



# HOUSE BILL 184: Support Private Property Rights.

2021-2022 General Assembly

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<b>Committee:</b>	House Judiciary 1. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	March 9, 2021
<b>Introduced by:</b>	Reps. Hastings, Saine, Bradford, Davis	<b>Prepared by:</b>	Brad Krehely
<b>Analysis of:</b>	PCS to First Edition H184-CSR-N-1 [v.2]		Committee Co-Counsel

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**OVERVIEW:** *House Bill 184 would clarify that inclusion of real property in a Comprehensive Transportation Plan (CTP) that is not financially constrained is not a material fact and does not need to be disclosed in a real estate transaction. The Proposed Committee Substitute (PCS) does all of the following: (1) provides that the changes in the bill would apply to all real estate transactions, (2) makes technical changes, and (3) deletes language stating that the inclusion of real property in a financially constrained transportation plan is a material fact that must be disclosed in a real estate transaction.*

**CURRENT LAW:** Under G.S. 93A-6(a)(1), the North Carolina Real Estate Commission can take disciplinary action against a real estate broker who misrepresents or omits a material fact in a real estate transaction.

G.S. 47E-4 requires sellers of residential real property to provide the purchaser with a disclosure statement covering specified characteristics and conditions of the property listed for sale. As to each of the listed characteristics and conditions included in the disclosure statement, the seller must respond either that it is present in the property, that it is not present in the property, or that the seller makes no representation as to the characteristic or condition.

Current law does not specifically state whether inclusion of residential real property on a CTP that is not financially constrained is a material fact that must be disclosed by a real estate broker or is a characteristic or condition of the property subject to disclosure by the seller.

## BILL ANALYSIS:

**Section 1** would amend Article 9 of Chapter 39 of the General Statutes to clarify that the mere fact that a piece of real property is listed on a CTP that is not financially constrained would not be a material fact; therefore, failure to disclose the fact that a property was listed on a CTP that is not financially constrained could not, by itself, be the basis for discipline of a broker under G.S. 93A-6(a)(1). This section would also clarify that a party or an agent of the party conveying real property must not knowingly make a false statement regarding the property's inclusion on any transportation plan.

**Section 2** would add a subsection to G.S. 47E-4 to clarify that inclusion of a piece of real property on a CTP that is not financially constrained is not a required disclosure on the disclosure form a seller must furnish to a potential buyer. This section would also clarify that the seller and anyone acting as an agent of the seller must not make a false statement regarding the inclusion of the property on a CTP that is not financially constrained.

Jeffrey Hudson  
Director



Legislative Analysis  
Division  
919-733-2578

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**EFFECTIVE DATE:** The act would become effective October 1, 2021, and would apply to claims for relief filed on or after that date.

**BACKGROUND:** CTPs are long-range, not-financially-constrained transportation plans for municipalities, counties, and large metropolitan areas. They represent a community's consensus on the future transportation systems needed to support anticipated growth over a 20-30 year timeframe. CTPs differ from a Long Range Transportation Plan (LRTP) adopted by an MPO, which is required by federal regulations to be financially constrained, and the State Transportation Improvement Program, (STIP) which is a list of transportation projects that will receive funding in the next ten years.

*\*Jason Moran-Bates, Staff Attorney for the Legislative Analysis Division, contributed substantially to the drafting of this summary.*