

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 644*

Short Title: "Quick Take"Notice of Appeal.

(Public)

Sponsors: Representatives Gulley; Allred, Baker, Capps, Carpenter, Clary, Crawford, Davis, Eddins, Hensley, Sexton, Starnes, and C. Wilson.

Referred to: Judiciary II.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A PUBLIC CONDEMNOR USING "QUICK TAKE" IN AN EMINENT DOMAIN ACTION SHALL INCLUDE A NOTICE OF APPEAL RIGHTS IN THE COMPLAINTS COMMENCING THE ACTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 40A-41 reads as rewritten:

"§ 40A-41. Institution of action and deposit.

A public condemnor listed in G.S. 40A-3(b) or (c) shall institute a civil action to condemn property by filing in the superior court of any county in which the land is located a complaint containing a declaration of taking declaring that property therein is thereby taken for the use of the condemnor.

The complaint shall contain or have attached thereto the following:

- (1) A statement of the authority under which and the public use for which the property is taken;
- (2) A description of the entire tract or tracts of land affected by the taking sufficient for the identification thereof;
- (3) A statement of the property taken and a description of the area taken sufficient for the identification thereof;

- 1 (4) The names and addresses of those persons who the condemnor is
2 informed and believes may be or, claim to be, owners of the property so
3 far as the same can by reasonable diligence be ascertained, and if any
4 such persons are infants, incompetents, inebriates or under any other
5 disability, or their whereabouts or names unknown, it must be so stated;
- 6 (5) A statement of the sum of money estimated by the condemnor to be just
7 compensation for the taking; and
- 8 (6) A statement as to whether the owner will be permitted to remove all or a
9 specified portion of any timber, buildings, structures, permanent
10 improvements, or fixtures situated on or affixed to the property.
- 11 (7) A statement as to such liens or other encumbrances as the condemnor is
12 informed and believes are encumbrances upon the property and can by
13 reasonable diligence be ascertained.
- 14 (8) A prayer that there be a determination of just compensation in
15 accordance with the provisions of this Article.
- 16 (9) In the case of an action commenced to acquire property pursuant to G.S.
17 40A-42(a), allowing immediate vesting of property rights in the
18 condemnor upon the making of a deposit in accordance with this
19 section, a notice of the owner's rights including the right to answer and
20 to commence an action for injunctive relief.

21 The filing of the complaint shall be accompanied by the deposit to the use of the owner of
22 the sum of money estimated by the condemnor to be just compensation for the taking.
23 Upon the filing of the complaint and the deposit of said sum, summons shall be issued to
24 each owner of the property. The summons, together with a copy of the complaint and
25 notice of the deposit shall be served upon the person named therein in the manner
26 provided for the service of process under the provisions of G.S. 1A-1, Rule 4. The
27 condemnor may amend the complaint and may increase the amount of its deposit with the
28 court at any time while the proceeding is pending, and the owner shall have the same
29 rights of withdrawal of this additional amount as set forth in G.S. 40A-44 of this
30 Chapter."

31 Section 2. This act becomes effective October 1, 1999, and applies to actions
32 filed on or after that date.