

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS75417-LBx-274B (4/27)

Short Title: Eminent Domain Restricted. (Public)

Sponsors: Senators Smith, and Forrester.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO
PROHIBIT EMINENT DOMAIN FROM BEING USED FOR ECONOMIC
DEVELOPMENT PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of the North Carolina Constitution is amended by
adding the following new section:

"Sec. 38. Restriction on use of eminent domain.

Except by the express consent of the owner, private property may not be taken by the State of North Carolina or by any local government or political subdivision for use by a private entity to make a more profitable use of the property, for economic development purposes, or for any other private use. In any case involving the taking of private property, the State and its political subdivisions shall have the burden of proving, by no less than clear and convincing evidence, the necessity for taking private property, the legality of the taking, and just compensation."

SECTION 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the statewide general election to be held November 7, 2006, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[] FOR [] AGAINST

Constitutional amendment to prohibit the State of North Carolina or any local government or political subdivision from taking any property by eminent domain for use by a private entity to make a more profitable use of the property, for economic development purposes, or for any other private use. In any case involving the taking of private property, the State and its political subdivisions shall have the burden of

1 proving, by no less than clear and convincing evidence, the necessity for taking private
2 property, the legality of the taking, and just compensation."

3 **SECTION 3.** If a majority of votes cast on the question are in favor of the
4 amendment set out in Section 1 of this act, the State Board of Elections shall certify the
5 amendment to the Secretary of State. The Secretary of State shall enroll the amendment
6 so certified among the permanent records of that office. The amendment set out in
7 Section 1 of this act becomes effective January 1, 2007.

8 **SECTION 4.** This act is effective when it becomes law.