

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 149*
House Committee Substitute Favorable 4/19/07

Short Title: Apex Condemnation Sunset/Amendments.

(Local)

Sponsors:

Referred to:

February 14, 2007

A BILL TO BE ENTITLED

1 AN ACT REPEALING THE EXPIRATION OF AN ACT AUTHORIZING THE
2 TOWN OF APEX TO USE THE PROCEDURE AND AUTHORITY OF
3 CHAPTER 136 OF THE NORTH CAROLINA GENERAL STATUTES IN
4 CONDEMNATION PROCEEDINGS CONCERNING PUBLIC STREETS AND
5 ROADS, AND ALLOWING USE FOR ELECTRIC FACILITIES.
6

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Section 3 of S.L. 2003-88 reads as rewritten:

9 "**SECTION 3.** This act is effective when it becomes law. ~~Section 1 of this act~~
10 ~~expires on December 31, 2008, but civil actions or special proceedings instituted~~
11 ~~pursuant to that section on or before December 31, 2008, shall be completed under the~~
12 ~~provisions of that section as if it had not expired."~~

13 **SECTION 2.** Section 6.5 of the Charter of the Town of Apex, being Chapter
14 356 of the 1985 Session Laws, as added by Chapter 70 of the 1987 Session Laws, and
15 as rewritten by Section 1 of S.L. 2003-88, reads as rewritten:

16 "Sec. 6.5. Additional Eminent Domain Powers. Notwithstanding the provisions of
17 G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of
18 property interests (including, without limitation, fee simple title, rights-of-way, and
19 easements) to be used for (i) water lines and treatment facilities and facilities, (ii) sewer
20 lines and treatment facilities, (iii) electric distribution and transmission facilities, and
21 (iv) opening, widening, extending, or improving public streets and roads, the town may
22 use the procedure and authority prescribed in Article 9 of Chapter 136 of the General
23 Statutes of North Carolina, as now or hereafter amended; provided further, that
24 whenever therein the words 'Secretary' or 'Secretary of Transportation' appear, they shall
25 be deemed to include the 'Town Manager', and whenever therein the word 'highway'
26 appears, it is deemed to include 'public works' in accordance with this section, provided
27 further that nothing herein shall be construed to enlarge the power of the town to
28 condemn property already devoted to public use. Provided further, just compensation
29 for the acquisition of fee simple title or a perpetual easement pursuant to this section to

1 be used for street or road right-of-way shall be no less than (i) one dollar (\$1.00) per
2 square foot of real property taken, or (ii) the prorated ad valorem tax value of the parent
3 tract, whichever is less. Just compensation for the acquisition of fee simple title or a
4 perpetual easement pursuant to this section to be used for electric distribution and
5 transmission facilities shall be no less than (i) fifty cents (50¢) per square foot of real
6 property taken, or (ii) one-half the prorated ad valorem tax value of the parent tract,
7 whichever is less. The powers granted by this section are in addition to and
8 supplementary to those powers granted by any local or general law."

9 **SECTION 3.** This act is effective when it becomes law.