

SUBCHAPTER IV. MISCELLANEOUS.

Article 14.

General Provisions.

§ 146-64. Definitions.

As used in this Chapter:

- (1) "Acquired lands" means all State lands, title to which has been acquired by the State or by any State agency by purchase, devise, gift, condemnation, or adverse possession.
- (2) "Escheated lands" means all State lands, title to which has been acquired by escheat.
- (3) "Land" means real property, buildings, space in buildings, timber rights, mineral rights, rights-of-way, easements, options, and all other rights, estates, and interests in real property.
- (4) "Navigable waters" means all waters which are navigable in fact.
- (5) "State agency" includes every agency, institution, board, commission, bureau, council, department, division, officer, and employee of the State, but does not include counties, municipal corporations, political subdivisions of the State, county or city boards of education, or other local public bodies. The term "State agency" does not include any private corporation created by act of the General Assembly. In case of doubt as to whether a particular agency, corporation, or institution is a State agency for the purposes of this Chapter, the Attorney General, upon request of the Governor and Council of State, shall make a determination of the issue. Upon a finding by the Attorney General that an agency, corporation, or institution is not a State agency for the purpose of this Chapter, the Governor and Council of State may execute a deed or other appropriate instrument releasing and quitclaiming all title and interest of the State in the lands of that agency, corporation, or institution.
- (6) "State lands" means all land and interests therein, title to which is vested in the State of North Carolina, or in any State agency, or in the State to the use of any agency, and specifically includes all vacant and unappropriated lands, swamplands, submerged lands, lands acquired by the State by virtue of being sold for taxes, escheated lands, and acquired lands.
- (7) "Submerged lands" means State lands which lie beneath
 - a. Any navigable waters within the boundaries of this State, or
 - b. The Atlantic Ocean to a distance of three geographical miles seaward from the coastline of this State.
- (8) "Swamplands" means lands too wet for cultivation except by drainage, and includes
 - a. All State lands which have been or are known as "swamp" or "marsh" lands, "pocosin bay," "briary bay" or "savanna," and which are a part of one swamp exceeding 2,000 acres in area, or which are a part of one swamp 2,000 acres or less in area which has been surveyed by the State; and
 - b. All State lands which are covered by the waters of any state-owned lake or pond.

- (9) "Vacant and unappropriated lands" means all State lands title to which is vested in the State as sovereign, and land acquired by the State by virtue of being sold for taxes, except swamplands.
- (10) For purposes of this Subchapter, "deep water" means the depth reasonably necessary to provide and allow reasonable access for all vessels traditionally used in the main watercourse area as of the time of the initial easement application. (1854-5, c. 21; R.C., c. 42, s. 1; Code, s. 2751; 1891, c. 302; Rev., ss. 1693, 1695; C.S., ss. 7540, 7542; G.S., ss. 146-1, 146-4; 1959, c. 683, s. 1; 1969, c. 1164; 1995, c. 529, s. 4; 2009-484, s. 10.)

§ 146-65. Exemptions from Chapter.

This Chapter does not apply to any of the following:

- (1) The acquisition of highway rights-of-way, borrow pits, or other interests or estates in land acquired for the same or similar purposes, or to the disposition thereof, by the Board of Transportation or the North Carolina Turnpike Authority.
- (2) The North Carolina State Ports Authority in exercising its powers under G.S. 136-260 through G.S. 136-275. (1957, c. 584, s. 6; G.S., s. 146-112; 1959, c. 683, s. 1; 1973, c. 507, s. 5; 1993, c. 553, s. 52.3; 2008-225, s. 10; 2011-145, s. 14.6(i).)

§ 146-66. Voidability of transactions contrary to Chapter.

Any sale, lease, rental, or other disposition of State lands or of any interest or right therein, made or entered into contrary to the provisions of this Chapter, shall be voidable in the discretion of the Governor and Council of State. (1957, c. 584, s. 6; G.S., s. 146-111; 1959, c. 683, s. 1.)

§ 146-67. Governor to employ persons.

The Governor may employ persons to perform such services as may be necessary to carry out the provisions of this Chapter, and he shall fix the compensation to be paid for such services. All expenditures for such services shall be paid from the State Land Fund on order of the Director of the Budget, or the officer designated by him to issue such orders. (1959, c. 683, s. 1.)

§ 146-68. Statutes of limitation.

The provisions of G.S. 1-35, 1-36, and 1-37 are made applicable to this Chapter. (1959, c. 683, s. 1.)

§ 146-69. Service on State in land actions.

In all actions and special proceedings brought by or against the State or any State agency with respect to State land or any interest therein, service of process upon the Secretary of Administration, with delivery to him of copies for the Attorney General and for the administrative head of each State agency known by the party in whose behalf service is made to have an interest

in the land which is the subject of the action or proceeding, shall constitute service upon the State for all purposes. (1959, c. 683, s. 1; 1975, c. 879, s. 46.)

§ 146-70. Institution of land actions by the State.

Every action or special proceeding in behalf of the State or any State agency with respect to State lands or any interest therein, or with respect to land being condemned by the State, shall be brought by the Attorney General in the name of the State, upon the complaint of the Secretary of Administration. (1959, c. 683, s. 1; 1975, c. 879, s. 46.)