

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 391

Short Title: Condemnation/Private Condemnors.

(Public)

Sponsors: Senator Hartsell.

Referred to: Judiciary I.

April 1, 1991

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW THE CONDEMNATION OF PROPERTY OF PRIVATE
2 CONDEMNORS WHERE SUCH PROPERTY IS IN ACTUAL PUBLIC USE OR
3 IS NECESSARY TO THE OPERATION OF THE BUSINESS OF THE OWNER
4 IF SUCH TAKING WILL NOT UNREASONABLY IMPAIR OR RESTRICT THE
5 USE OF THE PROPERTY BY THE OWNER AS RECOMMENDED BY THE
6 GENERAL STATUTES COMMISSION.
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8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 40A-5(b) reads as rewritten:

10 "(b) Unless otherwise provided by statute a condemnor listed in G.S. 40A-3(a), (b)
11 or (c) may condemn the property of a private condemnor if the condemnor shows that
12 (i) if such property is not in actual public use or, (ii) such property is not necessary to
13 the operation of the business of the owner, or (iii) the taking would not unreasonably
14 impair or restrict the use of the property. Unless otherwise provided by statute a
15 condemnor listed in G.S. 40A-3(b) or (c) may condemn the property of a condemnor
16 listed in G.S. 40A-3(b) or (c) if the property proposed to be taken is not being used or
17 held for future use for any governmental or proprietary purpose."

18 Sec. 2. G.S. 40A-42(c) reads as rewritten:

19 "(c) If the property is owned by a private condemnor, the vesting of title in the
20 condemnor and the right to immediate possession of the property shall not become
21 effective until the superior court has rendered final judgment (after any appeals) that (i)
22 the property is not in actual public use or, (ii) the property is not necessary to the
23 operation of the business of the owner, or (iii) the taking of the property would not
24 unreasonably impair or restrict the use of the property, as set forth in G.S. 40A-5(b)."

1 Sec. 3. This act is effective upon ratification.