



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

March 25, 1975

Opinion No. 75- 132

Mr. C. F. Howe, Assistant Administrator
Kansas State Department of Credit Unions
234 Kansas Avenue
Topeka, Kansas 66603

Dear Mr. Howe:

You have requested an opinion whether a credit union may purchase real property, not for its own use and occupancy and subsequently, thereafter, enter into a contract for the sale for that particular realty.

The powers of investment of a credit union are set out in K.S.A. 17-2204(3). That subsection provides:

"It may invest, through its board of directors, in a central credit union, located in the state of Kansas and under the supervision of the administrator, in shares of any savings and loan association having its principal office located in the state of Kansas, in the bonds of the United States, or of any state thereof or of any municipality, the bonds of which municipality are legal investments for savings banks in the state of Kansas. It may deposit its funds in saving banks. The funds of the credit unions shall be used first, however, for loans to members in the way and manner hereinafter provided, and preference shall be given to the smaller loans in the event the available funds do not permit all loans which have passed the credit committee to be made."

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Further minor additions to this list are found at K.S.A. 17-2204a. Conspicuously absent from this list of permissible investments is real estate. The credit union industry is highly regulated under our statutes. All matters pertaining to the basic financial structure and organization of the credit union are set forth in K.S.A. 172201 et seq. Numerous other provisions exist for a close scrutiny by the state administrator relative to most financial transactions. K.S.A. 172206, 2216. In light of these facts, the argument that the above list of potential investments is not exclusive is inconsistent with the basic pattern and scheme of the credit union law.

Furthermore, this conclusion is supported by the language of K.S.A. 17-2226. This statute provides in pertinent part:

"Credit unions may purchase real estate and improvements thereon for their use and occupancy."

Construed in light of K.S.A. 17-2204(3), the conclusion is that a credit union may not invest in real estate except as provided in K.S.A. 17-2226. The rationale behind this result is derived from the long standing rule that statutes on the same subject are to be taken in parimateria. In other words, statutes on the same subject are to be taken in reference to one another. Applied to this matter, one statute provides a list of authorized investments. The second permits an exception in allowing a limited form of investment in realty. Taken together, the only possible conclusion is that excluded types of investment from the first statute may only be accomplished within the confines of the exception in the second statute.

It should be noted that the very nature of the credit union business may require that occasionally, title to realty be taken at foreclosure sales in order to protect an outstanding obligation. Nothing in this opinion should be construed as preventing a credit union from protecting its own interest by bidding at the foreclosure sale and thereafter entering into a contract of sale for the property.

Therefore, it is the opinion of this office that a credit union may not invest in real property except as provided in K.S.A. 17-2226.

Yours very truly,


CURT T. SCHNEIDER
Attorney General

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