

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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HOUSE BILL 212
Second Edition Engrossed 5/6/25

Short Title: Condemnation/Service on Spouses Not Required. (Public)

Sponsors: Representative Blust.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Transportation, if favorable, Judiciary 3, if favorable, Rules, Calendar, and Operations of the House

February 27, 2025

A BILL TO BE ENTITLED
AN ACT TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION IS NOT
REQUIRED TO SERVE OR JOIN SPOUSES OF PROPERTY OWNERS IN
CONDEMNATION ACTIONS AND TO MAKE TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-103 reads as rewritten:

"§ 136-103. Institution of action and deposit.

(a) In case condemnation ~~shall become necessary~~ becomes necessary, the Department of Transportation shall institute a civil action by filing in the superior court of any county in which the land is located a complaint and a declaration of taking declaring that ~~such land, easement, or interest therein~~ the land or an easement or interest in the land is thereby taken for the use of the ~~Department of Transportation~~ Department. The Department is not required to serve or join a person whose only interest in the land is the possibility of a future election under G.S. 29-30.

(b) ~~Said~~ The declaration shall contain or have attached ~~thereto~~ to it the following:

- (1) A statement of the authority under which and the public use for which ~~said the~~ land is taken.
- (2) A description of the entire tract or tracts affected by ~~said the~~ taking sufficient for the identification ~~thereof~~ of it.
- (3) A statement of the estate or interest in ~~said the~~ land taken for public use and a description of the area taken sufficient for the identification ~~thereof~~ of it.
- (4) The names and addresses of those persons ~~who that~~ the Department of ~~Transportation~~ is informed and believes may have or claim to have an interest in ~~said lands, the land,~~ the land, so far as ~~the same can by reasonable diligence be ascertained and if any such can be ascertained by reasonable diligence~~ ascertained and if any such can be ascertained by reasonable diligence. The Department shall state whether any persons are infants, non compos mentis, or under any other disability, or their whereabouts or names unknown, it must be so stated if any person's whereabouts or name is unknown. The Department is not required to include the names and addresses of persons whose only interest in the land is the possibility of a future election under G.S. 29-30.
- (5) A statement of the sum of money estimated by ~~said the~~ Department of ~~Transportation~~ to be just compensation for said the taking.

(c) ~~Said~~ The complaint shall contain or have attached ~~thereto~~ to it the following:



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- (1) ~~A statement of the authority under which and the public use for which said land is taken. The information described in subdivisions (b)(1) through (b)(4) of this section.~~
- (2) ~~A description of the entire tract or tracts affected by said taking sufficient for the identification thereof.~~
- (3) ~~A statement of the estate or interest in said land taken for public use and a description of the area taken sufficient for the identification thereof.~~
- (4) ~~The names and addresses of those persons who the Department of Transportation is informed and believes may have or claim to have an interest in said lands, so far as the same can by reasonable diligence be ascertained and if any such persons are infants, non compos mentis, under any other disability, or their whereabouts or names unknown, it must be so stated.~~
- (5) ~~A statement as to such any liens or other encumbrances as that the Department of Transportation is informed and believes are encumbrances upon said real estate the land and can by reasonable diligence be ascertained. be ascertained by reasonable diligence.~~
- (6) ~~A prayer that there be a determination of just compensation in accordance with the provisions of this Article.~~

(d) ~~The filing of said the complaint and said the declaration of taking shall be accompanied by the a deposit of the sum of money estimated by said the Department of Transportation to be just compensation for said taking and upon the taking. Upon the filing of said complaint and said declaration of taking and deposit of said sum, the complaint, declaration, and deposit, summons shall be issued and together with a copy of said complaint and said declaration of taking and notice of the deposit the complaint, declaration, and notice of deposit shall be served upon the person named therein in the manner now provided for the service of process in civil actions. persons named in the complaint in accordance with G.S. 1A-1, Rule 4. The Department of Transportation may amend the complaint and declaration of taking and may increase the amount of its deposit with the court at any time while the proceeding is pending, and the owner shall have a person named in the complaint has the same rights of withdrawal of this additional amount as set forth in G.S. 136-105 of this Chapter. G.S. 136-105."~~

SECTION 2. G.S. 29-30 reads as rewritten:

"§ 29-30. Election of surviving spouse to take life interest in lieu of intestate share provided.

(a) Except as provided in this subsection, in lieu of the intestate share provided in G.S. 29-14 or G.S. 29-21, or of the elective share provided in G.S. 30-3.1, the surviving spouse of an intestate or the surviving spouse who has petitioned for an elective share is entitled to take as the surviving spouse's intestate share or elective share a life estate in one third in value of all the real estate of which the deceased spouse was seised and possessed of an estate of inheritance at any time during ~~coverture. the marriage.~~ The surviving spouse is not entitled to take a life estate in any of the following circumstances:

...

- (3c) Any real estate taken by the Department of Transportation in a condemnation action initiated before the deceased spouse's death.

...."

SECTION 3. This act becomes effective October 1, 2025, and applies to condemnation actions initiated on or after that date.