

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

H

D

**HOUSE BILL 1179
Committee Substitute Favorable 6/6/12
Third Edition Engrossed 6/13/12
PROPOSED COMMITTEE SUBSTITUTE H1179-PCS11385-SV-67**

Short Title: Indian Cul. Ctr/Golf Course Terminate Leases.

(Public)

Sponsors:

Referred to:

May 30, 2012

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE STATE TO TERMINATE ITS LEASE OF THE INDIAN CULTURAL CENTER PROPERTY AND THE RIVERSIDE GOLF COURSE PROPERTY AND TO DIRECT THE PROGRAM EVALUATION DIVISION TO STUDY THE OPTIONS FOR THE DISPOSITION OF THE PROPERTIES.

Whereas, the State of North Carolina acquired the following tracts or parcels of land located in Maxton Township, Robeson County, for the development, use, and maintenance of an Indian Cultural Center: (i) 386.69 acres, more or less, by deed from the Riverside Country Club of Pembroke, Inc., dated April 14, 1983, recorded in Book 533, Page 164, Robeson County Registry and by deed dated August 24, 1984, recorded in Book 563, Page 254, Robeson County Registry, less and except approximately 110 acres for the use and operation of the Riverside Golf Course; (ii) 99.62 acres, more or less, by deed from Evelyn S. Morgan Abbott, dated March 25, 1988, recorded in Book 575, Page 523, Robeson County Registry; (iii) 10 acres, more or less, by deed from H.C. Locklear, et ux, dated December 12, 1985, recorded in Book 586, Page 142, Robeson County Registry; and (iv) 42.50 acres, more or less, by deed from Ronald Revels and wife, Dorisetta Revels, dated December 17, 1996, recorded in Book 931, Page 415, Robeson County Registry; and

Whereas, pursuant to Chapter 1074 of the 1989 Session Laws, as amended by Chapter 900 of the 1991 Session Laws and Chapter 88 of the 1993 Session Laws, the General Assembly directed that the State of North Carolina enter into a 99-year lease of the Indian Cultural Center property with a North Carolina nonprofit entity known as the North Carolina Indian Cultural Center, Inc. (NCICC); and

Whereas, the State of North Carolina entered into a 99-year lease agreement, dated May 12, 1994, with NCICC, which lease was subsequently amended on December 9, 1997, and June 6, 2001, in accordance with S.L. 1997-41 and S.L. 2001-89 (collectively, the "lease"); and

Whereas, the lease provides in paragraph 8 that the Indian Cultural Center property is to "be maintained and improved, at no cost or expense to the [State of North Carolina], for those activities covered by the original charter of [T]he North Carolina Indian Cultural Center, Inc., on file with the North Carolina Secretary of State"; and

Whereas, as provided in its charter, the organizational purposes of NCICC are, in part: "a. [t]o respectfully present to the public accurate information on Native North American history, art, and culture"; and "b. [t]o develop, establish, manage, furnish, equip, maintain,



* H 1 1 7 9 - P C S 1 1 3 8 5 - S V - 6 7 *

1 preserve, exhibit and interpret to the public the North Carolina Indian Cultural Center with its
2 Indian villages, arts and crafts, archaeological digs, museums, art exhibits, library, visitors'
3 center, recreational facilities, entertainment, restaurants, concessions, and other related
4 operations of an artistic, economic development, educational, and cultural nature"; and

5 Whereas, in addition to the maintenance requirements of paragraph 8, paragraphs 16
6 and 20 of the lease require NCICC to maintain during its term of possession, at its expense, the
7 Indian Cultural Center property and all permanent structures located on the property in
8 accordance with all applicable laws, rules, ordinances, orders, and regulations of State and
9 county governmental agencies; and

10 Whereas, in March 2010, the Office of State Construction assessed the condition of
11 the improvements at the Indian Cultural Center property, from which assessment it appears that
12 the improvements on the property have not been maintained as required in paragraphs 8, 16,
13 and 20 of the lease; and

14 Whereas, subsequently, the North Carolina Department of Insurance conducted a
15 fire and safety inspection at the Indian Cultural Center property, from which inspection it
16 appears that the improvements on the property have not been maintained as required in
17 paragraphs 8, 16, and 20 of the lease; and

18 Whereas, the Riverside Golf Course, comprising approximately 110 acres, is
19 contiguous to Indian Cultural Center property and uses as a means of access the main road
20 extending through the Indian Cultural Center property; and

21 Whereas, pursuant to paragraph 13 of the lease, the State of North Carolina retained
22 the right of ingress and egress, both vehicular and pedestrian, over the main road extending
23 through the Indian Cultural Center property for the purpose of accessing the Riverside Golf
24 Course; and

25 Whereas, NCICC has hindered or prevented access to the Riverside Golf Course by
26 the State, its lessees, contractors, and invitees by changing the locks on the entrance gate to the
27 Indian Cultural Center property and by other means; and

28 Whereas, paragraph 25 of the lease requires NCICC to keep in force, and maintain
29 throughout the term of the lease, fire and extended coverage insurance on the permanent
30 structures located on the Indian Cultural Center property; and

31 Whereas, pursuant to paragraph 26 of the lease, NCICC is required to keep in force,
32 for the mutual benefit of the State and NCICC, at no cost to the State, comprehensive broad
33 form general public liability insurance on the terms and conditions set forth in the lease; and

34 Whereas, NCICC has failed to provide evidence to the State that the insurance
35 required under paragraphs 25 and 26 of the lease is in force; and

36 Whereas, upon consultation with the Department of Administration, the Office of
37 the Attorney General provided NCICC with notice in a letter dated January 18, 2011, that
38 NCICC was in breach of its obligations under the lease for defaults that included some of those
39 set forth above; and

40 Whereas, the General Assembly also finds that NCICC is, and has been for some
41 time, in breach of its obligations under the lease for the defaults set forth above and other
42 defaults and that it would be in the best interest of the State if the lease were terminated and
43 existing law amended to allow the State of North Carolina to effect an alternate arrangement
44 for the disposition and management of the Indian Cultural Center property other than the lease
45 with NCICC; and

46 Whereas, pursuant to subsection (a) of Section 18 of Chapter 1074 of the 1989
47 Session Laws, as amended by Section 22 of Chapter 900 of the 1991 Session Laws, Section 1
48 of Chapter 88 of the 1993 Session Laws, Section 33 of Chapter 561 of the 1993 Session Laws,
49 Section 1 of S.L. 1997-41, and Section 1 of S.L. 2001-89, the Riverside Golf Course was
50 excluded from the real property subject to the lease and operated for a period of time under
51 separate lease agreements; and

1 Whereas, the Riverside Golf Course is not currently in operation and all lease
2 agreements for the Riverside Golf Course have either expired or allow for termination upon 30
3 days' notice by the State; Now, therefore,

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Termination of leases and repossession of land. – Notwithstanding
6 the provisions of subsection (a) of Section 18 of Chapter 1074 of the 1989 Session Laws, as
7 amended by subsection (e) of Section 22 of Chapter 900 of the 1991 Session Laws, Section 1 of
8 Chapter 88 of the 1993 Session Laws, Section 33 of Chapter 561 of the 1993 Session Laws,
9 Section 1 of S.L. 1997-41, and Section 1 of S.L. 2001-89, the State of North Carolina shall
10 immediately terminate its lease of the Indian Cultural Center property pursuant to the terms of
11 the lease and repossess the property. The State of North Carolina shall also terminate its lease
12 of the Riverside Golf Course property upon giving 30 days' notice pursuant to the terms of the
13 lease and repossess the property. The State of North Carolina shall not sell, lease, or otherwise
14 dispose of the Indian Cultural Center property or the Riverside Golf Course property until the
15 Joint Legislative Program Evaluation Oversight Committee has made its final
16 recommendations upon completion of the study directed by Section 2 of this act and the
17 General Assembly has enacted legislation directing action on this issue.

18 **SECTION 2.(a)** PED Study. – The Joint Legislative Program Evaluation Oversight
19 Committee shall include in the 2012-2013 Work Plan for the Program Evaluation Division of
20 the General Assembly a study to evaluate the options for disposing of the Indian Cultural
21 Center property and the Riverside Golf Course property in such a way that ensures that the
22 properties will continue to serve all of the purposes listed in this section. The purposes are:

- 23 (1) The preservation, exhibition, and interpretation of Native North American
24 arts, crafts, and artifacts.
- 25 (2) The provision of information to the public on Native North American history
26 and culture.
- 27 (3) The installation of new and the renovation of existing public recreational and
28 entertainment facilities.
- 29 (4) The cultivation of economic development enterprises.

30 **SECTION 2.(b)** Reporting. – The Program Evaluation Division shall submit its
31 findings and recommendations to the Joint Legislative Program Evaluation Oversight
32 Committee at a date to be determined by the Joint Legislative Program Evaluation Oversight
33 Committee. The Committee shall submit its findings and recommendations to the General
34 Assembly on or before the convening of the 2013 General Assembly.

35 **SECTION 3.** This act is effective when it becomes law.