

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 19
Committee Substitute Favorable 2/28/01
Third Edition Engrossed 3/26/01
Senate Finance Committee Substitute Adopted 4/11/01

Short Title: Certain Counties and Towns Condemnations.

(Local)

Sponsors:

Referred to:

January 30, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO ALLOW CARTERET COUNTY, DARE COUNTY, AND THE TOWNS
3 OF INDIAN BEACH, KILL DEVIL HILLS, KITTY HAWK, NAGS HEAD,
4 NORTH TOPSAIL BEACH, PINE KNOLL SHORES, SURF CITY, TOPSAIL
5 BEACH, AND WRIGHTSVILLE BEACH TO EXERCISE THE POWER OF
6 EMINENT DOMAIN FOR PURPOSES OF ENGAGING IN BEACH EROSION
7 CONTROL AND FLOOD AND HURRICANE PROTECTION WORKS AND
8 PUBLIC BEACH ACCESS.

9 The General Assembly of North Carolina enacts:

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

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

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

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

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

28 The power of eminent domain shall be exercised by local public condemnors under
29 the procedures of Article 3 of this Chapter."

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

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

1 **SECTION 3.** This act applies only to Carteret County, Dare County, and the
2 Towns of Indian Beach, Kill Devil Hills, Kitty Hawk, Nags Head, North Topsail Beach,
3 Pine Knoll Shores, Surf City, Topsail Beach, and Wrightsville Beach.

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