

## 74-41

Page 76

A leasehold estate, such as you propose to grant, is an interest in real property. See Ga. Code Ch. 85-8 (Code of 1933). In the absence of a constitutional or statutory provision providing otherwise, the power to dispose of real property or any interest therein belonging to the state is vested solely in the legislature. *Western Union Telegraph Co. v. Western and Atlantic Railroad Co.*, 142 Ga. 532 (1914).

I have reviewed the statutes which created the Department of Public Health (Ga. Laws 1964, p. 499, as amended (Ga. Code Ann. Title 88)), the Department of Family and Children Services (Ga. Laws 1937, p. 355 and 1963, p. 218, as amended (Ga. Code Ann. Ch. 99-1)), and the Division for Children and Youth within the aforesaid Department of Family and Children Services (Ga. Laws 1963, p. 81, as amended (Ga. Code Ann. Ch. 99-2)), all of which are predecessors to the Department of Human Resources. None of these statutes expressly or by implication empower the Department of Human Resources to lease state real property to a private citizen for his private purposes. My research indicates no such general authority or power to lease real property was enacted by the 1974 Regular Session of the General Assembly.

It is therefore my official opinion that the Department of Human Resources has, at present, no general authority or power to lease (grant an estate for years) to a private citizen for his private purposes real property owned by the State of Georgia and within the custody and management of the department.

### **OPINION 74-41**

To: Commissioner, Department of Banking and Finance

March 29, 1974

Re: Article VII, Sec. V, Par. I, of the Constitution of Georgia (Ga. Code Ann. 2-5801) prohibits a municipal corporation from becoming a member or stockholder of any company, corporation or association. Further, a credit union is not a proper depository for public funds belonging to or in the custody of a municipal corporation. Op. Att'y Gen. U71-115 withdrawn.

This is in response to a request from your office dated March 1, 1974, requesting our opinion on the following three questions:

(1) May the City of Warner Robins legally be elected to membership in the "Warner Robins Employees Credit Union, under the provisions of Ga. Laws 1925, pp. 165, 170 (Ga. Code Ann. 25-108)?