A BILL TO BE ENTITLED
AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO AUTHORIZE INVERSE CONDEMNATION BY A BUSINESS CLOSED BY ORDER OF THE GOVERNOR OR A LOCAL GOVERNMENT DUE TO A STATE OF EMERGENCY.
The General Assembly of North Carolina enacts:

SECTION 1. Article I of the North Carolina Constitution is amended by adding a new section to read:

"Sec. 39. Right to inverse condemnation for business closed during state of emergency.

(1) Cause of action. An order issued by the Governor or a unit of local government due to a state of emergency declared by the Governor that requires a business to partially or completely close is a public use. An owner of a business partially or completely closed as described in this subsection may bring an action in the superior court of the county where the business is located to compel the State or unit of local government to commence condemnation proceedings and payment of just compensation for all of the following:

(a) Loss of income during, and for a reasonable period of time after, a temporary partial or complete closure of the business that would not have occurred but for compliance with the order described in this subsection.

(b) Loss of going concern, including the loss of real property, if the closure of the business results in the owner going out of business and the owner would not have gone out of business but for compliance with the order described in this subsection.

(2) Burden of proof. The owner of the business has the burden of proving that the loss is due to the order described in subsection (1) of this section and proving the amount of the compensation for losses. An owner bringing an action under this section may petition the court for reimbursement of reasonable costs and expenses, including reasonable attorney fees, appraisal fees, and costs actually incurred in bringing the action.

(3) Limitation. A petition for just compensation brought under this section must be filed within one year of the expiration of the order that resulted in the business closure.

(4) Implementation. The General Assembly may prescribe general laws to further define and implement this section."

SECTION 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the general election held in 2020, which election shall be conducted under the laws then governing elections in the State. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST
Constitutional amendment to allow a business owner to bring an inverse condemnation action if the owner's business is partially or completely closed by an order issued by the Governor or a unit of local government due to a state of emergency declared by the Governor."

SECTION 3. If a majority of votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The Secretary of State shall enroll the amendment so certified among the permanent records of that office. The amendment set out in Section 1 of this act becomes effective upon certification and applies to business closures on or after that date.

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