

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 794*
Second Edition Engrossed 5/6/93

Short Title: Wrightsville Beach Eminent Domain.

(Local)

Sponsors: Senator Codington.

Referred to: Local Government and Regional Affairs.

April 12, 1993

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW THE TOWN OF WRIGHTSVILLE BEACH TO EXERCISE
2 THE POWER OF EMINENT DOMAIN FOR PURPOSES OF ENGAGING IN
3 BEACH EROSION CONTROL AND FLOOD AND HURRICANE PROTECTION
4 WORKS.
5

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, either inside or outside its
11 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.

- 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 The authority granted by this subdivision may be exercised only within
27 an area at the southern area of Wrightsville Beach bound as follows:
28 On the north by the centerline of Jack Parker Boulevard as extended
29 westwardly to the low watermark of Banks Channel and on the east by
30 the low watermark of the Atlantic Ocean; on the south by the low
31 watermark of Masonboro Inlet; and on the west by the low watermark
32 of Banks Channel.

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

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

38 Sec. 2. G.S. 40A-42(a) reads as rewritten:

- 39 "(a) When a local public condemnor is acquiring property by condemnation for a
40 purpose set out in G.S. 40A-3(b)(1), ~~(4) or (7), (4), (7), or (10)~~, or when a city is
41 acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3), (4), (6), or (7), or
42 when a county is acquiring property for a purpose set out in G.S. 153A-274(1), (2) or
43 (3), or when a condemnor is acquiring property by condemnation as authorized by G.S.
44 40A-3(c)(8), (9), (10) or (12), title to the property and the right to immediate possession

1 shall vest pursuant to this subsection. Unless an action for injunctive relief has been
2 initiated, title to the property specified in the complaint, together with the right to
3 immediate possession thereof, shall vest in the condemnor upon the filing of the
4 complaint and the making of the deposit in accordance with G.S. 40A-41."

5 Sec. 3. This act applies only to the Town of Wrightsville Beach.

6 Sec. 4. This act is effective upon ratification.