

1 SB105  
2 205496-1  
3 By Senators Whatley, Scofield and Livingston  
4 RFD: Agriculture, Conservation and Forestry  
5 First Read: 02-FEB-21  
6 PFD: 01/28/2021

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8 SYNOPSIS: Under existing law, the state and a  
9 municipal or county governing body may exercise the  
10 power of eminent domain for the purpose of  
11 constructing, maintaining, or operating streets and  
12 roadways, government buildings, and park and  
13 recreation facilities.

14 This bill would provide that for eminent  
15 domain purposes, park and recreation facilities do  
16 not include trails for biking or hiking.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

21  
22 Relating to the power of eminent domain; to amend  
23 Section 18-1B-2, Code of Alabama 1975, to provide further for  
24 the exercise of the power of eminent domain.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 18-1B-2, Code of Alabama 1975, is  
27 amended to read as follows:

1           "§18-1B-2.

2           "(a) (1) Neither the State of Alabama, nor any of its  
3 departments, divisions, agencies, commissions, corporations,  
4 boards, authorities, or other entities, nor any agency,  
5 corporation, district, board, or other entity organized by or  
6 under the control of any municipality or county in the state  
7 and vested by law to any extent whatsoever with the power of  
8 eminent domain may condemn property for the purpose of  
9 nongovernmental retail, office, commercial, residential, or  
10 industrial development or use or to primarily condemn a  
11 mortgage or deed of trust; ~~provided, however, the foregoing~~  
12 ~~provisions of this subsection shall.~~

13           "(2) Subdivision (1) does not apply to the exercise  
14 of the powers of eminent domain by any county, municipality,  
15 housing authority, or other public entity based upon a finding  
16 of blight in an area covered by any redevelopment plan or  
17 urban renewal plan pursuant to Chapters 2 and 3 of Title 24,  
18 provided the purpose of the exercise of the powers of eminent  
19 domain pursuant to Chapters 2 and 3 of Title 24 is not  
20 primarily to acquire a mortgage or deed of trust, or to the  
21 exercise of eminent domain by or for the benefit of public  
22 utilities or other entities engaged in the generation,  
23 transmission, or distribution of telephone, gas, electricity,  
24 water, sewer, or other utility products or services.

25           "(3) Nothing in this section shall be interpreted to  
26 prohibit the state or a municipal or county governing body  
27 from exercising the power of eminent domain for the purpose of

1 constructing, maintaining, or operating streets and roadways,  
2 government buildings, or park and recreation facilities. For  
3 purposes of this subdivision, park and recreation facilities  
4 do not include recreational trails for biking or hiking.

5 "(b) Property condemned by an entity described in  
6 subsection (a), if not ever used for the purpose or purposes  
7 for which it was condemned or for some other public use, that  
8 is subsequently determined to be sold, shall be first offered  
9 for sale to the person or persons from whom the property was  
10 condemned, or his or her known or ascertainable heirs or  
11 assigns, at the price which was paid for the property, less  
12 such amount, if any, as the person shall show by good and  
13 sufficient documentation to be the amount of income and  
14 transaction taxes, if any, actually paid in connection  
15 therewith, and if the offer shall not be accepted within 90  
16 days from the date it is made, the property may be sold to any  
17 other person or persons but only at public sale after legal  
18 notice is given."

19 Section 2. This act shall become effective on the  
20 first day of the third month following its passage and  
21 approval by the Governor, or its otherwise becoming law.