

§ 163-165.9A. Voting systems: requirements for voting systems vendors; penalties.

(a) Duties of Vendor. – Every vendor that has a contract to provide a voting system in North Carolina shall do all of the following:

- (1) The vendor shall place in escrow with an independent escrow agent approved by the State Board of Elections all software that is relevant to functionality, setup, configuration, and operation of the voting system, including, but not limited to, a complete copy of the source and executable code, build scripts, object libraries, application program interfaces, and complete documentation of all aspects of the system including, but not limited to, compiling instructions, design documentation, technical documentation, user documentation, hardware and software specifications, drawings, records, and data. The State Board of Elections may require in its request for proposal that additional items be escrowed, and if any vendor that agrees in a contract to escrow additional items, those items shall be subject to the provisions of this section. The documentation shall include a list of programmers responsible for creating the software and a sworn affidavit that the source code includes all relevant program statements in low-level and high-level languages.
- (2) The vendor shall notify the State Board of Elections of any change in any item required to be escrowed by subdivision (1) of this subsection.
- (3) The chief executive officer of the vendor shall sign a sworn affidavit that the source code and other material in escrow is the same being used in its voting systems in this State. The chief executive officer shall ensure that the statement is true on a continuing basis.
- (4) The vendor shall promptly notify the State Board of Elections and the county board of elections of any county using its voting system of any decertification of the same system in any state, of any defect in the same system known to have occurred anywhere, and of any relevant defect known to have occurred in similar systems.
- (5) The vendor shall maintain an office in North Carolina with staff to service the contract.

(b) Penalties. – Willful violation of any of the duties in subsection (a) of this section is a Class G felony. Substitution of source code into an operating voting system without notification as provided by subdivision (a)(2) of this section is a Class I felony. In addition to any other applicable penalties, violations of this section are subject to a civil penalty to be assessed by the State Board of Elections in its discretion in an amount of up to one hundred thousand dollars (\$100,000) per violation. A civil penalty assessed under this section shall be subject to the provisions of G.S. 163-278.34(e).

(c) Definitions. – For the purposes of this section, the term "voting system" shall include an electronic poll book or a ballot duplication system. (2005-323, s. 2(a); 2017-6, s. 3; 2018-13, s. 3.7(b); 2018-146, s. 3.1(a), (b).)