

## CHAPTER 154

### LEASE OF STATE-OWNED FACILITIES

#### §1781. Purpose

There are a large number of state-owned facilities throughout the State, a number of which have some unused space or which are currently leasing space to organizations other than state agencies. Since some state agencies may have negotiated contracts with tenants that may violate constitutional and other statutory provisions, it is the intent of the Legislature to establish a policy governing the leasing of state-owned facilities that complies with constitutional and legal principles. [PL 1985, c. 758, §1 (NEW).]

It is the purpose of this chapter to provide for uniform procedures and a standard policy for the leasing of state-owned facilities. A decentralized procedure and many differing policies lead to confusion and misunderstanding. [PL 1985, c. 758, §1 (NEW).]

#### SECTION HISTORY

PL 1985, c. 758, §1 (NEW).

#### §1782. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1985, c. 758, §1 (NEW).]

**1. Agency of jurisdiction.** "Agency of jurisdiction" means the state agency which has use of and jurisdiction over the facility.

[PL 1985, c. 758, §1 (NEW).]

**2. Available facility.** "Available facility" means a facility in which all or a part of the facility is unused and available for leasing.

[PL 1985, c. 758, §1 (NEW).]

**3. Director.** "Director" means the Director of the Bureau of General Services.

[PL 2001, c. 525, §1 (AMD).]

**4. Other organization.** "Other organization" means any not-for-profit, sole proprietorship, partnership, corporation or association that is not a state agency.

[PL 1985, c. 758, §1 (NEW).]

**5. State agency.** "State agency" means an agency of State Government as defined in section 8002, subsection 2.

[PL 1985, c. 758, §1 (NEW).]

#### SECTION HISTORY

PL 1985, c. 758, §1 (NEW). PL 2001, c. 525, §1 (AMD).

#### §1783. Lease of state-owned facilities

The director shall negotiate and have final approval of any lease or rental contract for all or a portion of any available state-owned building or facility. No available state-owned facility or building may be leased except as provided in this section, Title 12, Title 23, Title 30, chapter 233, and Resolve 1986, chapter 68. [PL 1985, c. 758, §1 (NEW).]

**1. Unused state facilities.** In the event that an agency of jurisdiction finds that it has no need for an available facility, for a period of at least one year, the director may lease the available facility.

[PL 1985, c. 758, §1 (NEW).]

**2. State agencies to be given priority.** In providing for the lease of an available facility, the director shall first offer the available facility to state agencies in the following order:

A. State agencies or sub-units of state agencies which are not located in state-owned facilities; and [PL 1985, c. 758, §1 (NEW).]

B. State agencies located in state-owned facilities. [PL 1985, c. 758, §1 (NEW).]  
[PL 1985, c. 758, §1 (NEW).]

**3. Lease of state-owned facilities to other organizations.** In the event that no state agency leases the available facility as provided in subsections 1 and 2, the director, with the approval of the commissioner or director of the agency of jurisdiction, may, by competitive bid, offer to lease the facility to any other organization.

A. Whenever the director offers to lease the available facility pursuant to this subsection, the director shall offer the lease to only those types of organizations that the agency of jurisdiction finds to be compatible with or conducive to the operation and services of the agency of jurisdiction. [PL 1985, c. 758, §1 (NEW).]

B. Notwithstanding this subsection, the director may lease an available facility or portion of an available facility to a type of organization described in paragraph A without competitive bidding if:

(1) A total of 2,500 square feet or less in the available facility is unused and therefore available for lease; or

(2) The space leased is limited to 50% or less of the available facility up to a total of 20,000 square feet. [PL 2001, c. 525, §2 (NEW).]

[PL 2001, c. 525, §2 (AMD).]

**4. Standards.** In offering a lease under the provisions of subsection 3, the director shall include standards and conditions in the lease as determined by the commissioner or director of the agency of jurisdiction which, at a minimum, include the following:

A. The types of uses compatible with and conducive to the activities of the agency of jurisdiction; and [PL 1985, c. 758, §1 (NEW).]

B. The types of activities in which the lessee may engage which, at a minimum, shall include the following:

(1) Any services or programs that the lessee is required to provide or offer;

(2) Termination of lease provisions, to include 60-day notice by either the State or the lessee;

(3) Capital improvements to be made or equipment to be provided by the lessee;

(4) The length of the lease not to exceed 2 years, except when the director, with the approval of the commissioner or director of the agency of jurisdiction, finds that a longer term lease will accrue benefit to the State;

(5) Following notice as provided in this subsection, termination of the lease by the State to accommodate the needs of a state agency; and

(6) Any other provisions deemed necessary by the agency of jurisdiction or the director. [PL 1985, c. 758, §1 (NEW).]

[PL 1985, c. 758, §1 (NEW).]

#### SECTION HISTORY

PL 1985, c. 758, §1 (NEW). PL 2001, c. 525, §2 (AMD).

#### §1784. Rent and fees

In providing a lease under this chapter, the director shall require payment of fees or charges that, at a minimum, cover the costs of utilities, including heat, custodial services and any other costs generated by the lessee. In addition, a monthly rental fee shall be charged to the user which need not necessarily be the current rate charged in the private sector for similar facilities. [PL 1985, c. 758, §1 (NEW).]

**1. Provision of services to the State.** If the lessee provides services or assistance to the State at no charge or at significantly reduced charges or the lessee provides in-kind contributions, the monthly rental fee may be reduced or waived by mutual agreement of the director and the commissioner or director of the agency of jurisdiction.

[PL 1985, c. 758, §1 (NEW).]

#### SECTION HISTORY

PL 1985, c. 758, §1 (NEW).

#### §1785. Adoption of rules

**1. Rules of implementation.** The director shall adopt rules to implement this chapter. At a minimum, these rules shall include:

A. Provisions for offering available state facilities to state agencies; [PL 1985, c. 758, §1 (NEW).]

B. Provisions for offering, by competitive bidding, available facilities to other organizations; [PL 1985, c. 758, §1 (NEW).]

C. Standards for determining user created costs to state agencies for use of state-owned facilities to be reimbursed to the State; and [PL 1985, c. 758, §1 (NEW).]

D. Standards for determining rental fees based on the location of the facilities, accessibility, local market rates, services or in-kind contributions provided by the user or lessee and any other standards deemed necessary by the director. [PL 1985, c. 758, §1 (NEW).]

[PL 1985, c. 758, §1 (NEW).]

#### SECTION HISTORY

PL 1985, c. 758, §1 (NEW).

#### §1786. Exemption of state from liability

Whenever a lease is offered to or signed by another organization pursuant to this chapter, the lease conditions shall clearly state that the State or any state employee shall not be liable for any personal injury or death or any property damage sustained as a result of the lease of the available facility in accordance with this chapter. The State shall not be liable for any actions of the lessee or the employees of the lessee. [PL 1985, c. 758, §1 (NEW).]

#### SECTION HISTORY

PL 1985, c. 758, §1 (NEW).

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