

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL DRS35151-MLy-19

Short Title: Eminent Domain. (Public)

Sponsors: Senators B. Jackson, Edwards, and Sanderson (Primary Sponsors).

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 STATUTORY
6 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. 39. 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 the general election in 2022, which election shall be conducted
15 under the laws then governing elections in the State. Ballots, voting systems, or both may be used
16 in accordance with Chapter 163 of the General Statutes. The question to be used in the voting
17 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 amendment
23 set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the
24 Secretary of State. The Secretary of State shall enroll the amendment so certified among the
25 permanent records of that office. The amendment set out in Section 1 of this act becomes
26 effective upon certification and applies to takings after that date.

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

28 "**§ 40A-3. By whom right may be exercised.**

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

32 (1) Corporations, bodies politic or persons have the power of eminent domain for
33 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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1 public water supplies, public sewerage systems, flumes, bridges, facilities
2 related to the distribution of natural gas, and pipelines or mains for the
3 transportation of petroleum products, coal, natural gas, limestone or minerals.
4 Land condemned for any liquid pipelines ~~shall~~shall meet both of the
5 following requirements:

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

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

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

10 ...

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

15 ...

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

20 ...

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

24 ...

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

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