

Article 3A.

Surplus Property.

Part 1. State Surplus Property Agency.

**§ 143-64.01. Department of Administration designated State Surplus Property Agency.**

The Department of Administration is designated as the State agency for State surplus property, and with respect to the acquisition of State surplus property the agency shall be subject to the supervision and direction of the Secretary of Administration. (1991, c. 358, s. 2.)

**§ 143-64.02. Definitions.**

The following definitions apply in Part 1 of this Article:

- (1) Agency. – An existing department, institution, commission, committee, board, division, or bureau of the State.
- (2) Nonprofit tax exempt organizations. – The following entities certified by the Internal Revenue Service as tax-exempt nonprofit organizations under Section 501(c)(3) of the United States Internal Revenue Code of 1954: medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, universities, schools for individuals with intellectual or other developmental disabilities, schools for individuals with physical disabilities, radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, public libraries, civil defense organizations, and nonprofit entities that are qualified under rules adopted by the State Surplus Property Agency of the Department of Administration to refurbish computers and donate them to low-income students or households throughout the State.
- (3) Recyclable material. – A recyclable material, as defined in G.S. 130A-290, that the Secretary of Administration determines, consistent with G.S. 130A-309.14, to be a recyclable material.
- (4) State owned. – Supplies, materials, and equipment in the possession of the State of North Carolina and purchased with State funds, personal property donated to the State, or personal property purchased with other funds that give ownership to the State.
- (5) Surplus property. – Personal property that is no longer needed by a State agency. (1991, c. 358, s. 2; 1998-223, s. 1; 2015-241, s. 27.3(e); 2017-67, s. 1(a); 2019-76, s. 24.)

**§ 143-64.03. Powers and duties of the State agency for surplus property.**

(a) The State Surplus Property Agency is authorized and directed to:

- (1) Sell all State owned supplies, materials, and equipment that are surplus, obsolete, or unused and sell all seized vehicles and other conveyances that the State Surplus Property Agency is authorized to sell;
- (2) Warehouse such property; and
- (3) Distribute such property to tax-supported or nonprofit tax-exempt organizations.

(b) The State Surplus Property Agency is authorized and empowered to act as a clearinghouse of information for agencies and private nonprofit tax-exempt organizations, to

locate property available for acquisition from State agencies, to ascertain the terms and conditions under which the property may be obtained, to receive requests from agencies and private nonprofit tax-exempt organizations, and transmit all available information about the property, and to aid and assist the agencies and private nonprofit tax-exempt organizations in transactions for the acquisition of State surplus property. Prioritization should be given to distributing computer equipment to nonprofit entities that refurbish computers and donate them to low-income students or households in this State, the State Surplus Property Agency shall distribute the computer equipment at no cost or the lowest possible cost to the nonprofit entities and must give consideration to the counties where the computer equipment will be donated to ensure that all geographic regions of the State benefit from the distributions.

(b1) Nothing in this Article, or any administrative rules promulgated under this Article, shall be deemed to prohibit The University of North Carolina from conveying surplus computer equipment at no cost and The University of North Carolina is encouraged to prioritize distribution to nonprofit entities that refurbish computers to donate to low-income students or households in the State. Any conveyance to a nonprofit under this subsection shall be conditioned upon, and in consideration of, the nonprofit's promise to refurbish the computer equipment and its donation to low-income students or households in the State and the nonprofit's reporting of information required by this subsection. After an initial conveyance, The University of North Carolina shall not convey additional surplus computer equipment to a nonprofit, unless that nonprofit has reported the information required by this subsection for prior conveyances.

When making a distribution under this subsection, The University of North Carolina shall keep records on the type of computer equipment distributed, the number distributed, the name of the nonprofit that received the distributions, and the nonprofit's report on donations of refurbished computers to low-income students or households in the State. If the nonprofit is unable to refurbish computer equipment for any reason, its report shall include the disposition of such computer equipment. A nonprofit shall provide a report to the Board of Governors of The University of North Carolina by February 1, 2022, and by February 1 of each year thereafter. The report shall contain the information required by this subsection and any other information the Board of Governors deems reasonably necessary to ensure the conditions required under this subsection are satisfied. The Board of Governors of The University of North Carolina shall submit a report containing the information required to be collected under this subsection to the Joint Legislative Education Oversight Committee by December 1, 2022, and by December 1 of each year thereafter.

(c) The State agency for surplus property, in the administration of Part 1 of this Article, shall cooperate to the fullest extent consistent with the provisions of Part 1 of this Article, with the departments or agencies of the State.

(d) The State agency for surplus property may sell or otherwise dispose of surplus property, including motor vehicles, through an electronic auction service. (1991, c. 358, s. 2; 2003-284, s. 18.6(a); 2015-241, s. 27.3(f); 2017-67, s. 1(b); 2021-180, s. 38.11(a).)

#### **§ 143-64.04. Powers of the Secretary to delegate authority.**

(a) The Secretary of Administration may delegate to any employees of the State agency for surplus property such power and authority as he or they deem reasonable and proper for the effective administration of Part 1 of this Article. The Secretary of Administration may, in his discretion, bond any person in the employ of the State agency for surplus property, handling moneys, signing checks, or receiving or distributing property from the United States under authority of Part 1 of this Article.

(b) The Secretary of Administration may adopt rules necessary to carry out Part 1 of this Article. (1991, c. 358, s. 2.)

**§ 143-64.05. Service charge; receipts.**

(a) The State agency for surplus property may assess and collect a service charge (i) for the acquisition, receipt, warehousing, distribution, or transfer of any State surplus property; (ii) for the transfer or sale of recyclable material; and (iii) for the towing, storing, processing, maintaining, and selling of motor vehicles seized pursuant to G.S. 20-28.3. The service charge authorized by this subsection does not apply to the transfer or sale of timber on land owned by the Wildlife Resources Commission or the Department of Agriculture and Consumer Services.

(b) All receipts from the transfer or sale of surplus, obsolete, or unused equipment of State departments, institutions, and agencies that are supported by appropriations from the General Fund, except where the receipts have been anticipated for or budgeted against the cost of replacements, shall be credited by the Secretary to the Office of State Treasurer as nontax revenue.

(c) A department, institution, or agency may retain receipts derived from the transfer or sale of recyclable material, less any charge collected pursuant to subsection (a) of this section, and may use the receipts to defray the costs of its recycling activities. A contract for the transfer or sale of recyclable material to which a department, institution, or agency is a party shall not become effective until the contract is approved by the Secretary of Administration. The Secretary of Administration shall adopt rules governing the transfer or sale of recyclable material by a department, institution, or agency and specifying the conditions and procedures under which a department, institution, or agency may retain the receipts derived from the transfer or sale, including the appropriate allocation of receipts when more than one department, institution, or agency is involved in a recycling activity. (1991, c. 358, s. 2; 1991 (Reg. Sess., 1992), c. 900, s. 24; 1998-223, s. 2; 2006-231, s. 3; 2007-323, s. 11.1; 2015-241, s. 27.3(g).)

**§ 143-64.06. North Carolina State University may sell timber.**

Notwithstanding any provision of this Part or Chapter 146 of the General Statutes, the Board of Trustees of North Carolina State University may cause to be severed and sold or transferred timber from any unimproved timberlands owned by or allocated to the University without involvement by the State Surplus Property Agency and without being required to pay any service charge or surcharge to the State Surplus Property Agency. Any such severance shall be reported to the Council of State through the State Property Office. The Board of Trustees may delegate the authority set out above to responsible University officials. The proceeds of any sales or transfers under this section shall be used to support the management of, and programming costs associated with, forest properties owned, allocated, or managed by North Carolina State University. (2011-145, s. 9.6H.)

Part 2. State Agency for Federal Surplus Property.

**§ 143-64.1. Department of Administration designated State agency for federal surplus property.**

The Department of Administration is hereby designated as the State agency for federal surplus property, and with respect to the acquisition of federal surplus property said agency shall be subject to the supervision and direction of the Secretary of Administration. (1953, c. 1262, s. 1; 1957, c. 269, s. 3; 1975, c. 879, s. 46; 1991, c. 358, s. 3.)

**§ 143-64.2. Authority and duties of the State agency for federal surplus property.**

- (a) The State agency for federal surplus property may do all of the following:
- (1) Acquire from the United States of America such property, including equipment, materials, books, or other supplies under the control of any department or agency of the United States of America as may be usable and necessary for educational purposes, public health purposes, or civil defense purposes, including research.
  - (2) Warehouse the property.
  - (3) Distribute the property to tax-supported or nonprofit and tax-exempt (under Section 501(c)(3) of the United States Internal Revenue Code of 1954) medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, universities, schools for individuals with intellectual or other developmental disabilities, schools for individuals with physical disabilities, radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, public libraries, civil defense organizations, and such other eligible donees within the State as are permitted to receive surplus property of the United States of America under the Federal Property and Administrative Services Act of 1949, as amended.

(b) The State agency for federal surplus property may adopt rules necessary to carry out Part 2 of this Article.

(c) The State agency for federal surplus property may appoint advisory boards or committees as needed to ensure that Part 2 of this Article and the rules adopted under Part 2 of this Article are consistent with federal law concerning surplus property.

(d) The State agency for surplus property may take such action, make such expenditures and enter into such contracts, agreements, and undertakings for and in the name of the State, require such reports and make such investigations as may be required by law or regulation of the United States of America in connection with the receipt, warehousing, and distribution of property received by the State agency for federal surplus property from the United States of America.

(e) The State agency for federal surplus property may act as a clearinghouse of information for the public and private nonprofit institutions and agencies referred to in subsection (a) of this section, may locate property available for acquisition from the United States of America, may ascertain the terms and conditions under which the property may be obtained, may receive requests from the institutions and agencies and may transmit to them all available information in reference to the property, and may aid and assist the institutions and agencies in every way possible in transactions for the acquisition of federal surplus property.

(f) The State agency for federal surplus property, in the administration of Part 2 of this Article, shall cooperate to the fullest extent consistent with the provisions of Part 2 of this Article, with the departments or agencies of the United States of America and shall make such reports in such form and containing such information as the United States of America or any of its departments or agencies may from time to time require, and it shall comply with the laws of the United States of America and the rules and regulations of any of the departments or agencies of the United States of America governing the allocation, transfer, use, or accounting for, property donable or donated to the State. (1953, c. 1262, s. 2; 1965, c. 1105, ss. 1, 2; 1987, c. 827, s. 218; 1991, c. 358, s. 3; 2019-76, s. 25.)

**§ 143-64.3. Power of Department of Administration and Secretary to delegate authority.**

The Department of Administration and/or the Secretary of Administration may delegate to any employees of the State agency for federal surplus property such power and authority as he or they deem reasonable and proper for the effective administration of Part 2 of this Article. The Department of Administration and/or the Secretary of Administration may, in his or their discretion, bond any person in the employ of the State agency for surplus property, handling moneys, signing checks, or receiving or distributing property from the United States under authority of Part 2 of this Article. (1953, c. 1262, s. 3; 1957, c. 269, s. 3; 1975, c. 879, s. 46; 1991, c. 358, s. 3.)

**§ 143-64.4. Warehousing, transfer, etc., charges.**

The State agency for federal surplus property is hereby authorized and empowered to assess and collect service charges or fees for the acquisition, receipts, warehousing, distribution or transfer of any property acquired by donation from the United States of America for educational purposes, public health purposes, public libraries or civil defense purposes, including research, and any such charges made or fees assessed shall be limited to those reasonably related to the costs of care and handling in respect to the acquisition, receipts, warehousing, distribution or transfer of the property by the State agency for surplus property. (1953, c. 1262, s. 4; 1965, c. 1105, s. 3; 1991, c. 358, s. 3.)

**§ 143-64.5. Department of Agriculture and Consumer Services exempted from application of Article.**

Notwithstanding any provisions or limitations of Part 2 of this Article, the North Carolina Department of Agriculture and Consumer Services is authorized and empowered to distribute food, surplus commodities and agricultural products under contracts and agreements with the federal government or any of its departments or agencies, and is authorized and empowered to adopt rules in order to conform with federal requirements and standards for such distribution and also for the proper distribution of such food, commodities and agricultural products. To the extent set forth above and in this section, the provisions of Part 2 of this Article shall not apply to the North Carolina Department of Agriculture and Consumer Services. (1953, c. 1262, s. 5; 1987, c. 827, s. 217; 1997-261, s. 89.)

Part 3. Public Agencies.

**§ 143-64.6: Repealed by Session Laws 2004-199, s. 36(a), effective August 17, 2004.**

**§§ 143-64.7 through 143-64.9. Reserved for future codification purposes.**