

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

3

HOUSE BILL 536  
Committee Substitute Favorable 5/27/93  
Senate Finance Committee Substitute Adopted 6/22/94

Short Title: Area Authority Property.

(Public)

Sponsors:

Referred to:

March 25, 1993

A BILL TO BE ENTITLED

AN ACT TO ALLOW AREA MENTAL HEALTH, DEVELOPMENTAL  
DISABILITIES, AND SUBSTANCE ABUSE AUTHORITIES TO PURCHASE  
PROPERTY BY INSTALLMENT CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122C-147, as amended by Section 220 of Chapter 321 of the  
1993 Session Laws, reads as rewritten:

"§ 122C-147. **Financing and title of area authority property.**

(a) Repealed by Session Laws 1993, c. 321, s. 220(i).

(b) Unless otherwise specified by the Secretary, State appropriations to area  
authorities shall be used exclusively for the operating costs of the area authority;  
provided however:

- (1) The Secretary may specify that designated State funds may be used by  
area authorities (i) for the purchase, alteration, improvement, or  
rehabilitation of real estate to be used as a 24-hour and day facility or  
(ii) in contracting with a private, nonprofit corporation that operates  
24-hour and day facilities for the mentally ill, developmentally  
disabled, or substance abusers and according to the terms of the  
contract between the area authority and the private, nonprofit  
corporation, for the purchase, alteration, improvement, rehabilitation  
of real estate or, to make a lump sum down payment or periodic

1 payments on a real property mortgage in the name of the private,  
2 nonprofit corporation.

- 3 (2) Upon cessation of the use of the 24-hour and day facility by the area  
4 authority, if operated by the area authority, or upon termination,  
5 default, or nonrenewal of the contract if operated by a contractual  
6 agency, the Department shall be reimbursed in accordance with rules  
7 adopted by the Secretary for the Department's participation in the  
8 purchase of the 24-hour and day facility.

9 (c) All real property purchased for use by the area authority shall be provided by  
10 local or federal funds unless otherwise allowed under subsection (b) of this section. The  
11 title to this real property and the authority to acquire it is held by the county where the  
12 property is located. The authority to hold title to real property and the authority to  
13 acquire ~~it~~, including the authority to finance its acquisition by an installment contract  
14 under G.S. 160A-20, may be held by the area authority with the ~~consent~~ approval of the  
15 board or boards of commissioners of all the counties ~~which~~ that comprise the area  
16 authority. ~~The consent to this variation~~ The approval of a board of county commissioners  
17 shall be by resolution of the affected board or boards of county commissioners and may  
18 have any necessary or proper conditions, including provisions for distribution of the  
19 proceeds in the event of disposition of the property by the area authority. Real property  
20 may not be acquired by means of an installment contract under G.S. 160A-20 unless the  
21 Local Government Commission has approved the acquisition. No deficiency judgment  
22 may be rendered against any unit of local government in any action for breach of a  
23 contractual obligation authorized by this subsection, and the taxing power of a unit of  
24 local government is not and may not be pledged directly or indirectly to secure any  
25 moneys due under a contract authorized by this subsection.

26 (d) The area authority may lease real property.

27 (e) Equipment necessary for the operation of the area authority may be obtained  
28 with local, State, federal, or donated funds, or a combination of these.

29 (f) ~~The area authority may acquire or lease personal property, including by~~  
30 ~~property. An acquisition may be accomplished by an installment contract under G.S.~~  
31 ~~160A-20 or by a lease-purchase agreement. An area authority may not acquire personal~~  
32 ~~property by means of an installment contract under G.S. 160A-20 without the approval~~  
33 ~~of the board or boards of commissioners of all the counties that comprise the area~~  
34 ~~authority. The approval of a board of county commissioners shall be by resolution of~~  
35 ~~the board and may have any necessary or proper conditions, including provisions for~~  
36 ~~distribution of the proceeds in the event of disposition of the property by the area~~  
37 ~~authority. The area authority may not acquire personal property by means of an~~  
38 ~~installment contract under G.S. 160A-20 without the approval of the Local Government~~  
39 ~~Commission, when required by that statute. No deficiency judgment may be rendered~~  
40 ~~against any unit of local government in any action for breach of a contractual obligation~~  
41 ~~authorized by this subsection, and the taxing power of a unit of local government is not~~  
42 ~~and may not be pledged directly or indirectly to secure any moneys due under a contract~~  
43 ~~authorized by this subsection. Title to personal property may be held by the area~~  
44 ~~authority.~~

1 (g) All area authority funds shall be spent in accordance with the rules of the  
2 Secretary. Failure to comply with the rules is grounds for the Secretary to stop  
3 participation in the funding of the particular program. The Secretary may withdraw  
4 funds from a specific program of services not being administered in accordance with an  
5 approved plan and budget after written notice and subject to an appeal as provided by  
6 G.S. 122C-145 and Chapter 150B of the General Statutes.

7 (h) Notwithstanding subsection (b) of this section and in addition to the purposes  
8 listed in that subsection, the funds allocated by the Secretary for services for members  
9 of the class identified in Willie M., et al. vs. Hunt, et al. (C-C-79-294, Western District)  
10 may be used for the purchase, alteration, improvement, or rehabilitation of real property  
11 owned or to be owned by a nonprofit corporation and used or to be used as a facility.

12 (i) Notwithstanding subsection (c) of this section and in addition to the purposes  
13 listed in that subsection, funds allocated by the Secretary for services for members of  
14 the class identified in Willie M., et al. vs. Hunt, et al. (C-C-79-294, Western District)  
15 may be used for the purchase, alteration, improvement, or rehabilitation of real property  
16 used by an area authority as long as the title to the real property is vested in the county  
17 where the property is located or is vested in another governmental entity. If the property  
18 ceases to be used in accordance with the annual plan, the unamortized part of funds  
19 spent under this subsection for the purchase, alteration, improvement, or rehabilitation  
20 of real property shall be returned to the Department, in accordance with the rules of the  
21 Secretary.

22 (j) Notwithstanding subsection (c) of this section the area authority, with the  
23 approval of the Secretary, may use local funds for the alteration, improvement, and  
24 rehabilitation of real property owned by a nonprofit corporation under contract with the  
25 area authority and used or to be used as a 24-hour and day facility. Prior to the use of  
26 county appropriated funds for this purpose, the area authority must obtain consent of the  
27 board or boards of commissioners of all the counties which comprise the area authority.  
28 The consent shall be by resolution of the affected board or boards of county  
29 commissioners and may have any necessary or proper conditions, including provisions  
30 for distribution of the proceeds in the event of disposition of the property."

31 Sec. 2. G.S. 160A-20(h) reads as rewritten:

32 "(h) As used in this section, the term 'unit of local government' means any of the  
33 following:

- 34 (1) A county.
- 35 (2) A city.
- 36 (3) A water and sewer authority created under Article 1 of Chapter 162A  
37 of the General Statutes.
- 38 (4) An airport authority whose situs is entirely within a county that has (i)  
39 a population of over 120,000 according to the most recent federal  
40 decennial census and (ii) an area of less than 200 square miles.
- 41 (5) An airport authority in a county in which there are two incorporated  
42 municipalities with a population of more than 65,000 according to the  
43 most recent federal decennial census.

- 1           (6)    A local school administrative unit (i) that is located in a county that  
2                    has a population of over 90,000 according to the most recent federal  
3                    decennial census and (ii) whose board of education is authorized to  
4                    levy a school tax.
- 5           (7)    An area mental health, developmental disabilities, and substance abuse  
6                    authority, acting in accordance with G.S. 122C-147."
- 7           Sec. 3. This act is effective upon ratification.