

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 644*
Committee Substitute Favorable 4/23/99
Senate Judiciary II Committee Substitute Adopted 7/19/99
Fourth Edition Engrossed 7/20/99

Short Title: "Quick Take"Notice of Appeal.

(Public)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED
AN ACT TO PROVIDE THAT A PUBLIC CONDEMNOR USING "QUICK TAKE"IN
AN EMINENT DOMAIN ACTION SHALL INCLUDE A NOTICE OF OWNER'S
RIGHTS IN THE NOTICE OF ACTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 40A-40 reads as rewritten:

"§ 40A-40. Notice of action.

(a) Not less than 30 days prior to the filing of a complaint under the provisions of G.S. 40A-41, a public condemnor listed in G.S. 40A-3(b) or (c) shall provide notice to each owner (whose name and address can be ascertained by reasonable diligence) of its intent to institute an action to condemn property. (The notice shall be sent to each owner by certified mail, return receipt requested. The providing of notice shall be complete upon deposit of the notice enclosed in a postpaid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service. Notice by publication is not required. Notice to an owner whose name and/or address cannot be ascertained by reasonable diligence is not required in any manner.)

1 The notice shall contain a general description of the property to be taken and of the
2 amount estimated by the condemnor to be just compensation for the property to be
3 condemned. The notice shall also state the purpose for which the property is being
4 condemned and the date condemnor intends to file the complaint.

5 "(b) In the case of a condemnation action to be commenced pursuant to G.S. 40A-
6 42(a), the notice required by subsection (a) of this section shall substantially comply with
7 the following requirements:

8 (1) The notice shall be printed in at least 12 point bold legible type.

9 (2) The words 'Notice of condemnation' or similar words shall
10 conspicuously appear on the notice.

11 (3) The notice shall include the information required by subsection (a) of
12 this section.

13 (4) The notice shall contain a plain language summary of the owner's rights,
14 including:

15 a. The right to commence an action for injunctive relief.

16 b. The right to answer the complaint after it has been filed.

17 (5) The notice shall include a statement advising the owner to consult with
18 an attorney regarding the owner's rights.

19 An owner is entitled to no relief because of any defect or inaccuracy in the notice unless
20 the owner was actually prejudiced by the defect or inaccuracy, and the owner is otherwise
21 entitled to relief under Rules 55(d) or 60(b) of the North Carolina Rules of Civil
22 Procedure or other applicable law."

23 Section 2. This act becomes effective October 1, 1999, and applies to notices
24 of action sent on or after that date.