

SENATE, No. 4850

STATE OF NEW JERSEY
222nd LEGISLATURE

INTRODUCED OCTOBER 19, 2026

Sponsored by:

Senator MICHAEL L. TESTA, JR.

District 1 (Atlantic, Cape May and Cumberland)

Senator BRIAN P. STACK

District 33 (Hudson)

SYNOPSIS

Requires municipalities to specify in ordinance implementing eminent domain particular use intended for property.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the acquisition of real property by
2 municipalities through eminent domain, amending P.L.1971,
3 c.199, and supplementing P.L.1971, c.361 (C.20:3-1 et seq.).
4

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

8 1. Section 5 of P.L.1971, c.199 (C.40A:12-5) is amended to
9 read as follows:

10 5. **[(a)]** a. Any county, by resolution, or any municipality, by
11 ordinance, may provide for the acquisition of any real property,
12 capital improvement, or personal property:

13 (1) **[By]** by purchase, gift, devise, lease, exchange,
14 condemnation, or installment purchase agreement;

15 (2) **[Subject]** subject to lawful conditions, restrictions₂ or
16 limitations as to its use by the county or municipality, provided the
17 governing body accepts such lawful conditions, restrictions₂ or
18 limitations. When any county or municipality shall have acquired
19 any real property, capital improvement₂ or personal property upon
20 any lawful condition, restriction₂ or limitation, it is hereby
21 authorized to take such steps as may be necessary and proper to the
22 compliance by the county or municipality with such lawful
23 conditions, restrictions₂ or limitations; and

24 (3) **[Whether]** whether the acquisition of any real property is by
25 lease, purchase, installment purchase agreement₂ or exchange, the
26 governing body may require the construction or repair of any
27 capital improvement as a condition of acquisition.

28 **[(b)]** b. To the extent that the acquisition is by an installment
29 purchase agreement, the obligation of the county or municipality
30 shall be valid and binding for the term thereof which shall not be
31 greater than 40 years and shall not be otherwise subject to annual
32 appropriation, and the authorization of such obligation shall not be
33 subject to any of the provisions of the "Local Bond Law,"
34 (N.J.S.40A:2-1 et seq.), except that:

35 (1) the repayment schedule of the principal shall be consistent
36 with the requirements of N.J.S.40A:2-26 et seq., unless otherwise
37 approved by the Local Finance Board within the Division of Local
38 Government Services in the Department of Community Affairs**[,]** ;

39 (2) a supplemental debt statement reflecting the principal sum of
40 the installment purchase agreement shall be filed consistent with the
41 provisions of N.J.S.40A:2-10; and

42 (3) to the extent that such supplemental debt statement reflects
43 debt in excess of the debt limitations imposed on counties or
44 municipalities, as appropriate, by N.J.S.40A:2-6 and not otherwise

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 within the exceptions contained in N.J.S.40A:2-7, the county or
2 municipality must obtain the approval of the Local Finance Board.

3 **[(c)] c.** Any county or municipality having acquired any real
4 property, capital improvement, or personal property or any real
5 estate or interest therein, which acquisition or estate or interest shall
6 have become unsuited or inconvenient for the use for which it was
7 acquired, may, at any time convert a portion or the whole thereof to
8 any other public use unless otherwise provided by law or by the
9 terms of acquisition.

10 **[(d)] d.** Whenever the governing body of any county or
11 municipality to which there has been conveyed any real property,
12 capital improvement, or personal property subject to such lawful
13 conditions, restrictions, or limitations shall by ordinance, in the case
14 of a municipality, and by resolution, in the case of a county,
15 determine that **[(said)] the** real property, capital improvement, or
16 personal property can no longer be used advantageously for the
17 purposes for which the same were acquired by the county or
18 municipality, **[(said)] the** county or municipality may, by ordinance
19 or resolution, authorize the sale or exchange pursuant to section 13
20 of **[(this act)] P.L.1971, c.199 (C.40A:12-13)** of the interest of the
21 county or municipality in **[(said)] the** real property, capital
22 improvement, or personal property.

23 Whenever the county or municipality, by resolution or ordinance,
24 as the case may be, determines that property, which has been
25 acquired by purchase, gift, devise, lease, exchange or otherwise for
26 a nominal or no consideration for a specific purpose, or subject to
27 lawful conditions, restrictions, or limitations as to its use, can no
28 longer be used for the purposes for which acquired, it may offer or
29 reconvey **[(said)] the** property to the original grantor or **[(his)] the**
30 grantor's heirs for a similar or no consideration, prior to other
31 disposition pursuant to section 13 of **[(this act)] P.L.1971, c.199**
32 **[(C.40A:12-13)]**.

33 e. Notwithstanding the provisions of P.L.1971, c.199
34 (C.40A:12-1 et seq.) to the contrary, a municipality, by ordinance,
35 shall provide within the text of the ordinance, the explicit particular
36 use intended for any real property, capital improvement, or personal
37 property within its jurisdiction to be acquired under the "Eminent
38 Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).
39 (cf: P.L.1992, c.157, s.5)

40
41 2. (New section) Notwithstanding any provision of any other
42 law, rule, or regulation to the contrary, whenever any condemnor,
43 as defined in section 2 of P.L.1971, c.361 (C.20:3-2) that is a
44 municipality seeks to acquire property by condemnation, the
45 ordinance authorizing the action shall specify the exact public use
46 or uses for which the property is being acquired. Any ordinance
47 stating only that the acquisition is for a public use or purpose,

1 without a specified use or purpose, shall not satisfy the
2 requirements of P.L. , c. (C.) (pending before the
3 Legislature as this bill).

4
5 3. This act shall take effect immediately.
6
7

8 STATEMENT
9

10 This bill requires municipalities to specify, in any ordinance
11 implementing the use of eminent domain, the explicit particular use
12 intended for that property. The requirement, under the "Local
13 Lands and Buildings Law," P.L.1971, c.199 (C.40A:12-1 et seq.), is
14 to apply to acquisition of any real property, capital improvement, or
15 personal property within its jurisdiction to be acquired under the
16 "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.).

17 The bill also supplements the "Eminent Domain Act of 1971" to
18 specify that when any condemnor that is a municipality seeks to
19 acquire property by condemnation, the ordinance authorizing the
20 action is to specify the exact public use or uses for which the
21 property is being acquired.

22 In Borough of Seaside Park v. Shree Jyoti, LLC, Docket No. A-
23 2-25, decided on August 10, 2026, the New Jersey Supreme Court
24 ruled 6-1 that municipalities do not have to state a specific public
25 use or purpose in an ordinance when starting a condemnation action
26 because such a requirement is not specified under current law. This
27 bill amends current law to require municipalities to specify in any
28 ordinance implementing eminent domain the particular use intended
29 for that property.

30 The bill also makes technical corrections.