

**§ 40A-5. Condemnation of property owned by other condemners.**

(a) A condemner listed in G.S. 40A-3(a), (b) or (c) shall not possess the power of eminent domain with respect to property owned by the State of North Carolina or a State-owned railroad as defined in G.S. 124-11 unless the State consents to the taking. The State's consent shall be given by the Council of State, or by the Secretary of Administration if the Council of State delegates this authority to the Secretary. In a condemnation proceeding against State property consented to by the State, the only issue shall be the compensation to be paid for the property.

(b) Unless otherwise provided by statute a condemner listed in G.S. 40A-3(a), (b) or (c) may condemn the property of a private condemner if such property is not in actual public use or not necessary to the operation of the business of the owner. Unless otherwise provided by statute a condemner listed in G.S. 40A-3(b) or (c) may condemn the property of a condemner listed in G.S. 40A-3(b) or (c) if the property proposed to be taken is not being used or held for future use for any governmental or proprietary purpose. (1981, c. 919, s. 1; 2000-146, s. 9.)