

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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SENATE BILL 788*

Short Title: Town of Duck/Eminent Domain. (Local)

Sponsors: Senator Cook (Primary Sponsor).

Referred to: State and Local Government.

May 19, 2014

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF DUCK TO EXERCISE THE POWER OF EMINENT DOMAIN FOR PURPOSES OF ENGAGING IN BEACH EROSION CONTROL AND FLOOD AND HURRICANE PROTECTION WORKS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 40A-3(b1) reads as rewritten:

"(b1) Local Public Condemnors – Modified Provision for Certain Localities. – For the public use or benefit, the governing body of each municipality or county shall possess the power of eminent domain and may acquire by purchase, gift or condemnation any property or interest therein, either inside or outside its boundaries, for the following purposes.

- (1) Opening, widening, extending, or improving roads, streets, alleys, and sidewalks. The authority contained in this subsection is in addition to the authority to acquire rights-of-way for streets, sidewalks and highways under Article 9 of Chapter 136. The provisions of this subdivision (1) shall not apply to counties.
- (2) Establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 160A-311 for cities, or G.S. 153A-274 for counties.
- (3) Establishing, enlarging, or improving parks, playgrounds, and other recreational facilities.
- (4) Establishing, extending, enlarging, or improving storm sewer and drainage systems and works, or sewer and septic tank lines and systems.
- (5) Establishing, enlarging, or improving hospital facilities, cemeteries, or library facilities.
- (6) Constructing, enlarging, or improving city halls, fire stations, office buildings, courthouse jails and other buildings for use by any department, board, commission or agency.
- (7) Establishing drainage programs and programs to prevent obstructions to the natural flow of streams, creeks and natural water channels or improving drainage facilities. The authority contained in this subdivision is in addition to any authority contained in Chapter 156.
- (8) Acquiring designated historic properties, designated as such before October 1, 1989, or acquiring a designated landmark designated as such on or after October 1, 1989, for which an application has been made for a certificate of appropriateness for demolition, in pursuance of the purposes of G.S. 160A-399.3, Chapter 160A, Article 19, Part 3, effective until October 1, 1989, or G.S. 160A-400.14, whichever is appropriate.



- 1 (9) Opening, widening, extending, or improving public wharves.
 2 (10) Engaging in or participating with other governmental entities in acquiring,
 3 constructing, reconstructing, extending, or otherwise building or improving
 4 beach erosion control or flood and hurricane protection works, including, but
 5 not limited to, the acquisition of any property that may be required as a
 6 source for beach renourishment.
 7 (11) Establishing access for the public to public trust beaches and appurtenant
 8 parking areas.

9 The board of education of any municipality or county or a combined board may exercise
 10 the power of eminent domain under this Chapter for purposes authorized by Chapter 115C of
 11 the General Statutes.

12 The power of eminent domain shall be exercised by local public condemnors under the
 13 procedures of Article 3 of this chapter.

14 This subsection applies only to Carteret and Dare Counties, the Towns of Atlantic Beach,
 15 Carolina Beach, Caswell Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills,
 16 Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Oak Island, Ocean Isle Beach, Pine
 17 Knoll Shores, Sunset Beach, Surf City, Topsail Beach, and Wrightsville Beach, and the Village
 18 of Bald Head Island. This subsection, excluding subdivision (11) of this subsection, applies to
 19 the Town of Duck."

20 **SECTION 2.** G.S. 40A-42(a)(2) reads as rewritten:

21 "(a) ...

- 22 (2) Modified Provision for Certain Localities. – When a local public condemnor
 23 is acquiring property by condemnation for a purpose set out in
 24 G.S. 40A-3(b1)(1), (4), (7), (10), or (11), or when a city is acquiring
 25 property for a purpose set out in G.S. 160A-311(1), (2), (3), (4), (6), or (7),
 26 or when a county is acquiring property for a purpose set out in
 27 G.S. 153A-274(1), (2) or (3), or when a local board of education or any
 28 combination of local boards of education is acquiring property for any
 29 purpose set forth in G.S. 115C-517, or when a condemnor is acquiring
 30 property by condemnation as authorized by G.S. 40A-3(c)(8), (9), (10), (12),
 31 or (13) title to the property and the right to immediate possession shall vest
 32 pursuant to this subsection. Unless an action for injunctive relief has been
 33 initiated, title to the property specified in the complaint, together with the
 34 right to immediate possession thereof, shall vest in the condemnor upon the
 35 filing of the complaint and the making of the deposit in accordance with
 36 G.S. 40A-41.

37 This subdivision applies only to Carteret and Dare Counties, the Towns
 38 of Atlantic Beach, Carolina Beach, Caswell Beach, Duck, Emerald Isle,
 39 Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach,
 40 Nags Head, North Topsail Beach, Oak Island, Ocean Isle Beach, Pine Knoll
 41 Shores, Sunset Beach, Surf City, Topsail Beach, and Wrightsville Beach,
 42 and the Village of Bald Head Island."

43 **SECTION 3.** This act is effective when it becomes law.