

NORTH CAROLINA GENERAL ASSEMBLY  
1975 SESSION

CHAPTER 869  
SENATE BILL 821

AN ACT TO PROVIDE FOR NOTICE AND HEARING FOR CONDEMNATION ACTIONS  
FILED PURSUANT TO ARTICLE 9 OF CHAPTER 136.

The General Assembly of North Carolina enacts:

**Section 1.** Chapter 136 of the General Statutes is hereby amended by adding a new section to read as follows:

"§ **136-104.1.** Upon the filing of the complaint and declaration of taking and deposit into court, any condemning authority, except the Department of Transportation and the Department of Administration, utilizing the provisions of this Article in the exercise of its power of eminent domain, the clerk shall issue an order to be served upon and directing the persons alleged to have an interest in the said land to appear before a judge at a time certain, but not less than 10 nor more than 20 days from service of the order, to show cause why title to the said land or such other interest therein specified in the complaint and declaration of taking, together with the right of possession thereto, should not vest in the Board of Transportation. Failure of the persons to whom the order is directed to appear at the appointed place and time and show sufficient cause shall constitute an admission of the right of the Board of Transportation to appropriate the title to the said land or other interest therein specified in the complaint and declaration of taking. Unless otherwise ordered by the judge at the show cause hearing, the title and right of possession shall vest in the condemning authority as provided by G.S. 136-104.2; provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c) unless the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the city or, otherwise, first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation. The provisions of this act shall not preclude the owner's remedy of injunction."

**Sec. 2.** G.S. 136-104 is hereby renumbered G.S. 136-104.2.

**Sec. 3.** This act shall not affect pending litigation.

**Sec. 3.5.** In exercising the power of eminent domain, the City of Fayetteville is hereby authorized to use the procedures of Article 9, Chapter 136, of the General Statutes, subject expressly to the provisions of G.S. 136-104.1.

**Sec. 4.** This act shall apply only to the County of Cumberland, and all municipalities located within the County of Cumberland.

**Sec. 5.** This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1975.