

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 274

Short Title: D.O.T. Surplus Right-Of-Way Sales.

(Public)

Sponsors: Senator Daniel.

Referred to: Transportation.

March 25, 1991

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE SALE OF SURPLUS RIGHT-OF-WAY BY THE
DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-19 reads as rewritten:

**"§ 136-19. ~~Acquirement~~ Acquisition of land and deposits of materials;
condemnation proceedings; federal parkways.**

The Department of Transportation is vested with the power to acquire either in the nature of an appropriate easement or in fee simple such rights-of-way and title to such land, gravel, gravel beds or bars, sand, sand beds or bars, rock, stone, boulders, quarries, or quarry beds, lime or other earth or mineral deposits or formations, and such standing timber as it may deem necessary and suitable for road construction, maintenance, and repair, and the necessary approaches and ways through, and a sufficient amount of land surrounding and adjacent thereto, as it may determine to enable it to properly prosecute the work, ~~either~~ by purchase, donation, or condemnation, in the manner hereinafter set out. ~~If any parcel is acquired~~ the Department of Transportation acquires part of a tract of land in fee simple as authorized by this section and the Department of Transportation later determines that the ~~parcel~~ acquired property or a part of the acquired property is not no longer needed for highway purposes, then the Department shall give first consideration shall be given to any offer to ~~repurchase~~ purchase the property made by the former owner from whom said parcel was acquired or the owner, his heirs or assigns of such owner. assigns, including grantees and devisees, if the former owner, his heirs, or assigns own the adjoining property that is the remainder of the original tract from which the property was acquired. The Department of Transportation may refuse any offer that

1 is less than the current market value of the property, as determined by the Department of
2 Transportation. The Department of Transportation is also vested with the power to
3 acquire such additional land alongside of the rights-of-way or roads as in its opinion
4 may be necessary and proper for the protection of the roads and roadways, and such
5 additional area as may be necessary as by it determined for approaches to and from such
6 material and other requisite area as may be desired by it for working purposes. The
7 Department of Transportation may, in its discretion, with the consent of the landowner,
8 acquire in fee simple an entire lot, block or tract of land, if by so doing, the interest of
9 the public will be best served, even though said entire lot, block or tract is not
10 immediately needed for right-of-way purposes.

11 Notwithstanding any other provisions of law or eminent domain powers of utility
12 companies, utility membership corporations, municipalities, counties, entities created by
13 political subdivisions, or any combination thereof, and in order to prevent undue delay
14 of highway projects because of utility conflicts, the Department of Transportation may
15 condemn or acquire property in fee or appropriate easements necessary to provide
16 highway rights-of-way for the relocation of utilities when required in the construction,
17 reconstruction, or rehabilitation of a State highway project. The Department of
18 Transportation shall also have the authority, subject to the provisions of G.S. 136-
19 19.5(a) and (b), to, in its discretion, acquire rights-of-way necessary for the present or
20 future placement of utilities as described in G.S. 136-18(2).

21 Whenever the Department of Transportation and the owner or owners of the lands,
22 materials, and timber required by the Department of Transportation to carry on the work
23 as herein provided for, are unable to agree as to the price thereof, the Department of
24 Transportation is hereby vested with the power to condemn the lands, materials, and
25 timber and in so doing the ways, means, methods, and procedure of Article 9 of this
26 Chapter shall be used by it exclusively.

27 The Department of Transportation shall have the same authority, under the same
28 provisions of law provided for construction of State highways, for acquirement of all
29 rights-of-way and easements necessary to comply with the rules and regulations of the
30 United States government for the construction of federal parkways and entrance roads to
31 federal parks in the State of North Carolina. The acquirement of a total of 125 acres per
32 mile of said parkways, including roadway and recreational, and scenic areas on either
33 side thereof, shall be deemed a reasonable area for said purpose. The right-of-way
34 acquired or appropriated may, at the option of the Department of Transportation, be a
35 fee-simple title. The said Department of Transportation is hereby authorized to convey
36 such title so acquired to the United States government, or its appropriate agency, free
37 and clear of all claims for compensation. All compensation contracted to be paid or
38 legally assessed shall be a valid claim against the Department of Transportation,
39 payable out of the State Highway Fund. Any conveyance to the United States
40 Department of Interior of land acquired as provided by this section shall contain a
41 provision whereby the State of North Carolina shall retain concurrent jurisdiction over
42 the areas conveyed. The Governor is further authorized to grant concurrent jurisdiction
43 to lands already conveyed to the United States Department of Interior for parkways and
44 entrances to parkways.

1 The action of the Department of Transportation heretofore taken in the acquirement
2 of areas for the Blue Ridge Parkway in accordance with the rules and regulations of the
3 United States government is hereby ratified and approved and declared to be a
4 reasonable exercise of the discretion vested in the said Department of Transportation in
5 furtherance of the public interest.

6 When areas have been tentatively designated by the United States government to be
7 included within a parkway, but the final survey necessary for the filing of maps as
8 provided in this section has not yet been made, no person shall cut or remove any timber
9 from said areas pending the filing of said maps after receiving notice from the
10 Department of Transportation that such area is under investigation; and any property
11 owner who suffers loss by reason of the restraint upon his right to use the said timber
12 pending such investigation shall be entitled to recover compensation from the
13 Department of Transportation for the temporary appropriation of his property, in the
14 event the same is not finally included within the appropriated area, and the provisions of
15 this section may be enforced under the same law now applicable for the adjustment of
16 compensation in the acquirement of rights-of-way on other property by the Department
17 of Transportation."

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