

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 758
Transportation Committee Substitute Adopted 5/11/93

Short Title: Preserve Railroad Easements.

(Public)

Sponsors:

Referred to:

April 8, 1993

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE FILING OF AN AFFIDAVIT BY THE SECRETARY OF
TRANSPORTATION TO STATE AN INTENTION TO PRESERVE A
RAILROAD EASEMENT FOR FUTURE TRANSPORTATION PURPOSES AND
NEGATE THE PRESUMPTION OF ABANDONMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-44.1 reads as rewritten:

"§ 1-44.1. **Presumption of abandonment of railroad ~~right~~. easement.**

(a) Any railroad which has removed its tracks from a ~~right-of-way~~ an easement and has not replaced them in whole or in part within a period of seven (~~7~~) years after such removal and which has not made any railroad use of any part of such ~~right-of-way~~ easement after such removal of tracks for a period of seven (~~7~~) years after such removal, shall be presumed to have abandoned the railroad ~~right-of-way~~. easement.

(b) Notwithstanding subsection (a) of this section, an abandonment shall not be presumed for a period of seven additional years if an affidavit executed by the Secretary of the Department of Transportation is recorded with the register of deeds of the county in which the easements are located stating the affiant's intention to preserve the easements an additional seven years for future transportation use. Affidavits authorized by this subsection may be filed for each succeeding seven-year period.

(c) If a railroad at the end of the seven additional years provided by subsection (b) of this section is not actively using the easement for railroad purposes, the Department of Transportation shall consider acquisition of the easement as authorized in G.S. 136-44.36B and Article 9 of Chapter 136."

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