

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

2
3
4
5
6
7
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.