

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 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 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 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 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.

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

2 (11) "State historic site" or "state historic sites" shall mean a property or
3 properties acquired by the State and administered by the Department of
4 Cultural Resources because of its or their historical, archaeological,
5 architectural, or cultural value in depicting the heritage of the State. (1973, c.
6 476, s. 48.)
7

8 **§ 121-3. Name.**

9 The archival and historical agency of the State of North Carolina shall be the Department of
10 Cultural Resources. (1945, c. 55; 1955, c. 543, s. 1; 1973, c. 476, s. 48.)
11

12 **§ 121-4. Powers and duties of the Department of Cultural Resources.**

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

- 14 (1) To accept gifts, devises, and endowments for purposes which fall within the
15 general legal powers and duties of the Department. Unless otherwise
16 specified by the donor or testator, the Department may either expend both
17 the principal and interest of any gift or devises or may invest such funds in
18 whole or in part, by and with the consent of the State Treasurer.
- 19 (2) To conduct a records management program, including the operation of a
20 records center or centers and a centralized microfilming program, for the
21 benefit of all State agencies, and to give advice and assistance to the public
22 officials and agencies in matters pertaining to the economical and efficient
23 maintenance and preservation of public records.
- 24 (3) To preserve and administer, in the North Carolina State Archives, such
25 public records as may be accepted into its custody, and to collect, preserve,
26 and administer private and unofficial historical records and other
27 documentary materials relating to the history of North Carolina and the
28 territory included therein from the earliest times. The Department shall
29 carefully protect and preserve such materials, file them according to
30 approved archival practices, and permit them, at reasonable times and under
31 the supervision of the Department, to be inspected, examined, or copied:
32 Provided, that any materials placed in the keeping of the Department under
33 special terms or conditions restricting their use shall be made accessible only
34 in accordance with such terms or conditions.
- 35 (4) To have materials on the history of North Carolina properly edited,
36 published as other State printing, and distributed under the direction of the
37 Department. The Department may charge a reasonable price for such
38 publications and devote the revenue arising from such sales to the work of
39 the Department.
- 40 (5) With the cooperation of the State Board of Education and the Department of
41 Public Instruction to develop, conduct, and assist in the coordination of a
42 program for the better and more adequate teaching of State and local history
43 in the public schools and the institutions of the community college system of
44 North Carolina, including, as appropriate, the preparation and publication of
45 suitable histories of all counties and of other appropriate materials, the
46 distribution of such materials to the public schools and community college
47 system for a reasonable charge, and the coordination of this program
48 throughout the State.
- 49 (6) To maintain and administer the North Carolina Museum of History, to
50 collect and preserve therein important historical and cultural materials, and

1 according to approved museum practices to classify, accession, house, and
2 when feasible exhibit such materials and make them available for study.

- 3 (7) To select suitable sites on property owned by the State of North Carolina, or
4 any subdivision of the State, for the erection of historical markers calling
5 attention to nearby historic sites and prepare appropriate inscriptions to be
6 placed on such markers. The Department shall have all markers
7 manufactured, and when completed, each marker shall be delivered to the
8 Department of Transportation for payment and erection under the provisions
9 of G.S. 136-42.2 and 136-42.3. The Secretary is authorized to appoint a
10 highway historical marker advisory committee to approve all proposed
11 highway historical markers and to establish criteria for carrying out this
12 responsibility.
- 13 (8) In accordance with G.S. 121-9 of this Chapter, to acquire real and personal
14 properties that have statewide historical, architectural, archaeological, or
15 other cultural significance, by gift, purchase, or devise; to preserve and
16 administer such properties; and, when necessary, to charge reasonable
17 admission fees to such properties. In the acquisition of such property, the
18 Department shall also have the authority to acquire nearby or adjacent
19 property adjacent to properties having statewide significance deemed
20 necessary for the proper use, administration, and protection of historic,
21 architectural, archaeological, or cultural properties, or for the protection of
22 the environment thereof.
- 23 (9) To administer and enforce reasonable rules adopted and promulgated by the
24 Historical Commission for the regulation of the use by the public of such
25 historical, architectural, archaeological, or cultural properties under its
26 charge, which regulations, after having been posted in conspicuous places on
27 and adjacent to such State properties and having been filed according to law,
28 shall have the force and effect of law and any violation of such regulations
29 shall constitute a Class 3 misdemeanor.
- 30 (10) To coordinate the objectives of the state-created historical and
31 commemorative commissions with the other policies, objectives, and
32 programs of the Department of Cultural Resources.
- 33 (11) To organize and administer a junior historian program, in cooperation with
34 the Department of Public Education, the public schools, and other agencies
35 or organizations that may be concerned therein.
- 36 (12) With the approval of the Historical Commission, to dispose of any
37 accessioned records, artifacts, and furnishings in the custody of the
38 Department that are determined to have no further use or value for official or
39 administrative purposes or for research and reference purposes.
- 40 (13) To promote and encourage throughout the State knowledge and appreciation
41 of North Carolina history and heritage by encouraging the people of the
42 State to engage in the preservation and care of archives, historical
43 manuscripts, museum items, and other historical materials; the writing and
44 publication of State and local histories of high standard; the display and
45 interpretation of historical materials; the marking and preservation of
46 historic, architectural, or archaeological structures and sites of great
47 importance; the teaching of North Carolina and local history in the schools
48 and colleges; the appropriate observance of events of importance to the
49 State's history; the publicizing of the State's history through media of public
50 information; and other activities in historical and allied fields.

- 1 (14) With the approval of the Historical Commission, to charge and collect fees
2 not to exceed cost for photographs, photocopies of documents, microfilm
3 and other microforms and other audio or visual reproductions of public
4 records or other documentary materials, objects, artifacts, and research
5 materials; and for the restoration and preservation of documents and other
6 materials important for archival or historical purposes.
- 7 (15) To encourage and develop, in cooperation with the Department of
8 Administration and in consultation with the Department of Transportation,
9 the Department of Commerce, the Department of Environment and Natural
10 Resources, the North Carolina League of Municipalities, the North Carolina
11 Association of County Commissioners, and the Historic Preservation
12 Foundation of North Carolina, Inc., a central clearinghouse for information
13 on historic preservation for the benefit and use of public and private agencies
14 and persons in North Carolina.
- 15 (16) Repealed by Session Laws 2004-203, s. 51, effective August 17, 2004.
- 16 (17) **(See Editor's note)** To enter into an agreement with a private nonprofit
17 corporation for the management of facilities to provide food and beverages
18 at the North Carolina Museum of History. Any net proceeds received by the
19 private nonprofit corporation shall be devoted to the work of the
20 Department. Any private nonprofit corporation entering into an agreement
21 with the Department with regard to the management of the facilities may
22 enter into further agreements with private persons or corporations
23 concerning the operation of the facilities. The Department may enter into an
24 agreement in regard to obtaining or installing equipment, furniture, and
25 furnishings for such facilities. (Rev., ss. 4540, 4541; 1907, c. 714, s. 2;
26 1911, c. 211, s. 6; C.S., s. 6142; 1925, c. 275, s. 11; 1943, c. 237; 1945, c.
27 55; 1955, c. 543, s. 1; 1957, c. 330, s. 1; 1959, c. 68, s. 1; 1971, c. 345, s. 3;
28 1973, c. 476, s. 48; 1977, c. 464, s. 38; 1981, c. 721; 1989, c. 379; c. 727, s.
29 218(83); c. 751, s. 11; 1991, c. 757, s. 5; 1991 (Reg. Sess., 1992), c. 959, s.
30 30; 1993, c. 522, s. 8; c. 539, s. 915; 1994, Ex. Sess., c. 24, s. 14(c);
31 1997-443, s. 11A.119(a); 2004-203, s. 51; 2011-284, s. 86.)
32

33 **§ 121-4.1. North Carolina Register of Historic Places.**

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

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

44 (c) The North Carolina Historical Commission shall promulgate regulations requiring
45 that before any property or district may be included on the North Carolina Register of Historic
46 Places, the owner or owners of such property, or a majority of the owners of the properties
47 within the district in the case of an historic district, shall be given the opportunity (including a
48 reasonable period of time) to concur in, or object to, the nomination of the property or district
49 for such inclusion or designation. If the owner or owners of any privately owned property, or a
50 majority of the owners of such properties within the district in the case of an historic district,
51 object to such inclusion or designation, such property shall not be included on the North

1 Carolina Register until such objection has been withdrawn. The regulations under this
2 paragraph shall include provisions to carry out the purposes of this paragraph in the case of
3 multiple ownership of a single property. (1989, c. 60.)
4

5 **§ 121-5. Public records and archives.**

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

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

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

21 When the custodian of any official records of any county, city, municipality, or other
22 subdivision of government certifies to the Department that such records have no further use or
23 value for official business and when the Department certifies that such records appear to have
24 no further use or value for research or reference, then such records may be authorized by the
25 governing body of said county, city, municipality, or other subdivision of government to be
26 destroyed or otherwise disposed of by the agency having custody of them. A record of such
27 certification and authorization shall be entered in the minutes of the governing body granting
28 the authority.

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

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

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

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

17 (e) Program Funding. – Fees credited to the Department under G.S. 161-11.6 shall be
18 used to offset the Department's costs in providing essential records management and archival
19 services for public records pursuant to Chapter 121 and Chapter 132 of the General Statutes.
20 (1907, c. 714, s. 5; C.S., s. 6145; 1939, c. 249; 1943, c. 237; 1945, c. 55; 1953, c. 224; 1955, c.
21 543, s. 1; 1959, c. 1162; 1973, c. 476, s. 48; 1979, c. 361; c. 801, s. 95; 1981, c. 406, ss. 1, 2;
22 1993, c. 539, s. 916; 1994, Ex. Sess., c. 24, s. 14(c); 1997-309, s. 13; 2001-427, s. 3(a);
23 2009-451, s. 20B.3(b).)

24 25 **§ 121-5.1. State Historical Records Advisory Board.**

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

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

- 38 (1) Offer assistance, advice, and consultation to State, county, and municipal
39 governments, historic sites, museums, historical societies, and other
40 institutions holding records of historical value concerning the care,
41 preservation, and management of their records.
- 42 (2) Solicit, review, and assess grant proposals in connection with NHPRC grants
43 or grants from other sources.
- 44 (3) Offer educational programs and conferences.
- 45 (4) Conduct statewide studies and surveys of the State's historical records.

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

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

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

5 (f) The Board shall hold at least two meetings each year to conduct business. The
6 Board shall establish the procedures for calling, holding, and conducting regular and special
7 meetings. A majority of the members of the Board constitutes a quorum for the transaction of
8 business. (2007-150, s. 1.)
9

10 **§ 121-6. Historical publications.**

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

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

38 (c) It shall be the duty and the responsibility for the Department of Cultural Resources
39 to edit and publish a second or new series of the most significant records of colonial North
40 Carolina. From records which have been compiled in the North Carolina State Archives
41 concerning the colonial period of North Carolina, a selection of the most significant documents
42 shall be made therefrom by a skilled and competent editor. The editor shall edit, according to
43 acceptable scholarly standards, the selected materials which shall be published in documentary
44 volumes not to exceed approximately 700 pages each in length until full and representative
45 published colonial records of North Carolina shall have been achieved. The number of copies
46 of each volume to be so printed shall be determined by the Department of Cultural Resources,
47 and such determination shall be based on the number of copies the Department can reasonably
48 expect to sell in a period of 10 years from the date of publication. In any year during which the
49 Department of Cultural Resources has completed a volume and has it ready for publication, the
50 Department may include in its continuation budget for that year sufficient funds to pay the
51 estimated costs of publishing the volume. In the event that the volume is not published during

1 that year, the appropriation made, or any unencumbered balance, shall revert to the general
2 fund. (1971, c. 480, s. 6; 1973, c. 476, s. 48; 1979, c. 1010; 1981 (Reg. Sess., 1982), c. 1290.)

3
4 **§ 121-7. Historical museums.**

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

18 The Department of Cultural Resources may, with the explicit approval of the North
19 Carolina Historical Commission sell, trade, or place on permanent loan any artifact owned by
20 the State of North Carolina and in the custody of and curated by the Office of Archives and
21 History, unless the sale, trade, or loan would be contrary to the terms of acquisition. The net
22 proceeds of any sale, after deduction of the expenses attributable to that sale, shall be deposited
23 to the State treasury to the credit of the Office of Archives and History Artifact Fund and shall
24 be used only for the purchase of other artifacts. No artifact curated by any agency of the
25 Department of Cultural Resources may be pledged or mortgaged.

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

37 (c) Title to an artifact whose ownership is unknown or whose owner cannot be located
38 passes to the Department of Cultural Resources if:

- 39 (1) The artifact was placed on loan with the Office of Archives and History for a
40 period of time exceeding five years or for an indefinite period of time or the
41 artifact's status with the Office of Archives and History as a loan, gift,
42 purchase, or other arrangement is unknown; and
43 (2) The artifact has been a part of the inventory of the Office of Archives and
44 History for more than five years; and
45 (3) The Department of Cultural Resources makes a reasonable effort, including
46 a diligent search of its own records, to locate and inform the owner, his heirs
47 or successors, that the Office of Archives and History is holding the artifact
48 and to clarify the artifact's status with that Office.

49 To initiate the procedure to clarify title to an artifact, the Department of Cultural Resources
50 shall mail, first class postage prepaid, a notice to the last known address of the owner of the
51 artifact or the last known address of the owner's heirs or successors. The Department need not

1 mail a notice, if after exercising due diligence to find a record within the Department of
2 Cultural Resources indicating the owner of the artifact and his latest address, that information is
3 not available. If no claim is made within 90 days from the date that notice is mailed, the
4 Department of Cultural Resources shall publish a notice in three papers of general circulation
5 once a week for four consecutive weeks. If, at the end of 30 days, no claim of ownership is
6 submitted to the Department of Cultural Resources, the Department may determine that legal
7 title to the artifact is vested in the Office of Archives and History.

8 (d) Any person claiming legal title to an artifact to which the North Carolina Office of
9 Archives and History also claims title as provided by subsection (c) may file a claim with the
10 Department of Cultural Resources on a form prescribed by the Department. If the claimant is
11 not the owner from whom the Department originally obtained the artifact, the claimant shall
12 state in addition to any other information required by the Department, the facts surrounding the
13 unavailability of the person who originally loaned or bestowed the property to the Office of
14 Archives and History and the basis for the claim to title of the artifact. If the Department of
15 Cultural Resources is satisfied that the claim is valid and that the claimant is the legal owner of
16 the artifact, the Department shall return the artifact to the owner. If the Department determines
17 that the claim is not valid and rejects the claim to the artifact, the claimant may appeal the
18 determination as provided by Chapter 150B. (1973, c. 476, s. 48; 1979, c. 861, s. 1; 1987, c.
19 721, s. 1; 1991, c. 689, s. 191(a); c. 757, s. 6; 1993 (Reg. Sess., 1994), c. 769, s. 12.3;
20 1997-411, s. 4; 2002-159, s. 35(g).)

21 22 **§ 121-7.1. Maritime Museum; disposition of artifacts.**

23 Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any
24 other law pertaining to surplus State property, the Department of Cultural Resources, with the
25 approval of the North Carolina Historical Commission, may sell, trade, or place on permanent
26 loan any artifact from the collection of the North Carolina Maritime Museum unless the sale,
27 trade, or loan would be contrary to the terms of the acquisition. Sales or exchanges shall be
28 conducted in accordance with generally accepted practices for accredited museums. If an
29 artifact is sold, the net proceeds of the sale shall be deposited in the State treasury to the credit
30 of a special fund to be used for the improvement of the Museum's collections or exhibits.
31 (1998-212, s. 21(b).)

32 33 **§ 121-7.2. (See Editor's notes) Maritime Museum; branch museum.**

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

37 38 **§ 121-7.3. Admission fees.**

39 The Department of Cultural Resources may charge a reasonable admission fee to any
40 museum administered by the Department. Admission fees collected under this section are
41 receipts of the Department and shall be deposited in a nonreverting account. The Department
42 shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30, 2004, and
43 shall deposit these receipts into the account. Funds in the account shall be used to support a
44 portion of each museum's operation. The Secretary may adopt rules necessary to carry out the
45 provisions of this section. The Department shall provide a quarterly report to the Joint
46 Legislative Commission on Governmental Operations as to the Department's or museums'
47 anticipated use of funds or expenditures of funds pursuant to this section. (2003-284, s. 35A.4.)

48 49 **§ 121-7.4. Graveyard of the Atlantic Museum.**

50 The Department of Cultural Resources shall assume from the Graveyard of the Atlantic
51 Museum, the administration of the Graveyard of the Atlantic Museum on Hatteras Island and

1 shall designate it as a member of the State History Museums Division, in accordance with the
2 feasibility study conducted by the Department. (2007-359, s. 1(a).)

3
4 **§ 121-7.5. Bentonville Battlefield Fund.**

5 (a) Fund. – The Bentonville Battlefield Fund is created as a special fund in the
6 Department of Cultural Resources, Division of State Historic Sites. The interest earned by the
7 Fund shall be credited to the Fund by the State Treasurer pursuant to G.S. 147-69.2 and G.S.
8 147-69.3. The Fund shall be used for operation, interpretation, maintenance, preservation,
9 development, and expansion at Bentonville Battlefield State Historic Site.

10 (b) Disposition of Fees. – Notwithstanding Chapter 146 of the General Statutes, all
11 receipts derived from donations or the lease, rental, or other disposition of structures or
12 products of the land owned by or under the supervision or control of the Division of Historic
13 Sites in Johnston County shall be credited to the Fund.

14 (c) The monies credited to this Fund pursuant to this section are annually appropriated
15 to the Department of Cultural Resources. (2008-107, s. 19A.1.)

16
17 **§ 121-7.6. North Carolina Transportation Museum special fund.**

18 (a) Fund Established. – The North Carolina Transportation Museum Fund is created as
19 a special interestbearing, nonreverting enterprise fund in the Department of Cultural Resources.
20 The Fund shall be used to pay all costs associated with the operation and maintenance of the
21 North Carolina Transportation Museum.

22 (b) Monies Credited to the Fund. – Notwithstanding Chapter 146 of the General
23 Statutes, all receipts derived from the lease, rental, or other disposition of structures or products
24 of the land, as well as all admissions and fees, gifts, donations, grants, and bequests, shall be
25 credited to the Fund. The Fund shall be credited with interest by the State Treasurer pursuant to
26 G.S. 147-69.2 and G.S. 147-69.3.

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

31 (d) Audit. – The Fund shall be subject to the oversight of the State Auditor pursuant to
32 Article 5A of Chapter 147 of the General Statutes. The Fund shall reimburse the State Auditor
33 for the cost of any audit. (2011-145, s. 21.1.)

34
35 **§ 121-7.7. State Historic Sites special fund.**

36 (a) Fund. – The State Historic Sites Fund is created as a special, interest-bearing
37 revenue fund in the Division of State Historic Sites. The Fund consists of all receipts derived
38 from the lease or rental of property or facilities, disposition of structures or products of the
39 land, and admissions and fees collected at the State Historic Sites. The revenues in the Fund
40 may be used only for the operation, interpretation, maintenance, preservation, development,
41 and expansion of the individual State Historic Site where the receipts are generated. The
42 Division and the staff from each State Historic Site will determine how the funds will be used
43 at that Historic Site.

44 (b) Application. – This section applies to the individual State Historic Sites owned by or
45 under the control of the Division of State Historic Sites, with the exception of the Bentonville
46 Battlefield State Historic Site. The Bentonville Battlefield State Historic Site is subject to G.S.
47 121-7.5.

48 (c) Reports. – The Department of Cultural Resources must submit to the Joint
49 Legislative Commission on Governmental Operations, the House of Representatives and
50 Senate Appropriations Subcommittees on General Government, and the Fiscal Research
51 Division by September 30 of each year a report on the Fund that includes the source and

1 amounts of all funds credited to the Fund and the purpose and amount of all expenditures from
2 the Fund during the prior fiscal year. (2011-213, s. 1.)

3
4 **§ 121-8. Historic preservation program.**

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

7 (b) Surveys of Historic Properties. – The Department of Cultural Resources shall
8 conduct a continuing statewide survey to identify, document, and record properties having
9 historical, architectural, archaeological, or other cultural significance to the State, its
10 communities, and the nation. Upon approval of the North Carolina Historical Commission, the
11 Deputy Secretary of Archives and History or his designee as the State Historic Preservation
12 Officer, may nominate appropriate properties for entry in the National Register of Historic
13 Places as established by the National Historic Preservation Act of 1966, Public Law 89-665, 16
14 U.S.C. section 470. The Department of Cultural Resources shall maintain a permanent file
15 containing research reports, descriptions, photographs, and other appropriate documentation
16 relating to properties deemed worthy of inclusion in the statewide survey.

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

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

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

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

45 (g) Abandoned Cemeteries. – The Department of Cultural Resources is authorized to
46 take appropriate measures to record and permanently preserve information of significant
47 historical genealogical or archaeological value when, in the opinion of the Department, any
48 such information located within an abandoned cemetery is in imminent danger of loss or
49 destruction because of the condition or circumstances of the cemetery. The Department may
50 obtain access to any abandoned cemetery for the purpose of recording and preserving
51 information of significant historical, genealogical or archaeological value pursuant to Chapter

1 15, Article 4A of the General Statutes: Provided, that prior to the requesting of the
2 administrative warrant, the Department shall contact the affected landowners and request their
3 consent for access to their lands for the purpose of gathering such information. If consent is not
4 granted, the Department shall give reasonable notice of the time, place and before whom the
5 administrative warrant will be requested so that the owner or owners may have an opportunity
6 to be heard. Service of this notice may be in any manner prescribed by N.C.G.S. 1A-1 Rule
7 4(j). Any measures taken by the Department pursuant to this subsection shall be effected in
8 such a manner as to cause as little inconvenience or disruption as possible to the owners of the
9 land upon which the abandoned cemetery is located and of land necessary to obtain access to
10 the cemetery. (1973, c. 476, s. 48; 1981, c. 215; 1989, c. 65; 2002-159, s. 35(h).)

11
12 **§ 121-9. Historic properties.**

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

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

32 (b1) In the case of real property, the North Carolina Historical Commission shall report
33 the following information to the Joint Legislative Commission on Governmental Operations
34 before acquiring the property:

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

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

50 (d) Conveyance of Property for Preservation Purposes. – In appropriate cases, the
51 Department may acquire or dispose of the fee or lesser interest to any such property for the

1 specific purpose of conveying or leasing the property back to its original owner or of conveying
2 or leasing it to such other person, firm, association, corporation, or other organization under
3 such covenants, deed restrictions, lease, or other contractual arrangements as will limit the
4 future use of the property in such a way as to insure its preservation. Where such action is
5 taken, the property may be conveyed or leased by private sale. In all cases where property is
6 conveyed, it shall be subjected by covenant or otherwise to such rights of access, public
7 visitation, and other conditions or restrictions of operation, maintenance, restoration, and repair
8 as the Department may prescribe, or to such conditions as may be agreed upon between the
9 Department and the grantee or lessee to accomplish the purposes of this section.

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

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

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

46 (h) Preservation and Custodial Care of State Capitol. – The rotunda, corridors, and
47 stairways of the first floor of the State Capitol and all portions of the second, third, and loft
48 floors of the said building shall be placed in the custody of the Department of Cultural
49 Resources; and the Department shall, subject to the availability of funds for the purpose, care
50 for and administer these areas for the edification of present and future generations. The
51 aforesaid areas shall be preserved as historic shrines and shall be maintained insofar as

1 practicable as they shall appear following the restoration of the Capitol. The Department of
2 Cultural Resources is authorized to deny the use of the legislative chambers for meetings in
3 order that they, with their historic furnishings, may be better preserved for posterity; provided,
4 however, that the General Assembly may hold therein such sessions as it may by resolution
5 deem proper.

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

12 The offices and working areas of the first floor as well as all washrooms and the exterior of
13 the Capitol shall remain under the jurisdiction of the Department of Administration: Provided,
14 however, that the Department of Administration shall seek the advice of the Department of
15 Cultural Resources in matters relating to any alteration, renovation, and furnishing of said
16 offices and areas. (1955, c. 543, s. 1; 1961, c. 724; 1963, c. 210, s. 1; 1965, c. 1129; 1971, c.
17 480, ss. 1-3, 5; 1973, c. 476, s. 48; 1991 (Reg. Sess., 1992), c. 1030, s. 34; 1993 (Reg. Sess.,
18 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;
19 2011-284, s. 87.)
20

21 **§ 121-9.1. Lake Mattamuskeet Lodge Preservation.**

22 (a) Notwithstanding G.S. 121-9, the State of North Carolina accepts the transfer of the
23 Mattamuskeet Lodge and surrounding property to the State under the Lake Mattamuskeet
24 Lodge Preservation Act, P.L. 109-358. After completion of repairs and renovations by the
25 Department of Cultural Resources, the property shall be transferred to and managed by the
26 Wildlife Resources Commission.

27 (b) Any plans for repair and renovation of the Mattamuskeet Lodge from the Repairs
28 and Renovations Reserve Account under G.S. 143C-4-3 are subject to review by the Wildlife
29 Resources Commission. (2007-13, ss. 1, 2.)
30

31 **§ 121-10. Security of historic properties.**

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

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

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

1 same, certified by the Commissioner of Insurance, shall be received in evidence in all actions
2 and proceedings in this State.

3 (d) Oaths Required. – Before any employee of the Department of Cultural Resources
4 commissioned as a special peace officer shall exercise any power of arrest under this Article, he
5 shall take the oaths required of public officers before an officer authorized to administer oaths.
6 (1955, c. 543, s. 1; 1973, c. 476, s. 48.)
7

8 **§ 121-11. Procedures where assistance extended to cities, counties, and other agencies or**
9 **individuals.**

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

- 17 (1) The property or properties shall have been approved for these purposes by
18 the Department of Cultural Resources according to criteria adopted by the
19 North Carolina Historical Commission,
- 20 (2) The report and recommendations of the Commission have been received and
21 considered by the Department of Cultural Resources, and
- 22 (3) The Department has found that there is a feasible and practical method of
23 providing funds for the acquisition, restoration, preservation, maintenance,
24 and operation of such property.

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

- 28 (1) The property assisted shall, upon its acquisition or restoration, be made
29 accessible to the public at such times and upon such terms as the Department
30 of Cultural Resources shall by rule prescribe;
- 31 (2) That the plans for preservation, restoration, and development be reviewed
32 and approved by the Department of Cultural Resources;
- 33 (3) That the expenditure of such funds be supervised by the Department of
34 Cultural Resources; and
- 35 (4) That such expenditures be accounted to the Department in a manner and at
36 such times as are satisfactory to it.

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

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

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

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

10
11 **§ 121-12. North Carolina Historical Commission.**

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

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

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

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

46 (c) Criteria for State Aid to Historic Properties. – The Commission shall also prepare
47 and adopt criteria for the evaluation of all properties of historic or archaeological importance
48 owned by, under option to, or being considered for acquisition by a county, city, historic
49 properties commission, or other organization or individual for which State aid or assistance is
50 requested from the Department of Cultural Resources. The Commission shall investigate,
51 evaluate, and prepare a written report on all historic or archaeological property for which State

1 aid or appropriations to be administered by the Department of Cultural Resources are proposed.
2 If the property is a building, the Commission shall request and review the plans for the use,
3 maintenance, operation, and purpose of the building and shall comment on the feasibility of the
4 plans in the written report. This report, which shall be filed as a matter of record in the custody
5 of the Department of Cultural Resources, shall set forth the following opinions or
6 recommendations of the Commission:

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

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

- 28 (1) The statewide educational significance and the qualitative level of the
29 program or project and whether the program or project is essential to the
30 development of a State program of historical interpretation;
- 31 (2) The local or regional need for such a program or project;
- 32 (3) The estimated total cost of the program or project under consideration and
33 the apportionment of said cost among State and nonstate sources;
- 34 (4) Whether practical plans have been or can be developed for the funding of the
35 nonstate portions of the costs;
- 36 (5) Whether practical plans have been developed for the continued staffing,
37 maintenance, and operating of the museum without State assistance; and
- 38 (6) Such further comments and recommendations that the Commission may
39 make.

40 (d) Commission to Furnish Recommendations to Legislative Committees. – The
41 Commission through the Department of Cultural Resources shall furnish as soon as practicable
42 to the chairman of each legislative committee to which is referred any bill seeking an
43 appropriation of State funds to the Department of Cultural Resources for the purpose of
44 acquiring, preserving, restoring, or operating, or otherwise assisting, any property having
45 historic, archaeological, architectural, or other cultural value or significance, and to the
46 chairman of each legislative committee to which is referred any bill seeking an appropriation of
47 State funds to the Department of Cultural Resources for the purpose of assisting a history
48 museum, at least five copies of a report on the findings and recommendations of the
49 Commission relating to such property. (1973, c. 476, s. 48; 1975, c. 19, s. 40; 1979, c. 861, ss.
50 3-5; 1985 (Reg. Sess., 1986), c. 1014, s. 171(b); 1995, c. 324, s. 12.)
51

1 **§ 121-12.1. Grants-in-aid.**

2 Under the concepts of reorganization of State government, responsibility for administering
3 appropriations to the Department of Cultural Resources for grants-in-aid to private nonprofit
4 organizations in the areas of history, art, and culture is hereby assigned to the Department of
5 Cultural Resources. It shall be the responsibility of the Department of Cultural Resources to
6 receive, analyze, and recommend to the Governor and the General Assembly the disposition of
7 any request for funding received by it from or for any of these organizations, and to disburse
8 under provisions of law any appropriations made to the Department for them. Appropriations to
9 the Department of Cultural Resources for grants-in-aid to assist in the restoration of historic
10 sites owned by private nonprofit organizations shall in addition be expended only in accordance
11 with G.S. 121-11, 121-12 and 143B-53.1. (1977, c. 802, s. 47; 1985 (Reg. Sess., 1986), c. 955,
12 s. 40; c. 1014, s. 171(c); 2006-203, s. 65.)
13

14 **§ 121-12.2. Procedures for preparing budget requests and expending appropriations for**
15 **grants-in-aid.**

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

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

24 The Secretary of Cultural Resources is empowered and directed, in discharging the
25 responsibilities herein assigned, to make regular and timely reviews, studies and
26 recommendations concerning the operations and needs of these organizations for State funds,
27 and to request from the applicants for grants and the recipients of grants through the
28 Department, operating statements, audit reports and other information deemed appropriate.
29 (1977, c. 802, s. 47; 1985 (Reg. Sess., 1986), c. 1014, s. 171(d).)
30

31 **§ 121-13. Acquisition of portrait of Governor during term of office.**

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

38 The cost of the painting and acquisition of said portrait, including the cost of the frame and
39 other necessary expenses incident thereto, shall be paid from the Contingency and Emergency
40 Fund. (1955, c. 1248; 1973, c. 476, s. 48.)
41

42 **§§ 121-13.1 through 121-13.2. Repealed by Session Laws 1973, c. 476, s. 48.**
43

44 Article 2.

45 Tryon's Palace and Tryon's Palace Commission.

46 **§ 121-14. Acceptance and administration of gifts for restoration of Tryon's Palace;**
47 **execution of deeds, etc.**

48 The Department of Cultural Resources is hereby authorized and empowered to accept gifts
49 of real or personal property from any source for the restoration of Tryon's Palace at New Bern,
50 North Carolina, and administer the same. All gifts of moneys received by the Department of
51 Cultural Resources shall be deposited in a special account with the Treasurer of North Carolina.

1 The Department of Cultural Resources is hereby given authority to execute such deeds and
2 other instruments as may be necessary. (1945, c. 791, s. 1; 1955, c. 543, s. 8; 1973, c. 476, s.
3 48.)
4

5 **§ 121-15. Authority to acquire necessary property for restoration when certain funds**
6 **available.**

7 The Department of Cultural Resources is hereby authorized and directed to acquire the
8 necessary property in New Bern, North Carolina, for the restoration of Tryon's Palace, when as
9 much as two hundred fifty thousand dollars (\$250,000), or securities in said amount as
10 provided in G.S. 121-17, has been provided by private contributions for this purpose: Provided,
11 that the Department of Cultural Resources at such time shall find that there are reasonable
12 grounds to anticipate that from private donations there will thereafter be provided ample funds
13 to restore the Palace. (1945, c. 791, s. 2; 1949, c. 233, s. 1; 1955, c. 543, s. 8; 1973, c. 476, s.
14 48.)
15

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

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

22 The Department of Cultural Resources shall also have the authority to acquire, by
23 condemnation, under the provisions of Chapter 40A of the General Statutes of North Carolina,
24 including the provisions of the Public Works Eminent Domain Law, which is hereby made
25 applicable to such proceedings, any areas of land in New Bern, North Carolina, as it may find
26 necessary for the restoration of the Palace. (1945, c. 791, s. 3; 1949, c. 233, s. 2; 1955, c. 543, s.
27 8; 1973, c. 476, s. 48; 2001-487, s. 38(g).)
28

29 **§ 121-17. Funds deposited with trustee.**

30 The Governor as Director of the Budget shall have full authority and discretion to approve
31 the acceptance of donations of cash or securities irrevocably deposited with a trustee in lieu of
32 any requirement that funds provided by outside sources be turned over to the State, and funds
33 or securities placed in trust by private donors for such purpose shall be deemed to be funds
34 turned over to the State for acquisition and restoration of the Palace. (1945, c. 791, s. 4.)
35

36 **§ 121-18. Closing streets and including area in restoration project; acquiring area**
37 **originally included in Palace grounds.**

38 Whereas the said Tryon's Palace and grounds originally included all of that area in the City
39 of New Bern known and designated as George Street between Pollock and South Front Streets,
40 and the title thereto is in the State of North Carolina, subject to the easement for use of said
41 street, and the use of such portion of said George Street is essential for a proper restoration of
42 Tryon's Palace, when the governing body of the City of New Bern under its general authority
43 imposed by law shall close George Street between Pollock and South Front Streets, or such
44 portion thereof as may be found by the Commission herein authorized to be essential for the
45 purposes of such restoration, the area within such closed street shall be thereafter used
46 exclusively for the restoration of Tryon's Palace. Provided, that the Department of Cultural
47 Resources is authorized and empowered, in its discretion, to acquire for the use of said Tryon's
48 Palace such part of the area in the City of New Bern originally included in the Palace grounds
49 as may be deemed reasonably necessary for the restoration of said Palace. (1945, c. 791, s. 5;
50 1949, c. 233, s. 3; 1955, c. 543, s. 8; 1973, c. 476, s. 48.)
51

1 § 121-19. Repealed by Session Laws 1973, c. 476, s. 56.

2
3 § 121-20. Commission to receive and expend funds donated or made available for
4 restoration of Tryon's Palace; Commission to acquire and sell artifacts for
5 Tryon's Palace.

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

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

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

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

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

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

49 (b) The Tryon Palace Commission may solicit, accept, and hold artifacts and
50 furnishings, and may acquire them by purchase or gift for the interpretive needs and
51 development of Tryon Palace Historic Sites and Gardens. The Commission may dispose of by

1 trade, sale, or transfer, in accordance with accepted museum practices, any accessioned or
2 unaccessioned artifacts and furnishings in the custody of the Commission, or its appointed
3 officers, that are determined to have no further value for official or administrative purposes or
4 for research, reference, or interpretation. Any proceeds realized through the deaccession and
5 sale of artifacts and furnishings shall be placed in a collections fund administered by the Tryon
6 Palace Commission. Monies received by the Commission, after deduction of the expenses
7 attributable to that sale, shall be used for the acquisition of artifacts and furnishings necessary
8 or desirable for research, reference, and interpretation at Tryon Palace Historic Sites and
9 Gardens. (1953, c. 1100; 1973, c. 1262, s. 86; 1975, c. 387; 1993 (Reg. Sess., 1994), c. 769, s.
10 12.2.)
11

12 **§ 121-21. Commission authorized to adopt and copyright certain emblems and lease or**
13 **license the use of reproductions or replicas.**

14 The Tryon Palace Commission is hereby authorized to adopt an official flag, seal, and other
15 emblems appropriate in connection with the management and operation of the Tryon Palace
16 Restoration, and to copyright the same in the name of the State. The Commission, with the
17 approval of the Governor, is authorized to lease or license the use of reproductions or replicas
18 of such flag, seal, and other emblems upon such terms and conditions as it deems advisable.
19 (1957, c. 1449.)
20

21 **§ 121-21.1. Tryon Palace Historic Sites and Gardens Fund.**

22 (a) Fund. – The Tryon Palace Historic Sites and Gardens Fund is hereby created as a
23 special, interest-bearing, and nonreverting fund in the Division of Tryon Palace Historic Sites
24 and Gardens. The Fund shall be treated as a special trust fund and shall be credited with interest
25 by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Fund shall be used for
26 repair, renovation, expansion, and maintenance at Tryon Palace Historic Sites and Gardens.

27 (b) Disposition of Fees. – All entrance fee receipts shall be credited to the Tryon Palace
28 Historic Sites and Gardens Fund.

29 (c) The Tryon Palace Commission shall submit to the Joint Legislative Commission on
30 Governmental Operations, the House and Senate Appropriations Subcommittees on General
31 Government, and the Fiscal Research Division by September 30 of each year a report on the
32 Tryon Palace Historic Sites and Gardens Fund that shall include the source and amounts of all
33 funds credited to the Fund and the purpose and amount of all expenditures from the Fund
34 during the prior fiscal year. (2005-276, s. 19A.1; 2006-180, s. 1.)
35

36 Article 3.

37 Salvage of Abandoned Shipwrecks and Other Underwater Archaeological Sites.

38 **§ 121-22. Title to bottoms of certain waters and shipwrecks, etc., thereon declared to be**
39 **in State.**

40 Subject to Chapter 82 of the General Statutes, entitled "Wrecks" and to the provisions of
41 Chapter 210, Session Laws of 1963, and to any statute of the United States, the title to all
42 bottoms of navigable waters within one marine league seaward from the Atlantic seashore
43 measured from the extreme low watermark; and the title to all shipwrecks, vessels, cargoes,
44 tackle, and underwater archaeological artifacts which have remained unclaimed for more than
45 10 years lying on the said bottoms, or on the bottoms of any other navigable waters of the State,
46 is hereby declared to be in the State of North Carolina, and such bottoms, shipwrecks, vessels,
47 cargoes, tackle, and underwater archaeological artifacts shall be subject to the exclusive
48 dominion and control of the State. (1967, c. 533, s. 1.)
49

50 **§ 121-23. Department is custodian of underwater personal property of the State and may**
51 **adopt rules concerning the property.**

1 The Department of Cultural Resources is the custodian of shipwrecks, vessels, cargoes,
2 tackle, and underwater archaeological artifacts to which the State has title under G.S. 121-22.
3 The Department of Cultural Resources may adopt rules necessary to preserve, protect, recover,
4 or salvage any or all of these properties. (1967, c. 533, s. 2; 1973, c. 476, s. 48; 1993, c. 249.)
5

6 **§ 121-24. Department authorized to establish professional staff.**

7 The Department of Cultural Resources is also authorized to establish a professional staff for
8 the purpose of conducting and/or supervising the surveillance, protection, preservation, survey
9 and systematic underwater archaeological recovery of underwater materials as defined in G.S.
10 121-22 hereof. (1967, c. 533, s. 3; 1973, c. 476, s. 48.)
11

12 **§ 121-25. License to conduct exploration, recovery or salvage operations.**

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

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

29 Permits or licenses may be renewed upon or prior to expiration upon such terms as the
30 applicant and the Department may mutually agree. Holders of permits or licenses shall be
31 responsible for obtaining permission of any federal agencies having jurisdiction, including the
32 United States Coast Guard, the United States Department of the Navy and the United States
33 Army Corps of Engineers prior to conducting any salvaging operations. (1967, c. 533, s. 4;
34 1973, c. 476, s. 48; 2005-367, s. 2.)
35

36 **§ 121-25.1. Criminal record checks of applicants for permit or license.**

- 37 (a) The following definitions apply to this section:
 - 38 (1) Applicant. – A person or entity applying for a permit or license under G.S.
39 121-25 to conduct any type of exploration, recovery, or salvage operations
40 of any part of a derelict vessel or its contents or other archaeological site.
 - 41 (2) Criminal history. – A history of conviction of a state or federal crime,
42 whether a misdemeanor or felony, that bears upon an applicant's fitness to
43 conduct activities related to the surveillance, protection, preservation, and
44 archaeological recovery of property subject to the exclusive dominion and
45 control of the State under G.S. 121-22. The crimes include the criminal
46 offenses set forth in any of the following Articles of Chapter 14 of the
47 General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes;
48 Article 5A, Endangering Executive and Legislative Officers and Court
49 Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses;
50 Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13,
51 Malicious Injury or Damage by Use of Explosive or Incendiary Device or

1 Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson
2 and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18,
3 Embezzlement; Article 19, False Pretenses and Cheats; Article 19A,
4 Obtaining Property or Services by False or Fraudulent Use of Credit Device
5 or Other Means; Article 19B, Financial Transaction Card Crime Act; Article
6 19C, Financial Identity Fraud; Article 20, Frauds; Article 21, Forgery;
7 Article 26, Offenses Against Public Morality and Decency; Article 26A,
8 Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article
9 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses
10 Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39,
11 Protection of Minors; Article 40, Protection of the Family; Article 59, Public
12 Intoxication; and Article 60, Computer-Related Crime. The crimes also
13 include possession or sale of drugs in violation of the North Carolina
14 Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes,
15 and alcohol-related offenses such as sale to underage persons in violation of
16 G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1
17 through G.S. 20-138.5.

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

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

- 35 (1) The level and seriousness of the crime.
- 36 (2) The date of the crime.
- 37 (3) The age of the person at the time of conviction.
- 38 (4) The circumstances surrounding the commission of the crime, if known.
- 39 (5) The nexus between the criminal conduct of the person and the person's
40 responsibilities pursuant to the application.
- 41 (6) The incarceration, probation, parole, rehabilitation, and employment records
42 of the person since the date the crime was committed.
- 43 (7) The subsequent commission by the person of a crime. (2005-367, s. 3.)

44
45 **§ 121-26. Funds received by Department under § 121-25.**

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

50
51 **§ 121-27. Law-enforcement agencies empowered to assist Department.**

1 All law-enforcement agencies and officers, State and local, are hereby empowered to assist
2 the Department of Cultural Resources in carrying out its duties under this Article. (1967, c.
3 533, s. 6; 1973, c. 476, s. 48.)
4

5 **§ 121-28. Violation of Article a misdemeanor.**

6 Any person violating the provisions of this Article or any rules or regulations established
7 thereunder shall be guilty of a Class 1 misdemeanor. (1967, c. 533, s. 8; 1993, c. 539, s. 917;
8 1994, Ex. Sess., c. 24, s. 14(c).)
9

10 **§§ 121-29 through 121-33. Reserved for future codification purposes.**
11

12 Article 4.

13 Conservation and Historic Preservation Agreements Act.

14 **§ 121-34. Short title.**

15 The title of this Article shall be known as the "Conservation and Historic Preservation
16 Agreements Act." (1979, c. 747, s. 1; 2004-195, s. 1.3.)
17

18 **§ 121-35. Definitions.**

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

- 21 (1) A "conservation agreement" means a right, whether or not stated in the form
22 of a restriction, reservation, easement, covenant or condition, in any deed,
23 will or other instrument executed by or on behalf of the owner of land or
24 improvement thereon or in any order of taking, appropriate to retaining land
25 or water areas predominantly in their natural, scenic or open condition or in
26 agricultural, horticultural, farming or forest use, to forbid or limit any or all
27 (i) construction or placing of buildings, roads, signs, billboards or other
28 advertising, utilities or other structures on or above the ground, (ii) dumping
29 or placing of soil or other substance or material as landfill, or dumping or
30 placing of trash, waste or unsightly or offensive materials, (iii) removal or
31 destruction of trees, shrubs or other vegetation, (iv) excavation, dredging or
32 removal of loam, peat, gravel, soil, rock or other mineral substance in such
33 manner as to affect the surface, (v) surface use except for agricultural,
34 farming, forest or outdoor recreational purposes or purposes permitting the
35 land or water area to remain predominantly in its natural condition, (vi)
36 activities detrimental to drainage, flood control, water conservation, erosion
37 control or soil conservation, or (vii) other acts or uses detrimental to such
38 retention of land or water areas.
- 39 (2) "Holder" means any public body of this State, including the State, any of its
40 agencies, any city, county, district or other political subdivision or municipal
41 or public corporation, or any instrumentality of any of the foregoing, any
42 agency, department, or instrumentality of the United States, any nonprofit
43 corporation or trust, or any private corporation or business entity whose
44 purposes include any of those stated in (1) and (3), covering the purposes of
45 preservation and conservation agreements.
- 46 (3) A "preservation agreement" means a right, whether or not stated in the form
47 of a restriction, reservation, easement, covenant, condition or otherwise, in
48 any deed, will or other instrument executed by or on behalf of the owner of
49 the land or any improvement thereon, or in any other [order] of taking,
50 appropriate to preservation of a structure or site historically significant for its
51 architecture, archaeology or historical associations, to forbid or limit any or

1 all (i) alteration, (ii) alterations in exterior or interior features of the
2 structure, (iii) changes in appearance or condition of the site, (iv) uses not
3 historically appropriate, or (v) other acts or uses supportive of or detrimental
4 to appropriate preservation of the structure or site. (1979, c. 747, s. 2; 1995,
5 c. 443, s. 1.)
6

7 **§ 121-36. Applicability.**

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

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

12 (c) This Article shall not be construed to diminish the powers of any public entity,
13 agency, or instrumentality to acquire by purchase, gift, devise, inheritance, eminent domain or
14 otherwise and to use property of any kind for public purposes. (1979, c. 747, s. 3.)
15

16 **§ 121-37. Acquisition and approval of conservation and preservation agreements.**

17 Subject to the conditions stated in this Article, any holder may, in any manner, acquire,
18 receive or become a party of a conservation agreement or a preservation agreement. (1979, c.
19 747, s. 4.)
20

21 **§ 121-38. Validity of agreements.**

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

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

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

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

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

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

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

32 (e) These agreements may contain provisions which require the payment of a fee upon
33 a future conveyance of the property that is subject to the agreement. (1979, c. 747, s. 5;
34 2008-165, s. 1.)
35

36 **§ 121-39. Enforceability of agreements.**

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

42 (b) Such agreements shall entitle representatives of the holder to enter the involved land
43 or improvement in a reasonable manner and at reasonable times to assure compliance. (1979, c.
44 747, s. 6.)
45

46 **§ 121-40. Assessment of land or improvements subject to agreement.**

47 For purposes of taxation, land and improvements subject to a conservation or preservation
48 agreement shall be assessed on the basis of the true value of the land and improvement less any
49 reduction in value caused by the agreement. (1979, c. 747, s. 7.)
50

51 **§ 121-41. Public recording of agreements.**

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

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

8 (c) A conservation agreement entered into for the purpose of enrolling real property in a
9 voluntary agricultural district pursuant to G.S. 106-737(4) is not required to be recorded unless
10 such conservation agreement is irrevocable as provided pursuant to G.S. 106-743.2. (1979, c.
11 747, s. 8; 2011-219, s. 2.)

12
13 **§ 121-42. Citation of Article.**

14 This Article shall be known and may be cited as the "Conservation and Historic
15 Preservation Agreements Act." (1979, c. 747, s. 9; 2004-195, s. 1.4.)