

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

2

HOUSE BILL 1174
Committee Substitute Favorable 6/5/96

Short Title: Condemnation Awards/Evidence.

(Public)

Sponsors:

Referred to:

May 15, 1996

A BILL TO BE ENTITLED

AN ACT TO AMEND CHAPTER 40A GOVERNING CONDEMNATION TO
AUTHORIZE AWARD OF ATTORNEYS' FEES AND INTRODUCTION OF
ADDITIONAL EVIDENCE OF PROPERTY VALUE IN CERTAIN
CONDEMNATION ACTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 40A-8 is amended by adding a new subsection to read:

"(d) In addition to the other costs allowed under this Chapter, in any action brought under Article 3 of this Chapter in which the judgment awarded to the owner is an amount greater than the amount of the deposit under G.S. 40A-41, the court with jurisdiction over the action shall, after making appropriate findings of fact, award each owner of the property sought to be condemned a sum that, in the opinion of the court based upon its findings of fact, will reimburse the owner for reasonable costs, disbursements, and expenses, including reasonable attorneys', appraisal, and engineering fees."

Sec. 2. Article 4 of Chapter 40A of the General Statutes is amended by adding a new section to read:

"§ 40A-71. Evidence of value.

In any proceeding to determine the value of property condemned under Article 3 of this Chapter:

1 (1) The amount deposited pursuant to G.S. 40A-41,
2 (2) The most recent appraisal and valuation done prior to institution of the
3 action pursuant to G.S. 40A-41 for the purpose of levying ad valorem
4 taxes upon the property condemned, or
5 (3) Any other evidence of value of the property deemed relevant by the
6 court,
7 shall be produced upon motion of any party to the proceeding and shall be admissible
8 into evidence."

9 Sec. 3. G.S. 40A-48(d) reads as rewritten:

10 "(d) A copy of the report shall at the time of filing be mailed certified or registered
11 mail by the clerk to each of the parties or to their counsel of record. Within 30 days after
12 the mailing of the report, either the condemnor or the owner, may except thereto and
13 demand a trial de novo by a jury as to the issue of compensation. Upon the receipt of
14 such demand the action shall be placed on the civil issue docket of the superior court for
15 trial de novo by a jury as to the issue of compensation, provided, that upon agreement of
16 both parties trial by jury may be waived and the issue determined by the judge. The
17 report of commissioners shall not be competent as evidence upon the trial of the issue of
18 compensation in the superior court, ~~nor shall evidence of the deposit by the condemnor into~~
19 ~~the court be competent upon the trial of the issue of compensation.~~ court. If no exception to the
20 report of commissioners is filed within the time prescribed, final judgment shall be
21 entered by the judge upon a determination and finding by him that the report of
22 commissioners plus interest computed in accordance with G.S. 40A-53 of this Chapter,
23 awards to the property owners just compensation. In the event that the judge is of the
24 opinion and, in his discretion, determines that the award does not provide just
25 compensation, he shall set aside the award and order the case placed on the civil issue
26 docket for determination of the issue of compensation by a jury."

27 Sec. 4. This act becomes effective October 1, 1996, and applies to pending
28 litigation.