

Article 9.

Condemnation.

§ 136-103. Institution of action and deposit.

(a) In case condemnation shall become necessary the Department of Transportation shall institute a civil action by filing in the superior court of any county in which the land is located a complaint and a declaration of taking declaring that such land, easement, or interest therein is thereby taken for the use of the Department of Transportation.

(b) Said declaration shall contain or have attached thereto the following:

- (1) A statement of the authority under which and the public use for which said land is taken.
- (2) A description of the entire tract or tracts affected by said taking sufficient for the identification thereof.
- (3) A statement of the estate or interest in said land taken for public use and a description of the area taken sufficient for the identification thereof.
- (4) The names and addresses of those persons who the Department of Transportation is informed and believes may have or claim to have an interest in said lands, so far as the same can by reasonable diligence be ascertained and if any such persons are infants, non compos mentis, under any other disability, or their whereabouts or names unknown, it must be so stated.
- (5) A statement of the sum of money estimated by said Department of Transportation to be just compensation for said taking.

(c) Said complaint shall contain or have attached thereto the following:

- (1) A statement of the authority under which and the public use for which said land is taken.
- (2) A description of the entire tract or tracts affected by said taking sufficient for the identification thereof.
- (3) A statement of the estate or interest in said land taken for public use and a description of the area taken sufficient for the identification thereof.
- (4) The names and addresses of those persons who the Department of Transportation is informed and believes may have or claim to have an interest in said lands, so far as the same can by reasonable diligence be ascertained and if any such persons are infants, non compos mentis, under any other disability, or their whereabouts or names unknown, it must be so stated.
- (5) A statement as to such liens or other encumbrances as the Department of Transportation is informed and believes are encumbrances upon said real estate and can by reasonable diligence be ascertained.
- (6) A prayer that there be a determination of just compensation in accordance with the provisions of this Article.

(d) The filing of said complaint and said declaration of taking shall be accompanied by the deposit of the sum of money estimated by said Department of Transportation to be just compensation for said taking and upon the filing of said complaint and said declaration of taking and deposit of said sum, summons shall be issued and together with a copy of said complaint and said declaration of taking and notice of the deposit be served upon the person named therein in the manner now provided for the service of process in civil actions. The Department of Transportation may amend the complaint and declaration of taking and may increase the amount of its deposit with the court at any time while the proceeding is pending,

and the owner shall have the same rights of withdrawal of this additional amount as set forth in G.S. 136-105 of this Chapter. (1959, c. 1025, s. 2; 1961, c. 1084, s. 1; 1963, c. 1156, s. 1; 1973, c. 507, s. 5; 1977, c. 464, s. 7.1; 1997-456, s. 27.)