

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

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HOUSE BILL 3  
PROPOSED COMMITTEE SUBSTITUTE H3-PCS40073-TG-2

Short Title: Eminent Domain.

(Public)

Sponsors:

Referred to:

January 26, 2017

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

**"Sec. 38. Eminent domain.**

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

**SECTION 2.** The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at a statewide election to be conducted on November 6, 2018, which election shall be conducted under the laws then governing elections in the State. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

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

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

**SECTION 4.** G.S. 40A-3 reads as rewritten:

**"§ 40A-3. By whom right may be exercised.**

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

- (1) Corporations, bodies politic or persons have the power of eminent domain for the construction of railroads, power generating facilities, substations, switching stations, microwave towers, roads, alleys, access railroads, turnpikes, street railroads, plank roads, tramroads, canals, ~~telegraphs, telephones,~~ communication facilities, electric power lines, electric lights, public water supplies, public sewerage systems, flumes, bridges, facilities related to the distribution of



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1 natural gas, and pipelines or mains originating in North Carolina for the  
2 transportation of petroleum products, coal, natural gas, limestone or minerals.  
3 Land condemned for any liquid pipelines ~~shall~~ shall meet both of the following  
4 requirements:

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

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

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

9 ...

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

14 ...

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

19 ...

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

23 ...

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

28 **SECTION 5.** Section 4 of this act is effective when it becomes law and applies to  
29 takings occurring on or after that date. The remainder of this act is effective when it becomes law.