

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1182

Short Title: Relocation of Easements. (Public)

Sponsors: Representatives Haire, Spear, and Randleman (Primary Sponsors).

Referred to: Commerce, Small Business, and Entrepreneurship, if favorable, Judiciary III.

April 8, 2009

A BILL TO BE ENTITLED

AN ACT AUTHORIZING CLERKS OF THE SUPERIOR COURTS OF THIS STATE TO DETERMINE WHETHER AN EASEMENT SHOULD BE RELOCATED IN A SPECIAL PROCEEDING.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 136 of the General Statutes is amended by adding a new article to read as follows:

"Article 4B.

"Relocation of Easements.

**"§ 136-71.17. Special proceeding for relocation of easements; petition; appeal.**

(a) The relocation of an easement shall be determined by a special proceeding instituted before the clerk of the superior court in the county where the property affected is situated. The special proceeding shall be commenced by a petition filed with the clerk and the service of a copy thereof on persons who have an ownership interest in the property. A guardian ad litem shall be appointed for any person under a disability.

(b) The clerk shall issue an order authorizing the relocation of the easement only if there is a finding that the relocation can be accomplished without material and substantial inconvenience or material and substantial reduction in value to the benefited landowner. The order shall require the owner of the servient estate to record in the office of the county register of deeds a plat showing the relocated easement.

(c) The owner of the servient estate shall bear the cost of relocating the easement. In the discretion of the clerk of court, costs in the special proceeding shall be taxed against either party or apportioned among the parties.

(d) From any final order or judgment in the special proceeding, any interested party may appeal to the superior court for a jury trial de novo on the issue of the relocation of the easement."

**SECTION 2.** This act is effective when it becomes law.

