

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL DRS15268-MW-82A

Short Title: Subdivision Streets/DOT Acceptance. (Public)

Sponsors: Senators McInnis, J. Davis, and D. Davis (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CHANGES TO STATE LAW CONCERNING THE ACCEPTANCE OF
3 SUBDIVISION STREETS BY THE DEPARTMENT OF TRANSPORTATION, TO
4 REQUIRE THE DEPARTMENT TO COMPILE A COUNTY PUBLIC STREET
5 INFORMATION DATABASE, AND TO REGULARLY UPDATE AND PUBLISH THE
6 SUBDIVISION ROADS MANUAL.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. Chapter 153A of the General Statutes is amended by adding a new
9 section to read:

10 "§ 153A-331.1. Department of Transportation acceptance of subdivision streets to be
11 designated public.

12 (a) Applicability. – This section only applies to subdivision streets that (i) are located
13 outside municipal corporate limits, (ii) are to be designated as public under G.S. 136-102.6, and
14 (iii) have not been platted or received preliminary plat approval.

15 (b) Acceptance Procedure. – The engineer of record for the design of the subdivision
16 street intended to be designated as public shall provide a sealed certification to the county and
17 the Department of Transportation confirming that the subdivision street is in conformity with the
18 approved construction documents for the street and Department standards. Within 30 days of
19 receipt of the certification of conformity, the Department shall inspect the street to verify that it
20 was constructed in conformity with the approved construction documents and meets Department
21 standards. If, after inspection, the Department determines the street conforms, the Department
22 shall (i) accept the street for maintenance within 30 days, (ii) notify the developer in writing
23 within 10 days of the street's acceptance, and (iii) record a statement of acceptance with the
24 county recorder.

25 (c) Performance Guarantee. – Within 30 days of acceptance by the Department, the
26 developer shall establish a performance guarantee, as defined in G.S. 160A-372(g)(1), to
27 guarantee the street is in conformity with the approved construction documents and Department
28 standards. The developer shall provide proof of the performance guarantee to the Department.
29 The terms of the performance guarantee shall meet the following minimum requirements:

30 (1) The amount of the performance guarantee shall not exceed fifteen percent
31 (15%) of the reasonably estimated total cost of construction of the
32 transportation improvements at the time the guarantee is issued.

33 (2) At the election of the developer, the amount of the total cost of construction
34 of the transportation improvements at the time the guarantee is issued may be
35 conclusively determined by a report provided under seal by an architect
36 licensed under the provisions of Chapter 83A of the General Statutes or an



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1 engineer registered under the provisions of Chapter 89C of the General
2 Statutes. The report may contain unit pricing information provided by a
3 general contractor licensed under Chapter 87 of the General Statutes or any
4 other competent source that the architect or engineer certifies, under seal, as
5 accurate.

6 (d) One-Year Review. – No later than 30 days after the one-year acceptance of the street,
7 the Department shall inspect the street and notify the developer of any deficiencies. Upon receipt
8 of the inspection report from the Department, the developer shall have 30 days to correct the
9 deficiencies. Upon receiving notice from the developer that the deficiencies have been corrected,
10 the Department shall reinspect the street within 30 days. When all deficiencies in the street are
11 corrected and approved, the Department shall release the performance guarantee pursuant to
12 subsection (e) of this section.

13 (e) Return of Performance Guarantee. – The performance guarantee shall be returned or
14 released when any one of the following occurs:

15 (1) The Department has notified the developer that there are no deficiencies in the
16 street when inspected at the one-year anniversary of acceptance.

17 (2) The Department has notified the developer that any deficiencies in the street,
18 discovered when inspected at the one-year anniversary of acceptance, are
19 corrected and approved.

20 (3) The recording of a subdivision plat designating the subdivision roads as
21 private.

22 (4) Two years from the date the performance guarantee was received by the
23 Department.

24 (f) Private Streets Not Prohibited. – Nothing in this section shall be construed to prohibit
25 the development of private streets.

26 (g) Local Government Restrictions. – Local governments may not require streets to meet
27 Department standards for acceptance if the street is not intended to be designated as public under
28 G.S. 136-102.6."

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

31 **"§136-18.06. County Public Street Information Database.**

32 The Department shall provide to each county the necessary information to compile a readily
33 available "County Public Street Information Database" and place it in operation on or before
34 January 1, 2020. The information shall convey the status of roads within the jurisdictional area
35 of the county, including municipal extraterritorial jurisdictions, and it shall be updated at least
36 monthly. The data shall reside on any existing database system chosen by the county for this
37 purpose, including a geographic information system (GIS) mapping system or property tax
38 records system. The system chosen shall convey clear and concise information regarding the
39 status of roads to the public. The data shall be available to the public in either graphic or tabular
40 format, or both. The status of roads to be conveyed shall be:

41 (1) Federally maintained with a federal route number assigned.

42 (2) State-maintained with a State road number assigned.

43 (3) City-maintained.

44 (4) Pending public acceptance with a financial consideration in place for the
45 maintenance and repair of the street until it is accepted. This subdivision shall
46 only apply to new streets offered for public dedication after October 1, 2017.

47 (5) Pending public acceptance without a financial consideration being in place for
48 the maintenance and repair of the street until it is accepted."

49 **SECTION 3.** Article 2 of Chapter 136 of the General Statutes is amended by adding
50 a new section to read:

51 **"§ 136-18.07. Subdivision Roads Manual.**

1 The Department shall update its Subdivision Roads Minimum Construction Standards
2 Manual, and any related pavement or other policies, by July 1, 2020, and regularly thereafter, to
3 accurately reflect current federal and State law and applicable judicial decisions. The Department
4 shall report all updates to the Manual to the Joint Legislative Transportation Oversight
5 Committee."

6 **SECTION 4.** This act becomes effective October 1, 2019.