

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE DRS35014-ML-28A* (01/08)

Short Title: Eminent Domain. (Public)

Sponsors: Senator B. Jackson (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROHIBIT
3 CONDEMNATION OF PRIVATE PROPERTY EXCEPT FOR A PUBLIC USE, TO
4 PROVIDE FOR THE PAYMENT OF JUST COMPENSATION WITH RIGHT OF TRIAL
5 BY JURY IN ALL CONDEMNATION CASES, AND TO MAKE SIMILAR
6 STATUTORY CHANGES.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Article I of the North Carolina Constitution is amended by adding a
9 new section to read:

10 **"Sec. 19.1. Eminent domain.**

11 Private property shall not be taken by eminent domain except for a public use. Just
12 compensation shall be paid and shall be determined by a jury at the request of any party."

13 **SECTION 2.** The amendment set out in Section 1 of this act shall be submitted to
14 the qualified voters of the State at a statewide election to be conducted on May 3, 2016, which
15 election shall be conducted under the laws then governing elections in the State. Ballots, voting
16 systems, or both may be used in accordance with Chapter 163 of the General Statutes. The
17 question to be used in the voting systems and ballots shall be:

18 "[] FOR [] AGAINST

19 Constitutional amendment to prohibit condemnation of private property except for a
20 public use and to provide for the payment of just compensation with right of trial by jury in all
21 condemnation cases."

22 **SECTION 3.** If a majority of votes cast on the question are in favor of the
23 amendment set out in Section 1 of this act, the State Board of Elections shall certify the
24 amendment to the Secretary of State. The Secretary of State shall enroll the amendment so
25 certified among the permanent records of that office. The amendment set out in Section 1 of
26 this act becomes effective upon certification and applies to takings after that date.

27 **SECTION 4.(a)** G.S. 40A-3(a) reads as rewritten:

28 "(a) Private Condemnors. – For the public use ~~or benefit, use,~~ the persons or
29 organizations listed below shall have the power of eminent domain and may acquire by
30 purchase or condemnation property for the stated purposes and other works which are
31 authorized by ~~law-law:~~

32 (1) Corporations, bodies politic or persons have the power of eminent domain
33 for the construction of railroads, power generating facilities, substations,
34 switching stations, microwave towers, roads, alleys, access railroads,
35 turnpikes, street railroads, plank roads, tramroads, canals, ~~telegraphs,~~
36 ~~telephones, communication facilities,~~ electric power lines, electric lights,



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public water supplies, public sewerage systems, flumes, bridges, facilities related to the distribution of natural gas, and pipelines or mains originating in North Carolina for the transportation of petroleum products, coal, natural gas, limestone or minerals. Land condemned for any liquid pipelines shall:

a. Not be less than 50 feet nor more than 100 feet in width; and

b. Comply with the provisions of G.S. 62-190(b).

The width of land condemned for any natural gas pipelines shall not be more than 100 feet.

...."

SECTION 4.(b) G.S. 40A-3(b) reads as rewritten:

"(b) Local Public Condemnors – Standard Provision. – For the public ~~use or benefit~~, use, the governing body of each municipality or county shall possess the power of eminent domain and may acquire by purchase, gift or condemnation any property, either inside or outside its boundaries, for the following ~~purposes~~ purposes:

...."

SECTION 4.(c) G.S. 40A-3(b1) reads as rewritten:

"(b1) Local Public Condemnors – Modified Provision for Certain Localities. – For the public ~~use or benefit~~, use, the governing body of each municipality or county shall possess the power of eminent domain and may acquire by purchase, gift or condemnation any property or interest therein, either inside or outside its boundaries, for the following ~~purposes~~ purposes:

...."

SECTION 4.(d) G.S. 40A-3(c) reads as rewritten:

"(c) Other Public Condemnors. – For the public ~~use or benefit~~, use, the following political entities shall possess the power of eminent domain and may acquire property by purchase, gift, or condemnation for the stated ~~purposes~~ purposes:

...."

SECTION 5. G.S. 40A-3 is amended by adding a new subsection to read:

"(d) Connection of Customers. – For the public use, private condemnors, local public condemnors, and other public condemnors in subsections (a), (b), (b1), and (c) of this section shall possess the power of eminent domain and may acquire by purchase, gift, or condemnation any property for the connection of any customer or customers."

SECTION 6. Sections 4 and 5 of this act become effective when this act becomes law and apply to takings occurring on or after that date. The remainder of this act is effective when it becomes law.