

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 605

Short Title: Haywood Road Assessments.

(Local)

Sponsors: Representatives Beall and Ramsey (co-sponsors) (by request).

Referred to: Finance.

March 29, 1993

A BILL TO BE ENTITLED

AN ACT TO ALLOW HAYWOOD COUNTY TO MAKE ASSESSMENTS FOR IMPROVEMENTS ON CERTAIN ROADS IN UNINCORPORATED AREAS WHICH ARE NOT ELIGIBLE FOR INCLUSION IN THE STATE HIGHWAY SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 153A of the General Statutes is amended by adding the following new section:

"§ 153A-205.1. Improvements to subdivision and residential streets in unincorporated areas.

(a) A county may finance the cost of improvements to subdivision and residential streets located in the county and outside of the city where the Department of Transportation has certified that such streets do not meet the standards of the Secondary Roads Council and, therefore, cannot become part of the State-maintained system, and shall levy and collect, pursuant to the procedures of Article 9 of Chapter 153A of the General Statutes, special assessments against benefitted property to recoup the costs.

(b) Only those subdivisions and residential streets which were either constructed or platted of record in the office of the register of deeds of the county where such streets are located prior to the adoption of the minimum standards for secondary roads by the Secondary Roads Council, Department of Transportation, shall be eligible for improvements financed pursuant to this section. Land owned, leased, or controlled by a railroad company is exempt from such assessments to the same extent that it would be exempt from street assessments of a city under G.S. 160A-222.

1 (c) Before a county may finance all or a portion of the cost of improvements to a
2 subdivision or residential street, it must receive a petition for the improvements signed
3 by at least fifty-one percent (51%) of the owners of the property to be assessed, who
4 must represent at least fifty-one percent (51%) of all the linear feet of frontage of the
5 lands abutting on the street or portion thereof to be improved. The petition shall state
6 the maximum annual assessment, made on one of the following basis:

7 (1) The street frontage of the lots served, or subject to being served, by the
8 subdivision and residential streets, at an equal rate per foot of frontage;

9 (2) The area of land served, or subject to be served, by the subdivision and
10 residential streets, at an equal rate per unit of area;

11 (3) The valuation of land served, or subject to being served, by the
12 subdivision and residential streets, being the value of the land as
13 shown on the tax records of the county, at an equal rate per dollar of
14 valuation;

15 (4) The number of lots served, or subject to being served, by the
16 subdivision and residential streets, when the project involves
17 maintenance of an existing street which leads from a State-maintained
18 street to a residential or commercial subdivision, at an equal rate per
19 lot; or

20 (5) A combination of two or more of these bases.

21 (d) A county may treat as a unit and consider as one street two or more
22 connecting subdivisions or residential streets in a petition filed under this subsection
23 calling for the improvement of subdivision or residential streets subject to property
24 owners sharing in the cost of improvement.

25 (e) Property owned by the United States shall not be included in determining the
26 linear feet of frontage on the subdivision and residential street, nor shall the United
27 States be included in determining the number of owners of property abutting the
28 residential and subdivision streets. Property owned by the State of North Carolina shall
29 be included in determining frontage and the number of owners only if the State has
30 consented to assessment as provided in G.S. 153A-189. Property owned, leased, or
31 controlled by railroad companies shall be included in determining frontage and the
32 number of owners to the extent the property is subject to assessment under G.S. 160A-
33 222. Property owned, leased, or controlled by railroad companies that is not subject to
34 assessment shall not be included in determining frontage or the number of owners.

35 (f) No right of action or defense asserting the invalidity of street assessments on
36 grounds that the county did not comply with this subsection in securing a valid petition
37 may be asserted except in an action or proceeding begun within 90 days after the date of
38 publication of the notice of adoption of the preliminary assessment resolution.

39 (g) This section is intended to provide a means of assisting in financing
40 improvements to subdivision and residential streets that were either constructed or
41 platted of record prior to the effective date of the secondary road standards of the
42 Secondary Roads Council, Department of Transportation, and which have been certified
43 as not eligible for inclusion in the Secondary Roads Maintenance Program of the
44 Department of Transportation. By financing improvements under this section, a county

1 does not thereby acquire or assume any responsibility for the street or streets involved,
2 and a county has no liability arising from the construction of such an improvement or
3 the maintenance of such a street. Nothing in this section shall be construed to alter the
4 conditions and procedures under which State system streets or other public streets are
5 transferred to municipal street systems pursuant to G.S. 136-166.1 and G.S. 136-166.2
6 upon the annexation by, or incorporation of, a municipality.

7 (h) A county shall provide for the performance of necessary work and furnishing
8 of necessary materials to accomplish the purposes of this section by contracting with
9 one or more homeowners associations or other nonprofit corporations or associations,
10 the members of which own land within the subdivision where the street to be
11 maintained is located. The terms of such contract shall require that such association
12 permit all owners of property located within the subdivision be a member thereof with
13 full rights of membership on an equal basis with all other owners, and shall include such
14 other provisions as deemed necessary by the county, including, but not limited to,
15 provisions requiring all financial records of the association or nonprofit corporation be
16 subject to audit by the county finance officer and further requiring that the homeowners
17 association or other nonprofit corporation submit an annual budget of needed
18 improvements, on a schedule established by the county finance officer, using such
19 format and providing such information as is required by the county finance officer.

20 (i) This act applies only to roads which were offered for dedication prior to
21 October 1, 1975, and have not been designated private roads pursuant to G.S. 136-102.6
22 and have been certified as not eligible for inclusion in the Department of Transportation
23 State Highway System for maintenance as a secondary road.

24 (j) No assessment may be made under subdivision (c)(3) of this section or under
25 subdivision (c)(5) of this section where the combination includes subdivision (c)(3) of
26 this section unless the qualified voters of the county approve the ad valorem assessment
27 as required by Article V, Section 2(5) of the Constitution of North Carolina.

28 (k) This section applies to Haywood County only."

29 Sec. 2. This act is effective upon ratification.