

1 **Chapter 132.**
2 **Public Records.**

3 **§ 132-1. "Public records" defined.**

4 (a) "Public record" or "public records" shall mean all documents, papers, letters, maps,
5 books, photographs, films, sound recordings, magnetic or other tapes, electronic
6 data-processing records, artifacts, or other documentary material, regardless of physical form or
7 characteristics, made or received pursuant to law or ordinance in connection with the
8 transaction of public business by any agency of North Carolina government or its subdivisions.
9 Agency of North Carolina government or its subdivisions shall mean and include every public
10 office, public officer or official (State or local, elected or appointed), institution, board,
11 commission, bureau, council, department, authority or other unit of government of the State or
12 of any county, unit, special district or other political subdivision of government.

13 (b) The public records and public information compiled by the agencies of North
14 Carolina government or its subdivisions are the property of the people. Therefore, it is the
15 policy of this State that the people may obtain copies of their public records and public
16 information free or at minimal cost unless otherwise specifically provided by law. As used
17 herein, "minimal cost" shall mean the actual cost of reproducing the public record or public
18 information. (1935, c. 265, s. 1; 1975, c. 787, s. 1; 1995, c. 388, s. 1.)
19

20 **§ 132-1.1. Confidential communications by legal counsel to public board or agency; State**
21 **tax information; public enterprise billing information; Address Confidentiality**
22 **Program information.**

23 (a) Confidential Communications. – Public records, as defined in G.S. 132-1, shall not
24 include written communications (and copies thereof) to any public board, council, commission
25 or other governmental body of the State or of any county, municipality or other political
26 subdivision or unit of government, made within the scope of the attorney-client relationship by
27 any attorney-at-law serving any such governmental body, concerning any claim against or on
28 behalf of the governmental body or the governmental entity for which such body acts, or
29 concerning the prosecution, defense, settlement or litigation of any judicial action, or any
30 administrative or other type of proceeding to which the governmental body is a party or by
31 which it is or may be directly affected. Such written communication and copies thereof shall
32 not be open to public inspection, examination or copying unless specifically made public by the
33 governmental body receiving such written communications; provided, however, that such
34 written communications and copies thereof shall become public records as defined in G.S.
35 132-1 three years from the date such communication was received by such public board,
36 council, commission or other governmental body.

37 (b) State and Local Tax Information. – Tax information may not be disclosed except as
38 provided in G.S. 105-259. As used in this subsection, "tax information" has the same meaning
39 as in G.S. 105-259. Local tax records that contain information about a taxpayer's income or
40 receipts may not be disclosed except as provided in G.S. 153A-148.1 and G.S. 160A-208.1.

41 (c) Public Enterprise Billing Information. – Billing information compiled and
42 maintained by a city or county or other public entity providing utility services in connection
43 with the ownership or operation of a public enterprise, excluding airports, is not a public record
44 as defined in G.S. 132-1. Nothing contained herein is intended to limit public disclosure by a
45 city or county of billing information:

- 46 (1) That the city or county determines will be useful or necessary to assist bond
47 counsel, bond underwriters, underwriters' counsel, rating agencies or
48 investors or potential investors in making informed decisions regarding
49 bonds or other obligations incurred or to be incurred with respect to the
50 public enterprise;

- 1 (2) That is necessary to assist the city, county, State, or public enterprise to
2 maintain the integrity and quality of services it provides; or
3 (3) That is necessary to assist law enforcement, public safety, fire protection,
4 rescue, emergency management, or judicial officers in the performance of
5 their duties.

6 As used herein, "billing information" means any record or information, in whatever form,
7 compiled or maintained with respect to individual customers by any owner or operator of a
8 public enterprise, as defined in G.S. 160A-311, excluding subdivision (9), and G.S. 153A-274,
9 excluding subdivision (4), or other public entity providing utility services, excluding airports,
10 relating to services it provides or will provide to the customer.

11 (d) Address Confidentiality Program Information. – The actual address and telephone
12 number of a program participant in the Address Confidentiality Program established under
13 Chapter 15C of the General Statutes is not a public record within the meaning of Chapter 132.
14 The actual address and telephone number of a program participant may not be disclosed except
15 as provided in Chapter 15C of the General Statutes.

16 (e) Controlled Substances Reporting System Information. – Information compiled or
17 maintained in the Controlled Substances Reporting System established under Article 5E of
18 Chapter 90 of the General Statutes is not a public record as defined in G.S. 132-1 and may be
19 released only as provided under Article 5E of Chapter 90 of the General Statutes.

20 (f) Personally Identifiable Admissions Information. – Records maintained by The
21 University of North Carolina or any constituent institution, or by the Community Colleges
22 System Office or any community college, which contain personally identifiable information
23 from or about an applicant for admission to one or more constituent institutions or to one or
24 more community colleges shall be confidential and shall not be subject to public disclosure
25 pursuant to G.S. 132-6(a). Notwithstanding the preceding sentence, any letter of
26 recommendation or record containing a communication from an elected official to The
27 University of North Carolina, any of its constituent institutions, or to a community college,
28 concerning an applicant for admission who has not enrolled as a student shall be considered a
29 public record subject to disclosure pursuant to G.S. 132-6(a). Nothing in this subsection is
30 intended to limit the disclosure of public records that do not contain personally identifiable
31 information, including aggregated data, guidelines, instructions, summaries, or reports that do
32 not contain personally identifiable information or from which it is feasible to redact any
33 personally identifiable information that the record contains. As used in this subsection, the term
34 "community college" is as defined in G.S. 115D-2(2), the term "constituent institution" is as
35 defined in G.S. 116-2(4), and the term "Community Colleges System Office" is as defined in
36 G.S. 115D-3. (1975, c. 662; 1993, c. 485, s. 38; 1995 (Reg. Sess., 1996), c. 646, s. 21;
37 2001-473, s. 1; 2002-171, s. 7; 2003-287, s. 1; 2005-276, s. 10.36(b); 2007-372, s. 2.)
38

39 **§ 132-1.2. Confidential information.**

40 Nothing in this Chapter shall be construed to require or authorize a public agency or its
41 subdivision to disclose any information that:

- 42 (1) Meets all of the following conditions:
43 a. Constitutes a "trade secret" as defined in G.S. 66-152(3).
44 b. Is the property of a private "person" as defined in G.S. 66-152(2).
45 c. Is disclosed or furnished to the public agency in connection with the
46 owner's performance of a public contract or in connection with a bid,
47 application, proposal, industrial development project, or in
48 compliance with laws, regulations, rules, or ordinances of the United
49 States, the State, or political subdivisions of the State.
50 d. Is designated or indicated as "confidential" or as a "trade secret" at
51 the time of its initial disclosure to the public agency.

- 1 (2) Reveals an account number for electronic payment as defined in G.S.
2 147-86.20 and obtained pursuant to Articles 6A or 6B of Chapter 147 of the
3 General Statutes or G.S. 159-32.1.
- 4 (3) Reveals a document, file number, password, or any other information
5 maintained by the Secretary of State pursuant to Article 21 of Chapter 130A
6 of the General Statutes.
- 7 (4) Reveals the electronically captured image of an individual's signature, date
8 of birth, drivers license number, or a portion of an individual's social security
9 number if the agency has those items because they are on a voter registration
10 document.
- 11 (5) Reveals the seal of a licensed design professional who is licensed under
12 Chapter 83A or Chapter 89C of the General Statutes that has been submitted
13 for project approval to (i) a municipality under Part 5 of Article 19 of
14 Chapter 160A of the General Statutes or (ii) to a county under Part 4 of
15 Article 18 of Chapter 153A of the General Statutes. Notwithstanding this
16 exemption, a municipality or county that receives a request for a document
17 submitted for project approval that contains the seal of a licensed design
18 professional who is licensed under Chapter 83A or Chapter 89C of the
19 General Statutes and that is otherwise a public record by G.S. 132-1 shall
20 allow a copy of the document without the seal of the licensed design
21 professional to be examined and copied, consistent with any rules adopted
22 by the licensing board under Chapter 83A or Chapter 89C of the General
23 Statutes regarding an unsealed document. (1989, c. 269; 1991, c. 745, s. 3;
24 1999-434, s. 7; 2001-455, s. 2; 2001-513, s. 30(b); 2003-226, s. 5; 2004-127,
25 s. 17(b); 2009-346, s. 1.)
26

27 **§ 132-1.3. Settlements made by or on behalf of public agencies, public officials, or public**
28 **employees; public records.**

29 (a) Public records, as defined in G.S. 132-1, shall include all settlement documents in
30 any suit, administrative proceeding or arbitration instituted against any agency of North
31 Carolina government or its subdivisions, as defined in G.S. 132-1, in connection with or arising
32 out of such agency's official actions, duties or responsibilities, except in an action for medical
33 malpractice against a hospital facility. No agency of North Carolina government or its
34 subdivisions, nor any counsel, insurance company or other representative acting on behalf of
35 such agency, shall approve, accept or enter into any settlement of any such suit, arbitration or
36 proceeding if the settlement provides that its terms and conditions shall be confidential, except
37 in an action for medical malpractice against a hospital facility. No settlement document sealed
38 under subsection (b) of this section shall be open for public inspection.

39 (b) No judge, administrative judge or administrative hearing officer of this State, nor
40 any board or commission, nor any arbitrator appointed pursuant to the laws of North Carolina,
41 shall order or permit the sealing of any settlement document in any proceeding described herein
42 except on the basis of a written order concluding that (1) the presumption of openness is
43 overcome by an overriding interest and (2) that such overriding interest cannot be protected by
44 any measure short of sealing the settlement. Such order shall articulate the overriding interest
45 and shall include findings of fact that are sufficiently specific to permit a reviewing court to
46 determine whether the order was proper.

47 (c) Except for confidential communications as provided in G.S. 132-1.1, the term
48 "settlement documents," as used herein, shall include all documents which reflect, or which are
49 made or utilized in connection with, the terms and conditions upon which any proceedings
50 described in this section are compromised, settled, terminated or dismissed, including but not

1 limited to correspondence, settlement agreements, consent orders, checks, and bank drafts.
2 (1989, c. 326.)

3
4 **§ 132-1.4. Criminal investigations; intelligence information records; Innocence Inquiry**
5 **Commission records.**

6 (a) Records of criminal investigations conducted by public law enforcement agencies,
7 records of criminal intelligence information compiled by public law enforcement agencies, and
8 records of investigations conducted by the North Carolina Innocence Inquiry Commission, are
9 not public records as defined by G.S. 132-1. Records of criminal investigations conducted by
10 public law enforcement agencies or records of criminal intelligence information may be
11 released by order of a court of competent jurisdiction.

12 (b) As used in this section:

13 (1) "Records of criminal investigations" means all records or any information
14 that pertains to a person or group of persons that is compiled by public law
15 enforcement agencies for the purpose of attempting to prevent or solve
16 violations of the law, including information derived from witnesses,
17 laboratory tests, surveillance, investigators, confidential informants,
18 photographs, and measurements.

19 (2) "Records of criminal intelligence information" means records or information
20 that pertain to a person or group of persons that is compiled by a public law
21 enforcement agency in an effort to anticipate, prevent, or monitor possible
22 violations of the law.

23 (3) "Public law enforcement agency" means a municipal police department, a
24 county police department, a sheriff's department, a company police agency
25 commissioned by the Attorney General pursuant to G.S. 74E-1, et seq., and
26 any State or local agency, force, department, or unit responsible for
27 investigating, preventing, or solving violations of the law.

28 (4) "Violations of the law" means crimes and offenses that are prosecutable in
29 the criminal courts in this State or the United States and infractions as
30 defined in G.S. 14-3.1.

31 (5) "Complaining witness" means an alleged victim or other person who reports
32 a violation or apparent violation of the law to a public law enforcement
33 agency.

34 (c) Notwithstanding the provisions of this section, and unless otherwise prohibited by
35 law, the following information shall be public records within the meaning of G.S. 132-1.

36 (1) The time, date, location, and nature of a violation or apparent violation of the
37 law reported to a public law enforcement agency.

38 (2) The name, sex, age, address, employment, and alleged violation of law of a
39 person arrested, charged, or indicted.

40 (3) The circumstances surrounding an arrest, including the time and place of the
41 arrest, whether the arrest involved resistance, possession or use of weapons,
42 or pursuit, and a description of any items seized in connection with the
43 arrest.

44 (4) The contents of "911" and other emergency telephone calls received by or on
45 behalf of public law enforcement agencies, except for such contents that
46 reveal the natural voice, name, address, telephone number, or other
47 information that may identify the caller, victim, or witness. In order to
48 protect the identity of the complaining witness, the contents of "911" and
49 other emergency telephone calls may be released pursuant to this section in
50 the form of a written transcript or altered voice reproduction; provided that

1 the original shall be provided under process to be used as evidence in any
2 relevant civil or criminal proceeding.

3 (5) The contents of communications between or among employees of public law
4 enforcement agencies that are broadcast over the public airways.

5 (6) The name, sex, age, and address of a complaining witness.

6 (d) A public law enforcement agency shall temporarily withhold the name or address of
7 a complaining witness if release of the information is reasonably likely to pose a threat to the
8 mental health, physical health, or personal safety of the complaining witness or materially
9 compromise a continuing or future criminal investigation or criminal intelligence operation.
10 Information temporarily withheld under this subsection shall be made available for release to
11 the public in accordance with G.S. 132-6 as soon as the circumstances that justify withholding
12 it cease to exist. Any person denied access to information withheld under this subsection may
13 apply to a court of competent jurisdiction for an order compelling disclosure of the information.
14 In such action, the court shall balance the interests of the public in disclosure against the
15 interests of the law enforcement agency and the alleged victim in withholding the information.
16 Actions brought pursuant to this subsection shall be set down for immediate hearing, and
17 subsequent proceedings in such actions shall be accorded priority by the trial and appellate
18 courts.

19 (e) If a public law enforcement agency believes that release of information that is a
20 public record under subdivisions (c)(1) through (c)(5) of this section will jeopardize the right of
21 the State to prosecute a defendant or the right of a defendant to receive a fair trial or will
22 undermine an ongoing or future investigation, it may seek an order from a court of competent
23 jurisdiction to prevent disclosure of the information. In such action the law enforcement agency
24 shall have the burden of showing by a preponderance of the evidence that disclosure of the
25 information in question will jeopardize the right of the State to prosecute a defendant or the
26 right of a defendant to receive a fair trial or will undermine an ongoing or future investigation.
27 Actions brought pursuant to this subsection shall be set down for immediate hearing, and
28 subsequent proceedings in such actions shall be accorded priority by the trial and appellate
29 courts.

30 (f) Nothing in this section shall be construed as authorizing any public law enforcement
31 agency to prohibit or prevent another public agency having custody of a public record from
32 permitting the inspection, examination, or copying of such public record in compliance with
33 G.S. 132-6. The use of a public record in connection with a criminal investigation or the
34 gathering of criminal intelligence shall not affect its status as a public record.

35 (g) Disclosure of records of criminal investigations and criminal intelligence
36 information that have been transmitted to a district attorney or other attorney authorized to
37 prosecute a violation of law shall be governed by this section and Chapter 15A of the General
38 Statutes.

39 (h) Nothing in this section shall be construed as requiring law enforcement agencies to
40 disclose the following:

41 (1) Information that would not be required to be disclosed under Chapter 15A of
42 the General Statutes; or

43 (2) Information that is reasonably likely to identify a confidential informant.

44 (i) Law enforcement agencies shall not be required to maintain any tape recordings of
45 "911" or other communications for more than 30 days from the time of the call, unless a court
46 of competent jurisdiction orders a portion sealed.

47 (j) When information that is not a public record under the provisions of this section is
48 deleted from a document, tape recording, or other record, the law enforcement agency shall
49 make clear that a deletion has been made. Nothing in this subsection shall authorize the
50 destruction of the original record.

1 (k) The following court records are public records and may be withheld only when
2 sealed by court order: arrest and search warrants that have been returned by law enforcement
3 agencies, indictments, criminal summons, and nontestimonial identification orders.

4 (l) Records of investigations of alleged child abuse shall be governed by Article 29 of
5 Chapter 7B of the General Statutes. (1993, c. 461, s. 1; 1998-202, s. 13(jj); 2006-184, s. 7;
6 2010-171, s. 5; 2011-321, s. 1.)
7

8 **§ 132-1.5. 911 database.**

9 Automatic number identification and automatic location identification information that
10 consists of the name, address, and telephone numbers of telephone subscribers, or the e-mail
11 addresses of subscribers to an electronic emergency notification or reverse 911 system, that is
12 contained in a county or municipal 911 database, or in a county or municipal telephonic or
13 electronic emergency notification or reverse 911 system, is confidential and is not a public
14 record as defined by Chapter 132 of the General Statutes if that information is required to be
15 confidential by the agreement with the telephone company by which the information was
16 obtained. Dissemination of the information contained in the 911, electronic emergency
17 notification or reverse 911 system, or automatic number and automatic location database is
18 prohibited except on a call-by-call basis only for the purpose of handling emergency calls or for
19 training, and any permanent record of the information shall be secured by the public safety
20 answering points and disposed of in a manner which will retain that security except as
21 otherwise required by applicable law. (1997-287, s. 1; 2007-107, s. 3.2(a.)
22

23 **§ 132-1.6. Emergency response plans.**

24 Emergency response plans adopted by a constituent institution of The University of North
25 Carolina, a community college, or a public hospital as defined in G.S. 159-39 and the records
26 related to the planning and development of these emergency response plans are not public
27 records as defined by G.S. 132-1 and shall not be subject to inspection and examination under
28 G.S. 132-6. (2001-500, s. 3.1.)
29

30 **§ 132-1.7. Sensitive public security information.**

31 (a) Public records, as defined in G.S. 132-1, shall not include information containing
32 specific details of public security plans and arrangements or the detailed plans and drawings of
33 public buildings and infrastructure facilities.

34 (b) Public records as defined in G.S. 132-1 do not include plans to prevent or respond to
35 terrorist activity, to the extent such records set forth vulnerability and risk assessments,
36 potential targets, specific tactics, or specific security or emergency procedures, the disclosure
37 of which would jeopardize the safety of governmental personnel or the general public or the
38 security of any governmental facility, building, structure, or information storage system.

39 (c) Information relating to the general adoption of public security plans and
40 arrangements, and budgetary information concerning the authorization or expenditure of public
41 funds to implement public security plans and arrangements, or for the construction, renovation,
42 or repair of public buildings and infrastructure facilities shall be public records. (2001-516, s. 3;
43 2003-180, s. 1.)
44

45 **§ 132-1.8. Confidentiality of photographs and video or audio recordings made pursuant**
46 **to autopsy.**

47 Except as otherwise provided in G.S. 130A-389.1, a photograph or video or audio recording
48 of an official autopsy is not a public record as defined by G.S. 132-1. However, the text of an
49 official autopsy report, including any findings and interpretations prepared in accordance with
50 G.S. 130A-389(a), is a public record and fully accessible by the public. For purposes of this

1 section, an official autopsy is an autopsy performed pursuant to G.S. 130A-389(a). (2005-393,
2 s. 1.)

3
4 **§ 132-1.9. Trial preparation materials.**

5 (a) Scope. – A request to inspect, examine, or copy a public record that is also trial
6 preparation material is governed by this section, and, to the extent this section conflicts with
7 any other provision of law, this section applies.

8 (b) Right to Deny Access. – Except as otherwise provided in this section, a custodian
9 may deny access to a public record that is also trial preparation material. If the denial is based
10 on an assertion that the public record is trial preparation material that was prepared in
11 anticipation of a legal proceeding that has not commenced, the custodian shall, upon request,
12 provide a written justification for the assertion that the public record was prepared in
13 anticipation of a legal proceeding.

14 (c) Trial Preparation Material Prepared in Anticipation of a Legal Proceeding. – Any
15 person who is denied access to a public record that is also claimed to be trial preparation
16 material that was prepared in anticipation of a legal proceeding that has not yet been
17 commenced may petition the court pursuant to G.S. 132-9 for determination as to whether the
18 public record is trial preparation material that was prepared in anticipation of a legal
19 proceeding.

20 (d) During a Legal Proceeding. –

21 (1) When a legal proceeding is subject to G.S. 1A-1, Rule 26(b)(3), or subject to
22 Rule 26(b)(3) of the Federal Rules of Civil Procedure, a party to the pending
23 legal proceeding, including any appeals and postjudgment proceedings, who
24 is denied access to a public record that is also claimed to be trial preparation
25 material that pertains to the pending proceeding may seek access to such
26 record only by motion made in the pending legal proceeding and pursuant to
27 the procedural and substantive standards that apply to that proceeding. A
28 party to the pending legal proceeding may not directly or indirectly
29 commence a separate proceeding for release of such record pursuant to G.S.
30 132-9 in any other court or tribunal.

31 (2) When a legal proceeding is not subject to G.S. 1A-1, Rule 26(b)(3), and not
32 subject to Rule 26(b)(3) of the Federal Rules of Civil Procedure, a party to
33 the pending legal proceeding, including any appeals and postjudgment
34 proceedings, who is denied access to a public record that is also claimed to
35 be trial preparation material that pertains to the pending legal proceeding
36 may petition the court pursuant to G.S. 132-9 for access to such record. In
37 determining whether to require the custodian to provide access to all or any
38 portion of the record, the court or other tribunal shall apply the provisions of
39 G.S. 1A-1, Rule 26(b)(3).

40 (3) Any person who is denied access to a public record that is also claimed to be
41 trial preparation material and who is not a party to the pending legal
42 proceeding to which such record pertains, and who is not acting in concert
43 with or as an agent for any party to the pending legal proceeding, may
44 petition the court pursuant to G.S. 132-9 for a determination as to whether
45 the public record is trial preparation material.

46 (e) Following a Legal Proceeding. – Upon the conclusion of a legal proceeding,
47 including the completion of all appeals and postjudgment proceedings, or, in the case where no
48 legal proceeding has been commenced, upon the expiration of all applicable statutes of
49 limitations and periods of repose, the custodian of a public record that is also claimed to be trial
50 preparation material shall permit the inspection, examination, or copying of such record if any
51 law that is applicable so provides.

1 (f) Effect of Disclosure. – Disclosure pursuant to this section of all or any portion of a
2 public record that is also trial preparation material, whether voluntary or pursuant to an order
3 issued by a court, or issued by an officer in an administrative or quasi-judicial legal proceeding,
4 shall not constitute a waiver of the right to claim that any other document or record constitutes
5 trial preparation material.

6 (g) Trial Preparation Materials That Are Not Public Records. – This section does not
7 require disclosure, or authorize a court to require disclosure, of trial preparation material that is
8 not also a public record or that is under other provisions of this Chapter exempted or protected
9 from disclosure by law or by an order issued by a court, or by an officer in an administrative or
10 quasi-judicial legal proceeding.

11 (h) Definitions. – As used in this section, the following definitions apply:

12 (1) Legal proceeding. – Civil proceedings in any federal or State court. Legal
13 proceeding also includes any federal, State, or local government
14 administrative or quasi-judicial proceeding that is not expressly subject to
15 the provisions of Chapter 1A of the General Statutes or the Federal Rules of
16 Civil Procedure.

17 (2) Trial preparation material. – Any record, wherever located and in whatever
18 form, that is trial preparation material within the meaning of G.S. 1A-1, Rule
19 26(b)(3), any comparable material prepared for any other legal proceeding,
20 and any comparable material exchanged pursuant to a joint defense, joint
21 prosecution, or joint interest agreement in connection with any pending or
22 anticipated legal proceeding. (2005-332, s. 1; 2005-414, s. 4.)
23

24 **§ 132-1.10. Social security numbers and other personal identifying information.**

25 (a) The General Assembly finds the following:

26 (1) The social security number can be used as a tool to perpetuate fraud against
27 a person and to acquire sensitive personal, financial, medical, and familial
28 information, the release of which could cause great financial or personal
29 harm to an individual. While the social security number was intended to be
30 used solely for the administration of the federal Social Security System, over
31 time this unique numeric identifier has been used extensively for identity
32 verification purposes and other legitimate consensual purposes.

33 (2) Although there are legitimate reasons for State and local government
34 agencies to collect social security numbers and other personal identifying
35 information from individuals, government should collect the information
36 only for legitimate purposes or when required by law.

37 (3) When State and local government agencies possess social security numbers
38 or other personal identifying information, the governments should minimize
39 the instances this information is disseminated either internally within
40 government or externally with the general public.

41 (b) Except as provided in subsections (c) and (d) of this section, no agency of the State
42 or its political subdivisions, or any agent or employee of a government agency, shall do any of
43 the following:

44 (1) Collect a social security number from an individual unless authorized by law
45 to do so or unless the collection of the social security number is otherwise
46 imperative for the performance of that agency's duties and responsibilities as
47 prescribed by law. Social security numbers collected by an agency must be
48 relevant to the purpose for which collected and shall not be collected until
49 and unless the need for social security numbers has been clearly
50 documented.

- 1 (2) Fail, when collecting a social security number from an individual, to
2 segregate that number on a separate page from the rest of the record, or as
3 otherwise appropriate, in order that the social security number can be more
4 easily redacted pursuant to a valid public records request.
- 5 (3) Fail, when collecting a social security number from an individual, to
6 provide, at the time of or prior to the actual collection of the social security
7 number by that agency, that individual, upon request, with a statement of the
8 purpose or purposes for which the social security number is being collected
9 and used.
- 10 (4) Use the social security number for any purpose other than the purpose stated.
- 11 (5) **(For applicability date – See Editor's note)** Intentionally communicate or
12 otherwise make available to the general public a person's social security
13 number or other identifying information. "Identifying information", as used
14 in this subdivision, shall have the same meaning as in G.S. 14-113.20(b),
15 except it shall not include electronic identification numbers, electronic mail
16 names or addresses, Internet account numbers, Internet identification names,
17 parent's legal surname prior to marriage, or drivers license numbers
18 appearing on law enforcement records. Identifying information shall be
19 confidential and not be a public record under this Chapter. A record, with
20 identifying information removed or redacted, is a public record if it would
21 otherwise be a public record under this Chapter but for the identifying
22 information. The presence of identifying information in a public record does
23 not change the nature of the public record. If all other public records
24 requirements are met under this Chapter, the agency of the State or its
25 political subdivisions shall respond to a public records request, even if the
26 records contain identifying information, as promptly as possible, by
27 providing the public record with the identifying information removed or
28 redacted.
- 29 (6) Intentionally print or imbed an individual's social security number on any
30 card required for the individual to access government services.
- 31 (7) Require an individual to transmit the individual's social security number over
32 the Internet, unless the connection is secure or the social security number is
33 encrypted.
- 34 (8) Require an individual to use the individual's social security number to access
35 an Internet Web site, unless a password or unique personal identification
36 number or other authentication device is also required to access the Internet
37 Web site.
- 38 (9) Print an individual's social security number on any materials that are mailed
39 to the individual, unless state or federal law required that the social security
40 number be on the document to be mailed. A social security number that is
41 permitted to be mailed under this subdivision may not be printed, in whole
42 or in part, on a postcard or other mailer not requiring an envelope, or visible
43 on the envelope or without the envelope having been opened.
- 44 (c) Subsection (b) of this section does not apply in the following circumstances:
 - 45 (1) To social security numbers or other identifying information disclosed to
46 another governmental entity or its agents, employees, or contractors if
47 disclosure is necessary for the receiving entity to perform its duties and
48 responsibilities. The receiving governmental entity and its agents,
49 employees, and contractors shall maintain the confidential and exempt status
50 of such numbers.

- 1 (2) To social security numbers or other identifying information disclosed
2 pursuant to a court order, warrant, or subpoena.
- 3 (3) To social security numbers or other identifying information disclosed for
4 public health purposes pursuant to and in compliance with Chapter 130A of
5 the General Statutes.
- 6 (4) To social security numbers or other identifying information that have been
7 redacted.
- 8 (5) To certified copies of vital records issued by the State Registrar and other
9 authorized officials pursuant to G.S. 130A-93(c). The State Registrar may
10 disclose any identifying information other than social security numbers on
11 any uncertified vital record.
- 12 (6) To any recorded document in the official records of the register of deeds of
13 the county.
- 14 (7) To any document filed in the official records of the courts.

15 (c1) If an agency of the State or its political subdivisions, or any agent or employee of a
16 government agency, experiences a security breach, as defined in Article 2A of Chapter 75 of
17 the General Statutes, the agency shall comply with the requirements of G.S. 75-65.

18 (d) No person preparing or filing a document to be recorded or filed in the official
19 records of the register of deeds, the Department of the Secretary of State, or of the courts may
20 include any person's social security, employer taxpayer identification, drivers license, state
21 identification, passport, checking account, savings account, credit card, or debit card number,
22 or personal identification (PIN) code or passwords in that document, unless otherwise expressly
23 required by law or court order, adopted by the State Registrar on records of vital events, or
24 redacted. Any loan closing instruction that requires the inclusion of a person's social security
25 number on a document to be recorded shall be void. Any person who violates this subsection
26 shall be guilty of an infraction, punishable by a fine not to exceed five hundred dollars
27 (\$500.00) for each violation.

28 (e) The validity of an instrument as between the parties to the instrument is not affected
29 by the inclusion of personal information on a document recorded or filed with the official
30 records of the register of deeds or the Department of the Secretary of State. The register of
31 deeds or the Department of the Secretary of State may not reject an instrument presented for
32 recording because the instrument contains an individual's personal information.

33 (f) Any person has the right to request that a register of deeds or clerk of court remove,
34 from an image or copy of an official record placed on a register of deeds' or court's Internet
35 Website available to the general public or an Internet Web site available to the general public
36 used by a register of deeds or court to display public records by the register of deeds or clerk of
37 court, the person's social security, employer taxpayer identification, drivers license, state
38 identification, passport, checking account, savings account, credit card, or debit card number,
39 or personal identification (PIN) code or passwords contained in that official record. The request
40 must be made in writing, legibly signed by the requester, and delivered by mail, facsimile, or
41 electronic transmission, or delivered in person to the register of deeds or clerk of court. The
42 request must specify the personal information to be redacted, information that identifies the
43 document that contains the personal information and unique information that identifies the
44 location within the document that contains the social security, employer taxpayer identification,
45 drivers license, state identification, passport, checking account, savings account, credit card, or
46 debit card number, or personal identification (PIN) code or passwords to be redacted. The
47 request for redaction shall be considered a public record with access restricted to the register of
48 deeds, the clerk of court, their staff, or upon order of the court. The register of deeds or clerk of
49 court shall have no duty to inquire beyond the written request to verify the identity of a person
50 requesting redaction and shall have no duty to remove redaction for any reason upon
51 subsequent request by an individual or by order of the court, if impossible to do so. No fee will

1 be charged for the redaction pursuant to such request. Any person who requests a redaction
2 without proper authority to do so shall be guilty of an infraction, punishable by a fine not to
3 exceed five hundred dollars (\$500.00) for each violation.

4 (f1) Without a request made pursuant to subsection (f) of this section, a register of deeds
5 or clerk of court may remove from an image or copy of an official record placed on a register of
6 deeds' or clerk of court's Internet Web site available to the general public, or placed on an
7 Internet Web site available to the general public used by a register of deeds or clerk of court to
8 display public records, a person's social security or drivers license number contained in that
9 official record. Registers of deeds and clerks of court may apply optical character recognition
10 technology or other reasonably available technology to official records placed on Internet Web
11 sites available to the general public in order to, in good faith, identify and redact social security
12 and drivers license numbers.

13 (g) A register of deeds or clerk of court shall immediately and conspicuously post signs
14 throughout his or her offices for public viewing and shall immediately and conspicuously post a
15 notice on any Internet Web site available to the general public used by a register of deeds or
16 clerk of court a notice stating, in substantially similar form, the following:

17 (1) Any person preparing or filing a document for recordation or filing in the
18 official records may not include a social security, employer taxpayer
19 identification, drivers license, state identification, passport, checking
20 account, savings account, credit card, or debit card number, or personal
21 identification (PIN) code or passwords in the document, unless expressly
22 required by law or court order, adopted by the State Registrar on records of
23 vital events, or redacted so that no more than the last four digits of the
24 identification number is included.

25 (2) Any person has a right to request a register of deeds or clerk of court to
26 remove, from an image or copy of an official record placed on a register of
27 deeds' or clerk of court's Internet Web site available to the general public or
28 on an Internet Web site available to the general public used by a register of
29 deeds or clerk of court to display public records, any social security,
30 employer taxpayer identification, drivers license, state identification,
31 passport, checking account, savings account, credit card, or debit card
32 number, or personal identification (PIN) code or passwords contained in an
33 official record. The request must be made in writing and delivered by mail,
34 facsimile, or electronic transmission, or delivered in person, to the register of
35 deeds or clerk of court. The request must specify the personal information to
36 be redacted, information that identifies the document that contains the
37 personal information and unique information that identifies the location
38 within the document that contains the social security, employer taxpayer
39 identification, drivers license, state identification, passport, checking
40 account, savings account, credit card, or debit card number, or personal
41 identification (PIN) code or passwords to be redacted. No fee will be
42 charged for the redaction pursuant to such a request. Any person who
43 requests a redaction without proper authority to do so shall be guilty of an
44 infraction, punishable by a fine not to exceed five hundred dollars (\$500.00)
45 for each violation.

46 (h) Any affected person may petition the court for an order directing compliance with
47 this section. No liability shall accrue to a register of deeds or clerk of court or to his or her
48 agent for any action related to provisions of this section or for any claims or damages that
49 might result from a social security number or other identifying information on the public record
50 or on a register of deeds' or clerk of court's Internet website available to the general public or an

1 Internet Web site available to the general public used by a register of deeds or clerk of court.
2 (2005-414, s. 4; 2006-173, ss. 1-7; 2009-355, s. 3.)
3

4 **§ 132-1.11. Economic development incentives.**

5 (a) Assumptions and Methodologies. – Subject to the provisions of this Chapter
6 regarding confidential information and the withholding of public records relating to the
7 proposed expansion or location of specific business or industrial projects when the release of
8 those records would frustrate the purpose for which they were created, whenever a public
9 agency or its subdivision performs a cost-benefit analysis or similar assessment with respect to
10 economic development incentives offered to a specific business or industrial project, the
11 agency or its subdivision must describe in detail the assumptions and methodologies used in
12 completing the analysis or assessment. This description is a public record and is subject to all
13 provisions of this Chapter and other law regarding public records.

14 (b) Disclosure of Public Records Requirements. – Whenever an agency or its
15 subdivision first proposes, negotiates, or accepts an application for economic development
16 incentives with respect to a specific industrial or business project, the agency or subdivision
17 must disclose that any information obtained by the agency or subdivision is subject to laws
18 regarding disclosure of public records. In addition, the agency or subdivision must fully and
19 accurately describe the instances in which confidential information may be withheld from
20 disclosure, the types of information that qualify as confidential information, and the methods
21 for ensuring that confidential information is not disclosed. (2005-429, s. 1.2.)
22

23 **§ 132-1.12. Limited access to identifying information of minors participating in local
24 government parks and recreation programs.**

25 (a) A public record, as defined by G.S. 132-1, does not include, as to any minor
26 participating in a park or recreation program sponsored by a local government or combination
27 of local governments, any of the following information as to that minor participant: (i) name,
28 (ii) address, (iii) age, (iv) date of birth, (v) telephone number, (vi) the name or address of that
29 minor participant's parent or legal guardian, or (vii) any other identifying information on an
30 application to participate in such program or other records related to that program.

31 (b) The county, municipality, and zip code of residence of each participating minor
32 covered by subsection (a) of this section is a public record, with the information listed in
33 subsection (a) of this section redacted.

34 (c) Nothing in this section makes the information listed in subsection (a) of this section
35 confidential information. (2008-126, s. 1.)
36

37 **§ 132-1.13. Electronic lists of subscribers open for inspection but not available for
38 copying.**

39 (a) Notwithstanding this chapter, when a unit of local government maintains an
40 electronic mail list of individual subscribers, this chapter does not require that unit of local
41 government to provide a copy of the list. The list shall be available for public inspection in
42 either printed or electronic format or both as the unit of local government elects.

43 (b) If a unit of local government maintains an electronic mail list of individual
44 subscribers, the unit of local government and its employees and officers may use that list only:
45 (i) for the purpose for which it was subscribed to; (ii) to notify subscribers of an emergency to
46 the public health or public safety; or (iii) in case of deletion of that list, to notify subscribers of
47 the existence of any similar lists to subscribe to.

48 (c) Repealed by Session Laws 2011-54, s. 1, effective April 28, 2011. (2010-83, ss.
49 1-3; 2011-54, s. 1.)
50

51 **§ 132-1.14:** Reserved for future codification purposes.

1
2 § 132-1.15: Reserved for future codification purposes.

3
4 § 132-1.16: Reserved for future codification purposes.

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6 § 132-1.17: Reserved for future codification purposes.

7
8 § 132-1.18: Reserved for future codification purposes.

9
10 § 132-1.19: Reserved for future codification purposes.

11
12 § 132-1.20: Reserved for future codification purposes.

13
14 § 132-1.21: Reserved for future codification purposes.

15
16 § 132-1.22: Reserved for future codification purposes.

17
18 **§ 132-1.23. Eugenics program records.**

19 (a) Records in the custody of the State, including the North Carolina Justice for
20 Sterilization Foundation, concerning the North Carolina Eugenics Board program are not public
21 records to the extent they concern: (i) persons impacted by the program, (ii) persons or their
22 guardians or authorized agents inquiring about the impact of the program on them, (iii) persons
23 or their guardians or authorized agents inquiring about the potential impact of the program on
24 others.

25 (b) Notwithstanding subsection (a) of this section, a person impacted by the program
26 may obtain that person's individual records under the program, and a guardian or authorized
27 agent of that person may also obtain them. (2011-188, s. 1.)

28
29 **§ 132-2. Custodian designated.**

30 The public official in charge of an office having public records shall be the custodian
31 thereof. (1935, c. 265, s. 2.)

32
33 **§ 132-3. Destruction of records regulated.**

34 (a) Prohibition. – No public official may destroy, sell, loan, or otherwise dispose of any
35 public record, except in accordance with G.S. 121-5 and G.S. 130A-99, without the consent of
36 the Department of Cultural Resources. Whoever unlawfully removes a public record from the
37 office where it is usually kept, or alters, defaces, mutilates or destroys it shall be guilty of a
38 Class 3 misdemeanor and upon conviction only fined not less than ten dollars (\$10.00) nor
39 more than five hundred dollars (\$500.00).

40 (b) Revenue Records. – Notwithstanding subsection (a) of this section and G.S. 121-5,
41 when a record of the Department of Revenue has been copied in any manner, the original
42 record may be destroyed upon the order of the Secretary of Revenue. If a record of the
43 Department of Revenue has not been copied, the original record shall be preserved for at least
44 three years. After three years the original record may be destroyed upon the order of the
45 Secretary of Revenue.

46 (c) Employment Security Records. – Notwithstanding subsection (a) of this section and
47 G.S. 121-5, when a record of the Division of Employment Security has been copied in any
48 manner, the original record may be destroyed upon the order of the Division. If a record of that
49 Division has not been copied, the original record shall be preserved for at least three years.
50 After three years the original record may be destroyed upon the order of the Assistant Secretary
51 of Commerce. (1935, c. 265, s. 3; 1943, c. 237; 1953, c. 675, s. 17; 1957, c. 330, s. 2; 1973, c.

1 476, s. 48; 1993, c. 485, s. 39; c. 539, s. 966; 1994, Ex. Sess., c. 24, s. 14(c); 1997-309, s. 12;
2 2001-115, s. 2; 2011-401, s. 3.16.)

3
4 **§ 132-4. Disposition of records at end of official's term.**

5 Whoever has the custody of any public records shall, at the expiration of his term of office,
6 deliver to his successor, or, if there be none, to the Department of Cultural Resources, all
7 records, books, writings, letters and documents kept or received by him in the transaction of his
8 official business; and any such person who shall refuse or neglect for the space of 10 days after
9 request made in writing by any citizen of the State to deliver as herein required such public
10 records to the person authorized to receive them shall be guilty of a Class 1 misdemeanor.
11 (1935, c. 265, s. 4; 1943, c. 237; 1973, c. 476, s. 48; 1975, c. 696, s. 1; 1993, c. 539, s. 967;
12 1994, Ex. Sess., c. 24, s. 14(c).)

13
14 **§ 132-5. Demanding custody.**

15 Whoever is entitled to the custody of public records shall demand them from any person
16 having illegal possession of them, who shall forthwith deliver the same to him. If the person
17 who unlawfully possesses public records shall without just cause refuse or neglect for 10 days
18 after a request made in writing by any citizen of the State to deliver such records to their lawful
19 custodian, he shall be guilty of a Class 1 misdemeanor. (1935, c. 265, s. 5; 1975, c. 696, s. 2;
20 1993, c. 539, s. 968; 1994, Ex. Sess., c. 24, s. 14(c).)

21
22 **§ 132-5.1. Regaining custody; civil remedies.**

23 (a) The Secretary of the Department of Cultural Resources or his designated
24 representative or any public official who is the custodian of public records which are in the
25 possession of a person or agency not authorized by the custodian or by law to possess such
26 public records may petition the superior court in the county in which the person holding such
27 records resides or in which the materials in issue, or any part thereof, are located for the return
28 of such public records. The court may order such public records to be delivered to the petitioner
29 upon finding that the materials in issue are public records and that such public records are in
30 the possession of a person not authorized by the custodian of the public records or by law to
31 possess such public records. If the order of delivery does not receive compliance, the petitioner
32 may request that the court enforce such order through its contempt power and procedures.

33 (b) At any time after the filing of the petition set out in subsection (a) or
34 contemporaneous with such filing, the public official seeking the return of the public records
35 may by ex parte petition request the judge or the court in which the action was filed to grant
36 one of the following provisional remedies:

- 37 (1) An order directed at the sheriff commanding him to seize the materials
38 which are the subject of the action and deliver the same to the court under
39 the circumstances hereinafter set forth; or
40 (2) A preliminary injunction preventing the sale, removal, disposal or
41 destruction of or damage to such public records pending a final judgment by
42 the court.

43 (c) The judge or court aforesaid shall issue an order of seizure or grant a preliminary
44 injunction upon receipt of an affidavit from the petitioner which alleges that the materials at
45 issue are public records and that unless one of said provisional remedies is granted, there is a
46 danger that such materials shall be sold, secreted, removed out of the State or otherwise
47 disposed of so as not to be forthcoming to answer the final judgment of the court respecting the
48 same; or that such property may be destroyed or materially damaged or injured if not seized or
49 if injunctive relief is not granted.

1 (d) The aforementioned order of seizure or preliminary injunction shall issue without
2 notice to the respondent and without the posting of any bond or other security by the petitioner.
3 (1975, c. 787, s. 2.)
4

5 **§ 132-6. Inspection and examination of records.**

6 (a) Every custodian of public records shall permit any record in the custodian's custody
7 to be inspected and examined at reasonable times and under reasonable supervision by any
8 person, and shall, as promptly as possible, furnish copies thereof upon payment of any fees as
9 may be prescribed by law. As used herein, "custodian" does not mean an agency that holds the
10 public records of other agencies solely for purposes of storage or safekeeping or solely to
11 provide data processing.

12 (b) No person requesting to inspect and examine public records, or to obtain copies
13 thereof, shall be required to disclose the purpose or motive for the request.

14 (c) No request to inspect, examine, or obtain copies of public records shall be denied on
15 the grounds that confidential information is commingled with the requested nonconfidential
16 information. If it is necessary to separate confidential from nonconfidential information in
17 order to permit the inspection, examination, or copying of the public records, the public agency
18 shall bear the cost of such separation on the following schedule:

19 State agencies after June 30, 1996;

20 Municipalities with populations of 10,000 or more, counties with populations of
21 25,000 or more, as determined by the 1990 U.S. Census, and public hospitals in
22 those counties, after June 30, 1997;

23 Municipalities with populations of less than 10,000, counties with populations of
24 less than 25,000, as determined by the 1990 U.S. Census, and public hospitals in
25 those counties, after June 30, 1998;

26 Political subdivisions and their agencies that are not otherwise covered by this
27 schedule, after June 30, 1998.

28 (d) Notwithstanding the provisions of subsections (a) and (b) of this section, public
29 records relating to the proposed expansion or location of specific business or industrial projects
30 may be withheld so long as their inspection, examination or copying would frustrate the
31 purpose for which such public records were created; provided, however, that nothing herein
32 shall be construed to permit the withholding of public records relating to general economic
33 development policies or activities. Once the State, a local government, or the specific business
34 has announced a commitment by the business to expand or locate a specific project in this State
35 or a final decision not to do so and the business has communicated that commitment or decision
36 to the State or local government agency involved with the project, the provisions of this
37 subsection allowing public records to be withheld by the agency no longer apply. Once the
38 provisions of this subsection no longer apply, the agency shall disclose as soon as practicable,
39 and within 25 business days, public records requested for the announced project that are not
40 otherwise made confidential by law. An announcement that a business or industrial project has
41 committed to expand or locate in the State shall not require disclosure of local government
42 records relating to the project if the business has not selected a specific location within the State
43 for the project. Once a specific location for the project has been determined, local government
44 records must be disclosed, upon request, in accordance with the provisions of this section. For
45 purposes of this section, "local government records" include records maintained by the State
46 that relate to a local government's efforts to attract the project.

47 (e) The application of this Chapter is subject to the provisions of Article 1 of Chapter
48 121 of the General Statutes, the North Carolina Archives and History Act.

49 (f) Notwithstanding the provisions of subsection (a) of this section, the inspection or
50 copying of any public record which, because of its age or condition could be damaged during

1 inspection or copying, may be made subject to reasonable restrictions intended to preserve the
2 particular record. (1935, c. 265, s. 6; 1987, c. 835, s. 1; 1995, c. 388, s. 2; 2005-429, s. 1.1.)

3
4 **§ 132-6.1. Electronic data-processing records.**

5 (a) After June 30, 1996, no public agency shall purchase, lease, create, or otherwise
6 acquire any electronic data-processing system for the storage, manipulation, or retrieval of
7 public records unless it first determines that the system will not impair or impede the agency's
8 ability to permit the public inspection and examination, and to provide electronic copies of such
9 records. Nothing in this subsection shall be construed to require the retention by the public
10 agency of obsolete hardware or software.

11 (b) Every public agency shall create an index of computer databases compiled or
12 created by a public agency on the following schedule:

13 State agencies by July 1, 1996;

14 Municipalities with populations of 10,000 or more, counties with populations of
15 25,000 or more, as determined by the 1990 U.S. Census, and public hospitals in
16 those counties, by July 1, 1997;

17 Municipalities with populations of less than 10,000, counties with populations of
18 less than 25,000, as determined by the 1990 U.S. Census, and public hospitals in
19 those counties, by July 1, 1998;

20 Political subdivisions and their agencies that are not otherwise covered by this
21 schedule, after June 30, 1998.

22 The index shall be a public record and shall include, at a minimum, the following information
23 with respect to each database listed therein: a list of the data fields; a description of the format
24 or record layout; information as to the frequency with which the database is updated; a list of
25 any data fields to which public access is restricted; a description of each form in which the
26 database can be copied or reproduced using the agency's computer facilities; and a schedule of
27 fees for the production of copies in each available form. Electronic databases compiled or
28 created prior to the date by which the index must be created in accordance with this subsection
29 may be indexed at the public agency's option. The form, content, language, and guidelines for
30 the index and the databases to be indexed shall be developed by the Office of Archives and
31 History in consultation with officials at other public agencies.

32 (c) Nothing in this section shall require a public agency to create a computer database
33 that the public agency has not otherwise created or is not otherwise required to be created.
34 Nothing in this section requires a public agency to disclose security features of its electronic
35 data processing systems, information technology systems, telecommunications networks, or
36 electronic security systems, including hardware or software security, passwords, or security
37 standards, procedures, processes, configurations, software, and codes.

38 (d) The following definitions apply in this section:

39 (1) Computer database. – A structured collection of data or documents residing
40 in a database management program or spreadsheet software.

41 (2) Computer hardware. – Any tangible machine or device utilized for the
42 electronic storage, manipulation, or retrieval of data.

43 (3) Computer program. – A series of instructions or statements that permit the
44 storage, manipulation, and retrieval of data within an electronic
45 data-processing system, together with any associated documentation. The
46 term does not include the original data, or any analysis, compilation, or
47 manipulated form of the original data produced by the use of the program or
48 software.

49 (4) Computer software. – Any set or combination of computer programs. The
50 term does not include the original data, or any analysis, compilation, or

1 manipulated form of the original data produced by the use of the program or
2 software.

- 3 (5) Electronic data-processing system. – Computer hardware, computer
4 software, or computer programs or any combination thereof, regardless of
5 kind or origin. (1995, c. 388, s. 3; 2000-71, s. 1; 2002-159, s. 35(i).)
6

7 **§ 132-6.2. Provisions for copies of public records; fees.**

8 (a) Persons requesting copies of public records may elect to obtain them in any and all
9 media in which the public agency is capable of providing them. No request for copies of public
10 records in a particular medium shall be denied on the grounds that the custodian has made or
11 prefers to make the public records available in another medium. The public agency may assess
12 different fees for different media as prescribed by law.

13 (b) Persons requesting copies of public records may request that the copies be certified
14 or uncertified. The fees for certifying copies of public records shall be as provided by law.
15 Except as otherwise provided by law, no public agency shall charge a fee for an uncertified
16 copy of a public record that exceeds the actual cost to the public agency of making the copy.
17 For purposes of this subsection, "actual cost" is limited to direct, chargeable costs related to the
18 reproduction of a public record as determined by generally accepted accounting principles and
19 does not include costs that would have been incurred by the public agency if a request to
20 reproduce a public record had not been made. Notwithstanding the provisions of this
21 subsection, if the request is such as to require extensive use of information technology
22 resources or extensive clerical or supervisory assistance by personnel of the agency involved,
23 or if producing the record in the medium requested results in a greater use of information
24 technology resources than that established by the agency for reproduction of the volume of
25 information requested, then the agency may charge, in addition to the actual cost of duplication,
26 a special service charge, which shall be reasonable and shall be based on the actual cost
27 incurred for such extensive use of information technology resources or the labor costs of the
28 personnel providing the services, or for a greater use of information technology resources that
29 is actually incurred by the agency or attributable to the agency. If anyone requesting public
30 information from any public agency is charged a fee that the requester believes to be unfair or
31 unreasonable, the requester may ask the State Chief Information Officer or his designee to
32 mediate the dispute.

33 (c) Persons requesting copies of computer databases may be required to make or submit
34 such requests in writing. Custodians of public records shall respond to all such requests as
35 promptly as possible. If the request is granted, the copies shall be provided as soon as
36 reasonably possible. If the request is denied, the denial shall be accompanied by an explanation
37 of the basis for the denial. If asked to do so, the person denying the request shall, as promptly
38 as possible, reduce the explanation for the denial to writing.

39 (d) Nothing in this section shall be construed to require a public agency to respond to
40 requests for copies of public records outside of its usual business hours.

41 (e) Nothing in this section shall be construed to require a public agency to respond to a
42 request for a copy of a public record by creating or compiling a record that does not exist. If a
43 public agency, as a service to the requester, voluntarily elects to create or compile a record, it
44 may negotiate a reasonable charge for the service with the requester. Nothing in this section
45 shall be construed to require a public agency to put into electronic medium a record that is not
46 kept in electronic medium. (1995, c. 388, s. 3; 2004-129, s. 38.)
47

48 **§ 132-7. Keeping records in safe places; copying or repairing; certified copies.**

49 Insofar as possible, custodians of public records shall keep them in fireproof safes, vaults,
50 or rooms fitted with noncombustible materials and in such arrangement as to be easily
51 accessible for convenient use. All public records should be kept in the buildings in which they

1 are ordinarily used. Record books should be copied or repaired, renovated or rebound if worn,
2 mutilated, damaged or difficult to read. Whenever any State, county, or municipal records are
3 in need of repair, restoration, or rebinding, the head of such State agency, department, board, or
4 commission, the board of county commissioners of such county, or the governing body of such
5 municipality may authorize that the records in need of repair, restoration, or rebinding be
6 removed from the building or office in which such records are ordinarily kept, for the length of
7 time required to repair, restore, or rebind them. Any public official who causes a record book to
8 be copied shall attest it and shall certify on oath that it is an accurate copy of the original book.
9 The copy shall then have the force of the original. (1935, c. 265, s. 7; 1951, c. 294.)

10
11 **§ 132-8. Assistance by and to Department of Cultural Resources.**

12 The Department of Cultural Resources shall have the right to examine into the condition of
13 public records and shall give advice and assistance to public officials in the solution of their
14 problems of preserving, filing and making available the public records in their custody. When
15 requested by the Department of Cultural Resources, public officials shall assist the Department
16 in the preparation of an inclusive inventory of records in their custody, to which shall be
17 attached a schedule, approved by the head of the governmental unit or agency having custody
18 of the records and the Secretary of Cultural Resources, establishing a time period for the
19 retention or disposal of each series of records. Upon the completion of the inventory and
20 schedule, the Department of Cultural Resources shall (subject to the availability of necessary
21 space, staff, and other facilities for such purposes) make available space in its Records Center
22 for the filing of semicurrent records so scheduled and in its archives for noncurrent records of
23 permanent value, and shall render such other assistance as needed, including the microfilming
24 of records so scheduled. (1935, c. 265, s. 8; 1943, c. 237; 1959, c. 68, s. 2; 1973, c. 476, s. 48.)

25
26 **§ 132-8.1. Records management program administered by Department of Cultural**
27 **Resources; establishment of standards, procedures, etc.; surveys.**

28 A records management program for the application of efficient and economical
29 management methods to the creation, utilization, maintenance, retention, preservation, and
30 disposal of official records shall be administered by the Department of Cultural Resources. It
31 shall be the duty of that Department, in cooperation with and with the approval of the
32 Department of Administration, to establish standards, procedures, and techniques for effective
33 management of public records, to make continuing surveys of paper work operations, and to
34 recommend improvements in current records management practices including the use of space,
35 equipment, and supplies employed in creating, maintaining, and servicing records. It shall be
36 the duty of the head of each State agency and the governing body of each county, municipality
37 and other subdivision of government to cooperate with the Department of Cultural Resources in
38 conducting surveys and to establish and maintain an active, continuing program for the
39 economical and efficient management of the records of said agency, county, municipality, or
40 other subdivision of government. (1961, c. 1041; 1973, c. 476, s. 48.)

41
42 **§ 132-8.2. Selection and preservation of records considered essential; making or**
43 **designation of preservation duplicates; force and effect of duplicates or copies**
44 **thereof.**

45 In cooperation with the head of each State agency and the governing body of each county,
46 municipality, and other subdivision of government, the Department of Cultural Resources shall
47 establish and maintain a program for the selection and preservation of public records
48 considered essential to the operation of government and to the protection of the rights and
49 interests of persons, and, within the limitations of funds available for the purpose, shall make or
50 cause to be made preservation duplicates or designate as preservation duplicates existing copies
51 of such essential public records. Preservation duplicates shall be durable, accurate, complete

1 and clear, and such duplicates made by a photographic, photostatic, microfilm, micro card,
2 miniature photographic, or other process which accurately reproduces and forms a durable
3 medium for so reproducing the original shall have the same force and effect for all purposes as
4 the original record whether the original record is in existence or not. A transcript,
5 exemplification, or certified copy of such preservation duplicate shall be deemed for all
6 purposes to be a transcript, exemplification, or certified copy of the original record. Such
7 preservation duplicates shall be preserved in the place and manner of safekeeping prescribed by
8 the Department of Cultural Resources. (1961, c. 1041; 1973, c. 476, s. 48.)
9

10 **§ 132-9. Access to records.**

11 (a) Any person who is denied access to public records for purposes of inspection and
12 examination, or who is denied copies of public records, may apply to the appropriate division
13 of the General Court of Justice for an order compelling disclosure or copying, and the court
14 shall have jurisdiction to issue such orders if the person has complied with G.S. 7A-38.3E.
15 Actions brought pursuant to this section shall be set down for immediate hearing, and
16 subsequent proceedings in such actions shall be accorded priority by the trial and appellate
17 courts.

18 (b) In an action to compel disclosure of public records which have been withheld
19 pursuant to the provisions of G.S. 132-6 concerning public records relating to the proposed
20 expansion or location of particular businesses and industrial projects, the burden shall be on the
21 custodian withholding the records to show that disclosure would frustrate the purpose of
22 attracting that particular business or industrial project.

23 (c) In any action brought pursuant to this section in which a party successfully compels
24 the disclosure of public records, the court shall allow a party seeking disclosure of public
25 records who substantially prevails to recover its reasonable attorneys' fees if attributed to those
26 public records. The court may not assess attorneys' fees against the governmental body or
27 governmental unit if the court finds that the governmental body or governmental unit acted in
28 reasonable reliance on any of the following:

- 29 (1) A judgment or an order of a court applicable to the governmental unit or
30 governmental body.
- 31 (2) The published opinion of an appellate court, an order of the North Carolina
32 Business Court, or a final order of the Trial Division of the General Court of
33 Justice.
- 34 (3) A written opinion, decision, or letter of the Attorney General.

35 Any attorneys' fees assessed against a public agency under this section shall be charged
36 against the operating expenses of the agency; provided, however, that the court may order that
37 all or any portion of any attorneys' fees so assessed be paid personally by any public employee
38 or public official found by the court to have knowingly or intentionally committed, caused,
39 permitted, suborned, or participated in a violation of this Article. No order against any public
40 employee or public official shall issue in any case where the public employee or public official
41 seeks the advice of an attorney and such advice is followed.

42 (d) If the court determines that an action brought pursuant to this section was filed in
43 bad faith or was frivolous, the court shall assess a reasonable attorney's fee against the person
44 or persons instituting the action and award it to the public agency as part of the costs.

45 (e) Notwithstanding subsection (c) of this section, the court may not assess attorneys'
46 fees against a public hospital created under Article 2 of Chapter 131E of the General Statutes if
47 the court finds that the action was brought by or on behalf of a competing health care provider
48 for obtaining information to be used to gain a competitive advantage. (1935, c. 265, s. 9; 1975,
49 c. 787, s. 3; 1987, c. 835, s. 2; 1995, c. 388, s. 4; 2005-332, s. 2; 2010-169, s. 21(c).)
50

51 **§ 132-10. Qualified exception for geographical information systems.**

1 Geographical information systems databases and data files developed and operated by
2 counties and cities are public records within the meaning of this Chapter. The county or city
3 shall provide public access to such systems by public access terminals or other output devices.
4 Upon request, the county or city shall furnish copies, in documentary or electronic form, to
5 anyone requesting them at reasonable cost. As a condition of furnishing an electronic copy,
6 whether on magnetic tape, magnetic disk, compact disk, or photo-optical device, a county or
7 city may require that the person obtaining the copy agree in writing that the copy will not be
8 resold or otherwise used for trade or commercial purposes. For purposes of this section,
9 publication or broadcast by the news media, real estate trade associations, or Multiple Listing
10 Services operated by real estate trade associations shall not constitute a resale or use of the data
11 for trade or commercial purposes and use of information without resale by a licensed
12 professional in the course of practicing the professional's profession shall not constitute use for
13 a commercial purpose. For purposes of this section, resale at cost by a real estate trade
14 association or Multiple Listing Services operated by a real estate trade association shall not
15 constitute a resale or use of the data for trade or commercial purposes. (1995, c. 388, s. 5;
16 1997-193, s. 1.)