

### **350.152 Acquisition of land by Commonwealth for reclamation purposes.**

- (1) The Commonwealth, acting by and through its Energy and Environment Cabinet, shall have the power to acquire, either by negotiation or by exercise of the power of eminent domain, land which has been affected or disturbed by strip or auger mining, or by other surface coal mining operations which consists of orphan banks or unreclaimed spoil piles.
- (2) Prior to acquiring any land pursuant to KRS 350.152 to 350.163 and KRS 350.240, the Energy and Environment Cabinet shall extend to the owners thereof an opportunity to backfill, grade, plant, and do other acts of restoration thereon to the same extent and within the same time limits as prescribed by this chapter and regulations adopted pursuant thereto. If the owner or owners agree in writing to perform such restoration and, weather permitting, start such restoration within a period of thirty (30) days, the land shall not be acquired by the Commonwealth.
- (3) The Energy and Environment Cabinet shall attempt to purchase any land which it has determined should be acquired for the purpose of restoration and which the owners have not agreed to restore as provided in subsection (2) above. In any case where the cabinet and the owners of the land are unable to agree upon the amount to be paid for the land, the cabinet may exercise the power of eminent domain against such land by filing a condemnation suit under the procedure of the Eminent Domain Act of Kentucky.
- (4) The purchase price, in the case of a negotiated acquisition, or the damages as finally determined, in the case of acquisition by condemnation, and the necessary expenses incidental thereto, shall be paid from appropriations made by the General Assembly for such purposes and appropriations to which federal funds made available for such purposes have been credited.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1881, effective July 15, 2010. -- Created 1980 Ky. Acts ch. 377, sec. 5. -- Amended 1976 Ky. Acts ch. 140, sec. 117. -- Amended 1974 Ky. Acts ch. 74, Art. III, sec. 13(2). -- Amended 1972 (1st Extra. Sess.) Ky. Acts ch. 3, sec. 74. -- Amended 1972 Ky. Acts ch. 359, sec. 1. -- Created 1966, Ky. Acts ch. 4, sec. 32.

**Legislative Research Commission Note.** The provisions of this section became operative on May 18, 1982, when the conditional approval granted by the United States Secretary of the Interior appeared in the Federal Register.