

NORTH CAROLINA GENERAL ASSEMBLY
1971 SESSION

CHAPTER 480
SENATE BILL 484

AN ACT TO AMEND G.S. CHAPTER 121 REVISING AND CLARIFYING THE POWERS
OF THE NORTH CAROLINA DEPARTMENT OF ARCHIVES AND HISTORY.

The General Assembly of North Carolina do enact:

Section 1. G.S. 121-7 and G.S. 121-7.1 are hereby rewritten to read as follows:

"§ **121-7. Acquisition of historic properties.** — For the purpose of protecting or preserving any property of historical, archaeological, architectural or 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 of Archives and History may acquire, preserve, restore, hold, maintain, operate, or 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, bequest, devise, lease, purchase, condemnation pursuant to the provisions of Article 2 of Chapter 40 of the North Carolina 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.

"§ **121-7.1. 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 historical property, the lesser interest may be acquired."

Sec. 2. New sections, to be designated G.S. 121-7.2 through G.S. 121-7.6 are hereby enacted to read as follows:

"§ **121-7.2. 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.

"§ **121-7.3. Use of property so acquired.** — Any historical 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.

"§ 121-7.4. Cooperation with federal government. — The Department of Archives and History 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 Archives and History to further the purposes of this Chapter. The Department of Archives and History may agree to and comply with any reasonable conditions not inconsistent with State law which are imposed on such grants. Such grant funds or other assistance may be accepted from a federal government or agency and expended whether or not pursuant to a contract.

"§ 121-7.5. Acquisition procedures where assistance extended to cities, counties, and other agencies or individuals. — In consideration of the public purpose thereby achieved, the Department may assist any county, city, or other political subdivision, corporation or organization, or private individual in the acquisition, maintenance, preservation, restoration, development, or operation of historical property by providing a portion of the cost therefor; provided, that no acquisition, maintenance, preservation, restoration, development, or operation of any property, nor any assistance therefor, may be made by the State of North Carolina and no contribution for these purposes may be made from State funds until (1) the property or properties shall have been approved for these purposes by the Department of Archives and History according to criteria adopted by the North Carolina Advisory Council on Historic Preservation, (2) the report and recommendations of the Advisory Council have been received and considered by the Department of Archives and History, and (3) the Department has found that there is a feasible and practical method of providing funds for the acquisition, restoration, preservation, operation and maintenance of such property. In all cases where any assistance is extended to private 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 and restoration, be made accessible to the public at such times and upon such terms as the Department shall by rule prescribe; (2) that the expenditure of such funds be supervised by the Department; and (3) that such expenditures be accounted to the Department in a manner and at such times as are satisfactory to it.

"§ 121-7.6. Emergency acquisition where funds not immediately available. — If funds or contributions for the acquisition of needed property are not available, the Governor and Council of State may, upon the recommendation of the Department of Archives and History, 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 Department of Archives and History, 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 Article 1 of Chapter 143 of the General Statutes unless the statute making the appropriation shall in specific and express terms provide otherwise."

Sec. 3. G.S. 121-8 is hereby rewritten and renumbered to read as follows:

"§ 121-7.7. Power to acquire property by condemnation. — In the event that a property which has been found by the Department of Archives and History 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 Archives and History, after receiving the approval of the Governor and Council of State, may acquire the historical property or any interest therein by condemnation under the provisions of Article 2 of

Chapter 40 of the General Statutes of North Carolina. The Department, 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. The power of condemnation as authorized in this section shall extend only to a property or interest therein whose total acquisition cost to the State does not exceed five hundred thousand dollars (\$500,000)."

Sec. 4. G.S. 121-8.1, G.S. 121-8.2, and G.S. 121-8.3 of the General Statutes are hereby rewritten and renumbered to read as follows:

"§ 121-8. Creation and composition of North Carolina Advisory Council on Historic Preservation. — There is established the North Carolina Advisory Council on Historic Preservation, hereinafter referred to as "the Council," which shall be the successor to the former Historic Sites Advisory Committee and which shall be composed of twelve members with due regard for geographic representation, as follows: the seven members of the Executive Board, ex officio, of the Department of Archives and History as provided for in G.S. 121-3; the State Budget Officer; the State Property Control and Construction Officer; one member appointed biennially on the first day of July by the Governor, which member so long as he serves on the Council shall be a full member of the North Carolina Chapter of the American Institute of Architects; one member appointed biennially on the first day of July by the Governor, which member so long as he serves on the Council shall be a full member of the American Association of Museums; and one archaeologist appointed by the Director of the Department of Archives and History. The Chairman and Vice-Chairman of the Executive Board of the Department of Archives and History shall serve, ex officio, as the Chairman and Vice-Chairman of the Council respectively. The Director of the Department of Archives and History or his designee shall serve ex officio as Secretary of the Council. Membership on the Council is hereby declared to be an office that may be held concurrently with any other elective or appointive office pursuant to Article VI, Section 9 of the North Carolina Constitution. Members of the Council shall hold office until their successors are appointed and qualified. A vacancy in the Council shall not affect its powers, and all vacancies shall be filled in the same manner as the original appointment and for the balance of any unexpired term.

"§ 121-8.1. Powers and duties of Council. — It shall be the duty of the Council, 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, 15 U.S.C.A. Section 470(a).

Where, in the judgment of the Advisory Council, 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 Council a reasonable opportunity to comment with regard to such undertaking.

The Council shall act with reasonable diligence to insure that all State departments, boards, commission, or agencies potentially affected by the provisions of G.S. 121-7 through G.S. 121-8.3 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 Council, such information as may reasonably be required by the Council for the proper implementation of G.S. 121-7 through G.S. 121-8.3.

"§ 121-8.2. Further duties of Council. — The Council 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 historical, 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 Council shall cooperate to the fullest practical extent with any local historical organization, and with any city or county historic district or historic properties commission.

The Council 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. The Council shall investigate, evaluate, and prepare a written report on all historic or archaeological property for which State aid or appropriations are proposed. This report, which shall be filed as a matter of record in the custody of the Department of Archives and History, shall set forth the following opinions or recommendations of the Council: (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 non-State sources; (4) whether practical plans have been or can be developed for the funding of the non-State 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 Council may make.

"§ 121-8.3. Director of Archives and History to furnish recommendations to legislative committees. — The Director of the Department of Archives and History 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 for the purpose of acquiring, preserving, restoring or operating, or otherwise assisting, any property having historic, architectural, archaeological or cultural value or significance, at least five copies of a report on the findings and recommendations of the Advisory Council relating to such property."

Sec. 5. G.S. 121-13.1 of the General Statutes is hereby rewritten to read as follows:

"§ 121-13.1. 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 Archives and History, 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 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 Archives and History is hereby entrusted with the responsibilities herein specified as being the agency with the experience best qualified to preserve and administer historic sites and shrines 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 Archives and History, 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 Archives and History in matters relating to any alteration, renovation, and furnishing of said offices and areas."

Sec. 6. Chapter 121 of the General Statutes is hereby amended by adding a new section to read as follows:

"§ 121-13.2. 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 State Department of Archives and History 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 designated by the Director of the State Department of Archives and History. 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 shall be paid from the Contingency and Emergency Fund. The number of copies of each volume to be printed shall be determined by the Department in consultation with the Governor whose papers are being published."

Sec. 7. Severability. — Should any section, clause or provision of this act be declared by the courts to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the act as a whole nor any part thereof other than the part so declared to be unconstitutional or invalid.

Sec. 8. This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1971.