

**OPINION
72-340**

October 11, 1972 (OPINION)

Mr. Martin N. Gronvold
Executive Director
Employment Security Bureau
201 East Broadway
P. O. Box 1537
Bismarck, ND 58501

Dear Mr. Gronvold:

This is in response to your letter in which you state the following:

"The Department of Labor Regional Office has been concerned as to what disposition is being made of legal documents we acquire to the purchase of or rental-purchase of certain properties with the use of Federal funds.

"You are well aware of the fact that we have now purchased several buildings on the lend-purchase agreement and that certain titles are now in our possession. It is necessary to properly notify the Department of labor when these properties are acquired and what disposition we made of the documents.

"We therefore request:

1. Who is the authorized individual of the State Agency to accept such documents and sign them when necessary?
2. What proper records should be made thereof?
3. Where should such documents be kept for safe keeping, or in what office should they be maintained?
4. Who shall have access to these documents after they have been properly placed in safe keeping?"

As to question number 1, the nature of the document would to a great degree control as to who is authorized to accept or sign the document. If the document involves the transfer of property pursuant to the provisions of section 52-02-16 and the State of North Dakota is the recipient of the property or title, then the document may be executed by the North Dakota Employment Security Bureau. In the absence of any further direction, the Director of the Employment Security Bureau would be the person authorized to sign such document.

If, however, the document relates to or in fact transfers property owned by the state to some other person, then the provisions of section 54-09-02 would have application. Section 54-01-05.1 specifies that the Governor shall execute the quit claim deed, which is to be attested by the Secretary of State.

We must also recognize that there are instruments which will convey or grant land (real property) in which the grantee is not required to

sign the instrument of conveyance. However it is also conceivable and probable that the grantee, in return for title to certain property, promises to make certain payments or such similar act. The nature of the transaction and the specific law would determine who has authority or power to sign such accompanying document. Confining the answer to the acquisition of property under the provisions of section 52-02-16, the documents would be and should be executed by the Director of the Employment Security Bureau. The grantor or the person conveying title to the state for the benefit of the Employment Security Bureau, however, would be the person who would have to sign the instrument of conveyance.

As to question number 2, all pertinent records should be filed and retained for a period of time depending upon the nature of the record itself. If a conveyance of real property is involved, such conveyance should be recorded with the Register of Deeds in the county in which the property is located. Any supporting or related records developed prior to or simultaneous with the conveyance even though they are not recorded with the Register of Deeds should be retained and filed in the office of the head of the department in this instance, the director of the Employment Security Bureau, or in such office as he may designate within his jurisdiction.

As to question number 3, the document of conveyance, after being recorded with the Register of Deeds, should be presented to the Secretary of State so that the Secretary of State may fulfill his responsibilities under the provisions of section 54-09-02(4) which requires him to "record in proper books all conveyances made to the State * * * ". This would imply that the document of conveyance be kept on file with the Secretary of State. This does not mean that a copy of the instrument cannot be made and be kept with the department directly involved. The department should maintain a complete file on every transaction involving the transfer of real property. The Register of Deeds under the provisions of Chapter 11-18 would be required to record an instrument conveying property if it is in proper form.

As to question number 4, these documents constitute part of the public records and would be subject to examination, inspection or review pursuant to the provisions of section 44-04-18.

As to other related documents involving the transfer or conveyance of property other than the instrument of conveyance itself, the head of the department or the Director of the Employment Security Bureau, as the case may be, may determine and direct who shall have custody within the office. He may desire to retain custody in his office or he may designate any person on his staff or department as the custodian of such records. We would further recommend that if the need arises, copies of such related documents or even the instrument of conveyance, could be made for such purposes. It is also recommended that all matters relating to a conveyance be placed and retained in one file. This envisions a file for each conveyance.

I trust this answers your inquiry.

Sincerely yours,

Helgi Johanneson

Attorney General