

1 SB40
2 188591-1
3 By Senator Ward
4 RFD: Judiciary
5 First Read: 09-JAN-18
6 PFD: 01/02/2018

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8 SYNOPSIS: This bill would provide that when the
9 Department of Transportation files a condemnation
10 action to condemn property pursuant to eminent
11 domain and the final condemnation award, excluding
12 interest, exceeds the department's last written
13 offer to the condemnee by more than five percent,
14 the department must pay the condemnee's reasonable
15 attorney, appraisal, and engineering fees.

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17 A BILL
18 TO BE ENTITLED
19 AN ACT

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21 To amend Section 18-1A-293, Code of Alabama 1975,
22 relating to certain costs in eminent domain condemnation
23 proceedings; to require the Department of Transportation to
24 reimburse certain fees of the condemnee under certain
25 conditions.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 18-1A-293 of the Code of Alabama
2 1975, is amended to read as follows:

3 "§18-1A-293.

4 "(a) The Except as provided in subsection (b), the
5 costs of the complaint and proceedings thereunder up to and
6 through the entry of final judgment, including the
7 compensation of commissioners, must be adjudged and assessed
8 against the plaintiff and its surety for costs for which
9 execution may issue. The commissioner's fees in every case
10 shall be set and determined by the probate judge and entered
11 by separate order by the probate judge.

12 "(b) In a condemnation action by the Department of
13 Transportation, the department shall pay the condemnee's
14 reasonable attorney, appraisal, and engineering fees if the
15 probate or circuit court's award exceeds the department's last
16 written offer by five percent or more, excluding interest. The
17 condemnee shall submit a petition for an award of fees within
18 30 days of the court's final order. The court shall hold a
19 hearing to determine the award."

20 Section 2. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.