GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2001

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SENATE BILL 759 Judiciary I Committee Substitute Adopted 4/23/01

	Short Title: F	Rail Transportation Liability.	(Public)
	Sponsors:		
	Referred to:		
		April 2, 2001	
1		A BILL TO BE ENTITLED	
2	AN ACT T	O PROVIDE LIMITATIONS ON RAIL TRA	NSPORTATION
3	LIABILITY		
4	The General A	ssembly of North Carolina enacts:	
5		CTION 1. Article 26 of Chapter 160A of the General St	atutes is amended
6		w section to read:	araces is amenaea
7	•	Limitations on rail transportation liability.	
8		used in this section:	
9	$\frac{\langle u \rangle}{\langle 1 \rangle}$	"Authority" means a Regional Public Transportat	ion Authority as
10	<u>\</u>	defined in G.S. 160A-601.	ion riddionly dis
11	(2)	"Claim" means a claim, action, suit, or request for o	damages whether
12	(2)	compensatory, punitive, or otherwise, made by any	
13		against:	person or entry
14		a. The Authority, a railroad, or a State-owned rail	lroad: or
15		b. An officer, trustee, employee, affiliate eng	
16		operations, or agent of: the Authority, a rail	•
17		owned railroad.	noud; of a state
18	(3)	"Passenger Rail Services" shall include the trans	sportation of rail
19	(5)	passengers by or on behalf of the Authority, inclu	_
20		performed by a railroad or a State-owned railroad	_
		contract with the Authority in connection with the tra	_
21 22 23		passengers, and including, but not limited to, the op-	_
23		the use of trackage, equipment, or station areas	•
24		facilities, or the construction, reconstruction, or ma	
25		related equipment, tracks, and any appurtenant	
26		provision of access rights over or adjacent to line	
27		Authority, a railroad, or a State-owned railroad, or of	•
28		by the Authority, a railroad, or a State-owned rail	
_0		by the Mathority, a famoud, of a state-owned fam	noud pursuant to

- 1 charter grant, fee-simple deed, lease, easement, license, or other form of ownership.
 - (4) "Railroad" means a railroad corporation or company not wholly owned by the State that has entered into any contracts or operating agreements of any kind with the Authority concerning rail service by or on behalf of the Authority over or adjacent to facilities of the Authority, a railroad, or a State-owned railroad.
 - (5) "State-Owned Railroad" means a railroad corporation or company as defined in G.S. 124-11.
 - (b) Contracts Allocating Financial Responsibility Authorized. The Authority may enter into contracts with any railroad or with a State-owned railroad, or with any railroad and a State-owned railroad, that allocates financial responsibility for passenger rail services claims against the railroad, a State-owned railroad, or the Authority notwithstanding any other statutory, common law, public policy or other prohibition against same, and regardless of the nature of the claim or the conduct giving rise to such claim.
 - (c) Insurance Required. If the Authority enters into any contract authorized by subsection (b) of this section allocating financial responsibility, the contract shall require the Authority to secure and maintain a liability insurance policy covering the liability of the parties to the contract for property damage, personal injury, bodily injury, and death arising out of or related to passenger rail services. The policy shall name the parties to the contract as named insureds, and shall have policy limits of not less than two hundred million dollars (\$200,000,000) per single accident or incident, and may include a self-insured retention in an amount of not more than five million dollars (\$5,000,000).
 - (d) <u>Liability Limit.</u> The aggregate liability of the parties to a contract authorized by this section for all claims, whether compensatory, punitive, or otherwise, arising from a single accident or incident related to passenger rail services, for property damage, personal injury, bodily injury, and death is limited to the greater of two hundred million dollars (\$200,000,000) per single accident or incident or any proceeds available under any insurance policy secured pursuant to subsection (c) of this section.
 - (e) Effect on Other Laws. This section shall not affect the damages that may be recovered under the Federal Employers' Liability Act, 45 U.S.C. § 51, et seq., (1908); or under Article 1 of Chapter 97 of the General Statutes."
 - **SECTION 2.** This act is effective when it becomes law.