

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 501  
Senate Rules and Operations of the Senate Committee Substitute Adopted 6/28/17

Short Title: DOT/Surveying Information in Plans.

(Public)

Sponsors:

Referred to:

March 29, 2017

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO INCLUDE SURVEYING INFORMATION IN ANY PLANS PREPARED FOR THE PURPOSE OF ACQUIRING CERTAIN PROPERTY RIGHTS AND TO MAKE CHANGES TO THE DEPARTMENT OF TRANSPORTATION RESIDUE PROPERTY DISPOSAL PROCEDURE.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-19.4A. Required surveying information in certain acquisition plans.**

The Department of Transportation shall include in any plan prepared for the purpose of acquiring right-of-way, a permanent easement, or both, that depicts property lines, right-of-way lines, or permanent easements, a set of drawings that clearly identify design alignments, baseline control points, found property-related corner markers, and new right-of-way and permanent easement corner markers. Plans subject to the requirements of this section shall document the localized coordinates for each major control point along the design alignments. The coordinates and associated localization metadata shall be based upon, and tied to, the North Carolina State Plane Coordinate system and shall be clearly identified within the plans. All property corner markers found and surveyed shall be clearly identified within the plans in accordance with general surveying standards and procedures. Each property corner marker shall be accurately tied to the design alignment or the North Carolina State Plane Coordinate system, by either a system of bearings and distances or by station and offset."

**SECTION 2.(a)** Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-19.6. Residue property disposal; Department authority; definitions; classification and valuation; disposition method; proceeds; approvals required.**

(a) State Policy. – It is the policy of the State that the Department of Transportation shall dispose of its residue real property as expeditiously as possible for the benefit of the citizens and taxpayers of the State.

(b) Department Authority to Dispose of Residue Property. – The Department, in accordance with this section, is vested with the power to manage, control, and dispose of real property acquired in fee simple and that the Department determines to be residue property.

(c) Definitions. – When used in this section, the following definitions apply:

(1) Appraised value. – The value of residue property determined by an appropriate area appraiser or appraiser using Department appraisal methodology.



- 1           (2)   Appraiser. – An appraiser licensed or certified by the North Carolina  
2           Appraisal Board and approved by the Department to accomplish Department  
3           appraisals.
- 4           (3)   Area appraiser. – A Department supervising staff appraiser currently  
5           associated with a Department area appraisal office.
- 6           (4)   Current market value. – The value of property determined by the  
7           Department, in the absence of an appraised value, when obtaining an  
8           appraisal is not feasible as determined by the Department. This value shall  
9           be determined by the appropriate Division Right-of-Way agent and  
10           Right-of-Way Unit manager. The Department shall document a  
11           determination of current market value by means other than determining an  
12           appraised value.
- 13           (5)   Negotiated sale. – Method of sale involving discussion and agreement of  
14           sale terms with a single or limited group of purchasers. This method may be  
15           undertaken by the Department or the Department may delegate a negotiated  
16           sale of residue property to real estate brokers licensed in this State, at the  
17           election of the Chief Engineer.
- 18           (6)   Public sale. – Method of disposing of residue property utilizing advertising  
19           and solicitation of competitive bids. This method may be undertaken by the  
20           Department or the Department may delegate a public sale to a real estate  
21           broker, auctioneer, or auction firm licensed in this State, at the election of  
22           the Chief Engineer.
- 23           (7)   Residue property. – Real property that is owned in fee simple by the  
24           Department that was acquired by the Department in addition to the property  
25           necessary for a transportation project because it would have been an  
26           uneconomic remnant to the prior owner following completion of that  
27           transportation project.
- 28           (8)   Residue property value. – The Department approved value of the residue  
29           property established by either the current market value or appraised value  
30           method.
- 31           (9)   Uneconomic remnant. – Real property, that was located outside of a  
32           proposed right-of-way prior to acquisition, determined to have nominal or no  
33           value to the owner after a Department acquisition pursuant to G.S. 136-19.
- 34           (10)   Upset bid. – At a public sale, an increased bid by a person that exceeds the  
35           highest bid received in response to the notice of public sale, or the last upset  
36           bid, as applicable, by a minimum of five percent (5%).
- 37           (d)   Classification of Residue Property. – The Department shall adopt criteria to guide  
38           the Department in classifying residue property, in its opinion, according to its highest potential  
39           benefit to the Department or potential purchasers. Once classified, residue property that has not  
40           been disposed of within five years shall be reviewed and reclassified if appropriate.
- 41           (1)   Residue property of sufficient size and access to allow commercial or  
42           residential development shall be designated "Class A."
- 43           (2)   Residue property that enhances the value of adjacent property by allowing  
44           more extensive use when joined with adjacent property shall be designated  
45           "Class B."
- 46           (3)   Residue property that, due to size or access, is only of value to adjacent  
47           property owners, or that is of minimal or no value, shall be designated "Class  
48           C."
- 49           (4)   Residue property that has not yet been classified or may be needed by the  
50           Department for future use shall be designated "Class D."

1       (e) Residue Property Inventory. – The Department shall create and maintain a single  
2 comprehensive and up-to-date inventory of residue property owned in fee simple by the  
3 Department.

4       (f) Methods of Disposition Based on Class of Residue Property. – The Department  
5 shall utilize its best efforts to dispose of Class A, Class B, and Class C residue property within  
6 four years of its classification and in accordance with the following methods:

7           (1) Public sale. – The sale of Class A residue property shall be disposed of by  
8 public sale and may be sold by either sealed bid or by auction at the election  
9 of the Right-of-Way Branch of the Department. The sale of the property  
10 must be advertised by at least two of the following methods:

11           a. Publication once a week for at least two successive weeks in a  
12 newspaper qualified for legal advertising published in the area in  
13 which the residue property is located or, if no newspaper qualified  
14 for legal advertising is published in the area, in a newspaper having  
15 general circulation in the area in which the residue property is  
16 located.

17           b. Placement on the Department Web site.

18           c. Placement of a "For Sale" sign on the residue property.

19 Upset bids must be received within 10 business days following the deadline  
20 for receipt of sealed bids or closing of an auction. The highest bid shall be  
21 presented to the Board of Transportation at its next regular meeting after the  
22 deadline for receipt of bids for rejection or acceptance. The Department may  
23 reject all bids if the Department does not consider the bids to be in accord  
24 with the appraised value as approved by the Department. The Department  
25 shall approve an appraised value for Class A residue property prior to  
26 disposition pursuant to this subdivision.

27           (2) Other methods of disposition for residue property. –

28           a. Class A, Class B, or Class C residue property may be conveyed to a  
29 State agency, public institution, and other local governmental units  
30 by negotiated sale or exchange or may be donated provided its future  
31 use is for public purposes.

32           b. Class B residue property may be sold, in whole or in part, where  
33 feasible, by either negotiated sale or exchange for a residue property  
34 value that is approved by the Division Right-of-Way agent and the  
35 Right-of-Way Unit manager.

36           c. Class C residue property may be sold to an adjacent property owner,  
37 in whole or in part, where feasible, by either negotiated sale or  
38 exchange for the residue property value that is approved by the  
39 Division Right-of-Way agent and the Right-of-Way Unit manager.

40           d. Class B and Class C residue property with an area of one acre or less  
41 and a residue property value of twenty-five thousand dollars  
42 (\$25,000) or less may be sold by negotiated sale or exchange with an  
43 adjoining owner. The Division Right-of-Way agent or their designee  
44 may negotiate with the adjoining owners concerning the disposal of  
45 each residue for a consideration that is approved by the Division  
46 Right-of-Way agent and the Right-of-Way Unit manager.

47           (3) Exchange with a public utility company. – Class B and Class C residue  
48 property may be used for the purpose of exchange with a public utility  
49 company in part or in full consideration for acquiring rights-of-way. The  
50 exchange shall be based on the residue property value and the fair market  
51 value of rights-of-way to be acquired.

1           (4) Exchange with a property owner. – Class B and Class C residue property  
2           may be used for the purpose of exchange with another property owner in  
3           part or full consideration for acquiring rights-of-way. The exchange shall be  
4           based on the residue property value and the fair market value of  
5           rights-of-way to be acquired.

6           (5) Sale to persons displaced by a transportation project. – Residue property  
7           may be sold by negotiated sale to a property owner displaced by a  
8           transportation project and shall be based upon the residue property value.  
9           Residue property sold pursuant to this subdivision shall not include any real  
10           property previously owned by a displaced property owner.

11           (g) Proceeds to State Highway Fund. – Notwithstanding G.S. 146-15 and G.S. 146-30,  
12           no service charge into the State Land Fund shall be deducted from or levied against the  
13           proceeds of any disposition of residue property pursuant to this section. Net proceeds received  
14           pursuant to disposition of residue property in accordance with this section, less any  
15           apportionment required by federal law or regulation regulating its use, shall be deposited in the  
16           State Highway Fund.

17           (h) Approvals Required. – All conveyances of residue property require Department and  
18           Board of Transportation approval. Conveyance of residue property with a residue property  
19           value of less than ten thousand dollars (\$10,000) shall not require the approval of the Governor  
20           and Council of State; otherwise Governor and Council of State approval is also required.

21           (i) Recordation of Conveyance. – The Department shall record all conveyances of  
22           residue property pursuant to this section in accordance with G.S. 47-27 and other applicable  
23           State law.

24           (j) Rule-Making Authority. – The Department shall also have the authority to adopt,  
25           amend, or repeal rules as it may deem necessary to carry out its duties under the provisions of  
26           this section.

27           (k) Reconveyance to Former Owner. – Nothing in this section shall preclude the  
28           reconveyance of condemned property to its former owner pursuant to G.S. 136-19.

29           (l) Report to Joint Legislative Transportation Oversight Committee. – No later than  
30           March 1, 2019, and by March 1 each year thereafter, the Department shall report to the Joint  
31           Legislative Transportation Oversight Committee on the classification and sale of residue  
32           properties pursuant to this section. At a minimum, this report shall include information on the  
33           following:

34                   (1) The number and type of properties classified.

35                   (2) The number and type of properties sold, including information about the  
36                   manner of sale, the identity of the purchaser, and the average ratio of sale  
37                   price to residue property value of the properties sold."

38           **SECTION 2.(b) Pilot Program to Reduce Inventory of DOT Residue Property. –**  
39           No later than January 1, 2018, the Department shall establish a pilot program for disposing of  
40           residue property in accordance with Section 1(a) of this act. In implementing this pilot  
41           program, the Department shall prepare a request for proposals to select three real estate brokers  
42           and three real estate auctioneers or real estate auction firms to dispose of a representative  
43           sample of residue properties, selected by the Department, consisting of at least 15 Class A  
44           properties, 30 Class B properties, and 45 Class C properties distributed throughout the State. If  
45           the quantity of residue property in each class is insufficient to satisfy this minimum, the  
46           Department may set a minimum based on the quantity of residue properties available. The term  
47           for the initial contracts awarded shall be 180 days. The Department shall repeat the request for  
48           proposals process to award contracts for a subsequent 180-day term. The Department shall  
49           review the progress of residue property disposition pursuant to each contract awarded through  
50           the pilot program. The pilot program shall terminate on January 1, 2019.

1           **SECTION 2.(c)** No later than March 1, 2018, and by March 1, 2019, the  
2 Department shall report to the Joint Legislative Transportation Oversight Committee on the  
3 classification and sale of residue properties pursuant to the pilot program established pursuant  
4 to Section 1(b) of this act. At a minimum, this report shall include information on the  
5 following:

- 6           (1) The number and type of properties classified and offered as part of each  
7 request for proposal.  
8           (2) The details of each request for proposal and award of contract pursuant to  
9 each request for proposal.  
10          (3) The number and type of properties sold, including information about the  
11 manner of sale, the identity of the purchaser, and the average ratio of sale  
12 price to residue property value of the properties sold.

13           **SECTION 3.** This act becomes effective October 1, 2017. Section 1 applies to  
14 plans prepared for acquisitions on or after the effective date.