

1977 S.C. Op. Atty. Gen. 138 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-177, 1977 WL 24519

Office of the Attorney General

State of South Carolina

Opinion No. 77-177

June 7, 1977

*1 TO: William S. Hall, M.D.
State Commissioner of Mental Health

QUESTION PRESENTED:

Are local mental health programs and clinics established pursuant to the provisions of § 32–1034.21, et seq., required to comply with Act 701 of 1976, 1976 (56) 1907, regarding the leasing of real property for State agencies.

AUTHORITIES:

Act 701 of 1976, 1976 (59) 1907.

§ 32–1034.21, et seq., 1962 Code of Laws of South Carolina, as amended.

DISCUSSION:

Act 701 of 1976 deals with the leasing of real property for State agencies when no property owned by the State is available, and requires all State agencies thus situated to lease needed property through the Division of General Services. Act 701 further names the State Budget and Control Board as the broker for the leasing of real property for State agencies.

The term ‘State agency’ is nowhere defined for the purposes of the Act.

Local mental health programs and clinics are established by the various local governing bodies pursuant to § 32–1034.21, et seq., of the 1962 Code of Laws of South Carolina, as amended, and are administered by a local governing body or a community mental health board. Except to the extent that a community mental health board is subject to the rules and regulations promulgated by the South Carolina Mental Health Commission, these local boards are independent bodies corporate, vested by § 32–1034.27 with the authority ‘to purchase, lease or sell real and personal property’.

The bulk of the funding for these clinics comes from non-State monies, and the clinics exist under the authority of the various local governing bodies as opposed to the authority of the General Assembly.

CONCLUSION:

It is the opinion of this Office that local mental health programs and clinics established pursuant to § 32–1034.21, et seq., 1962 Code of Laws of South Carolina, as amended, are not ‘State agencies’ within the meaning of Act 701 of 1976, and as such are not required by that Act to lease real property through the Division of General Services.

Raymond G. Halford

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