

**56.806 Terms of lease -- Calculation of rent -- Option to purchase -- Lease-purchase agreement -- Right to cancel lease.**

- (1) Except when another lease term is approved by the secretary of the Finance and Administration Cabinet, the terms of all leases entered into pursuant to KRS 56.803 or 56.805 may provide for an initial lease term beginning on a date stated and ending on June 30 in each year in which the General Assembly has convened in an even-numbered-year regular session and appropriated funds for the operation of the state government during the next ensuing biennium. The leases may grant the state successive options for the automatic renewal of the lease upon the same terms and conditions for additional renewal periods of twenty-four (24) months each, not to exceed three (3) automatic renewal periods. Any lease containing provision for the automatic renewal of the lease after the expiration of the initial lease term shall also provide that the state may, upon written notice given to the lessor on or before April 15 of the year in which the initial or any automatic renewal term expires, elect not to exercise its option for the automatic renewal of the lease term. Subject to the agreement of the lessor, a lease in which the final automatic renewal period has expired, or will expire as of the end of the then current term, may be renewed upon the same terms and conditions, provisions of KRS 56.803 to the contrary notwithstanding.
- (2) The Department for Facilities Management shall comply with the provisions of this subsection when calculating rentable area for the purposes of a lease.
  - (a) If the Commonwealth is the only tenant on a single floor of a multistory building, the rentable area shall be the entire area described by measuring to the inside finished surface of the dominant portion of the permanent outer building walls, excluding any major vertical penetrations of the floor which shall include, but not be limited to, stairways, elevator shafts, pipe chases, vertical air ducts, and the enclosing wall of all such excluded areas. Restrooms, corridors, and utility rooms which exclusively serve the floor occupied by the Commonwealth shall be included as part of the rentable area.
  - (b) If the Commonwealth is the only tenant in a one (1) story or multistory building, rentable area shall be calculated pursuant to the provisions of paragraph (a) of this subsection except that those areas excluded pursuant to paragraph (a) shall be included as part of the rentable area.
  - (c) If the Commonwealth shares a floor with one (1) or more other tenants, the rentable area shall be calculated by measuring from the inside finished surface of the dominant portion of the permanent outer building walls to the office side of every corridor wall or other wall separating the Commonwealth's leased space from other adjacent rentable areas which shall include, but not be limited to, space under the control of another tenant, public corridors, restrooms, all common service and utility areas, stairways, elevator shafts, vertical pipe chases, and air ducts.
  - (d) The Commonwealth's rentable area determined pursuant to paragraphs (a), (b), and (c) of this subsection shall include columns and projections necessary to the building.

- (3) The Finance and Administration Cabinet may include in a lease an option to purchase the leased property or a lease-purchase of the leased property.
- (4) If the Finance and Administration Cabinet exercises an option to purchase leased property, the option price shall not exceed the fair market value of the leased property as of the time the lessor and the Commonwealth enter into the option. Two (2) competent and qualified real estate appraisers shall each determine the fair market value. Each real estate appraiser shall be selected by the Finance and Administration Cabinet and shall employ an accepted appraisal technique.
- (5)
  - (a) Except as provided in paragraph (b) of this subsection, if the Finance and Administration Cabinet includes in a lease the lease-purchase of the leased property, two (2) competent and qualified real estate appraisers shall each determine the fair market value of the leased property as of the time the lessor and the Commonwealth enter into the lease. Each appraiser shall be selected by the Finance and Administration Cabinet and shall employ an accepted appraisal technique. The lease shall provide for an initial lease term ending June 30 of the second year of the then current fiscal biennium of the Commonwealth, with the option of the Commonwealth, as lessee, to extend the term of the lease for a term of two (2) years from the expiration of each extended term of the lease, until the original term of the lease has been extended for a total number of years agreed upon by the parties. The agreed rental paid for the original term and for each of the full number of years for which the term of the lease may be extended shall amortize the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease. The lease shall provide that the Commonwealth may, at the expiration of the original or any extended term, purchase the leased property at a stated price, which shall be the balance of the fair market value of the leased property as of the time the lease was entered into which has not been amortized by the payments of rent previously made by the Commonwealth.
  - (b) If the Finance and Administration Cabinet includes lease-purchase of the leased property in a lease with the federal government, the terms of the lease-purchase shall be determined through negotiations between the Commonwealth and the federal government.
- (6) Except when a lease incorporates a lease-purchase pursuant to subsection (5) of this section, the Commonwealth shall reserve the right to cancel a lease upon written notice within thirty (30) days.

**Effective:** June 21, 2001

**History:** Amended 2001 Ky. Acts ch. 58, sec. 12, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 63, sec. 4, effective July 14, 2000. -- Amended 1994 Ky. Acts ch. 44, sec. 2, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 512, sec. 6, effective July 13, 1990. -- Created 1978 Ky. Acts ch. 231, sec. 4, effective June 17, 1978.