

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 501
PROPOSED SENATE COMMITTEE SUBSTITUTE H501-PCS10398-RW-30

Short Title: DOT/Surveying Information in Plans.

(Public)

Sponsors:

Referred to:

March 29, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO INCLUDE
3 SURVEYING INFORMATION IN ANY PLANS PREPARED FOR THE PURPOSE OF
4 ACQUIRING CERTAIN PROPERTY RIGHTS AND TO MAKE CHANGES TO THE
5 DEPARTMENT OF TRANSPORTATION RESIDUE PROPERTY DISPOSAL
6 PROCEDURE.

7 The General Assembly of North Carolina enacts:

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

10 **"§ 136-19.4A. Required surveying information in certain acquisition plans.**

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

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

25 **"§ 136-19.6. Residue property disposal; Department authority; definitions; classification**
26 **and valuation; disposition method; proceeds; approvals required.**

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

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

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

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



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- 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.