

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2017-137
HOUSE BILL 501

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

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.

(2) Appraiser. – An appraiser licensed or certified by the North Carolina Appraisal Board and approved by the Department to accomplish Department appraisals.



- (3) Area appraiser. – A Department supervising staff appraiser currently associated with a Department area appraisal office.
- (4) Current market value. – The value of property determined by the Department, in the absence of an appraised value, when obtaining an appraisal is not feasible as determined by the Department. This value shall be determined by the appropriate Division Right-of-Way agent and Right-of-Way Unit manager. The Department shall document a determination of current market value by means other than determining an appraised value.
- (5) Negotiated sale. – Method of sale involving discussion and agreement of sale terms with a single or limited group of purchasers. This method may be undertaken by the Department or the Department may delegate a negotiated sale of residue property to real estate brokers licensed in this State, at the election of the Chief Engineer.
- (6) Public sale. – Method of disposing of residue property utilizing advertising and solicitation of competitive bids. This method may be undertaken by the Department or the Department may delegate a public sale to a real estate broker, auctioneer, or auction firm licensed in this State, at the election of the Chief Engineer.
- (7) Residue property. – Real property that is owned in fee simple by the Department that was acquired by the Department in addition to the property necessary for a transportation project because it would have been an uneconomic remnant to the prior owner following completion of that transportation project.
- (8) Residue property value. – The Department approved value of the residue property established by either the current market value or appraised value method.
- (9) Uneconomic remnant. – Real property, that was located outside of a proposed right-of-way prior to acquisition, determined to have nominal or no value to the owner after a Department acquisition pursuant to G.S. 136-19.
- (10) Upset bid. – At a public sale, an increased bid by a person that exceeds the highest bid received in response to the notice of public sale, or the last upset bid, as applicable, by a minimum of five percent (5%).

(d) Classification of Residue Property. – The Department shall adopt criteria to guide the Department in classifying residue property, in its opinion, according to its highest potential benefit to the Department or potential purchasers. Once classified, residue property that has not been disposed of within five years shall be reviewed and reclassified if appropriate.

- (1) Residue property of sufficient size and access to allow commercial or residential development shall be designated "Class A."
- (2) Residue property that enhances the value of adjacent property by allowing more extensive use when joined with adjacent property shall be designated "Class B."
- (3) Residue property that, due to size or access, is only of value to adjacent property owners, or that is of minimal or no value, shall be designated "Class C."
- (4) Residue property that has not yet been classified or may be needed by the Department for future use shall be designated "Class D."

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

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

- (1) Public sale. – The sale of Class A residue property shall be disposed of by public sale and may be sold by either sealed bid or by auction at the election of the Right-of-Way Branch of the Department. The sale of the property must be advertised by at least two of the following methods:
 - a. Publication once a week for at least two successive weeks in a newspaper qualified for legal advertising published in the area in which the residue property is located or, if no newspaper qualified for legal advertising is published in the area, in a newspaper having general circulation in the area in which the residue property is located.
 - b. Placement on the Department Web site.
 - c. Placement of a "For Sale" sign on the residue property.

Upset bids must be received within 10 business days following the deadline for receipt of sealed bids or closing of an auction. The highest bid shall be presented to the Board of Transportation at its next regular meeting after the deadline for receipt of bids for rejection or acceptance. The Department may reject all bids if the Department does not consider the bids to be in accord with the appraised value as approved by the Department. The Department shall approve an appraised value for Class A residue property prior to disposition pursuant to this subdivision.
- (2) Other methods of disposition for residue property. –
 - a. Class A, Class B, or Class C residue property may be conveyed to a State agency, public institution, and other local governmental units by negotiated sale or exchange or may be donated provided its future use is for public purposes.
 - b. Class B residue property may be sold, in whole or in part, where feasible, by either negotiated sale or exchange for a residue property value that is approved by the Division Right-of-Way agent and the Right-of-Way Unit manager.
 - c. Class C residue property may be sold to an adjacent property owner, in whole or in part, where feasible, by either negotiated sale or exchange for the residue property value that is approved by the Division Right-of-Way agent and the Right-of-Way Unit manager.
 - d. Class B and Class C residue property with an area of one acre or less and a residue property value of twenty-five thousand dollars (\$25,000) or less may be sold by negotiated sale or exchange with an adjoining owner. The Division Right-of-Way agent or their designee may negotiate with the adjoining owners concerning the disposal of each residue for a consideration that is approved by the Division Right-of-Way agent and the Right-of-Way Unit manager.
- (3) Exchange with a public utility company. – Class B and Class C residue property may be used for the purpose of exchange with a public utility company in part or in full consideration for acquiring rights-of-way. The exchange shall be based on the residue property value and the fair market value of rights-of-way to be acquired.
- (4) Exchange with a property owner. – Class B and Class C residue property may be used for the purpose of exchange with another property owner in part or full consideration for acquiring rights-of-way. The exchange shall be

based on the residue property value and the fair market value of rights-of-way to be acquired.

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

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

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

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

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

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

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

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

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

SECTION 2.(c) No later than March 1, 2018, and by March 1, 2019, the Department shall report to the Joint Legislative Transportation Oversight Committee on the classification and sale of residue properties pursuant to the pilot program established pursuant

to Section 1(b) of this act. At a minimum, this report shall include information on the following:

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

SECTION 2.5. G.S. 20-280 reads as rewritten:

"§ 20-280. Filing proof of financial responsibility with governing board of municipality or county.

(a) Within 30 days after March 27, 1951, every person, firm or corporation engaging in the business of operating a taxicab or taxicabs within a municipality shall file with the governing board of the municipality in which such business is operated proof of financial responsibility as hereinafter defined.

No governing board of a municipality shall hereafter issue any certificate of convenience and necessity, franchise, license, permit or other privilege or authority to any person, firm or corporation authorizing such person, firm or corporation to engage in the business of operating a taxicab or taxicabs within the municipality unless such person, firm or corporation first files with said governing board proof of financial responsibility as hereinafter defined.

Within 30 days after the ratification of this section, every person, firm or corporation engaging in the business of operating a taxicab or taxicabs without the corporate limits of a municipality or municipalities, shall file with the board of county commissioners of the county in which such business is operated proof of financial responsibility as hereinafter defined.

No person, firm or corporation shall hereafter engage in the business of operating a taxicab or taxicabs without the corporate limits of a municipality or municipalities in any county unless such person, firm or corporation first files with the board of county commissioners of the county in which such business is operated proof of financial responsibility as hereinafter defined.

(b) As used in this section "proof of financial responsibility" shall mean a certificate of any insurance carrier duly authorized to do business in the State of North Carolina certifying that there is in effect a policy of liability insurance insuring the owner and operator of the taxicab business, his agents and employees while in the performance of their duties against loss from any liability imposed by law for damages including damages for care and loss of services because of bodily injury to or death of any person and injury to or destruction of property caused by accident and arising out of the ownership, use or operation of such taxicab or taxicabs, subject to limits (exclusive of interests and costs) with respect to each such motor vehicle as follows: ~~thirty thousand dollars (\$30,000)~~ one hundred thousand dollars (\$100,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, ~~sixty thousand dollars (\$60,000)~~ three hundred thousand dollars (\$300,000) because of bodily injury to or death of two or more persons in any one accident, and ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000) because of injury to or destruction of property of others in any one accident.

~~(c) Every person, firm or corporation who engages in the taxicab business and who is a member of or participates in any trust fund or sinking fund, which said trust fund or sinking fund is for the sole purpose of paying claims, damages or judgments against persons, firms or corporations engaging in the taxicab business and which trust fund or sinking fund is approved by the governing body of any city or municipality with a population of over 50,000, shall be deemed a compliance with the financial responsibility provisions of this section.~~

~~Provided, however, that in the case of operators of 15 or more taxicabs, the limits (exclusive of interests and costs), with respect to each such motor vehicle shall be as follows: twenty thousand dollars (\$20,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, forty thousand dollars (\$40,000) because of bodily injury to or death of two or more persons in any one accident, and twenty five thousand dollars (\$25,000) because of injury to or destruction of property of others in any one accident."~~

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

In the General Assembly read three times and ratified this the 30th day of June, 2017.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 4:12 p.m. this 20th day of July, 2017