

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1324

Short Title: Eminent Domain Restricted. (Public)

Sponsors: Senators Smith, Forrester; Allran, Apodaca, Berger of Rockingham, Bingham, Blake, Brock, Brown, East, Garwood, Hartsell, Hunt, Jacumin, Miller, Pittenger, Presnell, Stevens, Tillman, and Webster.

Referred to: Rules and Operations of the Senate.

May 15, 2006

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO
3 PROHIBIT EMINENT DOMAIN FROM BEING USED FOR ECONOMIC
4 DEVELOPMENT PURPOSES.

5 The General Assembly of North Carolina enacts:

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

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

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

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

22 "[] FOR [] AGAINST

23 Constitutional amendment to prohibit the State of North Carolina or any local
24 government or political subdivision from taking any property by eminent domain for
25 use by a private entity to make a more profitable use of the property, for economic
26 development purposes, or for any other private use. In any case involving the taking of
27 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.