

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE BILL 22  
PROPOSED COMMITTEE SUBSTITUTE S22-PCS35263-TU-7

Short Title: Historic Artifact Mgt. and Patriotism Act.

(Public)

Sponsors:

Referred to:

February 4, 2015

A BILL TO BE ENTITLED

AN ACT TO ENSURE RESPECTFUL TREATMENT OF THE AMERICAN FLAG AND THE NORTH CAROLINA FLAG BY STATE AGENCIES AND OTHER POLITICAL SUBDIVISIONS OF THE STATE; TO ESTABLISH THE DIVISION OF VETERANS AFFAIRS AS THE CLEARINGHOUSE FOR THE DISPOSAL OF WORN, TATTERED, AND DAMAGED FLAGS; TO PROVIDE FOR THE PROTECTION OF MONUMENTS AND MEMORIALS COMMEMORATING EVENTS, PERSONS, AND MILITARY SERVICE IN NORTH CAROLINA HISTORY; AND TO TRANSFER CUSTODY OF CERTAIN HISTORIC DOCUMENTS IN THE POSSESSION OF THE OFFICE OF THE SECRETARY OF STATE TO THE DEPARTMENT OF CULTURAL RESOURCES AND TO FACILITATE PUBLIC OPPORTUNITY TO VIEW THESE DOCUMENTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** This act shall be known as the Cultural History Artifact Management and Patriotism Act of 2015.

**SECTION 2.(a)** G.S. 144-5 reads as rewritten:

"§ 144-5. **Flags to conform to law-law; display and handling of a flag of the United States of America or the State of North Carolina by State institutions and other political subdivisions of the State.**

(a) No State flag shall be is allowed in or over any building here mentioned unless such the flag conforms to the description of the State flag contained in this chapter. Chapter.

(b) A flag of the United States of America or the State of North Carolina that is displayed by a State institution or a political subdivision of the State on the premises of a building of a State institution or a political subdivision of the State shall be handled, displayed, stored, and respectfully disposed of in accordance with the federal Flag Code, 4 U.S.C. §§ 1-10."

**SECTION 2.(b)** G.S. 144-9 reads as rewritten:

"§ 144-9. **Retirement of State flag-a flag of the United States of America or the State of North Carolina.**

(a) A State institution or a political subdivision of the State in possession of a flag of the United States of America or the State of North Carolina that is no longer a fitting emblem for display because it is worn, tattered, or otherwise damaged shall make arrangements for its respectful disposal and may deliver the flag to the Division of Veterans Affairs in the Department of Administration for disposal. The Division shall accept a flag delivered to it and shall make arrangements for its respectful disposal.

(b) The Division of Veterans Affairs shall accept, at no charge, a worn, tattered, or otherwise damaged flag of the United States of America or the State of North Carolina from a



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1 citizen of the State and shall make arrangements for its respectful disposal. The Division shall  
2 establish a flag retirement program to encourage citizens to send in or drop off such flags at the  
3 Division's office in Raleigh and at any Veterans Home or Veterans Cemetery in the State and  
4 may establish other locations for flag drop-off as it deems appropriate. The Division shall  
5 advertise the flag retirement program on its Web site and by printed posters placed at all flag  
6 drop-off locations. On or before December 31, 2016, and annually thereafter, the Division shall  
7 report the number of flags received under the program to the Joint Legislative Committee on  
8 Governmental Operations.

9 (c) An official flag of the State that is no longer a fitting emblem for display because it  
10 is worn, tattered, or otherwise damaged may be respectfully retired by fire."

11 SECTION 2.(c) Subsection (b) of this section becomes effective December 1,  
12 2015. The remainder of this section is effective when it becomes law.

13 SECTION 3.(a) The caption of Article 1 of Chapter 100 of the General Statutes  
14 reads as rewritten:

15 "Article 1.

16 "Approval and Protection of Monuments, Memorials, Works of Art, etc.

17 SECTION 3.(b) G.S. 100-2 reads as rewritten:

18 "**§ 100-2. Approval of memorials before acceptance by State; ~~regulation of existing~~**  
19 **~~memorials, etc.;~~ "work of art" defined; ~~highway markers defined.~~**

20 (a) ~~No memorial~~ A monument, memorial, or work of art ~~shall hereafter may not~~  
21 become the property of the State by purchase, gift or otherwise, unless ~~such memorial~~ the  
22 monument, memorial, or work of art, or a design of the same, together with the proposed  
23 location of the same, ~~shall first have been~~ is submitted to and approved by the North Carolina  
24 Historical ~~Commission; nor shall any memorial~~ Commission. A monument, memorial, or work  
25 of art, until so submitted and approved, may not be contracted for, placed in or ~~upon~~ upon, or  
26 allowed to extend over any property belonging to the State. ~~No existing memorial or work of~~  
27 ~~art owned by the State shall be removed, relocated, or altered in any way without approval of~~  
28 ~~the North Carolina Historical Commission.~~ The term "work of art" as used in this section ~~shall~~  
29 ~~include~~ Article includes any painting, portrait, mural decoration, stained glass, statue,  
30 bas-relief, sculpture, ~~monument,~~ tablet, fountain, or other article or structure of a permanent  
31 character intended for decoration or commemoration. ~~This section, however, shall not apply to~~  
32 ~~markers set up by the Board of Transportation in cooperation with the Department of~~  
33 ~~Environment and Natural Resources and the Department of Cultural Resources as provided by~~  
34 ~~Chapter 197 of the Public Laws of 1935."~~

35 SECTION 3.(c) Article 1 of Chapter 100 of the General Statutes is amended by  
36 adding a new section to read:

37 "**§ 100-2.1. Protection of monuments, memorials, and works of art.**

38 (a) Approval Required. – Except as otherwise provided in subsection (b) of this section,  
39 a monument, memorial, or work of art owned by the State may not be removed, relocated, or  
40 altered in any way without the approval of the North Carolina Historical Commission.

41 (b) Limitations on Removal. – An object of remembrance located on public property  
42 may not be permanently removed and may only be relocated, whether temporarily or  
43 permanently, under the circumstances listed in this subsection and subject to the limitations in  
44 this subsection. An object of remembrance that is temporarily relocated shall be returned to its  
45 original location within 90 days of completion of the project that required its temporary  
46 removal. An object of remembrance that is permanently relocated shall be relocated to a site of  
47 similar prominence, honor, visibility, availability, and access that are within the boundaries of  
48 the jurisdiction from which it was relocated. An object of remembrance may not be relocated to  
49 a museum, cemetery, or mausoleum unless it was originally placed at such a location. As used  
50 in this section, the term "object of remembrance" means a monument, memorial, plaque, statue,  
51 marker, or display of a permanent character that commemorates an event, a person, or military

1 service that is part of North Carolina's history. The circumstances under which an object of  
2 remembrance may be relocated are either of the following:

- 3 (1) When appropriate measures are required by the State or a political  
4 subdivision of the State to preserve the object.
- 5 (2) When necessary for construction, renovation, or reconfiguration of  
6 buildings, open spaces, parking, or transportation projects.
- 7 (c) Exceptions. – This section does not apply to the following:
- 8 (1) Highway markers set up by the Board of Transportation in cooperation with  
9 the Department of Environment and Natural Resources and the Department  
10 of Cultural Resources as provided by Chapter 197 of the Public Laws of  
11 1935.
- 12 (2) An object of remembrance owned by a private party that is located on public  
13 property and that is the subject of a legal agreement between the private  
14 party and the State or a political subdivision of the State governing the  
15 removal or relocation of the object.
- 16 (3) An object of remembrance for which a building inspector or similar official  
17 has determined poses a threat to public safety because of an unsafe or  
18 dangerous condition."

19 SECTION 3.(d) G.S. 160A-400.13 reads as rewritten:

20 "§ 160A-400.13. ~~Certain changes not prohibited.~~Protection of certain landmarks;  
21 permissible changes.

22 (a) Objects of Remembrance. – G.S. 100-2.1 supersedes this Part with regard to the  
23 removal or relocation of a historic landmark designated under this Part that meets the definition  
24 of an "object of remembrance" as defined in G.S. 100-2.1.

25 (b) Other Historic Landmarks. – Nothing in this Part shall be construed to prevent the  
26 ordinary maintenance or repair of any exterior architectural feature in a historic district or of a  
27 landmark which does not involve a change in design, material or appearance thereof, nor to  
28 prevent the construction, reconstruction, alteration, restoration, moving or demolition of any  
29 such feature which the building inspector or similar official shall certify is required by the  
30 public safety because of an unsafe or dangerous condition. Nothing in this Part shall be  
31 construed to prevent a property owner from making any use of his property that is not  
32 prohibited by other law. Nothing in this Part shall be construed to prevent a) the maintenance,  
33 or b) in the event of an emergency the immediate restoration, of any existing above-ground  
34 utility structure without approval by the preservation commission."

35 SECTION 3.(e) This section is effective when it becomes law.

36 SECTION 4.(a) G.S. 147-36 reads as rewritten:

37 "§ 147-36. **Duties of Secretary of State.**

38 It is the duty of the Secretary of State:

- 39 (1) To perform such duties as may then be devolved upon the Secretary by  
40 resolution of the two houses of the General Assembly or either of  
41 ~~them;~~them.
- 42 (2) To attend the Governor, whenever required by the Governor, for the purpose  
43 of receiving documents ~~which that~~ which have passed the great seal;~~seal.~~
- 44 (3) To receive and keep all conveyances and mortgages belonging to the  
45 ~~State;~~State.
- 46 (4) To distribute annually the statutes and the legislative ~~journals;~~journals.
- 47 (5) To distribute the acts of Congress received at the Secretary's office in the  
48 manner prescribed for the statutes of the ~~State;~~State.
- 49 (6) To keep a receipt book, in which the Secretary shall take from every person  
50 to whom a grant shall be delivered, a receipt for the same; but may ~~inclose~~  
51 enclose grants by mail in a registered letter at the expense of the grantee,

- 1 unless otherwise directed, first entering the same upon the receipt  
2 ~~book;~~book.
- 3 (7) To issue charters and all necessary certificates for the incorporation,  
4 domestication, suspension, reinstatement, cancellation and dissolution of  
5 corporations as may be required by the corporation laws of the State and  
6 maintain a record ~~thereof;~~of the charters and necessary certificates issued.
- 7 (8) To issue certificates of registration of trademarks, labels and designs as may  
8 be required by law and maintain a record ~~thereof;~~of those certificates of  
9 registration.
- 10 (9) To maintain a Division of Publications to compile data on the State's several  
11 governmental agencies and for legislative ~~reference;~~reference.
- 12 (10) To receive, enroll and safely preserve the current edition of the State  
13 Constitution of the State and all amendments thereto to that edition and to  
14 transfer previous editions of the State Constitution and amendments to those  
15 editions to the Department of Cultural Resources for preservation and  
16 safekeeping in the State Archives.
- 17 (11) To serve as a member of such boards and commissions as the Constitution  
18 and laws of the State may ~~designate;~~designate.
- 19 (12) To administer the Securities Law of the State, regulating the issuance and  
20 sale of securities, as is now or may be ~~directed;~~directed.
- 21 (13) To receive and keep all oaths of public officials required by law to be filed  
22 in the Secretary's office, and as Secretary of State, ~~is fully empowered to~~  
23 administer official oaths to any public official of whom an oath is  
24 ~~required;~~required.
- 25 (14) To receive and maintain a journal of all appointments made to any State  
26 board, agency, commission, council or authority ~~which that~~ is filed in the  
27 office of the Secretary of ~~State;~~State.
- 28 (15) To regulate the solicitation of contributions pursuant to Chapter 131F of the  
29 ~~General Statutes;~~ and Statutes.
- 30 (16) To apply for and accept grants from the federal government and its agencies  
31 and from any foundation, corporation, association, or individual in order to  
32 effectuate the purposes of the Nonprofit Corporation Act, Chapter 55A of  
33 the General Statutes, and to further aid in the operation and development of  
34 nonprofit corporations. The Secretary shall comply with the terms,  
35 conditions, and limitations of grants applied for and accepted and shall  
36 expend grant funds pursuant to Chapter 143C of the General Statutes, The  
37 State Budget Act."

38 **SECTION 4.(b)** The Secretary of State shall transfer to the Department of Cultural  
39 Resources all previously adopted editions of the State Constitution and amendments to the  
40 State Constitution, other than the current edition and amendments to that edition, and ratified  
41 amendments to the United States Constitution. The Secretary of State shall, at the request of the  
42 Secretary of the Department of Cultural Resources, provide timely, on-site access to the  
43 Department staff for study and review of all other documents to determine their historical  
44 significance. If, during these periodic reviews, the Department identifies historical documents  
45 that are no longer legally necessary to remain in the possession of the Secretary of State, the  
46 Secretary shall make arrangements to transfer these historical documents to the Department in a  
47 timely fashion for preservation and safekeeping in the State Archives. The Department of  
48 Cultural Resources shall provide the Secretary with duplicate copies of all documents  
49 transferred from the Secretary to the Department.

50 **SECTION 4.(c)** In 2016, the Department of Cultural Resources shall arrange for  
51 public displays of, and programs related to, the United States Constitution and amendments and

1 related historical materials to commemorate the 240th anniversary of the signing of the  
2 Declaration of Independence. In 2016, the Department also shall arrange for public displays of,  
3 and programs related to, the State Constitutions and amendments, to coincide with the 240th  
4 anniversary of the ratification of North Carolina's first Constitution by the Fifth Provincial  
5 Congress. The Department also may consider taking all or part of the displays on a tour of the  
6 State. The Department is authorized to accept non-State funds including donations, fund-raising  
7 sponsorships, and funding from other sources to defray the costs of these exhibits.

8 **SECTION 4.(d)** Subsections (a) and (b) of this section become effective December  
9 1, 2015. The remainder of this section is effective when it becomes law.

10 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes  
11 law.