

April 7, 2009

H 1182. RELOCATION OF EASEMENTS. Filed 4/7/09. *AUTHORIZING CLERKS OF THE SUPERIOR COURTS OF THIS STATE TO DETERMINE WHETHER AN EASEMENT SHOULD BE RELOCATED IN A SPECIAL PROCEEDING.*

Enacts new GS 136-71.17 as title indicates. A clerk shall enter an order authorizing the relocation of an easement at the request of the owner of the servient estate only if such relocation may be accomplished without substantial inconvenience or financial harm to the benefited landowner. Requires the owner of the servient estate to bear the cost of relocating the easement and allow any interested party to appeal to the superior court on the issue of easement relocation.

Intro. by Haire.

GS 136

May 11, 2009

H 1182. RELOCATON OF EASEMENTS. Filed 4/7/09. House committee substitute makes the following changes to 1st edition. Clarifies that the owner of the servient estate (the property providing use of an easement) begins a special proceeding for the relocation of an easement by filing a petition with the clerk and serving a copy of that petition on the owner of the dominant estate (the property making use of an easement). Adds that the clerk must make a finding that the relocation of the easement can be accomplished without substantial expense to connect the relocated easement to any existing improvements situated on the dominant estate that are necessary for the continued use of the easement by the owner of the dominant estate before the clerk may issue an order authorizing the relocation of the easement. Requires the owner of the servient estate to record in the office of the county register of deeds a copy of the clerk's order authorizing the relocation of the easement and include a plat showing the location of the relocated easement. Requires that the order and plat be indexed under the names of the owner of the servient estate and the owner of the dominant estate. Provides that the costs of the special proceeding are to be taxed against the owner of the servient estate (was, taxed at the discretion of the clerk of court against either party or apportioned among the parties). Provides an exception to allow the clerk to assess all or a portion of the cost of the special proceeding against the owner of the dominant estate, should that owner unreasonably refuse to consent to the relocation of the easement. Provides that the proposed Article 4B of GS Chapter 136 does not apply to public utilities as defined in GS 622-3(23)a.1.