

Turnpike Authority is created; that its powers and duties are defined; *that it is given the power to acquire real and personal property, and even to resort to eminent domain, to construct turnpike projects and finance them by issuing bonds payable from tolls and other revenues* (Emphasis supplied.)

It follows that the title to all tangible personal property acquired by the turnpike authority under the powers conferred by the legislature vests in the state.

Moreover, any attempt by a state agency to pledge governmental property, either real or personal, to secure a debt is prohibited. In *State v. Florida State Improvement Commission*, 60 So.2d 747, 754 (Fla. 1952), the court was concerned with the validity of a deed conveying the land and physical property of the county to the Florida State Improvement Commission. In holding this transaction to be void, the court noted that the

. . . property is to be reconveyed to Madison County Health and Hospital Board when, as and if the principal and interest of the bonds are ever paid. This conveyance is a pledge, or a mortgage, it matters not what the name may be. *The pledging of such property to secure a debt is prohibited. There is a vast difference between the pledging of property to secure a debt . . . and the mere pledging of revenues derived from the property* (Emphasis supplied.)

AS TO QUESTION 2:

Chapter 273, F. S., the State Tangible Personal Property Control Law, required the keeping of certain records by a custodian in connection with tangible personal property owned by the state. Section 273.01(1) defines the custodian of all tangible state-owned personal property as ". . . any elected or appointed state officer, board, commission, or authority, and any other person or *agency entitled to lawful custody of property owned by the state.*" (Emphasis supplied.) Former §340.05 (1), F. S. 1967, defined the Florida State Turnpike Authority as a *state agency*; and §340.06(10), *id.*, empowered it to "*acquire, hold and dispose of real and personal property.*" (Emphasis supplied.) As noted above, under the Governmental Reorganization Act of 1969, Ch. 20, F. S., the Florida State Turnpike was transferred by a type three transfer to the Department of Transportation. In the transfer, the turnpike authority was merged into the Department of Transportation and all statutory powers, duties, and functions, records, personnel, property, and unexpended balances of appropriations and allocations of the authority, except those transferred elsewhere by the legislature, became the responsibility of the Department of Transportation.

Therefore, it is now the duty of the Department of Transportation, as it was the previous duty of the turnpike authority, to comply with the requirements of Ch. 273, F. S., relating to state-owned tangible property and all other applicable laws relating to state-owned property.

073-298—August 21, 1973

ADULT RIGHTS LAW

ACTING AS EXECUTOR OR ADMINISTRATOR OF ESTATE

To: Richard A. Bronson, Circuit Judge, Bartow

Prepared by: Jan Dunn, Assistant Attorney General

QUESTION:

Are persons eighteen to twenty years of age now qualified to act as an executor or administrator of an estate?

SUMMARY:

Under Ch. 73-21, Laws of Florida, a person eighteen years of age and older is qualified to act as an executor or administrator.

Section 732.46(1), F. S., provides in part that "[n]o person who is less than twenty-one years of age shall be qualified or permitted to act as an executor or administrator."

Section 2 of Ch. 73-21, Laws of Florida [§743.07(1), F. S.], the Adult Rights Law, provides in part that:

The disability of nonage is hereby removed for all persons in this state who are 18 years of age or older and they shall enjoy and suffer the rights, privileges and obligations of all persons 21 years of age or older except as otherwise excluded by the Constitution of the State of Florida immediately preceding the effective date of this act. . . .

Further, §4 of Ch. 73-21, *supra*, states: "Any law inconsistent herewith is hereby repealed to the extent of such inconsistency."

Thus, inasmuch as the Adult Rights Law gives persons eighteen years of age and older all the rights, privileges, and obligations of persons twenty-one years of age or older, and since the only exceptions are those areas excluded by the Constitution, it must be concluded that a person eighteen years of age or older can now be qualified to act as an executor or administrator.

073-299—August 22, 1973

ADULT RIGHTS LAW

CAPACITY TO CONSENT TO MEDICAL TREATMENT

To: Louis H. Ritter, Secretary, Department of Professional and Occupational Regulation, Tallahassee

Prepared by: Jan Dunn, Assistant Attorney General

QUESTION:

Is an individual between the age of eighteen and twenty-one who is living at home and who is fully dependent upon his parents considered an adult for purposes of giving a physician consent to medical treatment?

SUMMARY:

A person eighteen years of age or older may be considered an adult for the purposes of granting consent to medical treatment by a physician.

Your question must be answered in the affirmative.

The Adult Rights Law, §1, Ch. 73-21, Laws of Florida [§1.01(14), F. S.], defines a "minor" as "any person who has not attained the age of 18 years." As stated in AGO 071-220:

In the 1971 Cumulative Supplement to Volume 41 of the American Jurisprudence, in the treatment of Physicians and Surgeons, §111, I find the following: "As a general proposition, *except in the event of an emergency*, a surgeon will be liable for an assault where he operates on a child without the the consent of the latter's parents." (Emphasis supplied.)

Since the definition of "child" or "minor" has been changed to a person under eighteen years of age, it would follow that persons eighteen years of age or older can