

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

HOUSE BILL NO. 1291
(Representatives Nelson, Brusegaard, Headland, Mueller)
(Senators Heitkamp, Urlacher)

AN ACT to amend and reenact sections 49-09-04.2 and 49-09-04.3 of the North Dakota Century Code, relating to the abandonment and the sale of abandoned railroad right of way.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-09-04.2 of the North Dakota Century Code is amended and reenacted as follows:

49-09-04.2. Abandoned railroad right of way - Sale.

1. When service is discontinued on any railroad right of way in the state and the property is offered for sale, lease, exchange, or other disposal by the railroad or an affiliated entity, the property must first be offered ~~for public purposes~~ to the following persons in the order of priority as follows:
 - a. The present owner or operator-lessee of fixed assets located on the property;
 - b. A person owning land contiguous to the right of way on opposite sides of the right of way;
 - c. A person presenting a reasonable plan for public recreational use of the abandoned property which includes the continuation of current private and public crossings; and
 - d. The adjoining landowner if the adjoining land, at the time of abandonment, is assessed for tax purposes as agricultural land.
2. ~~If right of way property along abandoned rail lines is first offered for public purposes and refused, the lessee operators of grain and potato warehouses located on the property must be given the next option to purchase, lease, exchange, or otherwise acquire the property described in their lease. Adjoining agricultural landowners must thereafter be given the next option to acquire the property adjoining their land. The railroad company shall provide written notice to present owners and operator-lessees of fixed assets located on the property and shall publish notice of its intent to dispose of railroad right of way in two consecutive issues of the official county newspaper in each county in which the property is located. A railroad company is not required to give a priority party an option to purchase the property unless the party provides a written statement of interest to purchase the property within thirty days after final publication of notice of the railroad company's intent to dispose of the property. The sale price of abandoned railroad property must be equitable.~~
3. When abandoned railroad right of way is offered for wildlife programs or projects, the proposed acquisitions must first be approved by the board of county commissioners of the county or counties in which the right of way is located under section 20.1-02-17.1 if offered to the state game and fish department or under section 20.1-02-18.1 if offered to the United States department of the interior.
4. If a railroad complies with subsections 1 and 2 and five years have passed since abandonment or since service was discontinued, the railroad may deed the right of way to the county in which the right of way is located upon the acceptance of the county.

SECTION 2. AMENDMENT. Section 49-09-04.3 of the North Dakota Century Code is amended and reenacted as follows:

49-09-04.3. Abandoned railway lines - Removal of abandoned materials - Charge by city, county, or state. Unless otherwise allowed by the commission, any railroad corporation abandoning the use of any railway line in this state shall remove and clear all rail, ties, materials, supplies, and debris from the railway line and leave the surface in a condition easily traversable by a motor vehicle, and shall control noxious weeds on; the railway line right of way within a reasonable time. On request of a city or county in which there is an abandoned line, the commission shall require the railroad corporation, as to railway line right of way in that city or county, within a reasonable time, to take the action required by this section. On request of any state agency having an interest in any property abutting an abandoned railway line right of way, the commission shall require the railroad corporation, as to that railway line right of way, within a reasonable time, to take the action required by this section. The commission shall take all action necessary and appropriate, including the adoption of rules under chapter 28-32, to enforce this section. If a railroad corporation fails to take action required by this section, the requesting entity may do the work on the parts of the abandoned railway line right of way under that entity's jurisdiction. A county may do the work on the parts of the abandoned railway line right of way in the county, regardless of whether those parts are inside city limits. The entity doing the work may charge the railroad corporation the reasonable expense of doing the work. If the charges remain unpaid after ninety days, the entity may certify to the county auditor the amount of the charges imposed under this section. These charges become part of the taxes levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes and placed to the credit of the jurisdiction entitled to the charges. The taxpayer's right to appeal the assessment is governed by chapter 57-23.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1291.

House Vote: Yeas 79 Nays 11 Absent 4

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,
at _____ o'clock _____ M.

Secretary of State