

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1991**

**S**

**1**

**SENATE BILL 579**

Short Title: Lease-Purchase of State Property.

(Public)

---

Sponsors: Senators Pollard; Blackmon, Block, Bryan, Daughtry, Hartsell, Hunt, Perdue, Shaw, Sherron, Simpson, Staton, and Warren.

---

Referred to: State Personnel and State Government.

---

April 11, 1991

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF ADMINISTRATION TO  
PURCHASE PROPERTY USING LEASE-PURCHASE FINANCING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-341(4) reads as rewritten:

"(4) Real Property Control:

- a. To prepare and keep current a complete and accurate inventory of all land owned or leased by the State or by any State agency. This inventory shall show the location, acreage, description, source of title and current use of all land (including swamplands or marshlands) owned by the State or by any State agency, and the agency to which each tract is currently allocated. Surveys may be made where necessary to obtain information for the purposes of this inventory. Accurate plats or maps of all such land may be prepared, or copies obtained where such maps or plats are available.
- b. To prepare and keep current a complete and accurate inventory of all buildings owned or leased (in whole or in part) by the State or by any State agency. This inventory shall show the location, amount of floor space and floor plans of every building owned or leased by the State or by any State agency, and the agency to which each building, or space therein, is currently allocated. Floor plans of every such building shall be

1 prepared or copies obtained where such floor plans are  
2 available, where needed for use in the allocation of space  
3 therein.

4 c. To obtain and deposit with the Secretary of State the originals  
5 of all deeds and other conveyances of real property to the State  
6 or to any State agency, copies of all leases wherein the State or  
7 any State agency is lessor or lessee, and certified copies of  
8 wills, judgments, and other instruments whereby the State or  
9 any State agency has acquired title to real property. Where an  
10 original of a deed, lease, or other instrument cannot be found,  
11 but has been recorded in the registry of office of the clerk of  
12 superior court of any county, a certified copy of such deed,  
13 conveyance, or instrument shall be obtained and deposited with  
14 the Secretary of State.

15 d. To acquire, whether by purchase, exercise of the power of  
16 eminent domain, lease-purchase, lease, or rental, all land,  
17 buildings, and space in buildings for all State agencies, subject  
18 to the approval of the Governor and Council of State in each  
19 instance. The Governor, acting with the approval of the Council  
20 of State, may adopt rules (i) exempting from any or all of the  
21 requirements of this paragraph such classes of lease, rental,  
22 easement, and right-of-way transactions as he deems advisable;  
23 and (ii) authorizing any State agency to enter into and/or  
24 approve the classes of transactions thus exempted from the  
25 requirements of this paragraph; and (iii) delegating to any other  
26 State agency the authority to approve the severance of buildings  
27 and standing timber from State lands; upon such approval of  
28 severance, the buildings and timber so affected shall be treated,  
29 for the purposes of this Chapter, as personal property. Any  
30 contract entered into or any proceeding instituted contrary to the  
31 provisions of this paragraph is voidable in the discretion of the  
32 Governor and Council of State.

33 d1. To require all State departments, institutions, and agencies to  
34 use State-owned office space instead of negotiating or  
35 renegotiating leases for rental of office space. Any lease entered  
36 into contrary to the provisions of this paragraph is voidable in  
37 the discretion of the Governor and the Council of State.

38 The Department of Administration shall report to the Joint  
39 Legislative Commission on Governmental Operations and to  
40 the Fiscal Research Division no later than May 1 of each year on  
41 leased office space.

42 d2. To purchase or finance the purchase of real property by  
43 installment contracts that create in the property purchased a  
44 security interest to secure payment of the purchase price to the

1 seller or to an individual or entity advancing moneys or  
2 supplying financing for the purchase transaction.

3 The Department of Administration may also finance the  
4 acquisition, construction, or repair of fixtures or improvements  
5 on real property by contracts that create in the fixtures or  
6 improvements, or in all or some portion of the property on  
7 which the fixtures or improvements are located, or in both, a  
8 security interest to secure repayment of moneys advanced or  
9 made available for such acquisition, construction, or repair.

10 No contract entered into under this sub-subdivision may  
11 contain a nonsubstitution clause that restricts the right of the  
12 State to: (i) continue to provide a service or activity; or (ii)  
13 replace or provide a substitute for any fixture, improvement,  
14 project, or property financed or purchased pursuant to such  
15 contract.

16 No deficiency judgment may be rendered against the State in  
17 any action for breach of a contractual obligation authorized by  
18 this sub-subdivision, and the taxing power of the State may not  
19 be pledged directly or indirectly to secure any moneys due  
20 under a contract authorized by this sub-subdivision.

21 Prior to initiating proceedings to enter into a contract under  
22 this sub-subdivision for the lease-purchase of real property, the  
23 Department shall consult with the Joint Legislative Commission  
24 on Governmental Operations.

25 e. To make all sales of real property (including marshlands or  
26 swamplands) owned by the State or by any State agency, with  
27 the approval of the Governor and Council of State in each  
28 instance. All conveyances in fee by the State shall be executed  
29 in accordance with the provisions of G.S. 146-74 through 146-  
30 78. Any conveyance of land made or contract to convey land  
31 entered into without the approval of the Governor and Council  
32 of State is voidable in the discretion of the Governor and  
33 Council of State. The proceeds of all sales of swamplands or  
34 marshlands shall be dealt with in the manner required by the  
35 Constitution and statutes.

36 f. With the approval of the Governor and Council of State, to  
37 make all leases and rentals of land or buildings owned by the  
38 State or by any State agency, and to sublease land or buildings  
39 leased by the State or by any State agency from another owner,  
40 where such land or building owned or leased by the State or by  
41 any State agency is not needed for current use. The Governor,  
42 acting with the approval of the Council of State, may adopt  
43 rules (i) exempting from any or all of the requirements of this  
44 paragraph such classes of lease or rental transactions as he

1 deems advisable; and (ii) authorizing any State agency to enter  
2 into and/or approve the classes of transactions thus exempted  
3 from the requirements of this paragraph; and (iii) delegating to  
4 any other State agency the authority to approve the severance of  
5 buildings and standing timber from State lands; upon such  
6 approval of severance, the buildings and timber so affected  
7 shall be treated, for the purposes of this Chapter, as personal  
8 property. Any lease or rental agreement entered into contrary to  
9 the provisions of this paragraph is voidable in the discretion of  
10 the Governor and Council of State.

11 g. To allocate and reallocate land, buildings, and space in  
12 buildings to the several State agencies, in accordance with rules  
13 adopted by the Governor with the approval of the Council of  
14 State; provided that if the proposed reallocation is of land with  
15 an appraised value of at least twenty-five thousand dollars  
16 (\$25,000), the reallocation may only be made after consultation  
17 with the Joint Legislative Commission on Governmental  
18 Operations. The authority granted in this paragraph shall not  
19 apply to the State Legislative Building and grounds or to the  
20 Legislative Office Building and grounds.

21 h. To require any State agency to make reports regarding the land  
22 and buildings owned by it or allocated to it at such times and in  
23 such form as the Department may deem necessary.

24 i. To determine whether all deeds, judgments, and other  
25 instruments whereby title to real estate has been or may be  
26 acquired by the State or by any State agency have been properly  
27 recorded in the county wherein the real property is situated, and  
28 to make or cause to be made proper recordation of such  
29 instruments. The Department may have previously recorded  
30 instruments which conveyed title to or from the State or any  
31 State agency or officer reindexed, where necessary, to show the  
32 State of North Carolina or grantor or grantee, as the case may  
33 be, and the cost of such reindexing shall be paid from the State  
34 Land Fund.

35 j. To call upon the Attorney General for advice and assistance in  
36 the performance of any of the foregoing duties.

37 k. None of the provisions of this subdivision apply to highway or  
38 railroad rights-of-way or other interests or estates in land held  
39 for the same or similar purposes, or to the acquisition or  
40 disposition of such rights-of-way, interests, or estates in land.

41 l. To manage and control the vacant and unappropriated lands,  
42 swamplands, lands acquired by the State by virtue of being sold  
43 for taxes, and submerged lands of the State, pursuant to Chapter  
44 146 of the General Statutes.

- 1                   m.    To contract for or approve all contracts for all appraisals and  
2                   surveys of real property for all State agencies; provided,  
3                   however, this provision shall not apply to appraisals and  
4                   surveys obtained in connection with the acquisition of highway  
5                   rights-of-way, borrow pits, or other interests or estates in land  
6                   acquired for the same or similar purposes, or to the disposition  
7                   thereof, by the Board of Transportation.  
8                   n.    To petition for the annexation of state-owned lands into any  
9                   municipality."  
10                Sec. 2. This act is effective upon ratification.