**South Carolina General Assembly**

118th Session, 2009-2010

**S. 91**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Ford

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Introduced in the Senate on January 13, 2009

Currently residing in the Senate Committee on **Judiciary**

Summary: Eminent domain

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/10/2008 Senate Prefiled

12/10/2008 Senate Referred to Committee on **Judiciary**

1/13/2009 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑113

1/13/2009 Senate Referred to Committee on **Judiciary** [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑113

2/26/2009 Scrivener's error corrected

**VERSIONS OF THIS BILL**

[12/10/2008](file:///p:\pprever\2009-10\91_20081210.docx)

[2/26/2009](file:///p:\pprever\2009-10\91_20090226.docx)

**A** **BILL**

TO AMEND SECTION 4‑9‑30, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A COUNTY’S POWER OF EMINENT DOMAIN, SO AS TO DELETE A PROVISION AUTHORIZING COUNTIES TO EXERCISE THE POWER OF EMINENT DOMAIN FOR SLUM CLEARANCE AND REDEVELOPMENT; TO AMEND SECTION 5‑7‑50, RELATING TO A MUNICIPALITY’S POWER OF EMINENT DOMAIN, SO AS TO DELETE A PROVISION AUTHORIZING MUNICIPALITIES TO EXERCISE THE POWER OF EMINENT DOMAIN FOR SLUM CLEARANCE AND REDEVELOPMENT; TO AMEND SECTION 28‑2‑60, RELATING TO THE APPLICATION OF THE EMINENT DOMAIN PROCEDURE ACT, SO AS TO SPECIFY CIRCUMSTANCES THAT ARE NOT PUBLIC USE AND DO NOT JUSTIFY CONDEMNATION OF PROPERTY; AND TO AMEND SECTION 28‑2‑210, RELATING TO ACTIONS IN CONDEMNATION, SO AS TO REFERENCE THE CIRCUMSTANCES THAT ARE NOT PUBLIC USE AND DO NOT JUSTIFY CONDEMNATION OF PROPERTY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION Section 4‑9‑30(15) of the 1976 Code is amended to read:

“(15) ~~to undertake and carry out slum clearance and redevelopment work in areas which are predominantly slum or blighted, the preparation of such areas for reuse, and the sale or other disposition of such areas to private enterprise for private uses or to public bodies for public uses and to that end the General Assembly delegates to any county the right to exercise the power of eminent domain as to any property essential to the plan of slum clearance and redevelopment. Any county may acquire air rights or subsurface rights, both as hereinafter defined, by any means permitted by law for acquisition or real estate, including eminent domain, and may dispose of air rights and subsurface rights regardless of how or for what purpose acquired for public use by lease, mortgage, sale, or otherwise. Air rights shall mean estates, rights, and interests in the space above the surface of the ground or the surface of streets, roads, or rights‑of‑way including access, support, and other appurtenant rights required for the utilization thereof~~ Reserved;”

SECTION 2. Section 5‑7‑50 of the 1976 Code is amended to read:

“Section 5‑7‑50. ~~Any~~ A municipality desiring to become the owner of ~~any~~ land or to acquire any easement or right‑of‑way ~~therein~~ in it for ~~any~~ an authorized corporate or public purpose s~~hall have the right to~~ may condemn ~~such~~ the land or right‑of‑way or easement, subject to the general law of this State, within and without the corporate limits in the county in which it is situated and in ~~any~~ adjoining county or counties. This authority ~~shall~~ does not apply to ~~any~~ property devoted to public use; ~~provided, however~~ except that, the property of ~~corporations~~ a corporation not for profit organized ~~under the provisions of~~ pursuant to Chapter 35 of Title 33, ~~shall~~ is not ~~be~~ subject to condemnation unless the municipality in which ~~their~~ its service area is located intends to make comparable water service available in ~~such~~ the service area and ~~such~~ the condemnation is for that purpose. After ~~any such~~ condemnation, the municipality ~~shall assume~~ assumes all obligations of the corporation related to the property and the facilities ~~thereon~~ on it which were condemned. ~~Provided, however, that any incorporated municipality, or any housing or redevelopment authority now existing or hereafter established to function, may undertake and carry out slum clearance and redevelopment work in areas which are predominately slum or blighted, the preparation of such areas for reuse, and the sale or other disposition of such areas to private enterprise or to public bodies for public uses and to that end the General Assembly delegates to any incorporated municipality, or such authorities, the right to exercise the power of eminent domain as to any property essential to the plan of slum clearance and redevelopment. Any incorporated municipality, political subdivision or authority may acquire air rights or subsurface rights, both as hereinafter defined, by any means permitted by law for acquisition of real estate, including eminent domain, and may dispose of air rights and subsurface rights regardless of who or for what purpose acquired for private or public use by lease, mortgage, sale or otherwise. Air rights shall mean estates, rights and interests in the space above the surface of the ground or the surface of streets, roads, or rights‑of‑ways including access, support and other appurtenant rights required for the utilization thereof. Subsurface rights shall mean estates, rights and interests in the space below the surface of the ground or the surface of streets, roads, or rights‑of‑way including access, support and other appurtenant rights required for the utilization thereof.~~”

SECTION 3. Section 28‑2‑60 of the 1976 Code is amended to read:

“Section 28‑2‑60. (A) A condemnor may commence an action ~~under~~ pursuant to this chapter for the acquisition of an interest in ~~any~~ real property necessary for ~~any~~ a public ~~purpose~~ use in compliance with Article I, Section 13 of the Constitution of the State of South Carolina, 1895, and subsection (C) of this section.

(B) The provisions of this chapter ~~shall~~ constitute the exclusive procedure ~~whereby~~ by which condemnation is authorized and may be undertaken in this State.

(C) Notwithstanding another provision of law, the items listed in this subsection are not public uses and a condemnor may not condemn property for:

(1) purposes of private retail, office, commercial, industrial, or residential development;

(2) enhancement of tax revenue; or

(3) transfer to a private person, nongovernmental entity, or public‑private partnership, corporation, or other business entity.”

SECTION 4. Section 28‑2‑210 of the 1976 Code is amended to read:

“Section 28‑2‑210. (A) ~~Any~~ A condemnor may institute an action ~~under~~ pursuant to this chapter for the acquisition of an interest in ~~any~~ real property necessary for ~~any~~ a public ~~purpose~~ use in compliance with Article I, Section 13 of the Constitution of the State of South Carolina, 1895, and Section 28‑2‑60(C).

(B) The provisions of this act ~~constitute~~ are the exclusive procedure ~~whereby~~ by which condemnation is authorized and may be undertaken in this State.”

SECTION 5. This act takes effect upon approval by the Governor.

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