

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL DRS15271-MQ-81

Short Title: Orphan Roads.

(Public)

Sponsors: Senators Sawyer, McInnis, and Lazzara (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT TEMPORARY MAINTENANCE AND ACCEPTANCE
3 GUARANTEES FOR SUBDIVISION DEVELOPMENTS TO PREVENT THE
4 CREATION OF UNMAINTAINED PUBLICLY DEDICATED ROADS AND TO
5 INCREASE TRANSPARENCY IN ROAD CLASSIFICATIONS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Article 8 of Chapter 160D of the General Statutes is amended by
8 adding a new section to read:

9 "**§ 160D-804.2. Temporary maintenance and acceptance guarantees.**

10 (a) To ensure proper maintenance of publicly dedicated subdivision roadways and
11 compliance with G.S. 160D-804 and other development regulation requirements, a county shall
12 require posting of a temporary maintenance guarantee, by the developer, for any publicly
13 dedicated roadway to be transferred for public maintenance under G.S. 136-102.6 or under any
14 applicable municipal ordinance.

15 (b) For purposes of this section, the following definitions apply:

16 (1) Administering entity. – The Board of Transportation or a municipality,
17 whichever is applicable.

18 (2) Roadway system. – The State highway system or a municipal street system,
19 as each is defined in G.S. 136-66.1, whichever is applicable.

20 (c) For purposes of this section, all of the following apply with respect to temporary
21 maintenance and acceptance guarantees:

22 (1) Type. – The type of temporary maintenance and acceptance guarantee shall
23 be at the election of the developer. The term "temporary maintenance and
24 acceptance guarantee" includes any of the following forms of guarantee:

25 a. Surety bond issued by any company authorized to do business in this
26 State.

27 b. Letter of credit issued by any financial institution licensed to do
28 business in this State.

29 c. Other forms of guarantee that provide equivalent security to a surety
30 bond or letter of credit.

31 (2) Use. – Temporary maintenance and acceptance guarantees shall only be used
32 to ensure that a road or street meets the minimum standards set by the
33 administering entity prior to acceptance to the applicable roadway system.
34 Once the road or street meets all applicable requirements set by the
35 administering entity, the developer may utilize the temporary maintenance
36 and acceptance guarantee to meet minimum standards for acceptance into the



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1 roadway system. If the developer is unable, as determined by the county, to
2 ensure the road meets minimum standards for acceptance, the county may
3 utilize the temporary maintenance and acceptance guarantee and bid, pursuant
4 to Chapter 143 of the General Statutes, for the repair of the roadway using
5 funds from the temporary maintenance and acceptance guarantee in order to
6 meet such minimum standards.

7 (3) Required acceptance. – If the road or street has not been accepted into the
8 applicable roadway system for maintenance for a period of four years after the
9 plat has been recorded in the office of the appropriate register of deeds, the
10 administering entity shall automatically accept the road or street into its
11 respective roadway system for maintenance.

12 (4) Petition. – Once the temporary maintenance and acceptance guarantee has
13 been used to ensure the road or street meets the minimum standards of the
14 respective administering entity, the county shall submit a petition to the
15 administering entity for road addition to its roadway system within five days
16 of completed construction, in compliance with G.S. 136-102.6(d).

17 (5) Release. – The following apply to the return or release of any temporary
18 maintenance and acceptance guarantee established under this section:

19 a. The temporary maintenance and acceptance guarantee shall be
20 returned or released, as appropriate, including any funds not utilized,
21 once the road or street has been accepted for maintenance by the
22 administering entity, within 30 days of acceptance.

23 b. If the road or street is accepted pursuant to subdivision (3) of this
24 subsection, the temporary maintenance and acceptance guarantee shall
25 be released by the county to the respective administering entity in an
26 amount commensurate with the reasonable costs necessary for the road
27 or street to meet minimum standards for acceptance into the respective
28 roadway system. Any funds released under this sub-subdivision may
29 be utilized absent any occupancy requirement.

30 (6) Amount. – The posted amount of the temporary maintenance and acceptance
31 guarantee shall be set by the county but shall not exceed twenty percent (20%)
32 of the reasonably estimated total cost of construction for the road or street
33 secured by the temporary maintenance and acceptance guarantee, as
34 determined by the county, of the transportation improvements at the time the
35 guarantee is issued. If the temporary maintenance and acceptance guarantee
36 is not sufficient to cover the total costs to ensure that the road meets the
37 standards set by the administering entity, the county or administering entity
38 may use other funds to supplement the cost. When calculating the estimated
39 total cost of construction for the road or street, the county shall include costs
40 for labor and materials. Where applicable, the costs shall be based on unit
41 pricing.

42 (7) Timing. – A county, at its discretion, shall require the temporary maintenance
43 and acceptance guarantee to be posted either at the time the plat is recorded or
44 prior to recordation of the plat.

45 (8) Legal responsibilities. – No person shall claim any rights under or to any
46 temporary maintenance and acceptance guarantee provided pursuant to this
47 section or in the proceeds of any such temporary maintenance and acceptance
48 guarantee other than the following:

49 a. The county for which the temporary maintenance and acceptance
50 guarantee is provided.

- 1 **b.** The developer at whose request or for whose benefit the temporary
2 maintenance and acceptance guarantee is given.
3 **c.** The person or entity issuing or providing the temporary maintenance
4 and acceptance guarantee at the request of or for the benefit of the
5 developer.
6 **d.** The administering entity, pursuant to subdivision (3) of this
7 subsection.

8 **(9)** Multiple guarantees. – The developer shall have the option to post one type of
9 a temporary maintenance and acceptance guarantee as provided for in
10 subdivision (1) of this subsection, in lieu of multiple bonds, letters of credit,
11 or other equivalent security, for all development matters related to the same
12 project requiring temporary maintenance and acceptance guarantees."

13 **SECTION 2.** G.S. 160D-804.1(1)c. reads as rewritten:

- 14 **"c.** ~~Other~~ Another form of guarantee that provides equivalent security to
15 a surety bond or letter of credit."

16 **SECTION 3.** Article 8 of Chapter 160D of the General Statutes is amended by
17 adding a new section to read:

18 **"§ 160D-809. Subdivision roadway minimum standards.**

19 Any subdivision roadway that is publicly dedicated on a final plat shall be regulated by those
20 standards or regulations in effect at the time the final plat was recorded."

21 **SECTION 4.** G.S. 160D-202 is amended by adding a new subsection to read:

22 **"(l) Roadway Development Standards. – Notwithstanding any provision of law to the**
23 **contrary, the design of streets and rights-of-way designated as public shall be in accordance with**
24 **the minimum right-of-way and construction standards established by the Department of**
25 **Transportation for acceptance on the State highway system."**

26 **SECTION 5.(a)** G.S. 136-18.06 reads as rewritten:

27 **"§ 136-18.06. Public Street Information Database.**

28 The Department shall compile a readily available "Public Street Information Database" and
29 place it in operation on or before January 1, 2020. The information shall convey the status of
30 roads within the State, and it shall be updated at least monthly, except as provided in subdivision
31 (1) of this section. The data shall reside on any existing database system chosen by the
32 Department for this purpose, including a geographic information system (GIS) mapping system.
33 The system chosen shall convey clear and concise information regarding the status of roads to
34 the public. The data shall be available to the public in either graphic or tabular format, or both.
35 The status of roads to be conveyed shall be:

- 36 **(1)** Federally owned, updated as often and with as much information as the State
37 is provided from the federal government.
38 **(2)** State-maintained with a State road number assigned.
39 **(3)** State-owned with a State road number assigned.
40 **(4)** Municipality-owned with a local road number assigned.
41 **(5)** Municipality-maintained with a local road number assigned.
42 **(6)** Roads pending public acceptance pursuant to G.S. 136-102.6. This
43 subdivision applies only to new streets offered for public dedication."

44 **SECTION 5.(b)** The Department of Transportation shall include the additional data
45 required in this section in the Public Street Information Database no later than January 1, 2024.

46 **SECTION 6.** G.S. 136-55.1 reads as rewritten:

47 **"§ 136-55.1. Notice of abandonment.**

48 **(a)** At least 60 days prior to any action by the Department of Transportation abandoning
49 a segment of road and removing the same from the State highway system for maintenance, except
50 roads abandoned on request of the county commissioners under G.S. 136-63, the Department of
51 Transportation shall notify by registered mail or personal delivery all owners of property

1 adjoining the section of road to be abandoned whose whereabouts can be ascertained by due
2 diligence. Said notice shall describe the section of road which is proposed to be abandoned and
3 shall give the date, place and time of the Department of Transportation meeting at which the
4 action abandoning said section of road is to be taken.

5 (b) ~~In keeping with its overall zoning scheme and long range plans regarding the~~
6 ~~extraterritorial jurisdiction area, a municipality may keep open and assume responsibility for~~
7 ~~maintenance of a road within one mile of its corporate limits once it is abandoned from the State~~
8 ~~highway system."~~

9 **SECTION 7.** G.S. 136-102.6 reads as rewritten:

10 **"§ 136-102.6. Compliance of subdivision streets with minimum standards of the Board of**
11 **Transportation required of developers.**

12 ...

13 (f) Prior to entering any agreement or any conveyance with any prospective buyer, the
14 developer and seller shall prepare and sign, and the buyer of the subject real estate shall receive
15 and sign an acknowledgment of receipt of a separate instrument known as the subdivision streets
16 disclosure statement (hereinafter referred to as disclosure statement). Said disclosure statement
17 shall fully and completely disclose the status (whether public or private) of the street upon which
18 the house or lot fronts. If the street is designated by the developer and seller as a public street,
19 the developer and seller shall certify (i) that the right-of-way and design of the street has been
20 approved by the Division of ~~Highways, and Highways~~ or the municipality, as applicable, (ii) that
21 the street has been or will be constructed by the developer and seller in accordance with the
22 standards for subdivision streets adopted by the Board of Transportation ~~or the municipality, as~~
23 applicable, for acceptance on the ~~State or municipal highway system.~~ system at the time of
24 recordation of the plat, and (iii) whether any party is currently maintaining the public street. If
25 the street is designated by the developer and seller as a private street, the developer and seller
26 shall include in the disclosure statement an explanation of the consequences and responsibility
27 as to maintenance of a private street, and shall fully and accurately disclose the party or parties
28 upon whom responsibility for construction and maintenance of such street or streets shall rest,
29 and shall further disclose that the street or streets will not be constructed to minimum standards,
30 sufficient to allow their inclusion on the State highway system for maintenance. The disclosure
31 statement shall contain a duplicate original which shall be given to the buyer. Written
32 acknowledgment of receipt of the disclosure statement by the buyer shall be conclusive proof of
33 the delivery thereof.

34"

35 **SECTION 8.** This act is effective when it becomes law.