

House Bill 1318

By: Representatives Dollar of the 45th, Barnard of the 166th, Cheokas of the 134th, Roberts of the 154th, and McCall of the 30th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 3 of Chapter 6 of Title 32 of the Official Code of Georgia
2 Annotated, relating to the state highway system, so as to provide for relocation and
3 reconstruction agreements relating to lawfully erected outdoor advertising signs under certain
4 circumstances; to provide for just compensation for sign removal; to provide for relation to
5 eminent domain proceedings; to provide for applicability; to revise certain provisions relating
6 to interest and losses that may be compensable in the exercise of eminent domain for the
7 acquisition of interests in outdoor advertising signs; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Part 2 of Article 3 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated,
12 relating to the state highway system, is amended by adding a new Code section to read as
13 follows:

14 "32-6-83.1.

15 (a) As used in this Code section, the term 'relocation and reconstruction agreement' means
16 a consensual, contractual agreement between a sign owner and the department or a
17 municipality or county for either the reconstruction of an existing sign or the removal of
18 a sign and construction of a new sign to substitute for the sign removed.

19 (b) The department, municipalities, and counties are specifically empowered to enter into
20 relocation and reconstruction agreements on whatever terms are agreeable to the sign
21 owner and the department or the municipality or county involved and to provide for
22 relocation and reconstruction of signs by agreement, ordinance, or resolution.

23 (c) Except as otherwise provided in this Code section, neither the department nor any
24 municipality or county shall remove, or cause to be removed, any lawfully erected sign
25 located along any portion of the state highway system or any county road system or
26 municipal street system without first paying just compensation for such removal as

1 determined by agreement between the parties or through eminent domain proceedings.
2 Except as otherwise provided in this Code section, no municipality, county, or other
3 governmental entity may cause in any way the alteration of any lawfully erected sign
4 located along any portion of the interstate, federal-aid primary or other highway system,
5 or any other road without first paying just compensation for such alteration as determined
6 by agreement between the parties or through eminent domain proceedings. The provisions
7 of this Code section shall not apply to any ordinance the validity, constitutionality, and
8 enforceability of which the owner has by written agreement waived all right to challenge.

9 (d) In the event that the department or a municipality or county undertakes a public project
10 or public goal requiring alteration or removal of any lawfully erected sign, the department,
11 municipality, or county shall notify the owner of the affected sign in writing of the public
12 project or goal and of the intention of the department, municipality, or county to seek such
13 alteration or removal. Within 30 days after receipt of the notice, the owner of the sign and
14 the department, municipality, or county shall attempt to meet for purposes of negotiating
15 and executing a relocation and reconstruction agreement as provided for in subsection (b)
16 of this Code section.

17 (e) If the parties fail to enter into a relocation and reconstruction agreement within 120
18 days after the initial notification by the department, municipality, or county, either party
19 may request mandatory nonbinding arbitration to resolve the disagreements between the
20 parties. Each party shall select an arbitrator, and the individuals so selected shall choose
21 a third arbitrator. The three arbitrators shall constitute the panel that shall arbitrate the
22 dispute between the parties and, at the conclusion of the proceedings, shall present to the
23 parties a proposed relocation and reconstruction agreement that the panel believes equitably
24 balances the rights, interests, obligations, and reasonable expectations of the parties. If the
25 department, municipality, or county and the sign owner accept the proposed relocation and
26 reconstruction agreement, the department, municipality, or county and the sign owner shall
27 each pay its respective costs of arbitration and shall pay one-half of the costs of the
28 arbitration panel, unless the parties otherwise agree.

29 (f) If the parties do not enter into a relocation and reconstruction agreement, the
30 department, municipality, or county may proceed with the public project or purpose and
31 the alteration or removal of the sign only after first paying just compensation for such
32 alteration or removal as determined by agreement between the parties or through eminent
33 domain proceedings.

34 (g) The requirement by a municipality or county that a lawfully erected sign be removed
35 or altered as a condition precedent to the issuance or continued effectiveness of a
36 development permit constitutes a compelled removal that is prohibited without prior
37 payment of just compensation under subsection (c) of this Code section. This subsection

1 shall not apply when the owner of the land on which the sign is located is seeking to have
2 the property rezoned for exclusively single-family residential use.

3 (h) The requirement by the department or a municipality or county that a lawfully erected
4 sign be altered or removed from the premises upon which it is located incident to the
5 voluntary acquisition of such property by the department, municipality, or county
6 constitutes a compelled removal that is prohibited without payment of just compensation
7 under subsection (c) of this Code section.

8 (i) Nothing in this Code section shall prevent the department or a municipality or county
9 from acquiring a lawfully erected sign through eminent domain or from prospectively
10 regulating the placement, size, height, or other aspects of new signs within such entity's
11 jurisdiction, including the prohibition of new signs, unless otherwise authorized pursuant
12 to this Code section. Nothing in this Code section shall impair any ordinance or provision
13 of any ordinance not inconsistent with this Code section, including a provision that creates
14 a ban or partial ban on new signs, nor shall this Code section create any new rights for any
15 party other than the owner of a sign, the owner of the land upon which it is located, or the
16 department or a municipality or county as expressed in this Code section.

17 (j) This Code section shall apply only to a lawfully erected sign the subject matter of
18 which relates to premises other than the premises on which it is located or to merchandise,
19 services, activities, or entertainment not sold, produced, manufactured, or furnished on the
20 premises on which the sign is located.

21 (k) This Code section shall not apply to any actions taken by the department that relate to
22 the operation, maintenance, or expansion of transportation facilities, nor shall it affect the
23 provisions of Article 1 of Chapter 3 of this title regarding eminent domain relating to the
24 department.

25 (l) Nothing in this Code section shall impair or affect any written agreement existing prior
26 to July 1, 2008, including, but not limited to, any settlement agreements reliant upon the
27 legality or enforceability of local ordinances. The provisions of this Code section shall not
28 apply to any signs that are required to be removed by a date certain in areas designated by
29 local ordinance as view corridors if the local ordinance creating the view corridors was
30 enacted in part to effectuate a consensual agreement between the local government and two
31 or more sign owners prior to July 1, 2008, nor shall this Code section apply to any
32 municipality with an ordinance that prohibits billboards and has two or fewer billboards
33 located within its current boundaries or its future annexed properties.

34 (m) Subsection (g) of this Code section shall not apply when the development permit
35 authorizes construction of a replacement sign that cannot be erected without the removal
36 of the lawfully erected sign being replaced."

SECTION 2.

Said part is further amended by revising Code Section 32-6-84, relating to interests and losses that may be compensable in the exercise of eminent domain for the acquisition of interests in outdoor advertising signs, as follows:

"32-6-84.

The just compensation provided for in Code Sections 32-6-82 ~~and~~, 32-6-83, and 32-6-83.1 is authorized to be paid only for the following:

(1) The taking from the owner of such sign, display, or device of all right, title, leasehold, and interest in such sign, display, or device;

(2) The taking from the owner of the real property on which the sign, display, or device is located of the right to erect and maintain such signs, displays, and devices thereon;

(3) The actual financial loss suffered by the lessee under a written lease expressly and solely permitting the erection and maintenance of a sign, display, or device (which was lawful on the date such lease was executed) because of the refusal by the department to issue a permit for the erection of such sign, display, or device, provided that the amount of compensation paid may not exceed the pro rata part of the entire rental paid and to be paid under such lease for the unelapsed portion thereof remaining on July 1, 1973; or

(4) The actual financial loss suffered by the lessor under a written lease expressly and solely permitting the erection and maintenance of a sign, display, or device (which was lawful on the date such lease was executed) because of the refusal by the department to issue a permit for the erection of such sign, display, or device, provided that the amount of compensation paid may not exceed the pro rata part of the entire rental paid and to be paid under such lease for the unelapsed portion thereof remaining on July 1, 1973."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.