

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 1084
SENATE BILL 494

1 AN ACT TO AMEND ARTICLE 9 OF CHAPTER 136 OF THE GENERAL STATUTES TO
2 REQUIRE THE RECORDATION OF A MEMORANDUM OF ACTION WITH THE
3 REGISTER OF DEEDS AND TO CORRECT CERTAIN ERRORS IN SAID ARTICLE.
4

5 The General Assembly of North Carolina do enact:
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7 **Section 1.** G.S. 136-103, as the same appears in the 1959 Supplement to Volume
8 3B of the General Statutes, is hereby amended by inserting in the fourth line from the end of
9 said Section after the word "the" and before the word "declaration" the words "complaint and".

10 **Sec. 2.** G.S. 136-104, as the same appears in the 1959 Supplement to Volume 3B of
11 the General Statutes, is hereby amended by adding the following paragraphs at the end of said
12 Section:

13 "On and after July 1, 1961, the Highway Commission, at the time of the filing of the
14 complaint and declaration of taking and deposit of estimated compensation, shall record a
15 memorandum of action with the Register of Deeds in all counties in which the land involved
16 therein is located and said memorandum shall be recorded among the land records of said
17 county. The memorandum of action shall contain (a) the names of those persons who the
18 Highway Commission is informed and believes may have or claim to have an interest in said
19 lands and who are parties to said action; (b) a description of the entire tract or tracts affected by
20 said taking sufficient for the identification thereof; (c) a statement of the estate or interest in
21 said land taken for public use; (d) the date of institution of said action, the county in which said
22 action is pending, and such other reference thereto as may be necessary for the identification of
23 said action.

24 "That as to those actions instituted by the Highway Commission under the provisions of
25 this Article prior to July 1, 1961, the Highway Commission shall, on or before October 1, 1961,
26 record a memorandum of action with the Register of Deeds in all counties in which said land is
27 located as hereinabove set forth; however, the failure of the Highway Commission to record
28 said memorandum shall not invalidate those actions instituted prior to July 1, 1961."

29 **Sec. 3.** G.S. 136-105, as the same appears in the 1959 Supplement to Volume 3B of
30 the General Statutes is hereby amended by inserting at the end of said Section the following:

31 "No notice to the Highway Commission of the hearing upon the application for
32 disbursement of deposit shall be necessary, but a copy of the order disbursing the deposit shall
33 be served upon the Director of the Highway Commission."

34 **Sec. 4.** G.S. 136-106, as the same appears in the 1959 Supplement to Volume 3B of
35 the General Statutes is hereby amended by striking out the word "filing" from the first line of
36 Subsection (c) thereof and inserting in lieu thereof the word "receipt", and by striking out the
37 period (.) at the end of said subsection and adding at the end of said subsection the following:

38 "or their attorney."

39 **Sec. 5.** Subsection (d) of G.S. 136-109, as the same appears in the 1959 Supplement
40 to Volume 3B of the General Statutes, is hereby amended by striking out in the 6th line from
41 the end of said subsection after the word "with" the following: "§ 136-114" and by inserting in
42 lieu thereof the following: "§ 136-113".

1 **Sec. 6.** G.S. 136-111, as the same appears in the 1959 Supplement to Volume 3B of
2 the General Statutes, is hereby amended by striking out the word "petition" in line 12 thereof
3 and inserting in lieu thereof the word "complaint", and by adding at the end of said Section the
4 following paragraph:

5 "The plaintiff at the time of filing of the complaint shall record a memorandum of action
6 with the Register of Deeds of all counties in which the land involved therein is located, said
7 memorandum to be recorded among the land records of said county. The memorandum of
8 action shall contain (a) the names of those persons who the plaintiff is informed and believes
9 may have or claim to have an interest in said lands and who are parties to said action; (b) a
10 description of the entire tract or tracts affected by the alleged taking sufficient for the
11 identification thereof; (c) a statement of the estate or interest in said land allegedly taken for
12 public use; and (d) the date on which plaintiff alleges the taking occurred, the date on which
13 said action was instituted, the county in which it was instituted, and such other reference
14 thereto as may be necessary for the identification of said action."

15 **Sec. 7.** Subsection (1) of Section G.S. 136-115, as the same appears in the 1959
16 Supplement to Volume 3B of the General Statutes, is hereby amended by inserting in the next
17 to the last line of said subsection after the word "emergency" and before the word "judge" the
18 words "or special".

19 **Sec. 8.** G.S. 136-118, as the same appears in the 1959 Supplement to Volume 3B of
20 the General Statutes, is hereby amended by striking out the words "the summonses" from line 4
21 thereof, and by inserting after the word "taking" and before the word "as" in line 5 the words
22 "and depositing estimated compensation", and by striking out the word "summons" from line 7,
23 and by inserting after the word "taking" and before the word "as" in line 8 thereof the words
24 "and having deposited estimated compensation".

25 **Sec. 9.** All laws and clauses of laws in conflict with this Act are hereby repealed.

26 **Sec. 10.** This Act shall be in full force and effect from and after its ratification.

27 In the General Assembly read three times and ratified, this the 21st day of June,
28 1961.