

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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SENATE BILL DRS45099-ML-28A

Short Title: Private Condemnation/Withdraw Deposit. (Public)

Sponsors: Senators Sawrey, Craven, and B. Newton (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW DISBURSEMENT WITHOUT PREJUDICE OF ALL OR A PORTION  
3 OF THE DEPOSIT MADE BY A CONDEMNOR IN A PRIVATE CONDEMNATION  
4 PROCEEDING.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 40A-28 reads as rewritten:

7 "§ 40A-28. **Exceptions to report; hearing; when title vests; appeal; restitution.**

8 ...

9 (d) Notwithstanding the filing of exceptions by any party to any orders or final  
10 determination of the clerk or the filing of a notice of appeal to the superior court, the condemnor  
11 may, at the time of the filing of the report of commissioners, deposit with the clerk of superior  
12 court in the proceedings the sum appraised by the commissioners and, in that event, the  
13 condemnor may enter, take possession of, and hold said property in the manner and to the extent  
14 sought to be acquired by the proceedings until final judgment is rendered on any appeal.

15 (d1) Where there is no dispute as to title, the person named in the complaint may apply to  
16 the court for disbursement of the money deposited in the court, or any part thereof, as full  
17 compensation or as a credit against just compensation without prejudice to further proceedings  
18 in the cause to determine just compensation. Upon such application, the judge or clerk shall order  
19 that the money deposited be paid forthwith to the person entitled thereto in accordance with the  
20 application. The judge or clerk shall have power to make such orders with respect to  
21 encumbrances, liens, rents, taxes, assessments, insurance, and other charges, if any, as shall be  
22 just and equitable.

23 No notice to the condemnor of the hearing upon the application for disbursement of deposit  
24 shall be necessary.

25 (e) If, on appeal, the judge shall refuse to condemn the property, then the money  
26 deposited with the clerk of court in the proceedings, or so much thereof as shall be adjudged,  
27 shall be refunded to the condemnor and the condemnor shall have no right to the property and  
28 shall surrender possession of the same, on demand, to the owner. The judge shall have full power  
29 and authority to make such orders, judgments and decrees as may be necessary to carry into effect  
30 the final judgment rendered in such proceedings, including compensation in accordance with the  
31 provisions of G.S. 40A-8.

32 ...."

33 SECTION 2. This act becomes effective October 1, 2023, and applies to  
34 condemnation proceedings initiated on or after that date.

