

262.918 Legal action by grantor for termination of easement.

- (1) (a) A grantor may terminate an easement, in whole or in part, only by filing an action in the Franklin Circuit Court, and demonstrating by clear and convincing evidence that conditions on or surrounding the land subject to an agricultural conservation easement have changed so much that agriculture is no longer viable and it has become impossible to fulfill any of the easement's conservation purposes. The grantor shall name the PACE Corporation as the defendant in the action.
- (b) In the event that a finding is made by the court that a portion of the land subject to the agricultural conservation easement is no longer suitable for agricultural purposes, the owner shall, at the owner's expense, provide a survey of the land area on which the agricultural conservation easement is to be terminated.
- (2) (a) No agricultural conservation easement or portion thereof which has been purchased with Commonwealth funds shall be terminated by the court except upon payment by the grantor to the PACE Corporation of its then fair value. The value of the easement shall be established by one of the following two methods, as determined by the court:
 - 1. The owner shall pay the PACE Corporation an amount equal in current dollars to the full cost of acquiring and monitoring the easement during its full duration, plus reasonable interest as determined by court; or
 - 2. The owner shall pay the PACE Corporation an amount equal to the easement's current market value as determined by independent appraisal, performed at the owner's expense and satisfactory to the Commonwealth.
- (b) The PACE Corporation shall place the proceeds from the termination of the easement in the agricultural enhancement fund and use the proceeds consistent with the purposes of KRS 262.900 to 262.920.

Effective: July 15, 1994

History: Created 1994 Ky. Acts ch. 390, sec. 28, effective July 15, 1994.