

### **381.635 Right of condemnation of underground passageway to mine.**

Whenever it is necessary for the owner of land to have access over, under or through the land of one or more other persons, for the purpose of operating a coal mine or other mine, and marketing the products therefrom, and access over the surface of the land of such other persons, for the purpose, would be impracticable, but there exist shafts, slopes, passageways or entries below the surface of the land of such other persons, suitable for the purpose and which could be used for the purpose without undue or unreasonable inconvenience to the owner thereof, or there exist coal seams or other strata below the surface of the land of such other persons, through which shafts, slopes, passageways or entries may be made without unreasonable inconvenience to the owner thereof, the right to use, or to make and use, such shafts, slopes, passageways or entries may be condemned under the procedure set forth in the Eminent Domain Act of Kentucky, subject to the exceptions prescribed in KRS 381.636. The right of use so condemned shall include the right to install tracks, power lines, lights, ventilating equipment, and other things necessary for satisfactory use. And provided further that in any case where the rights or uses herein provided for are sought to be condemned through any land already devoted to mining purposes, if such proposed rights or uses in any wise interfere with or disrupt any approved mining methods, plans or practices, as established or projected as a part of a general plan of mining to conform to or comply with any safety provisions, rules or regulations under the existing mining laws of the state of Kentucky or of the United States of America as now in effect or hereafter enacted, such rights or uses shall be conclusively presumed to be undue and unreasonable inconvenience to the owner within the meaning of this section and KRS 381.636.

**Effective:** January 2, 1978

**History:** Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 308, effective January 2, 1978. -- Created 1948 Ky. Acts ch. 5, sec. 1.