



CHAPTER 40A
ARTICLE 3 - CONDEMNATION BY PUBLIC CONDEMNORS

N.C.G.S. § 40A-42.

Vesting of title and right of possession;
injunction not precluded.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2024-21, s. 12(b) — twelfth act in the lineage	21 September 2026, 04:15 UTC	48cd2fc5a34be592a38df819 - 2809bee0af642c9503b858ee - 6730115efd48b699

§ 40A-42(a)

(1)Standard Provision. - When a local public condemnor is acquiring property by condemnation for a purpose set out in G.S. 40A-3(b)(1), (4) or (7), or when a city is acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3), (4), (6), or (7), or when a county is acquiring property for a purpose set out in G.S. 153A-274(1), (2) or (3), or when a local board of education or any combination of local boards of education is acquiring property for any purpose set forth in G.S. 115C-517, or when a condemnor is acquiring property by condemnation as authorized by G.S. 40A-3(c)(1), (8), (9), (10), (12), or (13) title to the property and the right to immediate possession shall vest pursuant to this subsection. Unless an action for injunctive relief has been initiated, title to the property specified in the complaint, together with the right to immediate possession thereof, shall vest in the condemnor upon the filing of the complaint and the making of the deposit in accordance with G.S. 40A-41.

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

This subdivision applies only to Carteret, Currituck, 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, Southern Shores, Sunset Beach, Surf City, Topsail Beach, and Wrightsville Beach, and the Village of Bald Head Island.

§ 40A-42(b)

When a local public condemnor is acquiring property by condemnation for purposes other than for the purposes listed in subsection (a) above, title to the property taken and the right to possession shall vest in the condemnor pursuant to this subsection. Unless an action for injunctive relief has been initiated, title to the property specified in the complaint, together with the right to immediate possession thereof, shall vest in the condemnor:

- (1) Upon the filing of an answer by the owner who requests only that there be a determination of just compensation and who does not challenge the authority of the condemnor to condemn the property; or
- (2) Upon the failure of the owner to file an answer within the 120-day time period established by G.S. 40A-46; or
- (3) Upon the disbursement of the deposit in accordance with the provisions of G.S. 40A-44.

§ 40A-42(c)

If the property is owned by a private condemnor, the vesting of title in the condemnor and the right to immediate possession of the property shall not become effective until

the superior court has rendered final judgment (after any appeals) that the property is not in actual public use or is not necessary to the operation of the business of the owner, as set forth in G.S. 40A-5(b).

§ 40A-42(d) If the answer raises any issues other than the issue of compensation, the issues so raised shall be determined under the provisions of G.S. 40A-47.

§ 40A-42(e) The judge shall enter such orders in the cause as may be required to place the condemnor in possession.

§ 40A-42(f) The provisions of this section shall not preclude or otherwise affect any remedy of injunction available to the owner or the condemnor.

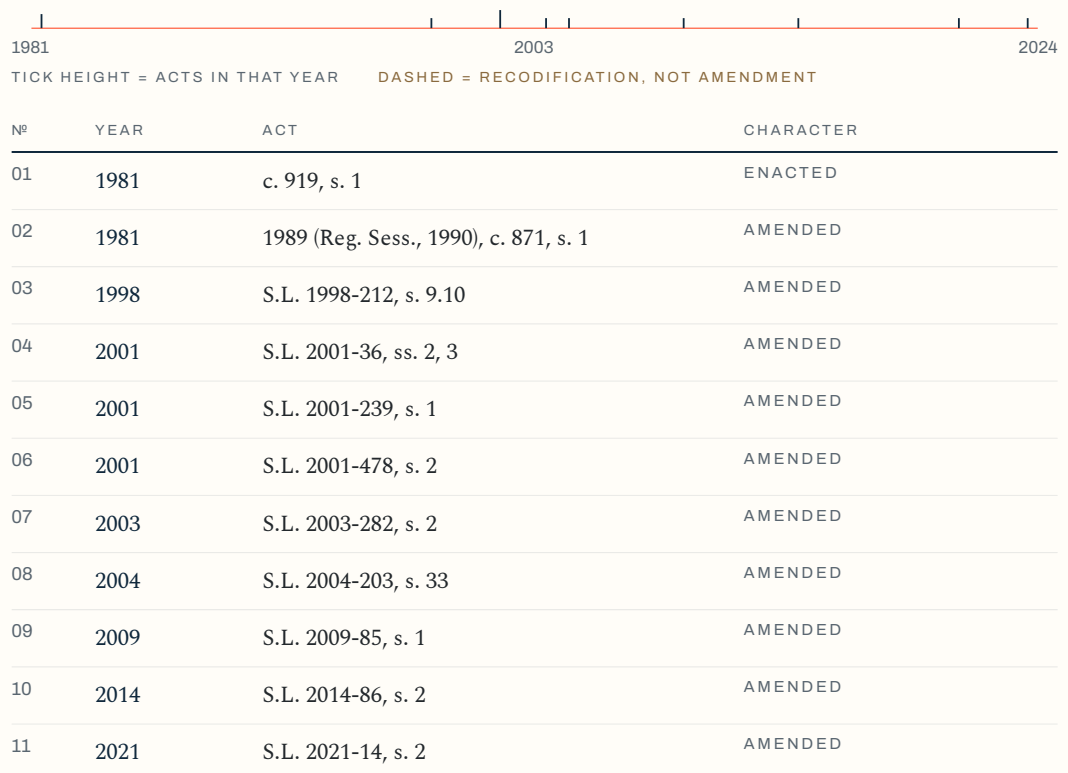
END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
12 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.



APPARATUS II
12 AUTHORITIES

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 40A-3(b)(1), (4) or (7)	(a)	"for a purpose set out in"
G.S. 160A-311(1), (2), (3), (4), (6), or (7)	(a)	"for a purpose set out in"
G.S. 153A-274(1), (2) or (3)	(a)	"for a purpose set out in"
G.S. 115C-517	(a)	"for any purpose set forth in"
G.S. 40A-3(c)(1), (8), (9), (10), (12), or (13)	(a)	"property by condemnation as authorized by"
G.S. 40A-41	(a)	"of the deposit in accordance with"
G.S. 40A-3(b1)(1), (4), (7), (10), or (11)	(a)(2)	"for a purpose set out in"
G.S. 40A-3(c)(8), (9), (10), (12), or (13)	(a)(2)	"property by condemnation as authorized by"
G.S. 40A-46	(b)(2)	"the 120-day time period established by"
G.S. 40A-44	(b)(3)	"in accordance with the provisions of"
G.S. 40A-5(b)	(c)	"the owner, as set forth in"
G.S. 40A-47	(d)	"be determined under the provisions of"

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 40A-42 (2024).

PINPOINT

N.C. Gen. Stat. § 40A-42(a) (2024).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

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HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(1981, c. 919, s. 1; 1989 (Reg. Sess., 1990), c. 871, s. 1; 1998-212, s. 9.10; 2001-36, ss. 2, 3; 2001-239, s. 1; 2001-478, s. 2; 2003-282, s. 2; 2004-203, s. 33; 2009-85, s. 1; 2014-86, s. 2; 2021-14, s. 2; 2024-21, s. 12(b).)

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