

Article 6.

Condemnation of Property Encumbered by a Conservation Easement.

**§ 40A-80. Applicability of Article; definition.**

(a) Applicability. –

- (1) The provisions of this Article shall apply only to a condemnation action initiated by a public condemnor, which for purposes of this Article shall be any entity exercising the power of eminent domain under any authority except G.S. 40A-3(a).
- (2) Except with respect to G.S. 40A-84, the provisions of this Article shall not apply to those circumstances in which: (i) the terms of the conservation easement provide an express exception for uses, purposes, and rights that may be subject to condemnation in the future, or circumstances in which the condemnation action to be taken would not extinguish, restrict, or impair the property rights of the holder of the conservation easement. "Property rights" as used herein shall include the purposes for which the easement was created; and (ii) a local public condemnor or other public condemnor under G.S. 40A-3 is constructing, enlarging, or improving electric distribution systems; gas production, storage, transmission, and distribution systems; water supply and distribution systems; wastewater collection, treatment, and disposal systems of all types; storm sewer and drainage systems; or trails associated with greenways. In condemnation actions exempt pursuant to this subdivision, a condemnor shall make reasonable efforts, after completion of the project for which the condemnation was undertaken, to return the property to the condition that the property existed in prior to condemnation to the extent practicable.

(b) Definition. – As used in this Article, the term "conservation easement" means a conservation or historic preservation easement that meets all of the following criteria, as each of the criteria are defined under 26 U.S.C. § 170(h): (i) a qualified real property interest, (ii) held by a qualified organization, and (iii) exclusively for conservation purposes. (2009-439, s. 1.)