

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1999

SESSION LAW 1999-252  
HOUSE BILL 985

AN ACT TO INCREASE THE BENCHMARK AT WHICH THE DEPARTMENT OF ADMINISTRATION IS REQUIRED TO ADVERTISE FOR PROPOSALS FOR LEASES BY THE STATE, TO CLARIFY WHEN THE DEPARTMENT MAY TRANSFER PROPERTY TO NONPROFIT ORGANIZATIONS AT LESS THAN FAIR-MARKET VALUE, TO SIMPLIFY THE LAW REGARDING STATE LEASES OF PROPERTY IN UNIQUE LOCATIONS, AND TO PROVIDE THAT ACQUISITIONS AND DISPOSITIONS OF REAL PROPERTY INTERESTS FOR THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM AND THE MEDICAL FACULTY PRACTICE PLAN OF THE SCHOOL OF MEDICINE OF EAST CAROLINA UNIVERSITY ARE SUBJECT TO RULES ADOPTED BY THE BOARD OF DIRECTORS OF THE HEALTH CARE SYSTEM AND THE BOARD OF TRUSTEES OF EAST CAROLINA UNIVERSITY RESPECTIVELY IN LIEU OF CERTAIN STATUTORY PROVISIONS GOVERNING STATE ACQUISITIONS AND DISPOSITIONS OF REAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 146-25.1(a) reads as rewritten:

"(a) If pursuant to G.S. 146-25, the Department of Administration determines that it is in the best interest of the State to lease or rent land and the rental is estimated to exceed ~~twelve thousand dollars (\$12,000)~~ twenty-five thousand dollars (\$25,000) per year or the term will exceed three years, the Department shall require the State agency desiring to rent land to prepare and submit for its approval a set of specifications for its needs. Upon approval of specifications, the Department shall prepare a public advertisement. The State agency shall place such advertisement in a newspaper of general circulation in the county for proposals from prospective lessors of said land and shall make such other distribution thereof as the Department directs. The advertisement shall be run for at least five consecutive days, and shall provide that proposals shall be received for at least seven days from the date of the last advertisement in the State Property Office of the Department. The provisions of this section do not apply to property owned by governmental agencies and leased to other governmental agencies."

Section 2. G.S. 146-29.1(c) reads as rewritten:

"(c) Real property owned by the State or by any State agency may be sold, leased, or rented at less than market value to a private, nonprofit corporation, association,

organization or society ~~upon a determination by~~ if the Department of Administration ~~that such determines~~ both of the following:

- (1) The transaction is in consideration of public service rendered or to be rendered. rendered by the nonprofit.
- (2) The property will be used in connection with the nonprofit's tax-exempt purpose and not in connection with its unrelated trade or business, as defined in section 513 of the Code. For the purposes of this subdivision, the term "Code" has the same meaning as in G.S. 105-228.90.

The transaction shall be reported in detail at least 30 days prior to the sale, lease, or rental to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the Legislative Services Office. The fact that any sale of property under this subsection shall not be subject to a reversionary interest in the State shall be expressly made known to the Joint Legislative Commission on Government Operations, and the Governor and Council of State, prior to the transaction being authorized. ~~In the case of a private, nonprofit corporation, association, organization, or society that engages in some for profit activities, the amount of the sale, lease, or rent shall be not less than the fair market value of the property times the percentage of the total activities of the corporation, association, organization, or society that are for profit."~~

Section 3. G.S. 146-32 reads as rewritten:

**"§ 146-32. Exemptions as to leases, etc.**

The Governor, acting with the approval of the Council of State, may adopt rules and regulations.

- (1) Exempting from any or all of the requirements of this Subchapter such classes of lease, rental, easement, and right-of-way transactions as he deems advisable; and
- (2) Authorizing any State agency to enter into and/or approve those classes of transactions exempted by such rules and regulations from the requirements of this Chapter.
- (3) No rule or regulation adopted under this section may exempt from the provisions of G.S. 146-25.1 any class of lease or rental which has a duration of more than 21 days, unless the class of lease or rental:
  - a. Is a lease or rental necessitated by a fire, flood, or other disaster that forces the agency seeking the new lease or rental to cease use of real property; ~~or~~
  - b. Is a lease or rental necessitated because an agency had intended to move to new or renovated real property that was not completed when planned, but a lease or rental exempted under this subparagraph may not be for a period of more than six ~~months.~~ months; or
  - c. Is a lease or rental which requires a unique location or a location that adjoins or is in close proximity to an existing rental location."

Section 4.(a) G.S. 116-37(i) reads as rewritten:

"(i) Property. — ~~Notwithstanding the provisions of Article 6 of Chapter 146 of the General Statutes to the contrary, the~~ The board of directors shall establish rules and regulations to perform the functions otherwise prescribed for the Department of Administration in for acquiring or disposing of any interest in real property for the use of the University of North Carolina Health Care System. These rules and regulations shall include provisions for development of specifications, advertisement, and negotiations with owners for acquisition by purchase, gift, lease, or rental, but not by condemnation or exercise of eminent domain, on behalf of the University of North Carolina Health Care System. This section does not authorize the board of directors to encumber real property. The board of directors shall submit all initial policies and regulations adopted pursuant to this subsection to the State Property Office for review upon adoption by the board. Any subsequent changes to these policies and regulations adopted by the board shall be submitted to the State Property Office for review. Any comments by the State Property Office shall be submitted to the Chief Executive Officer and to the President of The University of North Carolina. After review by the Attorney General as to form and after the consummation of any such acquisition, the University of North Carolina Health Care System shall promptly file a report concerning the acquisition or disposition with the Governor and Council of State. Acquisitions and dispositions of any interest in real property pursuant to this section shall not be subject to the provisions of Article 36 of Chapter 143 of the General Statutes or the provisions of Chapter 146 of the General Statutes."

Section 4.(b) G.S. 116-40.6(d) reads as rewritten:

"(d) Property. — ~~Notwithstanding the provisions of Article 6 of Chapter 146 of the General Statutes to the contrary, the~~ The board of trustees shall establish rules and regulations to perform the functions otherwise prescribed for the Department of Administration in for acquiring or disposing of any interest in real property for the use of the Medical Faculty Practice Plan. These rules and regulations shall include provisions for development of specifications, advertisement, and negotiations with owners for acquisition by purchase, gift, lease, or rental, but not by condemnation or exercise of eminent domain, on behalf of the Medical Faculty Practice Plan. This section does not authorize the board of trustees to encumber real property. Such rules and regulations shall be implemented by a property office maintained by East Carolina University. The board of trustees shall submit all initial rules and regulations adopted pursuant to this subsection to the State Property Office for review upon adoption. Any subsequent changes to these rules and regulations shall be submitted to the State Property Office for review. Any comments by the State Property Office shall be submitted to the Chancellor of East Carolina University and to the President of The University of North Carolina. After review by the Attorney General as to form and after the consummation of any such acquisition, East Carolina University shall promptly file, on behalf of the Medical Faculty Practice Plan, a report concerning the acquisition or disposition with the Governor and Council of State. Acquisitions and dispositions of any interest in real property pursuant to this section shall not be subject to the provisions of Article 36 of Chapter 143 of the General Statutes or the provisions of Chapter 146 of the General Statutes."

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of June, 1999.

s/ Dennis A. Wicker  
President of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ James B. Hunt, Jr.  
Governor

Approved 9:25 a.m. this 2nd day of July, 1999