

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 306
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Short Title: Surplus Property Law Clarified.

(Public)

Sponsors: Senator Sherron.

Referred to: State Personnel and State Government.

March 27, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE LAW REGARDING STATE AND FEDERAL
3 SURPLUS PROPERTY.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 143-49(4) reads as rewritten:

6 "(4) To have general supervision of all storerooms and stores operated by
7 the State government, or any of its departments, institutions or
8 agencies; ~~to provide for transfer or exchange to or between all State~~
9 ~~departments, institutions and agencies, or to sell all supplies, materials and~~
10 ~~equipment which are surplus, obsolete or unused; agencies~~ and to have
11 supervision of inventories of all tangible personal property belonging
12 to the State government, or any of its departments, institutions or
13 agencies. ~~All receipts from the transfer or sale of such surplus, obsolete or~~
14 ~~unused equipment of State departments, institutions and agencies which are~~
15 ~~supported by appropriations from the general fund, except where such~~
16 ~~receipts have been anticipated for, or budgeted against the cost of~~
17 ~~replacements, shall be placed by the Secretary in an equipment reserve fund~~
18 ~~from which expenditures may be made only with prior approval of the~~
19 ~~Director of the Budget.~~ The duties imposed by this subdivision shall not
20 relieve any department, institution or agency of the State government
21 from accountability for equipment, materials, supplies and tangible
22 personal property under its control. ~~Prior to taking any action under this~~
23 ~~subdivision concerning expenditures from the equipment reserve fund, the~~
24 ~~Secretary may consult with the Advisory Budget Commission."~~

1 Sec. 2. Chapter 143 of the General Statutes is amended by adding a new
2 Article to read:

3 **"ARTICLE 31A1.**

4 **"STATE SURPLUS PROPERTY AGENCY.**

5 **"§ 143-64.9A. Department of Administration designated State Surplus Property**
6 **Agency.**

7 The Department of Administration is designated as the State agency for State surplus
8 property, and with respect to the acquisition of State surplus property the agency shall
9 be subject to the supervision and direction of the Secretary of Administration.

10 **"§ 143-64.9B. Definitions.**

11 As used in this Article, except where the context clearly requires otherwise:

12 (1) 'Agency' means an existing department, institution, commission,
13 committee, board, division, or bureau of the State.

14 (2) 'Nonprofit tax exempt organizations' means those nonprofit tax
15 exempt medical institutions, hospitals, clinics, health centers, school
16 systems, schools, colleges, universities, schools for the mentally
17 retarded, schools for the physically handicapped, radio and television
18 stations licensed by the Federal Communications Commission as
19 educational radio or educational television stations, public libraries,
20 and civil defense organizations, that have been certified by the Internal
21 Revenue Service as tax-exempt nonprofit organizations under section
22 501(c)(3) of the United States Internal Revenue Code of 1954.

23 **"§ 143-64.9C. Powers and duties of the State agency for surplus property.**

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

25 (1) Sell all supplies, materials, and equipment that are surplus, obsolete, or
26 unused;

27 (2) Warehouse such property; and

28 (3) Distribute such property to tax-supported or nonprofit tax-exempt
29 organizations.

30 (b) The State Surplus Property Agency is authorized and empowered to act as a
31 clearinghouse of information for agencies and private nonprofit tax-exempt
32 organizations, to locate property available for acquisition from State agencies, to
33 ascertain the terms and conditions under which the property may be obtained, to receive
34 requests from agencies and private nonprofit tax-exempt organizations, and transmit all
35 available information about the property, and to aid and assist the agencies and private
36 nonprofit tax-exempt organizations in transactions for the acquisition of State surplus
37 property.

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

41 **"§ 143-64.9D. Powers of the Secretary to delegate authority.**

42 (a) The Secretary of Administration may delegate to any employees of the State
43 agency for surplus property such power and authority as he or they deem reasonable and
44 proper for the effective administration of this Article. The Secretary of Administration

1 may, in his discretion, bond any person in the employ of the State agency for surplus
2 property, handling moneys, signing checks, or receiving or distributing property from
3 the United States under authority of this Article.

4 (b) The Secretary of Administration may adopt rules necessary to carry out this
5 Article.

6 **"§ 143-64.9E. Warehousing, transfer, etc., charges.**

7 The State agency for surplus property may assess and collect service charges or fees
8 for the acquisition, receipt, warehousing, distribution or transfer of any State surplus
9 property. All receipts from the transfer or sale of surplus, obsolete, or unused
10 equipment of State departments, institutions, and agencies, that are supported by
11 appropriations from the General Fund, except where the receipts have been anticipated
12 for, or budgeted against the cost of replacements, shall be placed by the Secretary in an
13 equipment reserve fund from which expenditures may be made only with prior approval
14 of the Director of the Budget. Prior to taking any action under this section concerning
15 expenditures from the equipment reserve fund, the Secretary shall consult with the
16 Advisory Budget Commission and the Joint Legislative Commission on Governmental
17 Operations."

18 Sec. 3. Article 3A of Chapter 143 of the General Statutes reads as rewritten:

19 **"ARTICLE 3A.**

20 **"STATE AGENCY FOR FEDERAL SURPLUS PROPERTY.**

21 **"§ 143-64.1. Department of Administration designated State agency for federal**
22 **surplus property.**

23 The Department of Administration is hereby designated as the State agency for
24 federal surplus property, and with respect to the acquisition of federal surplus property
25 said agency shall be subject to the supervision and direction of the Secretary of
26 Administration who is authorized to prescribe the duties which shall be assigned to the
27 personnel of said Department for surplus property purposes. Administration.

28 **"§ 143-64.2. Authority and duties of the State agency for federal surplus property.**

29 (a) The State agency for federal surplus property is hereby authorized and
30 empowered

31 (1) To acquire from the United States of America such property, including
32 equipment, materials, books, or other supplies under the control of any
33 department or agency of the United States of America as may be
34 usable and necessary for educational purposes, public health purposes,
35 or civil defense purposes, including research;

36 (2) To warehouse such property; and

37 (3) To distribute such property to tax-supported or nonprofit and tax-
38 exempt (under section 501(c)(3) of the United States Internal Revenue
39 Code of 1954) medical institutions, hospitals, clinics, health centers,
40 school systems, schools, colleges, universities, schools for the
41 mentally retarded, schools for the physically handicapped, radio and
42 television stations licensed by the Federal Communications
43 Commission as educational radio or educational television stations,
44 public libraries, civil defense organizations, and such other eligible

1 donees within the State as are permitted to receive surplus property of
2 the United States of America under the Federal Property and
3 Administrative Services Act of 1949, as amended.

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

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

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

15 (e) The State agency for federal surplus property is authorized and empowered to
16 act as clearinghouse of information for the public and private nonprofit institutions and
17 agencies referred to in subsection (a) of this section, to locate property available for
18 acquisition from the United States of America, to ascertain the terms and conditions
19 under which such property may be obtained, to receive requests from the above-
20 mentioned institutions and agencies and to transmit to them all available information in
21 reference to such property, and to aid and assist such institutions and agencies in every
22 way possible in the consummation or acquisition or transactions hereunder.

23 (f) The State agency for federal surplus property, in the administration of this
24 Article, shall cooperate to the fullest extent consistent with the provisions of this
25 Article, with the departments or agencies of the United States of America and shall
26 make such reports in such form and containing such information as the United States of
27 America or any of its departments or agencies may from time to time require, and it
28 shall comply with the laws of the United States of America and the rules and regulations
29 of any of the departments or agencies of the United States of America governing the
30 allocation, transfer, use, or accounting for, property donable or donated to the State.

31 **"§ 143-64.3. Power of Department of Administration and Secretary to delegate**
32 **authority.**

33 The Department of Administration and/or the Secretary of Administration may
34 delegate to any employees of the State agency for federal surplus property such power
35 and authority as he or they deem reasonable and proper for the effective administration
36 of this Article. The Department of Administration and/or the Secretary of
37 Administration may, in his or their discretion, bond any person in the employ of the
38 State agency for surplus property, handling moneys, signing checks, or receiving or
39 distributing property from the United States under authority of this Article.

40 **"§ 143-64.4. Warehousing, transfer, etc., charges.**

41 The State agency for federal surplus property is hereby authorized and empowered
42 to assess and collect service charges or fees for the acquisition, receipts, warehousing,
43 distribution or transfer of any property acquired by donation from the United States of
44 America for educational purposes, public health purposes, public libraries or civil

1 defense purposes, including research, and any such charges made or fees assessed shall
2 be limited to those reasonably related to the costs of care and handling in respect to the
3 acquisition, receipts, warehousing, distribution or transfer of the property by the State
4 agency for surplus property.

5 **"§ 143-64.5. Department of Agriculture exempted from application of Article.**

6 Notwithstanding any provisions or limitations of this Article, the North Carolina
7 Department of Agriculture is authorized and empowered to distribute food, surplus
8 commodities and agricultural products under contracts and agreements with the federal
9 government or any of its departments or agencies, and the North Carolina Department
10 of Agriculture is authorized and empowered to adopt rules in order to conform with
11 federal requirements and standards for such distribution and also for the proper
12 distribution of such food, commodities and agricultural products. To the extent set forth
13 above and in this section, the provisions of this Article shall not apply to the North
14 Carolina Department of Agriculture."

15 Sec. 4. This act becomes effective July 1, 1991.