

FILE

Subject

*Counties Property
Acquisition
Disposition*

Copy to



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

June 11, 1974

Opinion No. 74-192

Honorable Robert V. Talkington
State Senator, Twelfth District
P.O. Box 725
Iola, Kansas 66749

Dear Senator Talkington:

K.S.A. 19-2115 states in pertinent part thus:

"Whenever the board of county commissioners shall sell the county farm, county infirmary, county home or any part thereof, . . . as provided for herein, said board may use the funds derived from such sale . . . to purchase land to erect a suitable building or buildings thereon, and to make other necessary equipment for the establishment of a home for the aged: Provided, That in counties having a population of more than twenty-four thousand (24,000) and less than thirty thousand (30,000) and in counties having a population of more than sixty thousand (60,000) and not more than one hundred thousand (100,000) any moneys received from the sale of a county farm and site may be placed in a special building fund and used without regard to limitations prescribed by the budget law for public buildings or structures and sites therefor as the board of county commissioners shall deem to be necessary for the county for public county purposes; and may be used in combination with other funds for such county buildings.

"Any funds not used as provided by this section shall be placed in the county general fund."

You inquire whether the provisions of this section are subject to exemption by charter resolution pursuant to 1974 Senate Bill

Hon. Robert V. Talkington
June 11, 1974
Page Two

No. 175. Section 2(a) of that bill states in pertinent part thus:

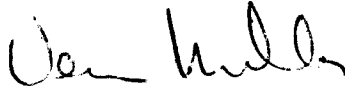
"Counties are hereby empowered to transact all county business and perform such powers of local legislation and administration as they deem appropriate, subject only to the following limitations, restrictions, or prohibitions: First, counties shall be subject to all acts of the legislature which apply uniformly to all counties . . ."

K.S.A. 19-2115 was most recently enacted as § 1, ch. 270, L. 1968, section 2 of which was a repealer section. The act in its entirety is not uniformly applicable to all counties. It does, of course, despite the proviso, apply in one fashion or another to all counties. However, it does not apply uniformly to all counties. Those with a population of more than 24,000 and less than 30,000, e.g., are treated differently from those with a population of 24,000 or less, and differently from those with a population of 30,000 to 60,000 and differently from those with a population of more than 100,000.

Accordingly, I agree fully with your view, that K.S.A. 1973 Supp. 19-2115 does not apply uniformly to all counties, and is subject to charter resolution under 1974 Senate Bill 175.

For your information, I enclose a copy of an earlier opinion concerning Senate Bill 175. I hope it will be helpful to you.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm

Enc: Opinion No. 74-141