

1 SB405  
2 176827-1  
3 By Senator Shelnutt  
4 RFD: County and Municipal Government  
5 First Read: 12-APR-16

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8 SYNOPSIS: This bill would provide the territorial  
9 jurisdiction of a planning commission of a Class 8  
10 municipality that is located within five miles of  
11 the territorial jurisdiction of a planning  
12 commission of a Class 2 municipality does not  
13 extend beyond the corporate limits of the Class 8  
14 municipality.

15 This bill would preserve the right to sell  
16 property by reference to maps or plats that have  
17 already been recorded pursuant to the approval of a  
18 planning commission of a Class 8 municipality, but  
19 have been excluded from the regulatory authority of  
20 a planning commission of a Class 8 municipality  
21 pursuant to the bill.

22 This bill would also prohibit a planning  
23 commission of a Class 8 municipality from  
24 exercising regulatory authority over any  
25 subdivision development that is located within five  
26 miles of the Class 2 municipality's corporate  
27 limits.

1  
2 A BILL  
3 TO BE ENTITLED  
4 AN ACT  
5

6 Relating to planning and zoning; to amend Section  
7 11-52-30, Code of Alabama 1975, as last amended by Act  
8 2015-361, 2015 Regular Session, and Section 11-52-33.1, Code  
9 of Alabama 1975, to revise the territorial jurisdiction of a  
10 planning commission of any Class 8 municipality that is  
11 located within five miles of the territorial jurisdiction of a  
12 planning commission of a Class 2 municipality; to preserve the  
13 right to sell property by reference to maps or plats that have  
14 already been recorded pursuant to the approval of a planning  
15 commission of a Class 8 municipality, but have been excluded  
16 from the regulatory authority of a planning commission of a  
17 Class 8 municipality; and to prohibit a planning commission of  
18 a Class 8 municipality from exercising regulatory authority  
19 over any subdivision development that is located within five  
20 miles of the Class 2 municipality's corporate limits.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Section 11-52-30, Code of Alabama 1975,  
23 as last amended by Act 2015-361, 2015 Regular Session, and  
24 Section 11-52-33.1, Code of Alabama 1975, are amended to read  
25 as follows:

26 "§11-52-30.

1           "(a) Except as otherwise provided herein, the  
2 territorial jurisdiction of any municipal planning commission  
3 shall include all land located in the municipality and all  
4 land lying within five miles of the corporate limits of the  
5 municipality and not located in any other municipality; except  
6 that, in the case of any nonmunicipal land lying within five  
7 miles of more than one municipality having a municipal  
8 planning commission, the jurisdiction of each municipal  
9 planning commission shall terminate at a boundary line  
10 equidistant from the respective corporate limits of such  
11 municipalities; provided that the territorial jurisdiction of  
12 any planning commission of a Class 8 municipality shall not  
13 include any land also lying within five miles of a Class 2  
14 municipality. The territorial jurisdiction of any planning  
15 commission of a Class 8 municipality that is located within  
16 five miles of the territorial jurisdiction of a planning  
17 commission of a Class 2 municipality shall terminate at the  
18 corporate limits of the Class 8 municipality. Any alterations  
19 of a municipal planning commission based upon annexation or  
20 deannexation of property within the corporate limits of a  
21 municipality shall occur once a year on the first day of  
22 January and shall take effect for any annexations which were  
23 finalized on or before the preceding first day of October. In  
24 all counties having a population of 600,000 or more according  
25 to the 1950 federal census or any succeeding decennial federal  
26 census, the county planning and zoning commission shall be  
27 invested with the authority, except and unless the

1 municipality or municipalities in question are actively  
2 exercising zoning jurisdiction and control within the police  
3 or five mile jurisdiction or, in the case of a municipality  
4 subsequently incorporated, within 180 days from the date of  
5 its incorporation; provided, further, that in all counties  
6 having a population of 600,000 or more inhabitants according  
7 to the 1950 federal census or any succeeding decennial federal  
8 census, the county commission of the county may establish  
9 minimum specifications and regulations governing the lay-out,  
10 grading, and paving of all streets, avenues, and alleys and  
11 the construction or installation of all water, sewer, or  
12 drainage pipes or lines in any subdivision lying wholly or  
13 partly in areas outside the corporate limits of any  
14 municipality in the counties and relating to subdivisions  
15 lying within the corporate limits of any municipality in the  
16 counties which has declined or failed to exercise zoning  
17 jurisdiction and control as provided in this section.

18 "(b) A municipal planning commission, by resolution  
19 properly adopted no later than the first day of October of any  
20 year, may provide that, effective on the first day of January,  
21 the territorial jurisdiction of the municipal planning  
22 commission shall include all land lying within a radius less  
23 than the five miles permitted by this section. The resolution  
24 shall establish the territory within which the municipal  
25 planning commission will exercise jurisdiction to a boundary  
26 line equidistant from the corporate limits of the  
27 municipality, except, that in the case of any nonmunicipal

1 land lying within the territorial jurisdiction of more than  
2 one municipality with a municipal planning commission  
3 exercising jurisdiction outside the municipal corporate  
4 limits, the jurisdiction of each municipal planning commission  
5 shall terminate at a boundary line equidistant from the  
6 respective corporate limits of each municipality; provided  
7 that, the territorial jurisdiction of any planning commission  
8 of a Class 8 municipality shall not include any land also  
9 lying within five miles of a Class 2 municipality. Any  
10 resolution adopted on or before October 1, 2015, by a planning  
11 commission of a Class 8 municipality that is located within  
12 five miles of the territorial jurisdiction of a planning  
13 commission of a Class 2 municipality shall be repealed by  
14 operation of law. A copy of the resolution altering the  
15 territorial jurisdiction shall be forwarded to the county  
16 commission within five days of adoption. Additionally, nothing  
17 in this subsection shall be construed to alter the provisions  
18 of Article 5 of Chapter 49, which require a municipality to  
19 assume responsibility for roads annexed into the municipality  
20 under certain circumstances.

21 "(c) (1) If a county commission has adopted  
22 subdivision regulations pursuant to Chapter 24, those  
23 subdivision regulations shall apply to the development of  
24 subdivisions within the territorial jurisdiction of a  
25 municipal planning commission outside the corporate limits of  
26 a municipality and shall be regulated and enforced by the  
27 county commission in the same manner and to the same extent as

1 other subdivision development governed by the county's  
2 subdivision regulations. Notwithstanding the foregoing, a  
3 county commission and the municipal planning commission may  
4 enter into a written agreement providing that the municipal  
5 planning commission shall be responsible for the regulation  
6 and enforcement of the development of subdivisions within the  
7 territorial jurisdiction of the municipal planning commission  
8 under the terms and conditions of the agreement. In order to  
9 be effective, the agreement shall be approved by a resolution  
10 adopted by the county commission, the municipal governing  
11 body, and the municipal planning commission of the  
12 municipality, respectively.

13 "(2) In those counties in which the county  
14 commission has adopted subdivision regulations pursuant to  
15 Chapter 24 and the municipal planning commission has been  
16 unsuccessful in reaching an agreement to exercise its  
17 jurisdiction as provided in subdivision (1), the governing  
18 body of the municipality and the municipal planning commission  
19 may override the county's enforcement of the regulation of  
20 subdivisions within the planning jurisdiction by fully  
21 complying with all of the following requirements:

22 "a. The municipal governing body and the municipal  
23 planning commission shall each adopt separate resolutions  
24 expressing intent to exercise jurisdiction over the  
25 construction of subdivisions initiated after the effective  
26 date of the resolutions, despite the county commission's  
27 objections to the exercise of that authority.

1            "b. The municipal planning commission shall at all  
2 times thereafter employ or contract with a licensed  
3 professional engineer who shall notify the county commission  
4 of the initiation of subdivisions; conduct inspections of the  
5 construction of the subdivision; and shall certify, in  
6 writing, the compliance with the subdivision regulations  
7 governing the development of the subdivision.

8            "c. The county commission shall retain the authority  
9 to require a performance and maintenance bond from the  
10 developer, consistent with the requirements for the bonds in  
11 the county subdivision regulations, which shall be payable to  
12 the county.

13           "d. The county commission shall retain the authority  
14 to execute on the bond to make necessary improvements to the  
15 public roads and drainage structures of the subdivision while  
16 it remains in the unincorporated area of the county.

17           "e. The municipal governing body and the municipal  
18 planning commission exercising the authority granted in this  
19 subsection may thereafter withdraw their exercise of  
20 jurisdiction over future subdivisions located outside the  
21 corporate limits of the municipality after not less than six  
22 months' notice to the county commission. After withdrawal, the  
23 municipal planning commission of the municipality may not  
24 reinstate the authority granted in this subsection for 24  
25 months after the effective date of its withdrawal.

26           "(d) If a county commission has not adopted  
27 subdivision regulations pursuant to Chapter 24, the municipal



1 planning commission shall have sole jurisdiction for the  
2 regulation and enforcement of the development of subdivisions  
3 within the territorial jurisdiction of the municipal planning  
4 commission.

5 "(e) If the municipal planning commission accepts  
6 responsibility for the development of a subdivision within its  
7 territorial jurisdiction as provided in subsection (c), the  
8 county commission shall not accept any roads or bridges within  
9 the subdivision for county maintenance unless the county  
10 engineer certifies to the county commission that the road or  
11 bridge meets the minimum road and bridge standards of the  
12 county. This section shall not apply to any roads or bridges  
13 which the county has accepted for maintenance prior to October  
14 1, 2012.

15 "(f) If the county commission is responsible for the  
16 regulation and enforcement of a subdivision development within  
17 the territorial jurisdiction of a municipal planning  
18 commission outside the corporate limits of a municipality, the  
19 recording of any map or plat related to the subdivision shall  
20 be governed by Chapter 24.

21 "(g) (1) If the municipal planning commission is  
22 responsible for the regulation and enforcement of a  
23 subdivision development within the territorial jurisdiction of  
24 the municipal planning commission outside the corporate limits  
25 of the municipality, no map or plat of any subdivision shall  
26 be recorded, and no property shall be sold referenced to the  
27 map or plat, until and unless it has been first submitted to

1 and approved by the municipal planning commission, pursuant to  
2 Section 11-52-32 and its adopted procedures, and then  
3 certified by the county engineer or his or her designee as  
4 follows within 30 days of being submitted to the county  
5 engineer: "The undersigned, as County Engineer of the County  
6 of \_\_\_\_\_ of Alabama, hereby certifies on this \_\_\_\_\_ day  
7 of \_\_\_\_\_, 20\_\_\_\_, that the \_\_\_\_\_ Planning Commission  
8 approved the within plat for the recording of same in the  
9 Probate Office of \_\_\_\_\_ County, Alabama."

10 "(2) The right to sell property by reference to a  
11 map or plat that has been properly recorded pursuant to the  
12 approval of a planning commission of a Class 8 municipality  
13 shall not be affected by the subsequent assumption of  
14 responsibility for the regulation and enforcement of the  
15 subdivision development by a planning commission of a Class 2  
16 municipality or by a county commission.

17 "(h) Approval by the county engineer pursuant to  
18 this subsection shall not constitute approval in lieu of or on  
19 behalf of any municipality with respect to subdivision  
20 development regulated and enforced by the municipal planning  
21 commission, wherein all maps or plats must be first submitted  
22 to and approved by the municipal planning commission or other  
23 appropriate municipal agency exercising jurisdiction over the  
24 subdivision.

25 "(i) Nothing in this section shall be interpreted as  
26 allowing a municipal planning commission or a municipality to

1 exercise the power of eminent domain outside of its corporate  
2 limits.

3 "(j) Nothing in this section shall be interpreted as  
4 allowing a municipal planning commission or a municipality to  
5 levy taxes or fees outside of its corporate limits.

6 "(k) Nothing in this section shall limit or impair  
7 the authority of a municipality to regulate the construction  
8 of buildings within the police jurisdiction of the  
9 municipality, including, but not limited to, the issuing of  
10 building permits, the inspection of building construction, and  
11 the enforcement of building codes.

12 "(l) Nothing in this section shall be construed to  
13 grant the county commission or county engineer the authority  
14 to regulate subdivision development or approve maps or plats  
15 for any developments within the corporate limits of a  
16 municipality.

17 "§11-52-33.1.

18 "(a) (1) Except as provided in subdivision (2),  
19 Sections 11-52-1, 11-52-30, 11-52-31, 11-52-32, and 11-52-33  
20 shall not affect any application for development or any  
21 subdivision filed prior to October 1, 2012.

22 "(2) A planning commission of a Class 8 municipality  
23 shall not exercise regulatory authority over any subdivision  
24 development that is located within five miles of the Class 2  
25 municipality's corporate limits, including those that were  
26 regulated by a planning commission of a Class 8 municipality  
27 on the effective date of the act amending this section.

1           "(b) Additionally, in the event the municipal  
2 planning commission lawfully assumes the authority to exercise  
3 control over the development of subdivisions in an area where  
4 the county commission has previously exercised regulation of  
5 subdivision development, the municipal planning commission's  
6 regulatory authority shall not apply to a subdivision  
7 development which is already being regulated and enforced by  
8 the county commission pursuant to an application for plat  
9 approval submitted to the county commission by the developer  
10 prior to the date on which the municipal planning commission  
11 lawfully assumed responsibility for the development of  
12 subdivisions pursuant to this chapter.

13           "(c) Nothing contained in Sections 11-52-1,  
14 11-52-30, 11-52-31, 11-52-32, and 11-52-33 requires a  
15 municipality to assume responsibility for roads or  
16 infrastructure in subdivisions approved by the city engineer  
17 outside the municipal corporate limits or alters, amends, or  
18 supersedes the requirements relating to responsibility for  
19 road and bridge maintenance pursuant to Section 11-49-80.

20           "(d) Nothing contained in Sections 11-52-1,  
21 11-52-30, 11-52-31, 11-52-32, and 11-52-33 shall be construed  
22 to effect or limit the authority conferred by Sections  
23 37-4-130 and 37-4-131."

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