

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 1046
HOUSE BILL 2336

AN ACT TO ALLOW A PROCEDURE FOR THE IMPROVEMENT OF ROADS IN
CERTAIN COUNTIES AND FOR THE ASSESSMENT OF
NONPARTICIPATING PROPERTY OWNERS.

The General Assembly of North Carolina enacts:

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

"§ 153A-207. Assessment for the improvement of roads.—(a) If the property owners abutting a road desire to bring the road up to the standards of the Secondary Roads Council so that it may become a part of the State maintained system, or if the road is a part of the State maintained system and the abutting landowners desire improvement to be made thereon under the direction of the Department of Transportation, the following procedures shall be followed by the developer in order for the said developer to be reimbursed for the cost associated with the work in excess of the developer's pro rata share of the local cost of the improvements.

(b) As used in this section developer means one or more individuals, firms, partnerships, or corporations or a collection of two or more of the above acting as the entity through which collection activity as set forth herein is conducted. The developer as herein defined shall be such an entity as to be able to contract, sue and be sued, convey good title to real and personal property, and act as the payee for documents of commercial paper as contemplated in the provisions of the Uniform Commercial Code, Chapter 25, of the General Statutes.

(c) No project may be commenced under this section unless it has been approved by the Department of Transportation.

(d) Upon petition of the developer to the County, signed and concurred with by owners who represent: (i) At least sixty-five percent (65%) of the road frontage of the project and (ii) sixty-five percent (65%) of the owners of real property abutting the proposed project, the Board of County Commissioners shall conduct a public hearing concerning the developer's proposal. Notice of the hearing shall be given by advertisement in a newspaper of general circulation in the County at least one week prior to the hearing. Following the hearing, the County may certify the project as eligible for local share reimbursement. At the time the petition is submitted, the developer shall certify that the project is approved by the Department of Transportation and provide official documentation to that effect including the scope of the work to be performed and shall provide precise cost analyses as to the amount of the local share of the cost of improvements, and shall certify good faith compliance with all requirements

and procedures set forth herein. All signatures attached to the petition must be verified by the County Tax Assessor as representing property owners owning real property abutting the road project. The petition must include a map clearly showing the road project and abutting real property. The project may not be expanded or limited following the public hearing without the approval of the County.

(e) At such time as the project is approved by the Board of County Commissioners, the developers shall have a period of 90 days, or any such period as the Department of Transportation may mandate, in which to remit to the County the local share of the cost of improvement in full as indicated by the Department of Transportation. An affidavit shall accompany the payment and shall certify all sums received from owners of real property abutting the project and the amount of such sums so received. The affidavit shall also contain the name and address of the agent so designated by the developer for receipt of payments under this section.

(f) The County shall then forward the local share cost to the Department of Transportation which shall undertake the project according to the timetable established by the Department of Transportation.

(g) The Tax Assessor shall prepare a scroll of all owners of real property abutting the road project. Pro rata assessments shall then be made as against the footage of real property abutting the road project and an amount equal to ten percent (10%) of the local share shall be added to the total assessment to cover the administrative expenses of the County. If it appears from the affidavit required in subsection (e) of this section that any owner has paid a sum equal to his pro rata assessment amount, that owner shall not be assessed.

(h) Said assessments shall be mailed by the Tax Assessor, certified mail, return receipt requested, to each owner as reflected on the assessment scroll. Assessments shall be due and payable 60 days following receipt of said assessment by the owner. If the said assessment is not paid within 60 days, said amount shall bear interest at the rate of eight percent (8%) per annum until paid. The County may foreclose assessment liens under any procedure provided by law for the foreclosure of property tax liens except that foreclosure may be begun at any time after 30 days after the due date. The lien of assessment is inferior to all prior and subsequent liens for State, local, and federal taxes and superior to all other liens.

(i) On the six-month anniversary date of the assessment, payment shall be made to the developer of such sums as may then be collected pursuant to the assessment less the ten percent (10%) administrative fee. Said payment shall be made every six months if funds have been received until the excess of the developer's pro rata share of the cost of the improvement is paid in full. The Finance Director of the County shall be responsible for payments to the developer.

(j) In addition to the requirements of this section, each developer must execute a release, satisfactory to the County, releasing the County, its employees, agents, officials, and assignees from any liability in law or in equity regarding any and all phases and requirements of this section."

Sec. 2. This act applies to Brunswick and Avery Counties only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 5th day of July,
1988.