

## Chapter 140.

### State Art Museum; Symphony and Art Societies.

#### Article 1.

North Carolina Museum of Art.

**§§ 140-1 through 140-5.1. Recodified as §§ 140-5.12 to 140-5.17.**

#### Article 1A.

Art Museum Building Commission.

**§ 140-5.2. Repealed by Session Laws 1973, c. 476, s. 43.**

**§§ 140-5.3 through 140-5.6. Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1028, s. 16.**

**§§ 140-5.7 through 140-5.11. Reserved for future codification purposes.**

#### Article 1B.

North Carolina Museum of Art.

#### **§ 140-5.12. Agency of State; functions.**

The North Carolina Museum of Art is an agency of the State of North Carolina within the Department of Natural and Cultural Resources. The functions of the North Carolina Museum of Art shall be to acquire, preserve, and exhibit works of art for the education and enjoyment of the people of the State, and to conduct programs of education, research, and publication designed to encourage an interest in and an appreciation of art on the part of the people of the State. (1961, c. 731; 1979, 2nd Sess., c. 1306, s. 1; 2015-241, s. 14.30(s).)

#### **§ 140-5.13. Board of Trustees.**

(a) It is the duty of the Department of Natural and Cultural Resources to develop policy and to establish and enforce standards for resources, services, and programs involving the arts and the cultural aspects of the lives of the citizens of North Carolina. To attain these objectives, there is hereby established within the Department of Natural and Cultural Resources the Board of Trustees of the North Carolina Museum of Art.

(b) The Board of Trustees of the North Carolina Museum of Art shall consist of 25 members, chosen as follows:

- (1) The Governor shall appoint 13 members, one from each congressional district in the State in accordance with G.S. 147-12(3b);
- (2) Repealed by Session Laws 2012-120, s. 1(e), effective October 1, 2012.
- (3) The North Carolina Museum of Art Foundation, Incorporated, shall elect four members;
- (4) The Board of Trustees of the North Carolina Museum of Art shall elect four members;
- (5) The General Assembly shall appoint four members, two upon the recommendation of the Speaker of the House of Representatives, and two upon

the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121;

(6) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1191, s. 49.

All regular appointments or elections except those by the General Assembly shall be for terms of six years, except that each member shall serve until the member's successor is chosen and qualifies. No person may be appointed or elected to more than two consecutive terms of six years. All appointments by the General Assembly shall be for terms of four years, with no person being appointed to more than three consecutive terms.

(c) Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. All other vacancies occurring in the regular membership of the Board of Trustees prior to the expiration of a term shall be filled by the same authority and in the same manner as the vacating member was chosen, and the successor member so chosen shall serve for the remainder of the unexpired term of the vacating member.

(d) All initial appointments and elections to the Board of Trustees shall be made on July 1, 1980, or as soon as feasible thereafter except as provided in this subsection, and the terms of all except the legislative appointees shall expire on June 30, 1983, or June 30, 1986, as the case may be. In order to establish regularly overlapping terms, initial appointments and elections to the Board of Trustees shall be made as follows:

- (1) Four members at large shall be appointed by the Governor for initial terms of three years and four members at large shall be appointed by the Governor for initial terms of six years.
- (2) One member shall be elected by the North Carolina State Art Society, Incorporated, for an initial term of three years and two members shall be elected by that Society for initial terms of six years.
- (3) One member shall be elected by the North Carolina Museum of Art Foundation, Incorporated, for an initial term of three years and two members shall be elected by that Foundation for initial terms of six years.
- (4) One member shall be elected by the Art Commission prior to July 1, 1980, for an initial term of three years and two members shall be elected by that Commission for initial terms of six years. Upon the expiration of the terms of those three members, their successors shall be elected by the Board of Trustees of the North Carolina Museum of Art.
- (5) Three members shall be elected by the State Art Museum Building Commission to serve until the termination of that Commission or until June 30, 1983, whichever shall first occur. Upon the termination of the terms of those three members, should such termination occur prior to June 30, 1983, their successors shall be elected as follows: one by the North Carolina State Art Society, Incorporated, one by the North Carolina Museum of Art Foundation, Incorporated, and one by the Board of Trustees of the North Carolina Museum of Art; the terms of the successor members so elected shall expire on June 30, 1983. On July 1, 1983, or as soon as feasible thereafter, the successors of these three members shall be elected for terms of six years, as follows: one by the North Carolina State Art Society, Incorporated, one by the North Carolina Museum of Art Foundation, Incorporated, and one by the Board of Trustees of the North Carolina Museum of Art.

(6) The initial appointments by the General Assembly shall serve until June 30, 1983. Subsequent appointments shall be for two-year terms commencing July 1, 1983, and biennially thereafter.

(7) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1191, s. 51.

Every vacancy occurring in the initial membership of the Board of Trustees prior to the expiration of a term of office shall be filled by the same authority and in the same manner as the vacating member was chosen and the successor member so appointed shall serve for the remainder of the unexpired term of the vacating member.

(e) Any member of the Board of Trustees may be removed from office by the authority that appointed or elected that member for misfeasance, malfeasance, or nonfeasance in office. In the case of an appointment made by the Governor, removal shall be made in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

(f) A public officer who is appointed or elected to serve on the Board of Trustees shall be deemed to serve thereon as a trustee ex officio and his duties as a trustee shall be deemed additional duties of his primary public office.

(g) The Board of Trustees shall have a chairman, a vice-chairman, and such other officers as the Board deems necessary. The chairman shall be designated by the Governor from among the members of the Board. The vice-chairman shall be elected by and from among the members of the Board. The chairman and vice-chairman shall be chosen for terms of two years or for so long as they are members of the Board, whichever is the shorter period. The Director of the North Carolina Museum of Art shall serve as Secretary to the Board of Trustees and shall attend all meetings.

(h) The Board of Trustees shall meet at least once in each quarter. The Board may hold special meetings at any time and place within the State at the call of the chairman. The chairman may call a special meeting at his discretion, and he shall call a special meeting upon the written request of a majority of the authorized membership of the Board of Trustees.

(i) A majority of the authorized membership of the Board of Trustees shall constitute a quorum for the transaction of business.

(j) Members of the Board of Trustees who are officers or employees of State agencies or institutions shall receive from funds available to the Department of Natural and Cultural Resources subsistence and travel allowances at the rates authorized by G.S. 138-6. All other members of the Board of Trustees shall receive from funds available to the Department of Natural and Cultural Resources per diem and travel and subsistence allowances at the rates authorized by G.S. 138-5.

(k) All clerical and administrative services required by the Board of Trustees shall be supplied by the office of the Director of the North Carolina Museum of Art. (1979, 2nd Sess., c. 1306, s. 1; 1981 (Reg. Sess., 1982), c. 1191, ss. 49-52; 1987, c. 842, ss. 1, 2; 1991, c. 756, s. 35; 1995, c. 490, s. 8; 2001-486, s. 2.10; 2006-66, s. 22.22(b); 2006-221, s. 23; 2008-194, s. 6(d); 2012-120, ss. 1(e), 2(b); 2013-410, s. 16; 2015-241, s. 14.30(s); 2017-134, s. 5(b).)

#### **§ 140-5.14. Board of Trustees – powers and duties.**

The Board of Trustees is the governing body of the North Carolina Museum of Art and has the following powers and duties:

- (1) To adopt bylaws for its own government;
- (2) To adopt policies, rules, and regulations for the conduct of the North Carolina Museum of Art;
- (3) To prescribe the powers and duties of the Director of the North Carolina Museum of Art, consistent with the provisions of this Article;

- (4) To establish such advisory boards and committees as it may deem advisable;
- (5) To advise the Secretary of Natural and Cultural Resources with respect to inspecting, appraising, obtaining attributions and evaluations of, transporting, exhibiting, lending, storing, and receiving upon consignment or upon loan of statuary, paintings, and other works of art of any and every kind and description that are worthy of acquisition, preservation, and exhibition by the North Carolina Museum of Art;
- (6) To advise the Secretary of Natural and Cultural Resources on the care, custody, storage, and preservation of all works of art acquired or received upon consignment or loan by the North Carolina Museum of Art;
- (7) After consultation with the Secretary of Natural and Cultural Resources, on behalf of and in the name of the North Carolina Museum of Art, to acquire by purchase, gift, or will, absolutely or in trust, from individuals, corporations, the federal government, or from any other source, money, works of art, or other property which may be retained, sold, or otherwise used to promote the purposes of the North Carolina Museum of Art as provided in G.S. 140-5.12. The net proceeds of the sale of all property acquired under the provisions of this paragraph shall be deposited in the State Treasury to the credit of the "The North Carolina Museum of Art Special Fund";
- (8) After consultation with the Secretary of Natural and Cultural Resources, to exchange works of art owned by the North Carolina Museum of Art for other works of art which, in the opinion of the Board, would improve the quality, value, or representative character of the art collection of the Museum;
- (9) After consultation with the Secretary of Natural and Cultural Resources, to sell any work of art owned by the North Carolina Museum of Art if the Board finds that it is in the best interest of the Museum to do so, unless such sale would be contrary to the terms of acquisition. The net proceeds of each such sale, after deduction of the expenses attributable to that sale, shall be deposited in the State treasury to the credit of "The North Carolina Museum of Art Special Fund," and shall be used only for the purchase of other works of art. No work of art owned by the North Carolina Museum of Art may be pledged or mortgaged;
- (10) To make a biennial report by February 15 of each odd-numbered year to the Governor, Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division on the activities of the Board of Trustees and of the North Carolina Museum of Art;
- (11) To adopt, amend, and rescind rules and regulations consistent with the provisions of this Article. All rules and regulations heretofore adopted by the Art Commission shall remain in full force and effect unless and until repealed or superseded by action of the Board. All rules and regulations adopted by the Board shall be enforced by the Department of Natural and Cultural Resources;
- (12) To determine the sites for expansion of the North Carolina Museum of Art with the approval of the Governor and Council of State;
- (13) To provide auxiliary services at the North Carolina Museum of Art. Such services may include the sale of books, periodicals, art works, art supplies and providing facilities for the operation of food and beverage services. The operation of food and beverage services shall be by contract with private

enterprises, and subject to the provisions of Article 3 of Chapter 111. (1979, 2nd Sess., c. 1306, s. 1; 1981, c. 301; 2011-266, s. 1.11(b); 2015-241, ss. 14.30(s), 14.30(t); 2017-57, s. 14.1(gg).)

**§ 140-5.15. Director of Museum of Art; appointment; dismissal; powers and duties; staff.**

(a) The Director's Committee shall elect and supervise the Director of the North Carolina Museum of Art and may dismiss the Director. The Director's Committee shall evaluate the performance of the Director and shall determine the Director's compensation within the limitations of available funding.

(b) Repealed by Session Laws 2012-120, s. 2(a), effective June 28, 2012.

(b1) The Director's Committee shall consist of five members chosen as follows:

- (1) The Secretary of Natural and Cultural Resources, who shall serve as the chairman of the Committee.
- (2) The Chair of the Board of Trustees of the North Carolina Museum of Art.
- (3) One member designated by the Board of Trustees of the North Carolina Museum of Art.
- (4) The President of the Board of Directors of the North Carolina Museum of Art Foundation, Inc., or the President's designee.
- (5) One member designated by the Board of the North Carolina Museum of Art Foundation, Inc.

(b2) The members of the Director's Committee selected under subdivisions (b1)(3) and (b1)(5) of this section shall serve terms of four years and may not serve more than two consecutive terms of four years. Four members of the Committee shall constitute a quorum for the transaction of business.

(c) The State-funded portion of the salary of the Director shall be fixed by the Governor.

(d) The Director shall have the following powers and duties:

- (1) Under the supervision of the Director's Committee, to direct and administer the North Carolina Museum of Art in accordance with the policies, rules, and regulations adopted by the Board of Trustees;
- (2) To employ such persons as are necessary to perform the functions of the North Carolina Museum of Art and are provided for in the budget of the Museum and to promote, demote, and dismiss such persons in accordance with State personnel policies, rules, and regulations. This paragraph shall not apply to associate directors and curators;
- (3) To serve as director of collections of the North Carolina Museum of Art;
- (4) To serve as Secretary to the Board of Trustees.

(e) The Director, associate directors, and curators shall be exempt from the provisions of the North Carolina Human Resources Act. (1961, c. 731; 1973, c. 476, s. 38; 1979, 2nd Sess., c. 1306, s. 1; 1985, c. 122, s. 6; c. 479, s. 218; 1987, c. 827, s. 81; 2006-66, s. 22.22(g); 2006-221, s. 23; 2012-120, s. 2(a); 2012-142, s. 25.1(d); 2013-382, s. 9.1(c); 2015-241, s. 14.30(t); 2019-241, s. 3.)

**§ 140-5.16. Gifts; special fund; exemption from taxation.**

(a) All gifts of money to the North Carolina Museum of Art and all interest earned thereon shall be paid into the State treasury and maintained as a fund to be designated "The North Carolina Museum of Art Special Fund."

(b) All gifts made to the North Carolina Museum of Art shall be exempt from every form of taxation including, but not by way of limitation, ad valorem, intangible, gift, inheritance, and income taxation. (1961, c. 731; 1979, 2nd Sess., c. 1306, s. 1.)

§ 140-5.17: Repealed by Session Laws 2007-484, s. 19, effective August 30, 2007.

#### Article 2.

#### North Carolina Symphony Society.

§ 140-6. **Repealed by Session Laws 1973, c. 476, s. 89.**

§ 140-7. **Adoption of bylaws; amendments.**

The said board of trustees, when organized under the terms of this Article, shall have authority to adopt bylaws for the Society and said bylaws shall thereafter be subject to change only by a three-fifths vote of a quorum of said board of trustees. (1943, c. 755, s. 3; 1947, c. 1049, s. 2.)

§ 140-8. **Audit.**

The operations of the North Carolina Symphony Society, Inc., shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. (1943, c. 755, s. 4; 1983, c. 913, s. 28.)

§ 140-9. **Allocations from Contingency and Emergency Fund; expenditures.**

The Governor and Council of State are hereby authorized to allot such sums as they may deem appropriate, from the Contingency and Emergency Fund, to the North Carolina Symphony Society, to aid in carrying on the activities of the said Society. All expenditures made by said Society shall be subject to the provisions of the State Budget Act, Chapter 143C of the General Statutes. (1943, c. 755, s. 5; 1955, c. 1309; 2006-203, s. 80.)

§ 140-10. **Counties and municipalities authorized to make contributions.**

The governing body of any county or incorporated municipality is hereby authorized and empowered to appropriate and make voluntary contributions out of nontax funds to the North Carolina Symphony Society. (1953, c. 1212.)

§ 140-10.1: Repealed by Session Laws 2013-316, s. 5, effective January 1, 2014.

#### Article 3.

#### North Carolina State Art Society.

§ 140-11. **Repealed by Session Laws 1973, c. 476, s. 81.**

§ 140-12: Repealed by Session Laws 2012-120, s. 1(c), effective October 1, 2012.

§ 140-13: Repealed by Session Laws 2012-120, s. 1(c), effective October 1, 2012.

§ 140-14: Repealed by Session Laws 2012-120, s. 1(c), effective October 1, 2012.

**§ 140-15: Repealed by Session Laws 1999-337, s. 35(b).**