

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 665  
House Committee Substitute Favorable 7/10/91

Short Title: Cities May Close Private Streets.

(Public)

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Sponsors:

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Referred to:

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April 17, 1991

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE APPLICATION OF G.S. 160A-299 AND G.S. 153A-241  
3 CONCERNING CITIES AND COUNTIES PERMANENTLY CLOSING  
4 STREETS AND ALLEYS.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 160A-299(d) reads as rewritten:

7 "(d) This section shall apply to any street or public alley within a city or its  
8 extraterritorial jurisdiction that has been irrevocably dedicated to ~~the public,~~ public or  
9 private use, without regard to whether it has actually been opened."

10 Sec. 2. G.S. 153A-241 reads as rewritten:

11 "**§153A-241. Closing public roads or easements.**

12 (a) A county may permanently close any ~~public~~-road or ~~any~~-easement within the  
13 county and not within a city, except ~~public~~-roads or easements ~~for public roads~~-under the  
14 control and supervision of the Department of Transportation. The board of  
15 commissioners shall first adopt a resolution declaring its intent to close the ~~public~~-road  
16 or easement and calling a public hearing on the question. The board shall cause the  
17 resolution to be published once a week for four successive weeks before the hearing, a  
18 copy of the resolution to be sent by registered or certified mail to each owner as shown  
19 on the county tax records of property adjoining the ~~public~~-road or easement who did not  
20 join in the request to have the road or easement closed, and a notice of the closing and  
21 public hearing to be prominently posted in at least two places along the road or  
22 easement. At the hearing the board shall hear all interested persons who appear with  
23 respect to whether the closing would be detrimental to the public interest or to any

1 individual property rights. If, after the hearing, the board of commissioners is satisfied  
2 that closing the ~~public~~ road or easement is not contrary to the public interest and (in the  
3 case of a road) that no individual owning property in the vicinity of the road or in the  
4 subdivision in which it is located would thereby be deprived of reasonable means of  
5 ingress and egress to his property, the board may adopt an order closing the road or  
6 easement. A certified copy of the order (or judgment of the court) shall be filed in the  
7 office of the register of deeds of the county.

8 (b) Any person aggrieved by the closing of a ~~public~~ road or an easement may  
9 appeal the board of commissioners' order to the appropriate division of the General  
10 Court of Justice within 30 days after the day the order is adopted. The court shall hear  
11 the matter **de novo** and has jurisdiction to try the issues arising and to order the road or  
12 easement closed upon proper findings of fact by the trier of fact.

13 (c) No cause of action founded upon the invalidity of a proceeding taken in  
14 closing a ~~public~~ road or an easement may be asserted except in an action or proceeding  
15 begun within 30 days after the day the order is adopted.

16 (d) Upon the closing of a ~~public~~ road or an easement pursuant to this section, all  
17 right, title, and interest in the right-of-way is vested in those persons owning lots or  
18 parcels of land adjacent to the road or easement, and the title of each adjoining  
19 landowner, for the width of his abutting land, extends to the center line of the ~~public~~  
20 road or easement. However, the right, title or interest vested in an adjoining landowner  
21 by this paragraph remains subject to any public utility use or facility located on, over, or  
22 under the road or easement immediately before its closing, until the landowner or any  
23 successor thereto pays to the utility involved the reasonable cost of removing and  
24 relocating the facility.

25 (e) This section shall apply to any road or easement within the county and not  
26 within a city that has been irrevocably dedicated to public or private use, without regard  
27 to whether it has been actually opened."

28 Sec. 3. This act is effective upon ratification.