

SENATE, No. 604

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Senator DAWN MARIE ADDIEGO

District 8 (Atlantic, Burlington and Camden)

SYNOPSIS

Protects property owned by military personnel and first responders from condemnation.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning condemnation and property owned by military
2 personnel, overseas deployees and first responders, amending
3 P.L.1971, c.361 and supplementing P.L.1992, c.79 (C.40A:12A-
4 1 et al.).

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. Section 2 of P.L.1971, c.361 (C.20:3-2) is amended to read
10 as follows:

11 2. When used in this act, unless the context or subject matter
12 otherwise requires, the following words shall have the meanings
13 ascribed to them under this section:

14 (a) "Condemn" means to take private property for a public
15 purpose under the power of eminent domain;

16 (b) "Condemnor" means the entity, public or private, including
17 the State of New Jersey, which is condemning private property for a
18 public purpose under the power of eminent domain;

19 (c) "Condemnee" means the owner of an interest in the private
20 property being condemned for a public purpose under the power of
21 eminent domain;

22 (d) "Property" means land, or any interest in land, and (1) any
23 building, structure or other improvement imbedded or affixed to
24 land, and any article so affixed or attached to such building,
25 structure or improvement as to be an essential and integral part
26 thereof, (2) any article affixed or attached to such property in such
27 manner that it cannot be removed without material injury to itself or
28 to the property, (3) any article so designed, constructed, or specially
29 adapted to the purpose for which such property is used that (a) it is
30 an essential accessory or part of such property; (b) it is not capable
31 of use elsewhere; and (c) would lose substantially all its value if
32 removed from such property;

33 (e) "Court" means Superior Court of New Jersey;

34 (f) "Rules" means the applicable rules governing the courts of
35 the State of New Jersey as promulgated from time to time by the
36 Supreme Court of New Jersey;

37 (g) "Action" means the legal proceeding in which

38 (1) property is being condemned or required to be condemned;

39 (2) the amount of compensation to be paid for such
40 condemnation is being fixed;

41 (3) the persons entitled to such compensation and their interests
42 therein are being determined; and

43 (4) all other matters incidental to or arising therefrom are being
44 adjudicated.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (h) "Compensation" means the just compensation which the
2 condemnor is required to pay and the condemnee is entitled to
3 receive according to law as the result of the condemnation of
4 property;

5 (i) "Award" means the award of compensation made by the
6 commissioners provided for herein;

7 (j) "Judgment" means the adjudication by the court of any issue
8 of fact or law, or both, arising under this act. The adjudication of
9 the right to condemn shall be a final judgment. All other judgments
10 shall be interlocutory or final, according to law, or as may be
11 prescribed by the rules;

12 (k) "Recording office" means the county office of each county
13 in which the property being condemned, or any part thereof, is
14 located, in which office conveyances of real property may be
15 recorded;

16 (l) "Days" means calendar days, calculated in accordance with
17 the rules of court;

18 (m) "Public utility" means and includes every public utility, as
19 the same are enumerated in Revised Statutes 48:2-13, and every
20 natural gas pipeline utility as defined in P.L.1952, chapter 166 (C.
21 48:10-2 et seq.) vested with the power of eminent domain and
22 subject to regulation under State or Federal law.

23 (n) Words used in the singular shall include the plural and vice
24 versa. Words used in the neuter gender shall include masculine and
25 feminine gender, as the case may be.

26 (o) "First responder" means a police officer, firefighter, or other
27 person who has been trained to provide emergency medical first
28 response services in a program recognized by the Commissioner of
29 Health and Senior Services.

30 (p) "Military service" means duty by any person, male or
31 female, in the active military service of the United States and active
32 duty in the military service of the State pursuant to an order of the
33 Governor issued pursuant to law.

34 (q) "Overseas deployee" means a person deployed in a zone of
35 conflict, or pursuant to a military action or national emergency
36 under the control of the government of the United States of
37 America, the North Atlantic Treaty Organization, the United
38 Nations, or at the direction of the President of the United States or
39 his officers.

40 (cf: P.L.1971, c.361, s.2)

41
42 2. Section 8 of P.L.1971, c.361 (C.20:3-8) is amended to read
43 as follows:

44 8. a. The action shall be instituted by filing of a verified
45 complaint in form and content specified by the rules together with
46 the affidavit required pursuant to subsection b. of this section and
47 shall demand judgment that condemnor is duly vested with and has
48 duly exercised its authority to acquire the property being

1 condemned, and for an order appointing commissioners to fix the
2 compensation required to be paid.

3 b. Simultaneously with the filing of the complaint, the
4 condemnor shall file in the court an affidavit setting forth facts
5 showing that the condemnee is neither in military service, an
6 overseas deployee nor been deployed out-of-state as a first
7 responder to an emergency or disaster. An affidavit shall have
8 attached to it a statement from the Department of Defense or from
9 each branch of the armed forces that the condemnee is not in
10 military service or an overseas deployee, or shall contain facts
11 admissible in evidence sufficient to prove that the condemnee is
12 neither in military service, an overseas deployee nor been deployed
13 out-of-state as a first responder to an emergency or disaster. If an
14 affidavit is not filed showing that the condemnee is neither in
15 military service nor been deployed out-of-state as a first responder
16 to an emergency or disaster, the action shall be stayed until 90 days
17 following the filing of an acceptable affidavit.

18 (cf: P.L.1971, c.361, s.8)

19
20 3. (New section) The Department of Environmental Protection
21 shall not issue any letter of interpretation or perform any other
22 environmental assessment or evaluation in connection with property
23 owned, in whole or in part, by a person who is in military service,
24 an overseas deployee or by a person who has been deployed out-of-
25 state as a first responder to an emergency or disaster, without the
26 person's prior written consent. Any letter of interpretation,
27 environmental assessment, or evaluation by the Department of
28 Environmental Protection in connection with property owned, in
29 whole or in part, by a person who is in military service, an overseas
30 deployee or who has been deployed out-of-state as a first responder
31 to an emergency or disaster shall not be utilized in support of a
32 condemnation action without that person's prior written consent.

33 For the purposes of this section:

34 "First responder" means a police officer, firefighter, or other
35 person who has been trained to provide emergency medical first
36 response services in a program recognized by the Commissioner of
37 Health and Senior Services.

38 "Military service" means duty by any person, male or female, in
39 the active military service of the United States and active duty in
40 the military service of the State pursuant to an order of the
41 Governor issued pursuant to law.

42 "Overseas deployee" means a person deployed in a zone of
43 conflict, or pursuant to a military action or national emergency
44 under the control of the government of the United States of
45 America, the North Atlantic Treaty Organization, the United
46 Nations, or at the direction of the President of the United States or
47 his officers.

