

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH50407-LM-23 (02/04)

Short Title: Relocation of Easements.

(Public)

Sponsors: Representative Haire.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING CLERKS OF THE SUPERIOR COURTS OF THIS STATE TO
3 DETERMINE WHETHER AN EASEMENT SHOULD BE RELOCATED IN A SPECIAL
4 PROCEEDING.

5 The General Assembly of North Carolina enacts:

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

8 "Article 4B.

9 "Relocation of Easements.

10 "**§ 136-71.17. Special proceeding for relocation of easements; petition; appeal.**

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

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

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

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

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

