

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL DRS45011-MLy-26B*

Short Title: Eminent Domain. (Public)

Sponsors: Senators B. Jackson, Britt, 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 primary election to be conducted in March 2020, which
15 election shall be conducted under the laws then governing elections in the State. The question to
16 be used in the voting systems and ballots shall be:

17 "[] FOR [] AGAINST

18 Constitutional amendment to prohibit condemnation of private property except for a
19 public use and to provide for the payment of just compensation with right of trial by jury in all
20 condemnation cases."

21 SECTION 3. If a majority of votes cast on the question are in favor of the amendment
22 set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the
23 Secretary of State. The Secretary of State shall enroll the amendment so certified among the
24 permanent records of that office. The amendment set out in Section 1 of this act becomes
25 effective upon certification and applies to takings after that date.

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

27 "**§ 40A-3. By whom right may be exercised.**

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

- 31 (1) Corporations, bodies politic or persons have the power of eminent domain for
32 the construction of railroads, power generating facilities, substations,
33 switching stations, microwave towers, roads, alleys, access railroads,
34 turnpikes, street railroads, plank roads, tramroads, canals, ~~telegraphs,~~
35 ~~telephones,~~ communication facilities, electric power lines, electric lights,
36 public water supplies, public sewerage systems, flumes, bridges, facilities



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1 related to the distribution of natural gas, and pipelines or mains for the
2 transportation of petroleum products, coal, natural gas, limestone or minerals.
3 Land condemned for any liquid pipelines shall:shall meet both of the
4 following requirements:

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

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

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

9 ...

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

14 ...

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

19 ...

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

23 ...

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

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