

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 19

Short Title: Pine Knoll Shores/Indian Beach Condemnation.

(Local)

Sponsors: Representative Smith.

Referred to: Rules, Calendar, and Operations of the House.

January 30, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO ALLOW THE TOWNS OF PINE KNOLL SHORES AND INDIAN
3 BEACH TO EXERCISE THE POWER OF EMINENT DOMAIN FOR PURPOSES
4 OF ENGAGING IN BEACH EROSION CONTROL AND FLOOD AND
5 HURRICANE PROTECTION WORKS AND PUBLIC BEACH ACCESS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 40A-3(b) reads as rewritten:

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

- 12 (1) Opening, widening, extending, or improving roads, streets, alleys, and
13 sidewalks. The authority contained in this subsection is in addition to
14 the authority to acquire rights-of-way for streets, sidewalks and
15 highways under Article 9 of Chapter 136. The provisions of this
16 subdivision (1) shall not apply to counties.
- 17 (2) Establishing, extending, enlarging, or improving any of the public
18 enterprises listed in G.S. 160A-311 for cities, or G.S. 153A-274 for
19 counties.
- 20 (3) Establishing, enlarging, or improving parks, playgrounds, and other
21 recreational facilities.
- 22 (4) Establishing, extending, enlarging, or improving storm sewer and
23 drainage systems and works, or sewer and septic tank lines and
24 systems.
- 25 (5) Establishing, enlarging, or improving hospital facilities, cemeteries, or
26 library facilities.

- 1 (6) Constructing, enlarging, or improving city halls, fire stations, office
2 buildings, courthouse jails and other buildings for use by any
3 department, board, commission or agency.
- 4 (7) Establishing drainage programs and programs to prevent obstructions
5 to the natural flow of streams, creeks and natural water channels or
6 improving drainage facilities. The authority contained in this
7 subdivision is in addition to any authority contained in Chapter 156.
- 8 (8) Acquiring designated historic properties, designated as such before
9 October 1, 1989, or acquiring a designated landmark designated as
10 such on or after October 1, 1989, for which an application has been
11 made for a certificate of appropriateness for demolition, in pursuance
12 of the purposes of G.S. 160A-399.3, Chapter 160A, Article 19, Part
13 3B, effective until October 1, 1989, or G.S. 160A-400.14, whichever is
14 appropriate.
- 15 (9) Opening, widening, extending, or improving public wharves.
- 16 (10) Engaging in or participating with other governmental entities in
17 acquiring, constructing, reconstructing, extending, or otherwise
18 building or improving beach erosion control or flood and hurricane
19 protection works, including, but not limited to, the acquisition of any
20 property that may be required as a source for beach renourishment.
- 21 (11) Establishing access for the public to public trust beaches and
22 appurtenant parking areas.

23 The board of education of any municipality or county or a combined board may
24 exercise the power of eminent domain under this Chapter for purposes authorized by
25 other statutes.

26 The power of eminent domain shall be exercised by local public condemners under
27 the procedures of Article 3 of this Chapter."

28 **SECTION 2.** G.S. 40A-42(a) reads as rewritten:

29 "(a) When a local public condemner is acquiring property by condemnation for a
30 purpose set out in G.S. 40A-3(b)(1), ~~(4) or (7), (4), (7), (10), or (11)~~, or when a city is
31 acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3), (4), (6), or (7), or
32 when a county is acquiring property for a purpose set out in G.S. 153A-274(1), (2) or
33 (3), or when a local board of education or any combination of local boards of education
34 is acquiring property for any purpose set forth in G.S. 115C-517, or when a condemner
35 is acquiring property by condemnation as authorized by G.S. 40A-3(c)(8), (9), (10) or
36 (12), title to the property and the right to immediate possession shall vest pursuant to
37 this subsection. Unless an action for injunctive relief has been initiated, title to the
38 property specified in the complaint, together with the right to immediate possession
39 thereof, shall vest in the condemner upon the filing of the complaint and the making of
40 the deposit in accordance with G.S. 40A-41."

41 **SECTION 3.** This act applies only to the Towns of Pine Knoll Shores and
42 Indian Beach.

43 **SECTION 4.** This act is effective when it becomes law.