

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH60284-LB-229 (4/13)

Short Title: Rail Corridor Uses.

(Public)

Sponsors: Representative Luebke.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW RAIL CORRIDORS HELD BY THE DEPARTMENT OF
TRANSPORTATION TO BE USED AS LINEAR PARKS, TRAILS, OR
RECREATIONAL CORRIDORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-44.36D reads as rewritten:

"§ 136-44.36D. Recreational leasing requirements.

Portions of rail corridors held by the North Carolina Department of Transportation in fee simple absolute or in any lesser interest, including easements and leaseholds, may be leased or subleased by the Department for interim public recreation use and nonmotorized transportation used, provided the following conditions are met:

- (1) Before requesting trail use, a sponsoring unit of local government has held a public hearing in accordance with G.S. 143-318.12 and notified the owners of all parcels of land abutting the corridor as shown on the county tax listing of the hearing date, place, and time by first-class mail at the last addresses listed for such owners on the county tax abstracts. A transcript of all public comments presented at the hearing has been sent to the North Carolina Department of Transportation at the time of requesting use of the corridor.
- (2) A unit of local government has requested use of the rail corridor or a portion thereof for interim public recreational and nonmotorized trail use, and agrees in writing to assume all development costs as well as management, security, and liability responsibilities as defined by the North Carolina Department of Environment and Natural Resources and the North Carolina Department of Transportation.
- (3) Adjacent property owners are offered broad voting representation by membership in the organization, if any, that is delegated most

1 immediate responsibility for development and management of the
2 rail-trail by the sponsoring local government.

3 (4) The North Carolina Department of Transportation has determined that
4 there will not likely be a need to resume active rail service in the
5 leased portion of the rail corridor for at least 10 years.

6 (5) Any lease or other agreement allowing trail use includes terms for
7 resumption of active rail use which will assure unbroken continuation
8 of the corridor's perpetual use for railroad purposes and interim
9 compatible uses.

10 (6) Use of the rail corridor or portions thereof as a recreational trail does
11 not interfere with the ultimate transportation purposes of the corridor
12 as determined by the North Carolina Department of Transportation."

13 **SECTION 2.** Article 2D of Chapter 136 of the General Statutes is amended
14 by adding new sections to read:

15 **"§ 136-44.36E. Interim use of rail corridor as a linear park, trail, or recreational**
16 **corridor.**

17 Any portion of a rail corridor hold by the Department of Transportation may be
18 leased to or otherwise transferred to other State departments, agencies, or local
19 governments for development and use as a linear park trail or recreational corridor
20 provided the following conditions are met:

21 (1) The Department of Transportation has determined that there will not
22 likely be a need to resume active rail service in the transferred portion
23 of the rail corridor for at least 10 years.

24 (2) Any transfer allowing trail or recreational use includes terms for
25 resumption of active rail use which will assure unbroken continuation
26 of the corridor's perpetual use for railroad purposes and interim
27 compatible uses.

28 (3) Use of the rail corridor or portions thereof as a trail for recreational use
29 does not interfere with the ultimate transportation purposes of the
30 corridor as determined by the Department of Transportation.

31 **"§ 136-44.36F. No reversion or abandonment of a corridor by use for interim**
32 **compatible uses.**

33 Any portion of a rail corridor held by the Department of Transportation and leased
34 for interim public recreation and nonmotorized transportation uses by a unit of a local
35 government or leased or otherwise transferred to other departments or agencies of this
36 State for interim public recreation and nonmotorized transportation uses shall be
37 deemed to be held and preserved for railroad use and in continuation of any railroad
38 easement and shall not revert by operation of law to any other ownership, provided such
39 interim use is subject to restoration or reconstruction for railroad purposes."

40 **SECTION 3.** G.S. 160A-498 reads as rewritten:

41 **"§ 160A-498. Railroad corridor preservation.**

42 A city or county may acquire property, by purchase or gift, to preserve a railroad
43 corridor established by the Department of Transportation. A city or county that acquires

1 property to preserve a railroad corridor may lease or sublease the property or use the
2 property for interim compatible uses until the property is used for a railroad.

3 Such interim compatible uses may include use for interim public recreation and for
4 nonmotorized transportation and such corridors used for such purposes shall be deemed
5 to be held and preserved for railroad purposes and in continuation of any railroad
6 easement and shall not revert by operation of law to any other ownership, provided such
7 interim use is subject to restoration or reconstruction for railroad purposes."

8 **SECTION 4.** There is appropriated from the Highway Fund to the
9 Department of Transportation for the 2003-2004 fiscal year the sum of one hundred
10 thousand dollars (\$100,000) to implement this act.

11 **SECTION 5.** This act becomes effective July 1, 2003.