

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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HOUSE BILL 429  
Committee Substitute Favorable 4/8/03

Short Title: Just Comp./Local Gov. Taking.

(Public)

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Sponsors:

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Referred to:

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March 12, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE LOCAL GOVERNMENTS TO PAY JUST  
COMPENSATION FOR REMOVAL OF LAWFULLY ERECTED BUILDINGS,  
STRUCTURES, OUTDOOR ADVERTISING, OR FIXTURES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 153A-121 reads as rewritten:

"§ 153A-121. **General ordinance-making power.**

(a) A county may by ordinance define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the county; and may define and abate nuisances.

(b) This section does not authorize a county to regulate or control vehicular or pedestrian traffic on a street or highway under the control of the Board of Transportation, nor to regulate or control any right-of-way or right-of-passage belonging to a public utility, electric or telephone membership corporation, or public agency of the State. In addition, no county ordinance may regulate or control a highway right-of-way in a manner inconsistent with State law or an ordinance of the Board of Transportation.

(c) This section does not impair the authority of local boards of health to adopt rules and regulations to protect and promote public health.

(d) This section does not authorize a county to enact or amend an ordinance to require the removal of any lawfully erected building, structure, or fixture attached to land, including outdoor advertising, that is not detrimental to the health or safety of its citizens or defined as a nuisance, without the payment of just compensation to the owner of the property removed. No period of amortization shall constitute any portion of just compensation.

**SECTION 2.** G.S. 160A-174 reads as rewritten:

"§ 160A-174. **General ordinance-making power.**

1 (a) A city may by ordinance define, prohibit, regulate, or abate acts, omissions,  
2 or conditions, detrimental to the health, safety, or welfare of its citizens and the peace  
3 and dignity of the city, and may define and abate nuisances.

4 (b) A city ordinance shall be consistent with the Constitution and laws of North  
5 Carolina and of the United States. An ordinance is not consistent with State or federal  
6 law when:

- 7 (1) The ordinance infringes a liberty guaranteed to the people by the State  
8 or federal Constitution;
- 9 (2) The ordinance makes unlawful an act, omission or condition which is  
10 expressly made lawful by State or federal law;
- 11 (3) The ordinance makes lawful an act, omission, or condition which is  
12 expressly made unlawful by State or federal law;
- 13 (4) The ordinance purports to regulate a subject that cities are expressly  
14 forbidden to regulate by State or federal law;
- 15 (5) The ordinance purports to regulate a field for which a State or federal  
16 statute clearly shows a legislative intent to provide a complete and  
17 integrated regulatory scheme to the exclusion of local regulation;
- 18 (6) The elements of an offense defined by a city ordinance are identical to  
19 the elements of an offense defined by State or federal law.

20 The fact that a State or federal law, standing alone, makes a given act, omission, or  
21 condition unlawful shall not preclude city ordinances requiring a higher standard of  
22 conduct or condition.

23 (c) This section does not authorize a municipality to enact or amend an ordinance  
24 to require the removal of any lawfully erected building, structure, or fixture attached to  
25 land, including outdoor advertising, that is not detrimental to the health or safety of its  
26 citizens or defined as a nuisance, without the payment of just compensation to the  
27 owner of the property removed. No period of amortization shall constitute any portion  
28 of just compensation."

29 **SECTION 3.** This act is effective when it becomes law and shall not apply  
30 to any ordinance in effect on the effective date of this act.