

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023**

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**SENATE BILL 228  
PROPOSED COMMITTEE SUBSTITUTE S228-PCS45196-TG-7**

Short Title: Private Condemnation/Withdraw Deposit.

(Public)

Sponsors:

Referred to:

March 9, 2023

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

The General Assembly of North Carolina enacts:

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

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

...

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

(d1) Where there is no dispute as to title, and where the person named in the complaint does not challenge the condemnor's right to acquire the property, the person named in the complaint may apply to the court for disbursement of the money deposited in the court, or any part thereof, as full compensation or as a credit against just compensation without prejudice to further proceedings in the cause to determine just compensation. Upon such application, the judge or clerk shall order that the money deposited be paid forthwith to the person entitled thereto in accordance with the application. The judge or clerk shall have power to make such orders with respect to encumbrances, liens, rents, taxes, assessments, insurance, and other charges, if any, as shall be just and equitable.

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

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

...."

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

