Chapter 121.

Archives and History.

Article 1.

General Provisions.

§ 121-1. Short title.

This Article shall be known as the North Carolina Archives and History Act. (1973, c. 476, s. 48.)

§ 121-2. Definitions.

For the purposes of this Article:

(1) "Agency" shall mean any State, county, or municipal office, department, division, board, commission or separate unit of government created or established by constitution or law.

(2) "Commission" shall mean the North Carolina Historical Commission.

(3) "Department" shall mean the Department of Natural and Cultural Resources of the State of North Carolina.

(4) "Historic preservation" shall mean any activity reasonably related to the identification, research, conservation, protection, and restoration, maintenance, or operation of buildings, structures, objects, districts, areas, and sites significant in the history, architecture, archaeology, or culture of this State, its communities, or the nation.

(5) "Historic property" or "historic properties" shall mean any building, structure, object, district, area, or site that is significant in the history, architecture, archaeology, or culture of this State, its communities, or the nation.

(6) "North Carolina Museum of History" shall mean an establishment or establishments administered by the Department of Natural and Cultural Resources as the official State museum of history for the collection, preservation, and exhibition of artifacts and other materials that have been determined by the Department or by the Commission to have sufficient historical or other cultural value to warrant retention as evidence of the history and culture of the State and its subdivisions.

(7) "North Carolina State Archives" shall mean an establishment or establishments administered by the Department of Natural and Cultural Resources as the State's official repository for the preservation of those public records or other documentary materials that have been determined by the Department in accordance with rules, regulations, and standards of the Historical Commission to have sufficient historical or other value to warrant their continued preservation and have been accepted by the Department for preservation in its custody.

(8) "Public record" or "public records" shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

(9) "Records center" or "records centers" shall mean an establishment or establishments administered by the Department of Natural and Cultural Resources primarily for the economical housing, processing, servicing, microfilming or security of public records that must be retained for varying periods of time but which need not be retained in an agency's office equipment and space.

(10) "Secretary" shall mean the Secretary of Natural and Cultural Resources.

(11) "State historic site" or "state historic sites" shall mean a property or properties acquired by the State and administered by the Department of Natural and Cultural Resources because of its or their historical, archaeological, architectural, or cultural value in depicting the heritage of the State. (1973, c. 476, s. 48; 2015-241, s. 14.30(s), (t).)

§ 121-3. Name.

The archival and historical agency of the State of North Carolina shall be the Department of Natural and Cultural Resources. (1945, c. 55; 1955, c. 543, s. 1; 1973, c. 476, s. 48; 2015-241, s. 14.30(s).)

§ 121-4. Powers and duties of the Department of Natural and Cultural Resources.

The Department of Natural and Cultural Resources shall have the following powers and duties:

(1) To accept gifts, devises, and endowments for purposes which fall within the general legal powers and duties of the Department. Unless otherwise specified by the donor or testator, the Department may either expend both the principal and interest of any gift or devises or may invest such funds in whole or in part, by and with the consent of the State Treasurer. The Department may recognize gifts by naming exhibits, features, or programs administered by the Department.

(2) To conduct a records management program, including the operation of a records center or centers and a centralized microfilming program, for the benefit of all State agencies, and to give advice and assistance to the public officials and agencies in matters pertaining to the economical and efficient maintenance and preservation of public records.

(3) To preserve and administer, in the North Carolina State Archives, such public records as may be accepted into its custody, and to collect, preserve, and administer private and unofficial historical records and other documentary materials relating to the history of North Carolina and the territory included therein from the earliest times. The Department shall carefully protect and preserve such materials, file them according to approved archival practices, and permit them, at reasonable times and under the supervision of the Department, to be inspected, examined, or copied: Provided, that any materials placed in the keeping of the Department under special terms or conditions restricting their use shall be made accessible only in accordance with such terms or conditions.

(4) To have materials on the history of North Carolina properly edited, published as other State printing, and distributed under the direction of the Department. The Department may charge a reasonable price for such publications and devote the revenue arising from such sales to the work of the Department.

(5) With the cooperation of the State Board of Education and the Department of Public Instruction to develop, conduct, and assist in the coordination of a program for the better and more adequate teaching of State and local history in the public schools and the institutions of the community college system of North Carolina, including, as appropriate, the preparation and publication of suitable histories of all counties and of other appropriate materials, the distribution of such materials to the public schools and community college system for a reasonable charge, and the coordination of this program throughout the State.

(6) To maintain and administer the North Carolina Museum of History, to collect and preserve therein important historical and cultural materials, and according to approved museum practices to classify, accession, house, and when feasible exhibit such materials and make them available for study.

(7) To select suitable sites on property owned by the State of North Carolina, or any subdivision of the State, for the erection of historical markers calling attention to nearby historic sites and prepare appropriate inscriptions to be placed on such markers. The Department shall have all markers manufactured, and when completed, each marker shall be delivered to the Department of Transportation for payment and erection under the provisions of G.S. 136-42.2 and 136-42.3. The Secretary is authorized to appoint a highway historical marker advisory committee to approve all proposed highway historical markers and to establish criteria for carrying out this responsibility.

(8) In accordance with G.S. 121-9 of this Chapter, to acquire real and personal properties that have statewide historical, architectural, archaeological, or other cultural significance, by gift, purchase, or devise; to preserve and administer such properties; and, when necessary, to charge reasonable admission fees to such properties. In the acquisition of such property, the Department shall also have the authority to acquire nearby or adjacent property adjacent to properties having statewide significance deemed necessary for the proper use, administration, and protection of historic, architectural, archaeological, or cultural properties, or for the protection of the environment thereof.

(9) To administer and enforce reasonable rules adopted and promulgated by the Historical Commission for the regulation of the use by the public of such historical, architectural, archaeological, or cultural properties under its charge, which regulations, after having been posted in conspicuous places on and adjacent to such State properties and having been filed according to law, shall have the force and effect of law and any violation of such regulations shall constitute a Class 3 misdemeanor.

(10) To coordinate the objectives of the state-created historical and commemorative commissions with the other policies, objectives, and programs of the Department of Natural and Cultural Resources.

(11) To organize and administer a junior historian program, in cooperation with the Department of Public Education, the public schools, and other agencies or organizations that may be concerned therein.

(12) With the approval of the Historical Commission, and notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other law

pertaining to surplus State property, to dispose of any accessioned records, artifacts, furnishings, and agricultural products in the custody of the Department that are determined to have no further use or value for official or administrative purposes or for research and reference purposes.

(13) To promote and encourage throughout the State knowledge and appreciation of North Carolina history and heritage by encouraging the people of the State to engage in the preservation and care of archives, historical manuscripts, museum items, and other historical materials; the writing and publication of State and local histories of high standard; the display and interpretation of historical materials; the marking and preservation of historic, architectural, or archaeological structures and sites of great importance; the teaching of North Carolina and local history in the schools and colleges; the appropriate observance of events of importance to the State's history; the publicizing of the State's history through media of public information; and other activities in historical and allied fields.

(14) With the approval of the Historical Commission, to charge and collect fees not to exceed cost for photographs, photocopies of documents, microfilm and other microforms and other audio or visual reproductions of public records or other documentary materials, objects, artifacts, and research materials; and for the restoration and preservation of documents and other materials important for archival or historical purposes.

(15) To encourage and develop, in cooperation with the Department of Administration and in consultation with the Department of Transportation, the Department of Commerce, the Department of Environmental Quality, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, and the Historic Preservation Foundation of North Carolina, Inc., a central clearinghouse for information on historic preservation for the benefit and use of public and private agencies and persons in North Carolina.

(16) Repealed by Session Laws 2004-203, s. 51, effective August 17, 2004.

(17) To enter into an agreement with a private nonprofit corporation for the management of facilities to provide food and beverages at the North Carolina Museum of History. Any net proceeds received by the private nonprofit corporation shall be devoted to the work of the Department. Any private nonprofit corporation entering into an agreement with the Department with regard to the management of the facilities may enter into further agreements with private persons or corporations concerning the operation of the facilities. The Department may enter into an agreement in regard to obtaining or installing equipment, furniture, and furnishings for such facilities. (Rev., ss. 4540, 4541; 1907, c. 714, s. 2; 1911, c. 211, s. 6; C.S., s. 6142; 1925, c. 275, s. 11; 1943, c. 237; 1945, c. 55; 1955, c. 543, s. 1; 1957, c. 330, s. 1; 1959, c. 68, s. 1; 1971, c. 345, s. 3; 1973, c. 476, s. 48; 1977, c. 464, s. 38; 1981, c. 721; 1989, c. 379; c. 727, s. 218(83); c. 751, s. 11; 1991, c. 757, s. 5; 1991 (Reg. Sess., 1992), c. 959, s. 30; 1993, c. 522, s. 8; c. 539, s. 915; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 11A.119(a); 2004-203, s. 51; 2011-284, s. 86; 2015-241, s. 14.30(s), (u); 2021-158, s. 12.5; 2023-70, s. 2(a).)

§ 121-4.1. North Carolina Register of Historic Places.

(a) The Department of Natural and Cultural Resources may establish, expand, and maintain a North Carolina Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in North Carolina history, architecture, archaeology, engineering, and culture. Until such time as the North Carolina Register of Historic Places is established, all references to it in the General Statutes and in the rules adopted pursuant to it shall be construed to mean properties and districts in North Carolina that are listed in the National Register of Historic Places.

(b) The North Carolina Historical Commission shall establish criteria for properties to be included in the State Register of Historic Places, and, within such criteria, shall provide for levels of significance as necessary and appropriate.

(c) The North Carolina Historical Commission shall promulgate regulations requiring that before any property or district may be included on the North Carolina Register of Historic Places, the owner or owners of such property, or a majority of the owners of the properties within the district in the case of an historic district, shall be given the opportunity (including a reasonable period of time) to concur in, or object to, the nomination of the property or district for such inclusion or designation. If the owner or owners of any privately owned property, or a majority of the owners of such properties within the district in the case of an historic district, object to such inclusion or designation, such property shall not be included on the North Carolina Register until such objection has been withdrawn. The regulations under this paragraph shall include provisions to carry out the purposes of this paragraph in the case of multiple ownership of a single property. (1989, c. 60; 2015-241, s. 14.30(s).)

§ 121-5. Public records and archives.

(a) State Archival Agency Designated. – The Department of Natural and Cultural Resources shall be the official archival agency of the State of North Carolina with authority as provided throughout this Chapter and Chapter 132 of the General Statutes of North Carolina in relation to the public records of the State, counties, municipalities, and other subdivisions of government.

(b) Destruction of Records Regulated. – No person may destroy, sell, loan, or otherwise dispose of any public record without the consent of the Department of Natural and Cultural Resources, except as provided in G.S. 130A-99. Whoever unlawfully removes a public record from the office where it is usually kept, or alters, mutilates, or destroys it shall be guilty of a Class 3 misdemeanor and upon conviction only fined at the discretion of the court.

When the custodian of any official State records certifies to the Department of Natural and Cultural Resources that such records have no further use or value for official and administrative purposes and when the Department certifies that such records appear to have no further use or value for research or reference, then such records may be destroyed or otherwise disposed of by the agency having custody of them.

When the custodian of any official records of any county, city, municipality, or other subdivision of government certifies to the Department that such records have no further use or value for official business and when the Department certifies that such records appear to have no further use or value for research or reference, then such records may be authorized by the governing body of said county, city, municipality, or other subdivision of government to be destroyed or otherwise disposed of by the agency having custody of them. A record of such

certification and authorization shall be entered in the minutes of the governing body granting the authority.

The North Carolina Historical Commission is hereby authorized and empowered to make such orders, rules, and regulations as may be necessary and proper to carry into effect the provisions of this section. When any State, county, municipal, or other governmental records shall have been destroyed or otherwise disposed of in accordance with the procedure authorized in this subsection, any liability that the custodian of such records might incur for such destruction or other disposal shall cease and determine.

(c) Assistance to Public Officers. – The Department of Natural and Cultural Resources shall have the right to examine into the condition of public records and shall, subject to the availability of staff and funds, give advice and assistance to public officials and agencies in regard to preserving or disposing of the public records in their custody. When requested by the Department of Natural and Cultural Resources, public officials shall assist the Department in the preparation of an inclusive inventory of records in their custody, to which inventory shall be attached a schedule, approved by the head of the governmental unit or agency having custody of the records and the Department of Natural and Cultural Resources, establishing a time period for the retention or disposal of each series of records. So long as such approved schedule remains in effect, destruction or disposal of records in accordance with its provisions shall be deemed to have met the requirements of G.S. 121-5(b).

The Department of Natural and Cultural Resources is hereby authorized and directed to conduct a program of inventorying, repairing, and microfilming in the counties for security purposes those official records of the several counties which the Department determines have permanent value, and of providing safe storage for microfilm copies of such records. Subject to the availability of funds, such program shall be extended to the records of permanent value of the cities, municipalities, and other subdivisions of government.

(d) Preservation of Permanently Valuable Records. – Public records certified by the Department of Natural and Cultural Resources as being of permanent value shall be preserved in the custody of the agency in which the records are normally kept or of the North Carolina State Archives. Any State, county, municipal, or other public official is hereby authorized and empowered to turn over to the Department of Natural and Cultural Resources any State, county, municipal, or other public records no longer in current official use, and the Department of Natural and Cultural Resources is authorized in its discretion to accept such records, and having done so shall provide for their administration and preservation in the North Carolina State Archives. When such records have been thus surrendered, photocopies, microfilms, typescripts, or other copies of them shall be made and certified under seal of the Department, upon application of any person, which certification shall have the same force and effect as if made by the official or agency by which the records were transferred to the Department of Natural and Cultural Resources; and the Department may charge reasonable fees for these copies. The Department may answer written inquiries for nonresidents of the State and for this service may charge a search and handling fee not to exceed twenty-five dollars ($25.00). The receipts from this fee shall be used to defray the cost of providing this service.

(d1) General Assembly. – Notwithstanding any other provision of this section or order, rules, or regulations promulgated or adopted thereunder, the custodian of any General Assembly record shall determine, in the custodian's discretion, whether a record is a public record and whether to turn over to the Department of Natural and Cultural Resources, or retain, destroy, sell, loan, or otherwise dispose of, such records. When requested by the Legislative Services Officer,

the Department of Natural and Cultural Resources shall assist in the preparation of an inventory of the records to which the request applies.

(e) Archives and Records Management Fund. – The Archives and Records Management Fund is established as a special revenue fund. The Fund consists of donations, gifts, devises, and the fees credited to it under Chapter 161 of the General Statutes. Revenue in the Fund may be used only to offset the Department's costs in providing essential records management and archival services for public records pursuant to Chapter 121 and Chapter 132 of the General Statutes. (1907, c. 714, s. 5; C.S., s. 6145; 1939, c. 249; 1943, c. 237; 1945, c. 55; 1953, c. 224; 1955, c. 543, s. 1; 1959, c. 1162; 1973, c. 476, s. 48; 1979, c. 361; c. 801, s. 95; 1981, c. 406, ss. 1, 2; 1993, c. 539, s. 916; 1994, Ex. Sess., c. 24, s. 14(c); 1997-309, s. 13; 2001-427, s. 3(a); 2009-451, s. 20B.3(b); 2012-79, s. 2.19(a); 2015-241, s. 14.30(s); 2017-57, s. 14.3(a); 2023-134, s. 27.9(a).)

§ 121-5.1. State Historical Records Advisory Board.

(a) The State Historical Records Advisory Board, which was constituted in 1975 in accordance with 44 U.S.C. § 2501; 36 C.F.R. § 1206 is continued under State law and shall be located administratively in the Department of Natural and Cultural Resources. The Board shall consist of 10 members. Eight members shall be appointed by the Governor for three-year staggered terms, and each member shall have experience in the administration and use of historical records. All current members shall continue to serve until the expiration of their term unless a member is removed or the position becomes vacant, in which case the vacancy shall be filled in accordance with subsection (c) of this section. The Deputy Secretary of the Office of Archives and History and the State Archivist shall both serve as ex officio members of the Board.

(b) The Board's primary duty shall be to serve as the central advisory body for historical records coordination within the State and for the National Historical Publications and Records Commission (NHPRC). In addition, subject to the availability of funds, the Board shall:

(1) Offer assistance, advice, and consultation to State, county, and municipal governments, historic sites, museums, historical societies, and other institutions holding records of historical value concerning the care, preservation, and management of their records.

(2) Solicit, review, and assess grant proposals in connection with NHPRC grants or grants from other sources.

(3) Offer educational programs and conferences.

(4) Conduct statewide studies and surveys of the State's historical records.

(c) The Governor may remove any member for good cause shown. The Governor shall fill any vacancy on the Board. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been appointed and qualified.

(d) Members of the Board shall receive per diem and reimbursement for travel and subsistence as provided in G.S. 138-5 and G.S. 138-6, as appropriate.

(e) The Governor shall appoint either the Deputy Secretary of the Office of Archives and History or the State Archivist as the State coordinator as required by NHPRC regulations. The State coordinator shall serve a four-year term and may be reappointed. The State coordinator may designate a deputy State coordinator from the Board's membership.

(f) The Board shall hold at least two meetings each year to conduct business. The Board shall establish the procedures for calling, holding, and conducting regular and special meetings. A majority of the members of the Board constitutes a quorum for the transaction of business. (2007-150, s. 1; 2015-241, s. 14.30(s).)

§ 121-6. Historical publications.

(a) General Provisions. – It shall be the duty of the Department of Natural and Cultural Resources to promote and encourage the writing of North Carolina history and to collect, edit, publish, print, and distribute books, pamphlets, papers, manuscripts, documents, maps, and other materials relating to North Carolina archives and history. The Department of Natural and Cultural Resources may establish a reasonable charge for such publications and devote the revenue arising therefrom to such additional publication of materials relating to North Carolina archives and history as may be undertaken by the Department of Natural and Cultural Resources. Except for reports, bulletins, and other publications issued for free distribution, professional materials including books and journals published by the Department of Natural and Cultural Resources are hereby expressly excluded from provisions of G.S. 147-50.

(b) Editing and Publishing of Official Messages and Other Papers of Governor. – During the term of office of each Governor of this State, a copy of all official messages delivered to the General Assembly, addresses, speeches, statements, news releases, proclamations, executive orders, weekly calendars, articles, transcripts of news conferences, lists of appointments, and other official releases and papers of the Governor shall be kept in the Governor's office for delivery to the Department of Natural and Cultural Resources at the end of each quarter during the Governor's administration. These papers shall be compiled and a selection made therefrom by a skilled and competent editor. The editor shall edit, according to acceptable scholarly standards, the selected materials which shall be published in a documentary volume as soon as practicable after the conclusion of the term of office of each Governor. If, for any reason, a Governor serves less than a full term, a documentary volume shall be edited and published for such portion of a term as he shall have served. If a Governor serves more than one term, a documentary volume shall be edited and published for each term served. Funds for editorial assistance, printing, binding, and distribution may be paid from the Contingency and Emergency Fund. The number of copies of each volume to be printed shall be determined by the Department of Natural and Cultural Resources in consultation with the Governor whose papers are being published.

(c) It shall be the duty and the responsibility for the Department of Natural and Cultural Resources to edit and publish a second or new series of the most significant records of colonial North Carolina. From records which have been compiled in the North Carolina State Archives concerning the colonial period of North Carolina, a selection of the most significant documents shall be made therefrom by a skilled and competent editor. The editor shall edit, according to acceptable scholarly standards, the selected materials which shall be published in documentary volumes until full and representative published colonial records of North Carolina shall have been achieved. The number of copies of each volume to be so printed shall be determined by the Department of Natural and Cultural Resources, and such determination shall be based on the number of copies the Department can reasonably expect to sell in a period of 10 years from the date of publication. In any year during which the Department of Natural and Cultural Resources has completed a volume and has it ready for publication, the Department may include in its base budget for that year sufficient funds to pay the estimated costs of publishing the volume. In the event that the volume is not published during that year, the appropriation made, or any unencumbered balance, shall revert to the General Fund. (1971, c. 480, s. 6; 1973, c. 476, s. 48; 1979, c. 1010; 1981 (Reg. Sess., 1982), c. 1290; 2014-100, s. 6.4(g); 2015-241, s. 14.30(s); 2025-10, s. 4.)

§ 121-7. Historical museums.

(a) The Department of Natural and Cultural Resources shall maintain and administer State historic sites and museums under the management of the Office of Archives and History for the collection, preservation, study, and exhibition of authentic artifacts and other historical materials relating to the history and heritage of North Carolina. The Department, with the approval of the Historical Commission, may acquire, either by purchase, gift, or loan such artifacts and materials, and, having acquired them, shall according to accepted museum practices classify, accession, preserve, and where feasible exhibit such materials and make them available for study. Within available funds, one or more branch museums of history or specialized regional history museums may be established and administered by the Department. The Department of Natural and Cultural Resources, subject to the availability of staff and funds, may give financial, technical, and professional assistance to nonstate historical museums sponsored by governmental agencies and nonprofit organizations according to regulations adopted by the North Carolina Historical Commission.

Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other law pertaining to surplus State property, the Department of Natural and Cultural Resources may, with the explicit approval of the North Carolina Historical Commission sell, lease, donate, trade, or place on loan any artifact owned by the State of North Carolina and in the custody of and curated by the Office of Archives and History, unless the sale, lease, donation, trade, or loan would be contrary to the terms of acquisition. The net proceeds of any sale or lease, after deduction of the expenses attributable to that sale or lease, shall be deposited in the Office of Archives and History Artifact Fund to the credit of the museum or archives that had custody of the artifact sold or leased and shall be used only for the expenses associated with the purchase, maintenance, or conservation of other artifacts. No artifact curated by any agency of the Department of Natural and Cultural Resources may be pledged or mortgaged.

(b) Insofar as practicable, the Office of Archives and History shall accession and maintain records showing provenance, value, location, and other pertinent information on such furniture, furnishings, decorative items, and other objects as have historical or cultural importance and which are owned by or to be acquired by the State for use in the State Capitol and the Executive Mansion, and, upon request of the Department of Administration, any other state-owned building. When any such item or object has been entered in the accession records of the Office of Archives and History, the custodian of such item or object shall, upon its removal from the premises upon which it was located or when it is otherwise disposed of, submit to the Office of Archives and History sufficient details concerning its removal or disposition to permit an adequate entry in the accession records to the end that its location or disposition, and authority for such change, shall be shown therein.

(c), (d) Repealed by Session Laws 2015-218, s. 1, effective August 18, 2015. (1973, c. 476, s. 48; 1979, c. 861, s. 1; 1987, c. 721, s. 1; 1991, c. 689, s. 191(a); c. 757, s. 6; 1993 (Reg. Sess., 1994), c. 769, s. 12.3; 1997-411, s. 4; 2002-159, s. 35(g); 2015-218, s. 1; 2015-241, s. 14.30(s); 2023-70, s. 2(b).)

§ 121-7.1. Maritime Museum; disposition of artifacts.

Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other law pertaining to surplus State property, the Department of Natural and Cultural Resources, with the approval of the North Carolina Historical Commission, may sell, lease, donate, trade, or place on permanent loan any artifact from the collection of the North Carolina Maritime Museum unless the sale, lease, donation, trade, or loan would be contrary to the terms of the acquisition. Sales or exchanges shall be conducted in accordance with generally accepted practices for

accredited museums. If an artifact is sold or leased, the net proceeds of the sale or lease shall be deposited in the State treasury to the credit of a special fund to be used for the improvement of the Museum's collections or exhibits. (1998-212, s. 21(b); 2015-241, s. 14.30(s); 2023-70, s. 2(c).)

§ 121-7.2. Maritime Museum; branch museum.

The Department of Natural and Cultural Resources shall assume from the Southport Maritime Museum, Inc., the administration of the Southport Maritime Museum in Brunswick County and shall operate it as a branch of the North Carolina Maritime Museum. (1999-237, s. 26.1(a); 2015-241, s. 14.30(s).)

§ 121-7.3. Admission and related activity fees and operating hours.

The Department of Natural and Cultural Resources may charge a reasonable admission and related activity fee to the Roanoke Island Festival Park and any historic site or museum administered by the Department. Admission and related activity fees collected under this section are receipts of the Department and shall be deposited in the appropriate special fund. The revenue collected pursuant to this section shall be used only for the individual site or venue where the receipts were generated. The Secretary may adopt rules necessary to carry out the provisions of this section. The Department is exempt from the requirements of Chapter 150B of the General Statutes and G.S. 12-3.1 when adopting, amending, or repealing rules for operating hours and admission fees or related activity fees at the Roanoke Island Festival Park, historic sites, and museums. (2003-284, s. 35A.4; 2013-297, s. 2(a); 2013-360, s. 19.2(a); 2014-100, s. 19.5(a); 2015-241, s. 14.30(s); 2017-57, ss. 14.1(cc), 14.8(d); 2020-78, s. 8.2(b).)

§ 121-7.4. Graveyard of the Atlantic Museum.

The Department of Natural and Cultural Resources shall assume from the Graveyard of the Atlantic Museum, the administration of the Graveyard of the Atlantic Museum on Hatteras Island and shall designate it as a member of the State History Museums Division, in accordance with the feasibility study conducted by the Department. (2007-359, s. 1(a); 2015-241, s. 14.30(s).)

§ 121-7.5. Bentonville Battlefield Fund.

(a) Fund. – The Bentonville Battlefield Fund is created as a special, interest-bearing, and nonreverting fund in the Department of Natural and Cultural Resources, Division of State Historic Sites. The Fund shall be treated as a special trust fund and shall be used for operation, interpretation, maintenance, preservation, development, and expansion at Bentonville Battlefield State Historic Site.

(b) Fund Sources. – Notwithstanding Chapter 146 of the General Statutes, the Fund consists of (i) all revenue derived from donations, gifts, devises, grants, admissions, and fees collected for the benefit of the Bentonville Battlefield State Historic Site, (ii) the net proceeds derived from the sale of real property pursuant to G.S. 146-30(d)(13), and (iii) interest on funds in the Fund credited by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3.

(c) Repealed by Session Laws 2021-180, s. 14.1(d), effective July 1, 2021.

(d) Report. – The Division of State Historic Sites shall submit to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division by September 30 of each year a report on the Bentonville Battlefield Fund that shall include the source and amount of all funds credited to the Fund and the purpose and amount of

all expenditures from the Fund during the prior fiscal year. (2008-107, s. 19A.1; 2015-241, s. 14.30(s); 2021-180, s. 14.1(d).)

§ 121-7.6. North Carolina Transportation Museum special fund.

(a) Fund Established. – The North Carolina Transportation Museum Fund is created as a special, interest-bearing, nonreverting enterprise fund in the Department of Natural and Cultural Resources. The Fund shall be treated as a special trust fund and shall be used to pay all costs associated with the operation, interpretation, development, expansion, preservation, and maintenance of the North Carolina Transportation Museum.

(b) Fund Sources. – Notwithstanding Chapter 146 of the General Statutes, the Fund consists of (i) all revenue derived from donations, gifts, devises, grants, admissions, and fees collected by or for the benefit of the North Carolina Transportation Museum Fund, (ii) the net proceeds derived from the sale of real property pursuant to G.S. 146-30(d)(14), and (iii) interest on funds in the Fund credited by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3.

(c) Emergency Reserve. – The Department of Natural and Cultural Resources shall establish, out of existing unobligated funds including lapsed salaries and unobligated special funds, an emergency reserve fund in the amount of three hundred thousand dollars ($300,000). Any use of the emergency reserve will require reimbursement from museum receipts.

(d) Audit. – The Fund shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. The Fund shall reimburse the State Auditor for the cost of any audit.

(e) Report. – The Department of Natural and Cultural Resources shall submit to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division by September 30 of each year a report on the North Carolina Transportation Museum Fund that shall include the source and amount of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year. (2011-145, s. 21.1; 2015-241, s. 14.30(s); 2017-57, s. 14.3(b); 2021-180, s. 14.1(e).)

§ 121-7.7. State Historic Sites and Museums special fund.

(a) Fund. – The State Historic Sites and Museums Fund is created as a special, interest-bearing revenue fund in the Division of State Historic Sites and the Division of State History Museums. The Fund consists of all receipts derived from the lease or rental of property or facilities, disposition of structures or products of the land, donations, gifts, devises, and admissions and fees collected at the State Historic Sites, State History Museums, and Maritime Museums. The Fund also consists of the net proceeds derived from the sale of real property pursuant to G.S. 146-30(d)(11). The revenues in the Fund may be used only for the operation, interpretation, maintenance, preservation, development, and expansion of the individual State Historic Site, State History Museum, and Maritime Museum where the receipts are generated. The respective Division and the staff from each State Historic Site, State History Museum, and Maritime Museum shall determine how the funds shall be used at that Historic Site, State History Museum, and Maritime Museum.

(b) Application. – This section applies to the individual State Historic Sites and State History and Maritime Museums owned by or under the control of the Division of State Historic Sites and the Division of State History Museums, with the exception of the Bentonville Battlefield State Historic Site, the Tobacco Farm Life Museum, and the North Carolina Transportation Museum. The Bentonville Battlefield State Historic Site is subject to G.S. 121-7.5. The North

Carolina Transportation Museum is subject to G.S. 121-7.6. The Tobacco Farm Life Museum Fund is subject to G.S. 121-7.8.

(c) Reports. – The Department of Natural and Cultural Resources must submit to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, the chairs of the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division by September 30 of each year a report on the Fund that includes the source and amounts of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year. (2011-213, s. 1; 2012-142, s. 18.2; 2015-241, s. 14.30(uu); 2017-57, ss. 14.1(dd), 14.3(c); 2021-180, s. 14.1(b); 2023-134, s. 14.3(d).)

§ 121-7.8. Tobacco Farm Life Museum Fund.

(a) Fund. – The Tobacco Farm Life Museum Fund is created as a special, interest-bearing revenue fund in the Department of Natural and Cultural Resources. The Fund consists of all receipts derived from the lease or rental of property or facilities, disposition of structures or products of the land, donations, gifts, devises, and admissions and fees collected at the Tobacco Farm Life Museum. The Fund shall be treated as a special trust fund and may be used to pay costs associated with the operation, interpretation, development, expansion, preservation, and maintenance of the Tobacco Farm Life Museum.

(b) Fund Sources. – Notwithstanding Chapter 146 of the General Statutes, the Fund consists of (i) all revenue derived from donations, gifts, devises, grants, admissions, and fees collected by or for the benefit of the Tobacco Farm Life Museum Fund, (ii) the net proceeds derived from the sale of real property pursuant to G.S. 146-30(d)(17), and (iii) interest on funds in the Fund credited by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3.

(c) Board of Directors. – The Tobacco Farm Life Museum Board of Directors, or its successor, shall advise the Secretary on expenditures from the Tobacco Farm Life Museum Fund and on the basic concepts and operations of the Tobacco Farm Life Museum.

(d) Reports. – The Department of Natural and Cultural Resources must submit to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, the chairs of the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division by September 30 of each year a report on the Fund that includes the source and amounts of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year. (2023-134, s. 14.3(c); 2024-1, s. 4.14(a).)

§ 121-8. Historic preservation program.

(a) Historic Preservation Agency Designated. – The historic preservation agency of the State of North Carolina shall be the Department of Natural and Cultural Resources.

(b) Surveys of Historic Properties. – The Department of Natural and Cultural Resources shall conduct a continuing statewide survey to identify, document, and record properties having historical, architectural, archaeological, or other cultural significance to the State, its communities, and the nation. Upon approval of the North Carolina Historical Commission, the Deputy Secretary of Archives and History or his designee as the State Historic Preservation Officer, may nominate appropriate properties for entry in the National Register of Historic Places as established by the

National Historic Preservation Act of 1966, Public Law 89-665, 16 U.S.C. section 470. The Department of Natural and Cultural Resources shall maintain a permanent file containing research reports, descriptions, photographs, and other appropriate documentation relating to properties deemed worthy of inclusion in the statewide survey.

(c) Statewide Historic Preservation Plan. – The Department of Natural and Cultural Resources shall prepare and revise as needed a State plan for historic preservation, which plan, when approved by the North Carolina Historical Commission, shall constitute official State policy for the preservation, or the encouragement of the preservation, of important historic, architectural, archaeological, and other cultural properties in North Carolina.

(d) Cooperation with Federal Government. – The Department of Natural and Cultural Resources and/or the Department of Administration may enter into and carry out contracts with the federal government or any agency thereof under which said government or agency grants financial or other assistance to the Department of Natural and Cultural Resources to further the purposes of this Chapter. Either of the Departments may agree to and comply with any reasonable conditions not inconsistent with State law which are imposed on such grants. Such grants or other assistance may be accepted from the federal government or an agency thereof and expended whether or not pursuant to a contract.

(e) Cooperation with Local Governments. – The Department shall, within the limits of staff and available funds, cooperate with and assist counties, cities, municipalities, and other subdivisions of government, and, where appropriate, private individuals and organizations, in promoting historic preservation to the end that important properties which are not owned by the State may be preserved or encouraged to be preserved. Such cooperation and assistance may include but not be limited to reviewing historic preservation plans, evaluating historic properties, and providing technical, financial and professional assistance. The Department may further enter into and carry out contracts with local governments or their agencies and with any private party to further the purposes of this Article.

(f) Continuing Programs. – The Department of Natural and Cultural Resources shall develop a continuing program of historical, architectural, archaeological, and cultural research and development to include surveys, excavation, salvage, preservation, scientific recording, interpretation, and publication of the State's historical, architectural, archaeological, and cultural resources. A reasonable charge may be made for publications resulting therefrom and the income from such sales may be devoted to the work of the Department.

(g) Abandoned Cemeteries. – The Department of Natural and Cultural Resources is authorized to take appropriate measures to record and permanently preserve information of significant historical genealogical or archaeological value when, in the opinion of the Department, any such information located within an abandoned cemetery is in imminent danger of loss or destruction because of the condition or circumstances of the cemetery. The Department may obtain access to any abandoned cemetery for the purpose of recording and preserving information of significant historical, genealogical or archaeological value pursuant to Chapter 15, Article 4A of the General Statutes: Provided, that prior to the requesting of the administrative warrant, the Department shall contact the affected landowners and request their consent for access to their lands for the purpose of gathering such information. If consent is not granted, the Department shall give reasonable notice of the time, place and before whom the administrative warrant will be requested so that the owner or owners may have an opportunity to be heard. Service of this notice may be in any manner prescribed by N.C.G.S. 1A-1 Rule 4(j). Any measures taken by the Department pursuant to this subsection shall be effected in such a manner as to cause as little inconvenience or

disruption as possible to the owners of the land upon which the abandoned cemetery is located and of land necessary to obtain access to the cemetery. (1973, c. 476, s. 48; 1981, c. 215; 1989, c. 65; 2002-159, s. 35(h); 2015-241, s. 14.30(s).)

§ 121-9. Historic properties.

(a) Administration of Properties Acquired by State. – Historic or archaeological properties acquired by the State for administration by the State of North Carolina shall be under the control and administration of the Department of Natural and Cultural Resources. Upon approval of the North Carolina Historical Commission and the Secretary of Natural and Cultural Resources, the Department of Natural and Cultural Resources may, in its discretion, make a contract with any county or municipality within the State or with any nonprofit corporation or organization for the administration of any portion of such property.

(b) Acquisition of Historic Properties. – For the purpose of protecting or preserving any property of historical, architectural, archaeological, or other cultural importance to the people of North Carolina, and subject to the provisions of Subchapter II of Chapter 146 of the General Statutes, the Department may, with the approval of the North Carolina Historical Commission and after consultation with the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division, acquire, preserve, restore, hold, maintain, operate, and dispose of such properties, together with such adjacent lands as may be necessary for their protection, preservation, maintenance, and operation. Such property may be real or personal in nature, and in the case of real property, the acquisition may include the fee or any lesser interest therein. Property may be acquired by gift, grant, devise, lease, purchase, or condemnation pursuant to the provisions of Chapter 40A of the General Statutes, or otherwise. Property may be acquired by the Department, using such funds as may be appropriated for the purpose or monies available to it from any other source.

(b1) In the case of real property, the North Carolina Historical Commission shall report the following information to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division before acquiring the property:

(1) The statewide historical significance of the site.
(2) The potential uses of the site.
(3) The capital requirements of the site over a 20-year period of time.
(4) The annual operating costs of the site.
(5) The expected levels of visitation at the site.
(6) Any other information that would assist in determining the full cost of maintaining, operating, and administering the site as State property.

(c) Interests Which May Be Acquired. – In the case of real property, the interest acquired shall be limited to that estate, interest, or term deemed by the Department to be reasonably necessary for the continued protection or preservation of the property. The Department may acquire the fee simple title, but where it finds that a lesser interest, including any development right, negative or affirmative easement in gross or appurtenant, covenant, lease, or other contractual right of or to any real property to be the most practical and economical method of protecting and preserving historic property, the lesser interest may be acquired.

(d) Conveyance of Property for Preservation Purposes. – In appropriate cases, the Department may acquire or dispose of the fee or lesser interest to any such property for the specific purpose of conveying or leasing the property back to its original owner or of conveying or leasing it to such other person, firm, association, corporation, or other organization under such covenants,

deed restrictions, lease, or other contractual arrangements as will limit the future use of the property in such a way as to insure its preservation. Where such action is taken, the property may be conveyed or leased by private sale. In all cases where property is conveyed, it shall be subjected by covenant or otherwise to such rights of access, public visitation, and other conditions or restrictions of operation, maintenance, restoration, and repair as the Department may prescribe, or to such conditions as may be agreed upon between the Department and the grantee or lessee to accomplish the purposes of this section.

(e) Use of Property so Acquired. – Any historic property acquired, whether in fee or otherwise, may be used, maintained, improved, restored, or operated by the Department for any public purpose within its powers and not inconsistent with the purpose of the continued preservation of the property. The property shall not be subject to condemnation by the State of North Carolina or any of its agencies or political subdivisions at any time, unless such method of acquisition is first approved by the Governor and Council of State.

(f) Emergency Acquisition Where Funds Not Immediately Available. – If funds or contributions for the acquisition of needed historic property are not available, the Governor and Council of State may, upon the recommendation of the Secretary of Natural and Cultural Resources and approval of the North Carolina Historical Commission, allocate from the Contingency and Emergency Fund an amount sufficient to acquire an option on the property or properties, which option shall continue until 90 days after the adjournment sine die of the next General Assembly. Upon recommendation of the Secretary and approval of the Historical Commission, the Governor and Council of State may allocate funds from the Contingency and Emergency Fund for the immediate acquisition, preservation, restoration, or operation of historically, archaeologically, architecturally, or culturally important properties. All funds hereinafter appropriated to purchase, restore, maintain, develop, or operate historic or archaeological or other important property shall be administered subject to the provisions of Chapter 143C and G.S. 143B-53.1 of the General Statutes unless the statute making the appropriation shall in specific and express terms provide otherwise.

(g) Power to Acquire Property by Condemnation. – In the event that a property which has been found by the Department of Natural and Cultural Resources to be important for public ownership or assistance is in danger of being sold, used, or neglected to such an extent that its historical or cultural importance will be destroyed or seriously impaired, or that the property is otherwise in danger of destruction or serious impairment, the Department of Natural and Cultural Resources, after receiving the approval of the North Carolina Historical Commission and of the Governor and Council of State, may acquire the historic property or any interest therein by condemnation under the provisions of Chapter 40A of the General Statutes. The Department of Natural and Cultural Resources, upon finding that destruction or serious impairment of the value of the property is imminent, shall file with the Governor and Council of State a report on the importance of the property and the desirability of ownership of the property, or the ownership of an interest therein, by the State of North Carolina. Upon giving their approval, the Governor and Council of State shall cause to have filed such approval with the clerk of the superior court in the county or counties where the property is situated. Until the approval is filed, the power of condemnation may not be exercised. All condemnation proceedings shall be instituted and prosecuted in the name of the State of North Carolina.

(h) Preservation and Custodial Care of State Capitol. – The rotunda, corridors, and stairways of the first floor of the State Capitol and all portions of the second, third, and loft floors of the said building shall be placed in the custody of the Department of Natural and Cultural

Resources; and the Department shall, subject to the availability of funds for the purpose, care for and administer these areas for the edification of present and future generations. The aforesaid areas shall be preserved as historic shrines and shall be maintained insofar as practicable as they shall appear following the restoration of the Capitol. The Department of Natural and Cultural Resources is authorized to deny the use of the legislative chambers for meetings in order that they, with their historic furnishings, may be better preserved for posterity; provided, however, that the General Assembly may hold therein such sessions as it may by resolution deem proper.

The Department of Natural and Cultural Resources is hereby entrusted with the responsibilities herein specified as being the agency with the experience best qualified to preserve and administer historic properties in a suitable manner. However, for the purposes of carrying out the provisions of this section, it is hereby directed that such cooperation and assistance shall be made available to the said Department of Natural and Cultural Resources and such labor supplied, as may be feasible, by the Department of Administration.

The offices and working areas of the first floor as well as all washrooms and the exterior of the Capitol shall remain under the jurisdiction of the Department of Administration: Provided, however, that the Department of Administration shall seek the advice of the Department of Natural and Cultural Resources in matters relating to any alteration, renovation, and furnishing of said offices and areas. (1955, c. 543, s. 1; 1961, c. 724; 1963, c. 210, s. 1; 1965, c. 1129; 1971, c. 480, ss. 1-3, 5; 1973, c. 476, s. 48; 1991 (Reg. Sess., 1992), c. 1030, s. 34; 1993 (Reg. Sess., 1994), c. 682, s. 2; 1995, c. 507, s. 12(b); 1996, 2nd Ex. Sess., c. 18, s. 7.7(a); 2006-203, s. 64; 2011-284, s. 87; 2015-241, ss. 14.30(s), (t); 2017-57, s. 14.1(cc).)

§ 121-9.1. Lake Mattamuskeet Lodge Preservation.

(a) Notwithstanding G.S. 121-9, the State of North Carolina accepts the transfer of the Mattamuskeet Lodge and surrounding property to the State under the Lake Mattamuskeet Lodge Preservation Act, P.L. 109-358. The property shall be transferred to and managed by the Wildlife Resources Commission.

(b) Repealed by Session Laws 2016-94, s. 14.14(b), effective July 1, 2016. (2007-13, ss. 1, 2; 2015-241, s. 14.30(s); 2016-94, s. 14.14(b).)

§ 121-10. Security of historic properties.

(a) Designated Employees Commissioned Special Peace Officers by Governor. – Upon application by the Secretary of Natural and Cultural Resources, the Governor is hereby authorized and empowered to commission as special peace officers such employees of the Department of Natural and Cultural Resources as the Secretary may designate for the purpose of enforcing the laws, rules, and regulations enacted or adopted for the protection, preservation and government of State historic or archaeological properties under the control or supervision of the Department of Natural and Cultural Resources. Such employees shall receive no additional compensation for performing the duties of special peace officers under this section.

(b) Powers of Arrest. – Any employee of the Department of Natural and Cultural Resources commissioned as a special peace officer shall have the right to arrest with warrant any person violating any law, rule, or regulation on or relating to the State historic or archaeological properties under the control or supervision of the Department of Natural and Cultural Resources, and shall have power to pursue and arrest without warrant any person violating in his presence any law, rule, or regulation on or relating to said historic and archaeological properties under the control or supervision of the Department of Natural and Cultural Resources.

(c) Bond Required. – Each employee of the Department of Natural and Cultural Resources commissioned as a special peace officer under this section shall give a bond with a good surety, payable to the State of North Carolina in a sum not less than one thousand dollars ($1,000), conditioned upon the faithful discharge of his duty as such peace officer. The bond shall be duly approved by and filed in the office of the Commissioner of Insurance, and copies of the same, certified by the Commissioner of Insurance, shall be received in evidence in all actions and proceedings in this State.

(d) Oaths Required. – Before any employee of the Department of Natural and Cultural Resources commissioned as a special peace officer shall exercise any power of arrest under this Article, he shall take the oaths required of public officers before an officer authorized to administer oaths. (1955, c. 543, s. 1; 1973, c. 476, s. 48; 2015-241, s. 14.30(s), (t).)

§ 121-11. Procedures where assistance extended to cities, counties, and other agencies or individuals.

In consideration of the public purpose thereby achieved, the Department of Natural and Cultural Resources may assist any county, city, or other political subdivision, corporation or organization, or private individual in the acquisition, maintenance, preservation, restoration, or development of historic or archaeological property by providing a portion of the cost therefor: Provided, that the Department of Natural and Cultural Resources may not make any acquisition, maintenance, preservation, restoration, or development of any property, nor any assistance for any property, nor any contribution for these purposes, until:

(1) The property or properties shall have been approved for these purposes by the Department of Natural and Cultural Resources according to criteria adopted by the North Carolina Historical Commission,

(2) The report and recommendations of the Commission have been received and considered by the Department of Natural and Cultural Resources, and

(3) The Department has found that there is a feasible and practical method of providing funds for the acquisition, restoration, preservation, maintenance, and operation of such property.

In all cases where assistance is extended by the Department of Natural and Cultural Resources to nonstate owners of property, whether from State funds or otherwise, it shall be a condition of assistance that

(1) The property assisted shall, upon its acquisition or restoration, be made accessible to the public at such times and upon such terms as the Department of Natural and Cultural Resources shall by rule prescribe;

(2) That the plans for preservation, restoration, and development be reviewed and approved by the Department of Natural and Cultural Resources;

(3) That the expenditure of such funds be supervised by the Department of Natural and Cultural Resources; and

(4) That such expenditures be accounted to the Department in a manner and at such times as are satisfactory to it.

In further consideration of the public purpose thereby achieved, the Department of Natural and Cultural Resources may assist any county, city, or other political subdivision, or corporation nonprofit history museum in the development of interpretive, security or climate control programs or projects. Provided, that the Department of Natural and Cultural Resources may not make any assistance or contribution from State funds for a program or project until:

(1) The program or project shall have been approved for these purposes by the Department of Natural and Cultural Resources according to criteria adopted by the North Carolina Historical Commission;
(2) The report and recommendations of the Commission have been received and considered by the Department of Natural and Cultural Resources; and
(3) The Department has found that there is a feasible and practical method of providing funds for the maintenance and operation of such history museum.

In all cases where assistance is extended by the Department of Natural and Cultural Resources to nonstate owners of history museums, whether from State funds or otherwise, it shall be a condition of assistance that:

(1) The museum assisted shall be accessible to the public at such times and upon such terms as the Department of Natural and Cultural Resources shall by rule prescribe;
(2) Plans for the development of museum programs or projects be reviewed and approved by the Department of Natural and Cultural Resources;
(3) The expenditure of such funds be supervised by the Department of Natural and Cultural Resources; and
(4) Such expenditures be accounted to the Department in a manner and at such times as are satisfactory to it. (1973, c. 476, s. 48; 1979, c. 861, s. 2; 1985 (Reg. Sess., 1986), c. 1014, s. 171(a); 2015-241, s. 14.30(s).)

§ 121-12. North Carolina Historical Commission.

(a) Protection of Properties on National Register. – It shall be the duty of the Historical Commission, meeting at such times and according to such procedures as it shall by rule prescribe, to provide an advisory and coordinative mechanism in and by which State undertakings of every kind that are potentially harmful to the cause of historic preservation within the State may be discussed, and where possible, resolved, giving due consideration to the competing public interests that may be involved. To this end, the head of any State agency having direct or indirect jurisdiction over a proposed State or state-assisted undertaking, or the head of any State department, board, commission, or independent agency having authority to build, construct, operate, license, authorize, assist, or approve any State or state-assisted undertaking, shall, prior to the approval of any State funds for the undertaking, or prior to any approval, license, or authorization, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is listed in the National Register of Historic Places established pursuant to Public Law 89-665, 16 U.S.C. 470.

Where, in the judgment of the Commission, an undertaking will have an effect upon any listed district, site, building, structure, area, or object, the head of the appropriate State agency shall afford the Commission a reasonable opportunity to comment with regard to such undertaking.

The Historical Commission shall act with reasonable diligence to insure that all State departments, boards, commissions, or agencies potentially affected by the provisions of this section be kept currently informed with respect to the name, location, and other significant particulars of any district, site, building, structure, or object listed or placed upon the National Register of Historic Places. Each affected State department or agency shall furnish, either upon its own initiative or at the request of the Historical Commission such information as may reasonably be required by the Commission for the proper implementation of this section.

(b) Criteria for State Historic Properties. – The Commission shall prepare and adopt criteria for the evaluation of State historic sites and all other real and personal property which it may consider to be of such historic, architectural, archaeological, or cultural importance as would justify the acquisition and ownership thereof by the State of North Carolina, or for the extension of any assistance or aid thereto by the State, acting by itself or in connection with any county, city, corporation, organization, or individual. The Commission shall cooperate to the fullest practical extent with any local historical organization and with any city or county historic district properties commission. In evaluating whether a building should be a State historic site, the Commission shall request and review plans for the use and maintenance of the building.

(c) Criteria for State Aid to Historic Properties. – The Commission shall also prepare and adopt criteria for the evaluation of all properties of historic or archaeological importance owned by, under option to, or being considered for acquisition by a county, city, historic properties commission, or other organization or individual for which State aid or assistance is requested from the Department of Natural and Cultural Resources. The Commission shall investigate, evaluate, and prepare a written report on all historic or archaeological property for which State aid or appropriations to be administered by the Department of Natural and Cultural Resources are proposed. If the property is a building, the Commission shall request and review the plans for the use, maintenance, operation, and purpose of the building and shall comment on the feasibility of the plans in the written report. This report, which shall be filed as a matter of record in the custody of the Department of Natural and Cultural Resources, shall set forth the following opinions or recommendations of the Commission:

(1) Whether the property is historically authentic;
(2) Whether it is of such educational, historical, or cultural significance as to be essential to the development of a balanced State program of historic and archaeological sites and properties;
(3) The estimated total cost of the project under consideration and the apportionment of said cost among State and nonstate sources;
(4) Whether practical plans have been or can be developed for the funding of the nonstate portion of the costs;
(5) Whether practical plans have been developed for the continued staffing, maintenance and operation of the property without State assistance; and
(6) Such further comments and recommendations that the Commission may make.

(c1) Criteria for State Aid to Historical Museums. – The Commission shall also prepare and adopt criteria for the evaluation of all interpretive, security or climate control programs or projects to be installed in nonprofit history museums for which State aid or assistance is requested from the Department of Natural and Cultural Resources. The Commission shall investigate, evaluate, and prepare a written report on all interpretive, security, or climate control programs or projects for which State appropriations to be administered by the Department of Natural and Cultural Resources are proposed. This report, which shall be filed as a matter of record in the custody of the Department of Natural and Cultural Resources, shall set forth the following opinions or recommendations of the Commission:

(1) The statewide educational significance and the qualitative level of the program or project and whether the program or project is essential to the development of a State program of historical interpretation;
(2) The local or regional need for such a program or project;

(3) The estimated total cost of the program or project under consideration and the apportionment of said cost among State and nonstate sources;
(4) Whether practical plans have been or can be developed for the funding of the nonstate portions of the costs;
(5) Whether practical plans have been developed for the continued staffing, maintenance, and operating of the museum without State assistance; and
(6) Such further comments and recommendations that the Commission may make.

(d) Commission to Furnish Recommendations to Legislative Committees. – The Commission through the Department of Natural and Cultural Resources shall furnish as soon as practicable to the chairman of each legislative committee to which is referred any bill seeking an appropriation of State funds to the Department of Natural and Cultural Resources for the purpose of acquiring, preserving, restoring, or operating, or otherwise assisting, any property having historic, archaeological, architectural, or other cultural value or significance, and to the chairman of each legislative committee to which is referred any bill seeking an appropriation of State funds to the Department of Natural and Cultural Resources for the purpose of assisting a history museum, at least five copies of a report on the findings and recommendations of the Commission relating to such property. (1973, c. 476, s. 48; 1975, c. 19, s. 40; 1979, c. 861, ss. 3-5; 1985 (Reg. Sess., 1986), c. 1014, s. 171(b); 1995, c. 324, s. 12; 2015-241, s. 14.30(s).)

§ 121-12.1. Repealed by Session Laws 2025-10, s. 7(a), effective June 13, 2025.

§ 121-12.2. Procedures for preparing budget requests and expending appropriations for grants-in-aid.

Requests for funding may be submitted by these organizations to the Department of Natural and Cultural Resources. If received by any other department of State government except the General Assembly they shall be forwarded to the Department of Natural and Cultural Resources. All such requests shall be subjected to the process described in G.S. 121-12.1 and included in the Department's biennial budget request submitted in compliance with the Executive Budget Act.

The Department of Natural and Cultural Resources shall notify on a timely basis and in appropriate detail all those recipients of continuing appropriations as grants-in-aid of the requirements for submission of requests for appropriations for the ensuing fiscal period.

The Secretary of Natural and Cultural Resources is empowered and directed, in discharging the responsibilities herein assigned, to make regular and timely reviews, studies and recommendations concerning the operations and needs of these organizations for State funds, and to request from the applicants for grants and the recipients of grants through the Department, operating statements, audit reports and other information deemed appropriate. (1977, c. 802, s. 47; 1985 (Reg. Sess., 1986), c. 1014, s. 171(d); 2015-241, s. 14.30(s), (t).)

§ 121-13. Acquisition of portrait of Governor during term of office.

During the term of office of each Governor of this State and at least six months prior to its expiration, the Secretary of Natural and Cultural Resources is directed to select a skilled artist to paint a portrait of such Governor, and have the same suitably framed. Upon the painting and acquisition of such portrait, the same shall be placed in some appropriate building to be designated by the Department of Natural and Cultural Resources and which is located in the City of Raleigh.

The cost of the painting and acquisition of said portrait, including the cost of the frame and other necessary expenses incident thereto, shall be paid from the Contingency and Emergency Fund. (1955, c. 1248; 1973, c. 476, s. 48; 2015-241, s. 14.30(s), (x).)

§§ 121-13.1 through 121-13.2. Repealed by Session Laws 1973, c. 476, s. 48.

Article 2.

Tryon's Palace and Tryon's Palace Commission.

§ 121-14. Acceptance and administration of gifts for restoration of Tryon's Palace; execution of deeds, etc.

The Department of Natural and Cultural Resources is hereby authorized and empowered to accept gifts of real or personal property from any source for the restoration of Tryon's Palace at New Bern, North Carolina, and administer the same. All gifts of moneys received by the Department of Natural and Cultural Resources shall be deposited in a special account with the Treasurer of North Carolina. The Department of Natural and Cultural Resources is hereby given authority to execute such deeds and other instruments as may be necessary. (1945, c. 791, s. 1; 1955, c. 543, s. 8; 1973, c. 476, s. 48; 2015-241, s. 14.30(s).)

§ 121-15. Authority to acquire necessary property for restoration when certain funds available.

The Department of Natural and Cultural Resources is hereby authorized and directed to acquire the necessary property in New Bern, North Carolina, for the restoration of Tryon's Palace, when as much as two hundred fifty thousand dollars ($250,000), or securities in said amount as provided in G.S. 121-17, has been provided by private contributions for this purpose: Provided, that the Department of Natural and Cultural Resources at such time shall find that there are reasonable grounds to anticipate that from private donations there will thereafter be provided ample funds to restore the Palace. (1945, c. 791, s. 2; 1949, c. 233, s. 1; 1955, c. 543, s. 8; 1973, c. 476, s. 48; 2015-241, s. 14.30(s).)

§ 121-16. Acquiring lands by purchase or condemnation.

The Department of Natural and Cultural Resources, within the limits and amounts appropriated by the General Assembly and any funds available from donations or otherwise, when the conditions set forth in G.S. 121-15 of this Article have been met, is hereby granted the power and authority to purchase sufficient lands for the restoration of the Palace, and the Department is hereby authorized to accept title to lands in the name of the State of North Carolina.

The Department of Natural and Cultural Resources shall also have the authority to acquire, by condemnation, under the provisions of Chapter 40A of the General Statutes of North Carolina, including the provisions of the Public Works Eminent Domain Law, which is hereby made applicable to such proceedings, any areas of land in New Bern, North Carolina, as it may find necessary for the restoration of the Palace. (1945, c. 791, s. 3; 1949, c. 233, s. 2; 1955, c. 543, s. 8; 1973, c. 476, s. 48; 2001-487, s. 38(g); 2015-241, s. 14.30(s).)

§ 121-17. Funds deposited with trustee.

The Governor as Director of the Budget shall have full authority and discretion to approve the acceptance of donations of cash or securities irrevocably deposited with a trustee in lieu of any requirement that funds provided by outside sources be turned over to the State, and funds or

securities placed in trust by private donors for such purpose shall be deemed to be funds turned over to the State for acquisition and restoration of the Palace. (1945, c. 791, s. 4.)

§ 121-18. Closing streets and including area in restoration project; acquiring area originally included in Palace grounds.

Whereas the said Tryon's Palace and grounds originally included all of that area in the City of New Bern known and designated as George Street between Pollock and South Front Streets, and the title thereto is in the State of North Carolina, subject to the easement for use of said street, and the use of such portion of said George Street is essential for a proper restoration of Tryon's Palace, when the governing body of the City of New Bern under its general authority imposed by law shall close George Street between Pollock and South Front Streets, or such portion thereof as may be found by the Commission herein authorized to be essential for the purposes of such restoration, the area within such closed street shall be thereafter used exclusively for the restoration of Tryon's Palace. Provided, that the Department of Natural and Cultural Resources is authorized and empowered, in its discretion, to acquire for the use of said Tryon's Palace such part of the area in the City of New Bern originally included in the Palace grounds as may be deemed reasonably necessary for the restoration of said Palace. (1945, c. 791, s. 5; 1949, c. 233, s. 3; 1955, c. 543, s. 8; 1973, c. 476, s. 48; 2015-241, s. 14.30(s).)

§ 121-19. Repealed by Session Laws 1973, c. 476, s. 56.

§ 121-20. Commission to receive and expend funds donated or made available for restoration of Tryon's Palace; Commission to acquire and sell artifacts for Tryon's Palace.

(a) In addition to exercising the powers and duties imposed upon the Tryon Palace Commission by Chapter 791 of the Session Laws of 1945 and Chapter 233 of the Session Laws of 1949, the Tryon Palace Commission is hereby fully authorized and empowered to receive and expend and disburse, for the restoration of the said Tryon's Palace, all such funds and property which were provided for said purpose by the last will and testament of Maude Moore Latham, deceased, and the said Commission shall likewise have the power and authority to receive and expend all such other funds as may be donated or made available for the purpose of restoring the said Palace or for the purpose of furnishing and equipping same and the grounds on which the same is located at New Bern, North Carolina.

The Tryon Palace Commission is hereby authorized, empowered and directed to designate some person as financial officer and treasurer, to disburse the funds and property devised by Maude Moore Latham to the said Tryon Palace Commission for the aforesaid purpose and all such other funds as may be donated or made available to the said Commission for expenditure for the aforesaid purposes. The said financial officer and treasurer shall be made the custodian of all stocks, bonds and securities and funds hereinbefore referred to and shall be authorized and empowered to sell, convert and transfer any stocks, bonds and securities held for such purpose, subject to and with the advice and approval of a finance committee to be appointed by the Tryon Palace Commission for such purpose. The sale and conversion and transfer of said securities shall be made when necessary to provide funds required for the said restoration and at such time as, in the opinion of the finance officer and treasurer, when approved by the finance committee, will be to the interests and advantage of the Tryon Palace Commission and the purposes for which said funds and securities were provided.

The finance officer and treasurer aforesaid shall be required to give such bond as, in the opinion of the Tryon Palace Commission, is proper for the faithful performance as finance officer and treasurer, and shall render to the Tryon Palace Finance Committee, with copies to the Department of Natural and Cultural Resources and the State Treasurer, annual or ad interim detailed reports of moneys and/or securities received, exchanged or converted into cash. Checks issued against such funds shall be countersigned by the chairman of Tryon Palace Commission, or by one duly authorized by the said Commission.

The finance officer and treasurer shall serve without compensation; however, any expenses incurred for the faithful performance of said duties, including the cost of the bond, shall be borne by the Tryon Palace Commission, from the proceeds of the funds thus handled.

The Tryon Palace Commission shall have the power and authority in its discretion to call upon the Treasurer of the State of North Carolina to act as treasurer of the said funds and properties and, if so designated, said treasurer shall exercise all the powers and duties herein imposed upon the financial officer and treasurer hereinbefore referred to.

The Tryon Palace Commission is hereby authorized and empowered to expend the funds hereinbefore referred to and it may disburse said funds through the Department of Natural and Cultural Resources in the event it is found more practical to do so, and said Commission shall cooperate with the Department of Natural and Cultural Resources of the State of North Carolina in the expenditure of the funds for the restoration of said Tryon's Palace provided by two trust funds created by Maude Moore Latham in her lifetime, which funds shall be expended in accordance with the terms and provisions of said trusts for the purposes therein set out.

(b) The Tryon Palace Commission may solicit, accept, and hold artifacts and furnishings, and may acquire them by purchase or gift for the interpretive needs and development of Tryon Palace Historic Sites and Gardens. Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other law pertaining to surplus State property, the Commission may dispose of by trade, sale, lease, donation, or transfer, in accordance with accepted museum practices, any accessioned or unaccessioned artifacts and furnishings in the custody of the Commission, or its appointed officers, that are determined to have no further value for official or administrative purposes or for research, reference, or interpretation. Any proceeds realized through the deaccession and sale or lease of artifacts and furnishings shall be placed in a collections fund administered by the Tryon Palace Commission. Monies received by the Commission, after deduction of the expenses attributable to that sale or lease, shall be used for expenses associated with the purchase, maintenance, or conservation of artifacts and furnishings necessary or desirable for research, reference, and interpretation at Tryon Palace Historic Sites and Gardens.

(c) Funds (i) received by the Commission from donations, devises, or grants of cash or securities or (ii) generated from the sale or lease of deaccessed or unaccessed artifacts and furnishings in accordance with subsection (b) of this section are hereby appropriated for the purposes set forth in this section or in the terms of the donation, devise, or grant and shall require no further act of the General Assembly in order to be expended by the Commission. These expenditures must follow the applicable procedures and requirements set forth in this section.

(d) Beginning September 30, 2022, and annually thereafter, the Commission shall submit a report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division of all funds held by the Commission. This report shall include an itemized accounting of all cash, cash equivalents, and other securities held by the

Commission outside of the State Treasury that includes (i) the amount and source of the funds and any restrictions on their use, (ii) beginning and ending cash balances and value of cash equivalents and securities for the prior fiscal year for each account, and (iii) itemized revenues and expenditures for the prior fiscal year. (1953, c. 1100; 1973, c. 1262, s. 86; 1975, c. 387; 1993 (Reg. Sess., 1994), c. 769, s. 12.2; 2015-241, s. 14.30(s); 2021-180, s. 14.1A(a); 2023-70, s. 2(d).)

§ 121-21. Commission authorized to adopt and copyright certain emblems and lease or license the use of reproductions or replicas.

The Tryon Palace Commission is hereby authorized to adopt an official flag, seal, and other emblems appropriate in connection with the management and operation of the Tryon Palace Restoration, and to copyright the same in the name of the State. The Commission, with the approval of the Governor, is authorized to lease or license the use of reproductions or replicas of such flag, seal, and other emblems upon such terms and conditions as it deems advisable. (1957, c. 1449.)

§ 121-21.1. Tryon Palace Historic Sites and Gardens Fund.

(a) Fund. – The Tryon Palace Historic Sites and Gardens Fund is hereby created as a special, interest-bearing, and nonreverting fund in the Division of Tryon Palace Historic Sites and Gardens. The Fund shall be treated as a special trust fund and shall be used for repair, renovation, expansion, and maintenance at Tryon Palace Historic Sites and Gardens.

(b) Fund Sources. – The Fund consists of (i) all revenue derived from admissions and fees collected at the Tryon Palace Historic Sites and Gardens, (ii) the net proceeds derived from the sale of real property pursuant to G.S. 146-30(d)(12), and (iii) interest on funds in the Fund credited by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3.

(c) Report. – The Tryon Palace Commission shall submit to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division by September 30 of each year a report on the Tryon Palace Historic Sites and Gardens Fund that shall include the source and amount of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year. (2005-276, s. 19A.1; 2006-180, s. 1; 2015-241, s. 14.30(vv); 2017-57, s. 14.1(dd); 2021-180, s. 14.1(c).)

Article 3.

Salvage of Abandoned Shipwrecks and Other Underwater Archaeological Sites.

§ 121-22. Title to bottoms of certain waters and shipwrecks, etc., thereon declared to be in State.

Subject to Chapter 82 of the General Statutes, entitled "Wrecks" and to the provisions of Chapter 210, Session Laws of 1963, and to any statute of the United States, the title to all bottoms of navigable waters within one marine league seaward from the Atlantic seashore measured from the extreme low watermark; and the title to all shipwrecks, vessels, cargoes, tackle, and underwater archaeological artifacts which have remained unclaimed for more than 10 years lying on the said bottoms, or on the bottoms of any other navigable waters of the State, is hereby declared to be in the State of North Carolina, and such bottoms, shipwrecks, vessels, cargoes, tackle, and underwater archaeological artifacts shall be subject to the exclusive dominion and control of the State. (1967, c. 533, s. 1.)

§ 121-23. Department is custodian of underwater personal property of the State and may adopt rules concerning the property.

The Department of Natural and Cultural Resources is the custodian of shipwrecks, vessels, cargoes, tackle, and underwater archaeological artifacts to which the State has title under G.S. 121-22. The Department of Natural and Cultural Resources may adopt rules necessary to preserve, protect, recover, or salvage any or all of these properties. (1967, c. 533, s. 2; 1973, c. 476, s. 48; 1993, c. 249, s. 1; 2015-241, s. 14.30(s).)

§ 121-24. Department authorized to establish professional staff.

The Department of Natural and Cultural Resources is also authorized to establish a professional staff for the purpose of conducting and/or supervising the surveillance, protection, preservation, survey and systematic underwater archaeological recovery of underwater materials as defined in G.S. 121-22 hereof. (1967, c. 533, s. 3; 1973, c. 476, s. 48; 2015-241, s. 14.30(s).)

§ 121-25. License to conduct exploration, recovery or salvage operations.

(a) Any qualified person, firm or corporation desiring to conduct any type of exploration, recovery or salvage operations, in the course of which any part of a derelict vessel or its contents or other archaeological site may be removed, displaced or destroyed, shall first make application to the Department of Natural and Cultural Resources and obtain a permit or license to conduct such operations. If the Department of Natural and Cultural Resources shall find that the granting of such permit or license is in the best interest of the State, it may grant such applicant a permit or license for such a period of time and under such conditions as the Department may deem to be in the best interest of the State. Such permit or license may include but need not be limited to any of the following:

(1) Payment of monetary fee to be set by the Department.
(2) That a portion or all of the historic material or artifacts be delivered to custody and possession of the Department.
(3) That a portion of all of such relics or artifacts may be sold or retained by the licensee.
(4) That a portion or all of such relics or artifacts may be sold or traded by the Department.

Permits or licenses may be renewed upon or prior to expiration upon such terms as the applicant and the Department may mutually agree. Holders of permits or licenses shall be responsible for obtaining permission of any federal agencies having jurisdiction, including the United States Coast Guard, the United States Department of the Navy and the United States Army Corps of Engineers prior to conducting any salvaging operations.

(b) Repealed by Session Laws 2023-70, s. 11, effective June 30, 2023. (1967, c. 533, s. 4; 1973, c. 476, s. 48; 2005-367, s. 2; 2015-218, s. 4(a); 2015-241, s. 14.30(s); 2016-94, s. 16.2; 2023-70, s. 11.)

§ 121-25.1. Criminal record checks of applicants for permit or license.

(a) The following definitions apply to this section:

(1) Applicant. – A person or entity applying for a permit or license under G.S. 121-25 to conduct any type of exploration, recovery, or salvage operations of any part of a derelict vessel or its contents or other archaeological site.

(2) Criminal history. – A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears upon an applicant's fitness to conduct activities related to the surveillance, protection, preservation, and archaeological recovery of property subject to the exclusive dominion and control of the State under G.S. 121-22. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers and Court Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 19C, Financial Identity Fraud; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) All applicants shall consent to a criminal history record check. Refusal to consent to a criminal history record check or to the use of fingerprints or other identifying information may constitute grounds for the Department of Natural and Cultural Resources to deny a permit or a license to an applicant. The Department of Natural and Cultural Resources shall be responsible for providing to the State Bureau of Investigation the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the State Bureau of Investigation. If the applicant is not an individual, the applicant shall provide fingerprints for the principals, officers, directors, and controlling persons of the applicant. Each set of fingerprints shall be certified by an authorized law enforcement officer. The Department of Natural and Cultural Resources shall keep all information obtained under this section confidential.

(c) If an applicant's criminal history record check reveals one or more convictions listed under subdivision (a)(2) of this section, the conviction shall not automatically bar the issuance of a permit or a license. When determining whether to issue a permit or license to an applicant, the Department of Natural and Cultural Resources shall consider all of the following factors regarding the conviction:

(1) The level and seriousness of the crime.

(2) The date of the crime.

(3) The age of the person at the time of conviction.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the person and the person's responsibilities pursuant to the application.
(6) The incarceration, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed.
(7) The subsequent commission by the person of a crime. (2005-367, s. 3; 2012-12, s. 2(ss); 2014-100, s. 17.1(o); 2015-181, s. 47; 2015-241, s. 14.30(s); 2023-134, s. 19F.4(nnn).)

§ 121-26. Funds received by Department under § 121-25.

Any funds which may be paid to or received by the Department of Natural and Cultural Resources under the terms of G.S. 121-25 hereof may be allocated for use by the Department of Natural and Cultural Resources for continuing its duties under this Article, subject to the approval of the Department of Administration. (1967, c. 533, s. 5; 1973, c. 476, s. 48; 1975, c. 879, s. 46; 2015-241, s. 14.30(s).)

§ 121-27. Law-enforcement agencies empowered to assist Department.

All law-enforcement agencies and officers, State and local, are hereby empowered to assist the Department of Natural and Cultural Resources in carrying out its duties under this Article. (1967, c. 533, s. 6; 1973, c. 476, s. 48; 2015-241, s. 14.30(s).)

§ 121-28. Violation of Article a misdemeanor.

Any person violating the provisions of this Article or any rules or regulations established thereunder shall be guilty of a Class 1 misdemeanor. (1967, c. 533, s. 8; 1993, c. 539, s. 917; 1994, Ex. Sess., c. 24, s. 14(c).)

§§ 121-29 through 121-33. Reserved for future codification purposes.

Article 4.

Conservation and Historic Preservation Agreements Act.

§ 121-34. Short title.

The title of this Article shall be known as the "Conservation and Historic Preservation Agreements Act." (1979, c. 747, s. 1; 2004-195, s. 1.3.)

§ 121-35. Definitions.

Subject to any additional definitions contained in this Article, or unless the context otherwise requires:

(1) A "conservation agreement" means a right, whether or not stated in the form of a restriction, reservation, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land or improvement thereon or in any order of taking, appropriate to retaining land or water areas predominantly in their natural, scenic or open condition or in agricultural, horticultural, farming or forest use, to forbid or limit any or all (i) construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground, (ii) dumping or placing of soil or other

substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials, (iii) removal or destruction of trees, shrubs or other vegetation, (iv) excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, (v) surface use except for agricultural, farming, forest or outdoor recreational purposes or purposes permitting the land or water area to remain predominantly in its natural condition, (vi) activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or (vii) other acts or uses detrimental to such retention of land or water areas.

(2) "Holder" means any public body of this State, including the State, any of its agencies, any city, county, district or other political subdivision or municipal or public corporation, or any instrumentality of any of the foregoing, any agency, department, or instrumentality of the United States, any nonprofit corporation or trust, or any private corporation or business entity whose purposes include any of those stated in (1) and (3), covering the purposes of preservation and conservation agreements.

(3) A "preservation agreement" means a right, whether or not stated in the form of a restriction, reservation, easement, covenant, condition or otherwise, in any deed, will or other instrument executed by or on behalf of the owner of the land or any improvement thereon, or in any other [order] of taking, appropriate to preservation of a structure or site historically significant for its architecture, archaeology or historical associations, to forbid or limit any or all (i) alteration, (ii) alterations in exterior or interior features of the structure, (iii) changes in appearance or condition of the site, (iv) uses not historically appropriate, or (v) other acts or uses supportive of or detrimental to appropriate preservation of the structure or site. (1979, c. 747, s. 2; 1995, c. 443, s. 1.)

§ 121-36. Applicability.

(a) This Article shall apply to all conservation and preservation agreements falling within its terms and conditions.

(b) This Article shall not be construed to make unenforceable any restriction, easement, covenant or condition which does not comply with the requirements of this Article.

(c) This Article shall not be construed to diminish the powers of any public entity, agency, or instrumentality to acquire by purchase, gift, devise, inheritance, eminent domain or otherwise and to use property of any kind for public purposes. (1979, c. 747, s. 3.)

§ 121-37. Acquisition and approval of conservation and preservation agreements.

Subject to the conditions stated in this Article, any holder may, in any manner, acquire, receive or become a party of a conservation agreement or a preservation agreement. (1979, c. 747, s. 4.)

§ 121-38. Validity of agreements.

(a) No conservation or preservation agreement shall be unenforceable because of

(1) Lack of privity of estate or contract, or

(2) Lack of benefit to particular land or person, or

(3) The assignability of the benefit to another holder as defined in this Article.

(b) These agreements are interests in land and may be acquired by any holder in the same manner as it may acquire other interests in land.

(c) These agreements may be effective perpetually or for shorter stipulated periods of time.

(d) These agreements may impose present, future, or continuing obligations on either party to the agreement, or their successors, in furtherance of the purposes of the agreement.

(e) These agreements may contain provisions which require the payment of a fee upon a future conveyance of the property that is subject to the agreement. (1979, c. 747, s. 5; 2008-165, s. 1.)

§ 121-39. Enforceability of agreements.

(a) Conservation or preservation agreements may be enforced by the holder by injunction and other appropriate equitable relief administered or afforded by the courts of this State. Where appropriate under the agreement, damages, or other monetary relief may also be awarded either to the holder or creator of the agreement or either of their successors for breach of any obligations undertaken by either.

(b) Such agreements shall entitle representatives of the holder to enter the involved land or improvement in a reasonable manner and at reasonable times to assure compliance. (1979, c. 747, s. 6.)

§ 121-39.1. Termination or modification of agreements.

(a) Easements secured by the Agricultural Development and Farmland Preservation Trust Fund, including perpetual agricultural conservation easements and forest land easements, military base protection and flyway easements regardless of funding source, or any other agricultural conservation easement that has been secured, in whole or in part, with federal funds and where at least one party to the agreement is a public body of this State, shall not be terminated or modified for the purpose of economic development.

(b) Prior to any modification or termination of a conservation agreement where at least one party to the agreement is a public body of this State, the agency requesting the conservation agreement modification or termination shall conduct a conservation benefit analysis. The criteria for the conservation benefit analysis shall be established by the agency requesting the conservation agreement modification or termination. Conservation agreements may only be modified or terminated if the conservation benefit analysis concludes that the modification or termination results in a greater benefit to conservation purposes consistent with this Article.

(c) The conservation benefit analysis conducted by the requesting agency shall be reported to the Council of State prior to the vote of the Council of State on the final decision to modify the agreement.

(d) Notwithstanding any authority given to a public body of this State, including the State, any of its agencies, any city, county, district or other political subdivision, municipal or public corporation, or any instrumentality of any of the foregoing, to release or terminate conservation easements under other law, this section shall apply to conservation agreements that are intended to be effective perpetually or that are terminated or modified prior to the period of time stipulated in the agreement, and where at least one party to the agreement is a public body of this State, including the State, any of its agencies, any city, county, district or other political subdivision, municipal or public corporation, or any instrumentality of any of the foregoing.

(e) Parties to a conservation agreement may include a provision at the time an agreement is executed requiring the consent of the grantor or the grantor's successors in interest to terminate or modify the agreement for any purpose.

(f) Any agency managing a conservation agreement program may adopt rules governing its procedure for termination or modification of a conservation agreement, provided that any such rules may be no less stringent than the requirements of this section.

(g) This section shall not apply to a condemnation action initiated by a condemnor governed by Article 6 of Chapter 40A of the General Statutes or to a voluntary termination or modification affecting no more than the lesser of two percent (2%) or one acre of the total easement area of the conservation agreement when requested by a public utility, the Department of Transportation, or a government entity having eminent domain authority under Article 3 of Chapter 40A of the General Statutes. (2015-263, s. 13(a); 2017-108, s. 14.)

§ 121-40. Assessment of land or improvements subject to agreement.

For purposes of taxation, land and improvements subject to a conservation or preservation agreement shall be assessed on the basis of the true value of the land and improvement less any reduction in value caused by the agreement. (1979, c. 747, s. 7.)

§ 121-41. Public recording of agreements.

(a) Except as provided in subsection (c) of this section, conservation agreements shall be recorded in the office of the Register of Deeds of the county or counties in which the subject land or improvement is located, in the same manner as deeds are now recorded.

(b) Releases or terminations of such agreements shall be recorded in the same waiver. Releases or terminations, or the recording entry, shall appropriately identify by date, parties, and book and pages of recording, the agreement which is the subject of the release or termination.

(c) A conservation agreement entered into for the purpose of enrolling real property in a voluntary agricultural district pursuant to G.S. 106-737(4) is not required to be recorded unless such conservation agreement is irrevocable as provided pursuant to G.S. 106-743.2. (1979, c. 747, s. 8; 2011-219, s. 2.)

§ 121-42. Repealed by Session Laws 2025-25, s. 16, effective June 26, 2025.

Article 5.

Museum and Archives Repository Property.

§ 121-50. Legislative findings and declaration.

The General Assembly finds and declares that the growth and maintenance of collections in museums and archives repositories, both public and private, is a matter of general public interest to the citizens of North Carolina. Museums and archives repositories of all kinds depend upon loans of various articles of property to promote and encourage the teaching of North Carolina and local history and to preserve and care for historical manuscripts, materials, and artifacts. The uncertainty regarding title to and responsibility for loaned property is a hindrance to museums and archives repositories in their efforts to maintain, repair, and dispose of property in their possession. The purpose of this Article is to terminate stale claims and to fairly and reasonably allocate responsibilities for the determination of title and financial responsibilities in certain cases. (2015-218, s. 2.)

§ 121-51. Definitions.

The following definitions apply in this Article:

(1) Address. – A description of the location of the lender as shown on a museum or archives repository's records that is sufficient for delivery by mail.

(2) Archives repository. – An archives repository shall have the same meaning as the term "North Carolina State Archives" as defined in G.S. 121-2(7).

(3) Loan. – The placement of property with a museum or archives repository that is not accompanied by a transfer of title of the property to the museum or archives repository and for which there is some record that the owner intended to retain title to the property. The term "loan" does not include transfers between museums, between archives repositories, or between museums and archives repositories unless the transferring institution specifically provides in writing that the transfer is a loan under this Article.

(4) Museum. – A museum shall include any museum or historic site administered by the Department of Natural and Cultural Resources, including the term "North Carolina Museum of History" as defined in G.S. 121-2(6).

(5) Property. – A tangible object under the care of a museum or archives repository that has intrinsic historic, artistic, scientific, educational, or cultural value.

(6) Valid claim. – A written notice of intent to preserve an interest in property on loan to a museum or archives repository, including all of the following:

a. A description of the property adequate to enable the museum or archives repository to identify the property.

b. Documentation sufficient to establish the claimant as owner of the property.

c. A statement attesting to the truth, to the best of the signer's knowledge, of all information included in or with the notice.

d. The signature, under penalty of perjury, of the claimant or a person authorized to act on behalf of the claimant. (2015-218, s. 2; 2015-241, s. 14.30(c).)

§ 121-52. Acquisition of title to loaned property.

(a) A museum or archives repository may acquire the title to documented property loaned to the museum or archives repository if (i) the term of the loan has expired and at least seven years have passed without written or other contact between the lender and the museum or archives repository or (ii) the term of the loan does not have an expiration date but at least seven years have passed without written or other contact between the lender and the museum or archives repository since the loan was made.

(b) To acquire title to property under this section, the museum or archives repository shall first send a notice by certified mail to the lender's last known address. The notice must include all of the following:

(1) The lender's name and last known address.

(2) A brief and general description of the property.

(3) A statement that the term of the loan has been terminated.

(4) The date or approximate date, if known, when the owner loaned the property to the museum or archives repository.

(5) The name, address, and telephone number of the museum or archives repository representative to contact for more information or to claim ownership.

(6) A statement that outlines the schedule and requirements for the museum or archives repository to acquire title under this section.

(c) If a valid claim to the property is not received by the museum or archives repository within 30 days from the date the notice was mailed, or if the museum or archives repository does not have an address for the lender, the museum or archives repository shall comply with the following:

(1) If the property has an estimated value in excess of $10,000, the museum or archives repository shall make a reasonable effort to locate and inform the owner, the owner's heirs or successors and publish a notice for no less than 365 consecutive days on an official website created by the Department of Natural and Cultural Resources for such purpose.

(2) If the property has an estimated value that is less than or equal to $10,000, the museum or archives repository shall make a reasonable effort to locate and inform the owner, the owner's heirs or successors and publish a notice for no less than 180 consecutive days on an official website created by the Department of Natural and Cultural Resources for such purpose.

(3) The notices required by subdivisions (1) and (2) of this subsection shall include all of the following:

a. The information described in subdivisions (1) through (5) of subsection (b) of this section.

b. A digital image of the property and any documentation executed by the parties.

c. The date that the notice was posted.

d. The date that the notice will be removed from the museum or archives repository's official website and a statement that the museum or archives repository will acquire title to the loaned property if a valid claim to the property is not received by the museum or archives repository within 45 days of that date.

(d) If the requirements of this section are satisfied and if a valid claim to the loaned property is received by the museum or archives repository within 45 days after the date of the last publication of the notice required by subsection (c) of this section, the Department of Natural and Cultural Resources shall have 45 days to determine whether the claim is valid and that the claimant is the legal owner of the artifact. If the Department determines that the claim is valid and that the claimant is the legal owner of the artifact, the Department shall return the artifact to the owner at the owner's expense.

(e) If the requirements of this section are satisfied and if a valid claim to the loaned property is not received by the museum or archives repository within 45 days after the date of the last publication of the notice required by subsection (c) of this section, the museum or archives repository acquires the title to the property on the forty-sixth day after the date of the last publication of the notice under subsection (c) of this section. Upon acquiring title, the museum or archives repository shall own the property free and clear from all claims of ownership. (2015-218, s. 2; 2015-241, s. 14.30(c); 2025-25, s. 29(5).)

§ 121-53. Disputed ownership.

(a) If the Department determines that the claim of ownership is not valid and rejects the claim to the artifact, the claimant may appeal the determination as provided by Chapter 150B of the General Statutes. The burden shall be on the claimant to prove that the claimant is the legal owner of the property.

(b) Nothing in this Article shall be construed to convert a loan into a bailment. All equitable and legal defenses shall be available to museums and archives repositories in the event of a dispute over ownership.

(c) In cases of disputed ownership of loaned property, a museum or archives repository may maintain possession of loaned property during the dispute and shall not be held liable for its refusal to surrender loaned property in its possession except in reliance upon a court order or judgment. (2015-218, s. 2.)

§ 121-54. Responsibilities of owners of loaned property; representation of ownership.

(a) Lender's Responsibilities. – In all cases, it shall be the responsibility of the owner of loaned property to notify the museum or archives repository in writing of the owner's identity and current address. It shall be the responsibility of any new owner acquiring loaned property to notify the museum or archives repository within 60 days of his or her name and address. Any owner of loaned property shall, upon request from a museum or archives repository holding loaned property, promptly provide evidence of ownership satisfactory to the museum or archives repository. This section shall apply to all changes in ownership, whether by sale, gift, devise, operation of law, or any other means. So long as a museum or archives repository deals honestly and in good faith, no museum or archives repository shall be prejudiced by reason of any failure to deal with the true owner of any loaned property if the owner has failed to comply with the requirements of this section.

(b) Representation of Ownership. – A museum or archives repository shall not be liable for actions taken in reasonable reliance upon the representations of the person who first transfers an item of property to the museum or archives repository that the transferee is the true owner of the loaned property. (2015-218, s. 2.)

§ 121-55. Museum or archives repository's lien for expenses.

(a) When the lender of loaned property is known, a museum or archives repository may charge the lender expenses for the reasonable care of loaned property unclaimed after the expiration date of the loan.

(b) When the lender of loaned property is unknown, a museum or archives repository may place a lien against the value of specific loaned property for expenses reasonably necessary to protect the loaned property from ordinary decay and deterioration due to natural causes, theft, or vandalism. (2015-218, s. 2.)

§ 121-56. Acquisition of undocumented property.

(a) Property in the possession of a museum or archives repository that the museum or archives repository has reason to believe may be on loan and for which the museum or archives repository does not know the owner or have any reasonable means of determining the owner becomes the property of the museum or archives repository as provided in this section. If no person has claimed the property within seven years after the museum or archives repository or a predecessor or assignor of the museum or archives repository took possession of the property, then the museum or archives repository shall follow the notification process set out in G.S. 121-52(c).

Pursuant to G.S. 121-52(d), if the Department receives a claim and determines that the claim is valid and that the claimant is the legal owner of the artifact, the Department shall return the artifact to the owner at the owner's expense. Otherwise, after following the notification process and consistent with G.S. 121-52(e), the museum or archives repository shall become the owner of the property, shall acquire title to the property and shall own the property free and clear from all claims of ownership.

(b) The requirements of G.S. 121-52 and G.S. 121-53 shall apply to valid and disputed claims of ownership to undocumented property. (2015-218, s. 2.)

§ 121-57. Exclusivity of provisions.

The provisions of this Article shall control the procedure and disposition of any property to which it applies in lieu of any other procedure prescribed by law. (2015-218, s. 2.)