

**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  
Fifth Edition Engrossed 4/19/01**

Short Title: Certain Counties and Towns Condemnations.

(Local)

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Sponsors:

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Referred to:

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January 30, 2001

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW CAROLINA BEACH, CARTERET COUNTY, DARE  
2 COUNTY, AND THE TOWNS OF INDIAN BEACH, KILL DEVIL HILLS,  
3 KITTY HAWK, KURE BEACH, NAGS HEAD, NORTH TOPSAIL BEACH,  
4 PINE KNOLL SHORES, SURF CITY, TOPSAIL BEACH, AND  
5 WRIGHTSVILLE BEACH TO EXERCISE THE POWER OF EMINENT  
6 DOMAIN FOR PURPOSES OF ENGAGING IN BEACH EROSION CONTROL  
7 AND FLOOD AND HURRICANE PROTECTION WORKS AND PUBLIC  
8 BEACH ACCESS.  
9

10 The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

1 thereof, shall vest in the condemnor upon the filing of the complaint and the making of  
2 the deposit in accordance with G.S. 40A-41."

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

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