

1979 WL 42732 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 3, 1979

*1 Hon. Grady L. Patterson
State Treasurer
Wade Hampton Office Bldg
Columbia, S.C.

Dear Mr. Patterson:

You have requested the opinion of this Office as to the legality of certain proposed transfers of real property by Clemson University to the State Budget and Control Board for the purpose of liquidating an indebtedness due to the State by Clemson.

The following facts appear from pertinent statutes and from the resolutions adopted by the Clemson University Board of Trustees on December 29, 1978: (1) Clemson has offered to convey to the State by deed to the State Budget and Control Board certain of the lands known as Coast Experiment Station near Summerville, South Carolina, for their appraised fair market value of \$1,285,000, together with an adjoining tract of 20.78 acres which has not been appraised but is estimated to have a fair market value of more than \$82,000. (2) Clemson University has since 1971 conveyed to other State agencies a total of 92.71 acres of land in various locations in the State, the value of which is considerably in excess of \$200,000. (3) Act No. 614 of the 1971 Acts and Joint Resolutions of the State of South Carolina authorized the State Budget and Control Board, through the State Treasurer, to advance certain funds to Clemson University to be repaid from the sale of other lands, and further that in repayment of said debt by Clemson: 'the State Budget and Control Board shall take into consideration the value of properties transferred' to other State entities for which Clemson received no compensation.

(4) The current indebtedness due to the State Treasurer for money transferred to Clemson under Act No. 614 of 1971 is \$1,487,471; which Clemson proposes shall be liquidated by the land transferred to the State Budget and Control Board plus credit for the value of the 92.71 acres previously transferred to other State entities.

Assuming the values of the lands transferred and to be transferred are as stated, it is the opinion of this Office that the proposed transfers are a valid means of liquidating the debt presently owed to the State by Clemson University.

There is no question of Clemson's authority to effect the transfers, [Code § 59-119-70](#); nor of the Board's authority to approve and accept the transfers, [Code § 1-11-110](#). By the express provisions of Act No. 614 of 1971, the Board must credit the value of lands transferred by Clemson to other State entities in liquidation of the indebtedness authorized by the Act. See also the express language of the specific Acts authorizing transfers by Clemson of the several parcels comprising the 92.71 acres for which Clemson is entitled to have credit for the fair market value.

In addition to the Resolution adopted by the Clemson trustees, the following steps are recommended to be taken:

(1) Adoption by the State Budget and Control Board of a Resolution accepting the Clemson University offer, finding and declaring that the fair market value of the lands transferred and to be transferred is in excess of the balance owed to the State Treasurer in the sum of \$1,487,471, and directing that said indebtedness be liquidated and satisfied upon completion of the property transfers.

*2 (2) Preparation, execution and delivery of necessary deeds and transfer documents.

(3) Enactment by the General Assembly of a short Act confirming and ratifying the property transfers and debt liquidation. This final item is not necessary to the validity of the actions taken, but is in accordance with customary procedure in such transactions. See for example Acts No. 515 of 1973, No. 320 of 1975 and No. 782 of 1976.

Very truly yours,

Frank K. Sloan
Deputy Attorney General

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