

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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**HOUSE BILL 542
Senate Finance Committee Substitute Adopted 6/12/03**

Short Title: Certain Local Governments Condemnation.

(Local)

Sponsors:

Referred to:

March 18, 2003

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW THE TOWNS OF CASWELL BEACH, OAK ISLAND,
2 OCEAN ISLE BEACH, AND SUNSET BEACH AND THE VILLAGE OF BALD
3 HEAD ISLAND TO EXERCISE THE POWER OF EMINENT DOMAIN FOR
4 THE PURPOSES OF ENGAGING IN BEACH EROSION CONTROL, FLOOD
5 AND HURRICANE PROTECTION WORKS, AND PUBLIC BEACH ACCESS.
6

7 The General Assembly of North Carolina enacts:

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

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

- 14 (1) Opening, widening, extending, or improving roads, streets, alleys, and
15 sidewalks. The authority contained in this subsection is in addition to
16 the authority to acquire rights-of-way for streets, sidewalks and
17 highways under Article 9 of Chapter 136. The provisions of this
18 subdivision (1) shall not apply to counties.
- 19 (2) Establishing, extending, enlarging, or improving any of the public
20 enterprises listed in G.S. 160A-311 for cities, or G.S. 153A-274 for
21 counties.
- 22 (3) Establishing, enlarging, or improving parks, playgrounds, and other
23 recreational facilities.
- 24 (4) Establishing, extending, enlarging, or improving storm sewer and
25 drainage systems and works, or sewer and septic tank lines and
26 systems.
- 27 (5) Establishing, enlarging, or improving hospital facilities, cemeteries, or
28 library facilities.

- 1 (6) Constructing, enlarging, or improving city halls, fire stations, office
2 buildings, courthouse jails and other buildings for use by any
3 department, board, commission or agency.
- 4 (7) Establishing drainage programs and programs to prevent obstructions
5 to the natural flow of streams, creeks and natural water channels or
6 improving drainage facilities. The authority contained in this
7 subdivision is in addition to any authority contained in Chapter 156.
- 8 (8) Acquiring designated historic properties, designated as such before
9 October 1, 1989, or acquiring a designated landmark designated as
10 such on or after October 1, 1989, for which an application has been
11 made for a certificate of appropriateness for demolition, in pursuance
12 of the purposes of G.S. 160A-399.3, Chapter 160A, Article 19, Part
13 3B, effective until October 1, 1989, or G.S. 160A-400.14, whichever is
14 appropriate.
- 15 (9) Opening, widening, extending, or improving public wharves.
- 16 (10) Engaging in or participating with other governmental entities in
17 acquiring, constructing, reconstructing, extending, or otherwise
18 building or improving beach erosion control or flood and hurricane
19 protection works, including, but not limited to, the acquisition of any
20 property that may be required as a source for beach renourishment.
- 21 (11) Establishing access for the public to public trust beaches and
22 appurtenant parking areas.

23 The board of education of any municipality or county or a combined board may
24 exercise the power of eminent domain under this Chapter for purposes authorized by
25 other statutes.

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

28 This subsection applies only to ~~Carolina Beach, Carteret County, Dare County, and~~
29 ~~Carteret and Dare Counties~~, the Towns of Atlantic Beach, Carolina Beach, Caswell
30 Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure
31 Beach, Nags Head, North Topsail Beach, Oak Island, Ocean Isle Beach, Pine Knoll
32 Shores, Sunset Beach, Surf City, Topsail Beach, and Wrightsville ~~Beach~~.Beach, and the
33 Village of Bald Head Island."

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

- 35 "(2) [Modified Provision for Certain Localities]. – When a local public
36 condemnor is acquiring property by condemnation for a purpose set
37 out in G.S. 40A-3(b1)(1), (4), (7), (10), or (11), or when a city is
38 acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3),
39 (4), (6), or (7), or when a county is acquiring property for a purpose set
40 out in G.S. 153A-274(1), (2) or (3), or when a local board of education
41 or any combination of local boards of education is acquiring property
42 for any purpose set forth in G.S. 115C-517, or when a condemnor is
43 acquiring property by condemnation as authorized by G.S.
44 40A-3(c)(8), (9), (10), (12), or (13), title to the property and the right

1 to immediate possession shall vest pursuant to this subsection. Unless
2 an action for injunctive relief has been initiated, title to the property
3 specified in the complaint, together with the right to immediate
4 possession thereof, shall vest in the condemnor upon the filing of the
5 complaint and the making of the deposit in accordance with G.S.
6 40A-41.

7 This subdivision applies only to ~~Caroline Beach, Carteret County,~~
8 ~~Dare County, and Carteret and Dare Counties,~~ the Towns of Atlantic
9 Beach, Carolina Beach, Caswell Beach, Emerald Isle, Holden Beach,
10 Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head,
11 North Topsail Beach, Oak Island, Ocean Isle Beach, Pine Knoll
12 Shores, Sunset Beach, Surf City, Topsail Beach, and Wrightsville
13 ~~Beach-Beach,~~ and the Village of Bald Head Island."

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