



HOUSE BILL 30: Town of Southern Shores/Eminent Domain.

2021-2022 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	March 16, 2021
Introduced by:	Rep. Hanig	Prepared by:	Jonathan Zator
Analysis of:	First Edition		Staff Attorney

OVERVIEW: House Bill 30 would permit the Town of Southern Shores to use eminent domain for the purpose of engaging in beach erosion control and flood and hurricane protection works.

[As introduced, this bill was identical to Senate Bill 71, as introduced by Sen. Steinburg, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW: Municipalities and counties may use the power of eminent domain for the purposes listed in G.S. 40A-3(b), such as constructing municipal streets, building water and sewer lines, establishing parks, etc.

G.S. 40A-3(b1) provides several coastal counties and municipalities the following two additional purposes for which they may use the power of eminent domain: (1) Beach renourishment and erosion control; and (2) public access to beaches and parking areas.

In exercising the power of eminent domain, a municipality or county may acquire property by purchase, gift, or condemnation. Article 3 of Chapter 40A provides the procedures by which a municipality or county may condemn property. Generally, the public condemnor must file a civil action to condemn the property in the superior court in which the land is located and must provide a deposit in the amount estimated by the condemnor to be just compensation for the taking. Compensation is generally the fair market value (FMV) of the property. In the case of a taking of less than an entire tract, compensation is usually the greater of (i) the diminution on value, or (ii) the FMV of the property taken. In limited circumstances under G.S. 40A-42, the condemnor has the right to immediate possession when the complaint is filed. Beach renourishment and public access to beaches and appurtenant parking areas are included in the limited instances in which the right to immediate possession of the property may occur.

G.S. 40A-3(b1) and G.S. 40A-42(a)(2) currently applies to Carteret and Dare Counties, the Towns of Atlantic Beach, Carolina Beach, Caswell Beach, Duck, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Oak Island, Ocean Isle Beach, Pine Knoll Shores, Sunset Beach, Surf City, Topsail Beach, and Wrightsville Beach, and the Village of Bald Head Island. Application of G.S. 40A-3(b1) to the Town of Duck does not include condemnation for beach access and parking areas.

BILL ANALYSIS: House Bill 30 would add the Town of Southern Shores to the list of counties and municipalities that may utilize the power of eminent domain and acquire property by condemnation for the purpose of engaging in beach erosion control and flood and hurricane protection works. The bill would not allow the Town of Southern Shores to use condemnation to establish public access to beaches.

EFFECTIVE DATE: This act would be effective when it becomes law.

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