoned urban property, the legislative body of a city
25 of the first class shall delegate to the vacant properties review commission, if
26 established pursuant to KRS 99.700 to 99.730 or another department or agency of
27 city government, the responsibility of determining which properties within the city

1 are abandoned urban properties. A list of abandoned urban properties shall be
2 furnished to the county property valuation administrator prior to the date fixed for
3 the annual assessment of real property within the county. If a property classified as
4 abandoned urban property is repaired, rehabilitated or otherwise returned to
5 productive use, the owner shall notify the city which shall, if it finds the property is
6 no longer abandoned urban property, notify the property valuation administrator to
7 strike the property from the list of abandoned urban properties.

8 ➔Section 5. KRS 92.305 is amended to read as follows:

9 (1) Any urban-county government or city of the home rule class which finds and
10 declares that there exists abandoned urban property as defined in KRS 132.012
11 within the urban-county government or city, or which finds that there exists
12 blighted or abandoned~~deteriorated~~ property pursuant to KRS 99.700 to 99.730,
13 may levy a separate rate of taxation on abandoned urban property pursuant to KRS
14 132.012.

15 (2) Prior to levying a tax upon abandoned urban property, the legislative body of the
16 urban-county government or the city of the home rule class shall delegate to the
17 vacant properties review commission, if established pursuant to KRS 99.710, or
18 another department or agency of the urban-county or city government, the
19 responsibility of determining which properties within the urban-county government
20 or city are abandoned urban properties. A list of abandoned urban properties shall
21 be furnished to the county property valuation administrator prior to the date fixed
22 for the annual assessment of real property within the county. If a property classified
23 as abandoned urban property is repaired, rehabilitated, or otherwise returned to
24 productive use, the owner shall notify the urban-county government or city which
25 shall, if it finds the property is no longer abandoned urban property, notify the
26 property valuation administrator to strike the property from the list of abandoned
27 urban properties.

1 ➔Section 6. KRS 99.700 is amended to read as follows:

2 (1) It is hereby found:

3 (a) That there exist within the jurisdiction of many local governments in this
4 Commonwealth blighted and abandoned~~[deteriorated]~~ properties in
5 neighborhoods which cause the deterioration of those and contiguous
6 neighborhoods and constitute a serious and growing menace which is
7 injurious to the public health, safety, morals, and general welfare of the
8 residents of the Commonwealth, and are beyond remedy and control solely by
9 regulatory process in the exercise of the police power;

10 (b) That the existence of blighted and abandoned~~[deteriorated]~~ properties within
11 neighborhoods, and the growth and spread of blight and deterioration or the
12 threatened deterioration of other neighborhoods and properties:

- 13 1. Contribute substantially and increasingly to the spread of disease and
14 crime, and to losses by fire and accident;
- 15 2. Necessitate expensive and disproportionate expenditures of public funds
16 for the preservation of the public health and safety, for crime prevention,
17 correction, prosecution, and punishment, for the treatment of juvenile
18 delinquency, for the maintenance of adequate police, fire and accident
19 protection, and for other public services and facilities;
- 20 3. Constitute an economic and social liability;
- 21 4. Substantially impair or arrest the sound growth of the community;
- 22 5. Retard the provision of decent, safe, and sanitary housing
23 accommodations;
- 24 6. Depreciate assessable values;
- 25 7. Cause an abnormal exodus of families from these neighborhoods; and
- 26 8. Are detrimental to the health, the well-being, and the dignity of many
27 residents of these neighborhoods;

- 1 (c) That this menace cannot be effectively dealt with by private enterprise
2 without the aids provided herein; and
- 3 (d) That the benefits which would result from eliminating the blighted or
4 abandoned properties that cause the blight and deterioration of neighborhoods
5 will accrue to the inhabitants of the neighborhoods in which these conditions
6 exist and to the inhabitants of this Commonwealth generally.
- 7 (2) It is hereby declared:
- 8 (a) That it is the policy of this Commonwealth to protect and promote the health,
9 safety, and welfare of the people of the Commonwealth by eliminating the
10 blight and deterioration of neighborhoods through the elimination of blighted
11 and abandoned ~~deteriorated~~ properties within these neighborhoods;
- 12 (b) That the elimination of such blight and deterioration and the preparation of the
13 properties for sale or lease, for development or redevelopment, constitute a
14 public use and purpose for which public money may be expended and private
15 property acquired and are governmental functions in the interest of the health,
16 safety, and welfare of the people of the Commonwealth; and
- 17 (c) That the necessity in the public interest for the provisions enacted herein is
18 hereby declared to be a legislative determination.

19 ➔Section 7. KRS 99.705 is amended to read as follows:

20 As used in KRS 99.700 to 99.730:

- 21 (1) "Abandoned property" means property that:
- 22 (a) Has been substantially unoccupied or used for any commercial or
23 residential purpose for at least one (1) year by a person with a legal or
24 equitable right to occupy the property;
- 25 (b) Has been cited for a violation of an enforceable housing, maintenance, or
26 building code that has not been remedied within one hundred eighty (180)
27 days after the citation; and

1 (c) For which property taxes have not been paid for at least two (2) years;

2 (2) "Alternative government entity" means an entity established by the legislative body
3 of a local government pursuant to KRS 65.350 to 65.375, 99.330 to 99.510, 99.520
4 to 99.590, or 99.610 to 99.680, with a purpose compatible with the purposes
5 expressed in KRS 99.700;

6 (3)[(2)] "Blighted[~~" or "deteriorated"~~]property" means a[any vacant] structure[~~or~~
7 ~~vacant or unimproved lot or parcel of ground in a predominantly built-up~~
8 ~~neighborhood]~~:

9 (a) That was inspected by the appropriate local government and cited for one
10 (1) or more enforceable housing, maintenance, or building code violations
11 that:

12 1. Affect the safety of the occupants or the public; and

13 2. Involve one (1) or more of the following:

14 a. A roof and roof-framing element;

15 b. Support walls, beams, and headers;

16 c. Foundation, footings, and subgrade conditions;

17 d. Light and ventilation;

18 e. Fire protection, including egress;

19 f. Internal utilities, including electricity, gas, and water;

20 g. Flooring and flooring elements; or

21 h. Walls, insulation, and exterior envelope;

22 (b) In which the cited housing, maintenance, or building code violations have
23 not been remedied within a reasonable time after two (2) notices to cure the
24 noncompliance; and

25 (c) For which the satisfaction of those enforceable, cited, and uncured housing,
26 maintenance, or building code violations costs more than fifty percent
27 (50%) of the taxable market value of the structure as determined by the

1 property valuation administrator in the taxable year in which the
2 condemnation proceeding is commenced, exclusive of the value of the land
3 on which the structure is situated~~[Which because of physical condition or~~

4 ~~use is regarded as a public nuisance at common law or has been declared a~~
5 ~~public nuisance in accordance with the housing, building, plumbing, fire,~~
6 ~~nuisance, or related codes];~~

7 ~~(b) Which because of physical condition, use, or occupancy is considered an~~
8 ~~attractive nuisance to children, including but not limited to abandoned wells,~~
9 ~~shafts, basements, excavations, and unsafe fences or structures;~~

10 ~~(c) Which, because it is dilapidated, unsanitary, unsafe, vermin infested, or~~
11 ~~lacking in the facilities and equipment required by the housing or nuisance~~
12 ~~code of the local government in which it is located, has been designated by~~
13 ~~the department responsible for enforcement of the housing or nuisance code~~
14 ~~as unfit for human habitation;~~

15 ~~(d) Which is a fire hazard, or is otherwise dangerous to the safety of persons or~~
16 ~~property;~~

17 ~~(e) From which the utilities, plumbing, heating, sewerage, or other facilities have~~
18 ~~been disconnected, destroyed, removed, or rendered ineffective so that the~~
19 ~~property is unfit for its intended use;~~

20 ~~(f) Which by reason of neglect or lack of maintenance has become a place for~~
21 ~~accumulation of trash and debris, or a haven for rodents or other vermin;~~

22 ~~(g) Which has been tax delinquent for a period of at least three (3) years; or~~

23 ~~(h) Which has not been brought into compliance with the housing, building,~~
24 ~~plumbing, electrical, fire, or nuisance code of the local government within~~
25 ~~which it is located within the time constraints placed upon the owner by the~~
26 ~~appropriate code enforcement agency];~~

27 ~~(4)~~~~[(3)]~~ "Commission" means a vacant property review commission established under

1 KRS 99.710;

2 ~~(5)~~~~(4)~~ "Local government" means any city, county, urban-county government,
3 consolidated local government, unified local government, or charter county;

4 ~~(6)~~~~(5)~~ "Nuisance code" means an ordinance or ordinances adopted by a local
5 government pursuant to KRS 82.700 to 82.725 or a similar ordinance or ordinances
6 adopted by a local government pursuant to any other authority; and

7 ~~(7)~~~~(6)~~ "Redevelopment" means the planning or replanning, design or redesign,
8 acquisition, clearance, development, and disposal or any combination of these, of a
9 property in the preparation of such property for residential, commercial, public, or
10 related uses, as may be appropriate or necessary.

11 ➔Section 8. KRS 99.710 is amended to read as follows:

12 (1) If the legislative body of a local government finds and declares that there exist
13 within the jurisdiction of the local government blighted or abandoned~~deteriorated~~
14 properties and that there is need for the exercise of powers, functions, and duties
15 conferred by KRS 99.700 to 99.730 within the jurisdiction of the local government,
16 the legislative body may adopt the provisions of KRS 99.700 to 99.730 by
17 ordinance.

18 (2) The ordinance adopting the provisions of KRS 99.700 to 99.730 shall:

19 (a) Establish a vacant property review commission, which shall certify properties
20 as blighted or abandoned~~deteriorated~~ to the legislative body. The ordinance
21 shall specify the duties of, the number of members that will serve on, the
22 requirements of membership, and the makeup of the commission. Members of
23 the commission shall be appointed by the mayor or the county
24 judge/executive, as the case may be, and approved by the legislative body; or
25 (b) Assign the duties that would otherwise be fulfilled by a vacant property
26 review commission under KRS 99.700 to 99.730 to an alternative government
27 entity.

(3) The governing body of a local government adopting the provisions of KRS 99.700 to 99.730 may also, by ordinance, authorize the commission or alternative government entity to identify and certify properties for inclusion in a tax delinquency diversion program established by the local government as provided in KRS 99.727.

(4) No officer or employee of the local government whose duties include enforcement of housing, building, plumbing, fire, nuisance, or related codes shall be appointed to the commission or serve on the governing body of an alternative government entity.

(5) Nothing in KRS 99.705 to 99.730 shall prevent the duties of a vacant property review commission from being assigned to a local government code enforcement board established pursuant to KRS 65.8801 to 65.8839.

➔Section 9. KRS 99.715 is amended to read as follows:

A local government may acquire, by eminent domain pursuant to KRS Chapter 416, any property determined to be blighted or abandoned~~deteriorated~~ pursuant to KRS 99.700 to 99.730, and shall have the power to hold, clear, manage, or dispose of property so acquired pursuant to the provisions of KRS 99.700 to 99.730.

➔Section 10. KRS 99.720 is amended to read as follows:

(1) The legislative body shall not institute eminent domain proceedings pursuant to KRS 99.700 to 99.730 unless the commission or alternative government entity has certified that the property is blighted or abandoned~~deteriorated~~. A property which has been referred to the commission or alternative government entity by a local government as blighted or abandoned~~deteriorated~~ may only be certified to the legislative body as blighted or abandoned~~deteriorated~~ after the commission or alternative government entity has determined:

(a) That the owner of the property or designated agent has been sent two (2) notices~~an order~~ by the appropriate local government agency to eliminate the conditions which are in violation of local codes or law;

- 1 (b) That the property is vacant;
- 2 (c) That the property is blighted or abandoned~~[and deteriorated]~~; and
- 3 (d) That the commission or alternative government entity has notified the
- 4 property owner or designated agent that:
- 5 1. The property has been determined to be blighted or
- 6 abandoned~~;~~~~[deteriorated and]~~
- 7 2. The time period for correction of that~~[such]~~ condition has expired; and
- 8 3. The property owner or agent has failed to comply with the notice.
- 9 (2) The findings required by subsection (1) of this section shall be in writing and
- 10 included in the report to the legislative body.
- 11 (3) (a) The commission or alternative government entity shall notify the owner of the
- 12 property or a designated agent that a determination of blight or
- 13 abandonment~~[deterioration]~~ has been made and that failure to eliminate the
- 14 conditions causing the blight or abandonment shall render the property
- 15 subject to condemnation by the local government under KRS 99.700 to
- 16 99.730.
- 17 (b) Notice shall be mailed to the owner or designated agent by certified mail,
- 18 return receipt requested. However, if the address of the owner or a designated
- 19 agent is unknown and cannot be ascertained by the commission or alternative
- 20 government entity in the exercise of reasonable diligence, copies of the notice
- 21 shall be posted in a conspicuous place on the property affected.
- 22 (c) The written notice sent to the owner or his or her agent or posted on the
- 23 property shall describe the conditions that render the property blighted or
- 24 abandoned~~[and deteriorated]~~, and shall demand abatement of the conditions
- 25 within ninety (90) days of the receipt of the~~[such]~~ notice.
- 26 (4) An extension of the ninety (90) day time period may be granted by the commission
- 27 or alternative government entity if the owner or designated agent demonstrates that

1 such period is insufficient to correct the conditions cited in the notice.

2 ➔Section 11. KRS 99.725 is amended to read as follows:

3 The legislative body of the local government may institute eminent domain proceedings
4 pursuant to KRS Chapter 416 against any property which has been certified as blighted or
5 abandoned~~deteriorated~~ by the commission or alternative government entity if:

6 (1) It finds:

7 (a)~~(1)~~ That the~~such~~ property has deteriorated to such an extent as to
8 constitute a serious and growing menace to the public health, safety and
9 welfare;

10 (b)~~(2)~~ That the~~such~~ property is likely to continue to deteriorate unless
11 corrected;

12 (c)~~(3)~~ That the continued deterioration of the~~such~~ property may contribute to
13 the blighting or deterioration of the area immediately surrounding the
14 property; and

15 (d)~~(4)~~ That the owner of the~~such~~ property has failed to correct the
16 deterioration of the property; and

17 (2) The legislative body of the local government:

18 (a) Holds a public hearing regarding the proposed taking of the blighted or
19 abandoned property and, at least thirty (30) days but not more than sixty
20 (60) days prior to the hearing:

21 1. Notifies each owner of property subject to the proposed taking in
22 writing by certified mail of the date and time of the public hearing;
23 and

24 2. Posts information regarding the public hearing, including the date
25 and time of the hearing and the address of the property subject to the
26 proposed taking, pursuant to KRS Chapter 424; and

27 (b) At its next regular meeting that is at least thirty (30) days after the public

1 hearing, votes according to the rules of its proceedings to authorize the use
2 of eminent domain under the Eminent Domain Act of Kentucky, KRS
3 416.540 to 416.670, to acquire the property.

4 (3) Any interested person shall be allowed reasonable time to present relevant
5 testimony at the public hearing held under subsection (2) of this section. The
6 proceedings of the hearing shall be recorded and available to the public for
7 review and comment and reasonable times and at a reasonable place.

8 ➔Section 12. KRS 99.727 is amended to read as follows:

9 (1) As used in this section:

10 (a) "Census block" means an area within the jurisdiction of a local government
11 identified by the United States Census Bureau using a unique four (4) digit
12 number;

13 (b) "Certificate of delinquency" has the same meaning as in KRS 134.010;

14 (c) "Individual parcel" means a parcel of property not located in a priority project
15 area that has been designated by the commission or alternative government
16 entity as blighted or abandoned, and for which the area in which the property
17 is located:

18 1. Exhibits conditions that are favorable for development;

19 2. Has the resources needed for urban redevelopment; and

20 3. Has characteristics that can be promoted as part of a campaign to retain
21 existing residents and attract new residents to the area; and

22 (d) "Priority project area" means a specific group of properties identified by
23 census block, which are located in an area where:

24 1. There are a significant number of blighted or abandoned properties;

25 2. Existing conditions are favorable for development;

26 3. Existing resources needed for urban redevelopment are present; and

27 4. Existing characteristics of the area can be promoted as part of a

1 campaign to retain existing residents and attract new residents to the
2 area.

3 (2) The legislative body of a consolidated local government may, by ordinance,
4 establish a tax delinquency diversion program for blighted or abandoned property.

5 (3) The ordinance establishing the program shall designate the commission or an
6 alternative government entity as the body responsible for identifying and certifying
7 priority project areas and individual parcels of property for inclusion in the tax
8 delinquency diversion program.

9 (4) The commission or alternative government entity shall submit recommended
10 priority project areas and qualifying individual parcels of property to the governing
11 body of the consolidated local government for consideration.

12 (5) Certificates of delinquency related to property approved by the governing body of
13 the consolidated local government for inclusion in the tax delinquency diversion
14 program shall not be available for purchase by any person for a period of up to five
15 (5) years following the year in which the property is placed in the tax delinquency
16 diversion program.

17 (6) The commission or alternative government entity shall provide to the county
18 attorney a list of all properties included in the tax delinquency diversion plan, and
19 the county attorney shall place the identified properties on the protected list
20 required by KRS 134.504(10).

21 ➔Section 13. KRS 99.730 is amended to read as follows:

22 (1) No officer or employee of a local government, the vacant property review
23 commission, or an alternative government entity, who in the course of his or her
24 duties is required to participate in the determination of property blight or
25 abandonment~~[deterioration]~~ or the issuance of notices on code violations which
26 may lead to a determination of blight or abandonment~~[deterioration]~~, shall acquire
27 any interest in any property declared to be blighted or abandoned~~[deteriorated]~~.

1 (2) If any ~~such~~ officer or employee *described in subsection (1) of this section* owns
2 or has a financial interest, direct or indirect, in any property certified to be blighted
3 or abandoned~~deteriorated~~, he or she shall immediately disclose, in writing,
4 the~~such~~ interest to the commission or alternative government entity and to the
5 legislative body, and the~~such~~ disclosure shall be entered in the minutes of the
6 commission or alternative government entity and of the legislative body. Failure to
7 so disclose the~~such~~ interest shall constitute misconduct in office.

8 (3) No payment shall be made to any officer or employee for any property or interest
9 acquired by the local government from the~~such~~ officer or employee unless the
10 amount of the~~such~~ payment is fixed by court order in eminent domain
11 proceedings, or unless payment is unanimously approved by the legislative body.

12 ➔Section 14. KRS 416.580 is amended to read as follows:

13 (1) (a) The Circuit Court, or in the absence of the Circuit Judge from the county, the
14 Circuit Court Clerk, shall appoint as commissioners three (3) impartial
15 housekeepers of the county who are owners of land. They shall be sworn to
16 faithfully and impartially discharge their duties under this section. The
17 commissioners shall view the land or material sought to be condemned and
18 award to the owner or owners such a sum as will fairly represent the reduction
19 in the market value of the entire property, all of or a portion of which is
20 sought to be condemned, said sum being the difference between the market
21 value of the entire property immediately before the taking and the market
22 value of the remainder of the property immediately after the taking~~thereof~~,
23 together with the fair rental value of any temporary easements sought to be
24 condemned. Within fifteen (15) days from the date of their appointment, they
25 shall return a written report to the office of the Circuit Court~~;~~ stating the
26 above values in their award and shall describe in their report the property
27 sought to be condemned. They shall be allowed a reasonable fee which shall

1 be taxed as costs.

2 (b) If any person appointed to serve as commissioner fails, refuses, or becomes
3 incapable of acting, the court[,], or judge thereof shall immediately~~[forthwith]~~
4 appoint a qualified person to fill the vacancy. A majority of the
5 commissioners appointed and qualified have the power to act and to make and
6 sign the award and report. If a majority of the commissioners do not agree on
7 a decision, three (3) new commissioners shall be appointed by the court on
8 application by any of the parties to the action.

9 (2) In eminent domain proceedings instituted pursuant to KRS 99.700 to 99.730, in
10 determining the market of value blighted or abandoned~~[deteriorated]~~ property, the
11 commissioners shall consider:

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

16 (b) The cost of demolition of the property, if the commissioners determine that
17 demolition would be the most cost-effective manner of addressing the
18 blighted or abandoned~~[deteriorated]~~ structures on the property.

19 ➔Section 15. KRS 416.610 is amended to read as follows:

20 (1) After the owner has been summoned twenty (20) days, the court shall examine the
21 report of the commissioners to determine whether it conforms to the provisions of
22 KRS 416.580. If the report of the commissioners is not in the proper form, the
23 court shall require the commissioners to make necessary~~[such]~~ corrections~~[- as are~~
24 ~~necessary]~~.

25 (2) If no answer or other pleading is filed by the owner or owners putting in issue the
26 right of the petitioner to condemn the property or the use and occupation of the
27 property~~[thereof]~~ sought to be condemned, the court shall enter an interlocutory

1 judgment which shall contain, in substance:

2 (a) A finding that the petitioner has the right, under the provisions of KRS
3 416.550 to 416.670 and other applicable law to condemn the property or the
4 use and occupation of the property~~[thereof]~~;

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

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

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

14 (3) Any exception from ~~the~~^[such] interlocutory judgment by either party or both parties
15 shall be confined solely to exceptions to the amount of compensation awarded by
16 the commissioners.

17 (4) (a) If the owner has filed answer or pleading putting in issue the right of the
18 petitioner to condemn the property or use and occupation of the
19 property~~[thereof]~~ sought to be condemned, the court shall, without
20 intervention of jury, proceed forthwith to hear and determine whether or not
21 the petitioner has ~~that~~^[such] right.

22 (b) In determining whether the petitioner has the right to condemn the property
23 or the use and occupation of the property sought to be condemned, the
24 petitioner bears the burden of proving by a preponderance of the evidence
25 that the:

26 1. Property the petitioner seeks to acquire is required for a public use;

27 2. Petitioner has a plan that reflects a reasonable schedule to complete

1 the public use after the petitioner takes ownership of the property;

2 3. Petitioner has access to funding to complete the public use; and

3 4. Public use cannot be accomplished by using or acquiring other
4 property with the consent of the owner of the other property without
5 an unreasonable delay or increase in cost.

6 (c) If the court determines that the petitioner has the right to condemn the
7 property or the use and occupation of the property sought to be
8 condemned~~[such rights]~~, an interlocutory judgment, as provided for in
9 subsection (2) of this section, shall be entered.

10 (d) If the court determines that petitioner does not have ~~the~~~~[such]~~ right to
11 condemn the property or the use and occupation of the property sought to
12 be condemned, it shall enter a final judgment which shall contain, in
13 substance:

14 ~~1. (a)~~ A finding that the report of the commissioners conforms to the
15 provisions of KRS 416.580;

16 ~~2. (b)~~ A finding that the petitioner is not authorized to condemn the
17 property or the use and occupation of the property~~[thereof]~~ for the
18 purposes and under the conditions and limitations set forth in the
19 petition, stating the particular ground or grounds on which the petitioner
20 is not so authorized;

21 and

22 ~~3. (c)~~ An order dismissing the petition and directing the petitioner to pay
23 all costs.

24 ➔Section 16. KRS 416.675 is amended to read as follows:

25 (1) Every grant of authority contained in the Kentucky Revised Statutes to exercise the
26 power of eminent domain shall be subject to the condition that the authority be
27 exercised only to effectuate a public use of the condemned property.

- 1 (2) "Public use" means~~[shall mean the following]:~~
- 2 (a) ~~[Ownership of the property by the Commonwealth, a political subdivision of~~
- 3 ~~the Commonwealth, or other governmental entity;~~
- 4 ~~(b)]~~ The possession, occupation, or enjoyment of the property by the general
- 5 public or~~[as a matter of right]~~ by the Commonwealth, a political subdivision
- 6 of the Commonwealth, or other governmental entity;
- 7 ~~(b)]~~ The acquisition and transfer of blighted or abandoned property ~~[for the~~
- 8 ~~purpose of eliminating blighted areas, slum areas, or substandard and~~
- 9 ~~insanitary areas]~~in accordance with KRS Chapter 99; or
- 10 ~~(c)]~~ The use of the property for the ~~[creation or]~~operation of public utilities
- 11 that serve the general public~~[or common carriers; or~~
- 12 ~~(e)]~~ Other use of the property expressly authorized by statute].
- 13 (3) No provision in the law of the Commonwealth shall be construed to authorize the
- 14 condemnation of private property for transfer to a private owner for the purpose of
- 15 economic development that benefits the general public only indirectly, such as by
- 16 increasing the tax base, tax revenues, or employment, or by promoting the general
- 17 economic health of the community.~~[However, this provision shall not prohibit the~~
- 18 ~~sale or lease of property to private entities that occupy an incidental area within a~~
- 19 ~~public project or building, provided that no property may be condemned primarily~~
- 20 ~~for the purpose of facilitating an incidental private use.]~~
- 21 (4) Nothing in this section shall be construed to prohibit a taking of private property
- 22 for a public use because the public use provides ancillary economic benefits~~[The~~
- 23 ~~exercise of the power of eminent domain for the acquisition of property financed by~~
- 24 ~~state road funds or federal highway funds shall be exempt from the provisions of~~
- 25 ~~this section].~~