



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

CURT T. SCHNEIDER
Attorney General

April 15, 1975

Opinion No. 75- 163

Mr. Lyle D. Ocobock
Special Assistant Treasurer
535 Kansas Avenue
Topeka, Kansas 66603

RE: K.S.A. 1974 Supp. 75-4201(q);
FHA Mortgage Insurance Certificate

Dear Mr. Ocobock:

You have requested an opinion from this office as to whether a deed of trust insured by a Federal Housing Administration (FHA) Mortgage Insurance Certificate meets the definition for securities as specified in K.S.A. 1974 Supp. 75-4201(q) in order to acquire pledgeable status under K.S.A. 1974 Supp. 75-4218.

K.S.A. 1974 Supp. 4201(q) provides in pertinent part:

"'Securities' means any one or more of the following:

(1) Direct obligations of, or obligations that are insured as to principal and interest by, the United States Government or any agency thereof."

Initially, we note that FHA is in fact, an agency of the United States Government: created by Executive Order No. 7280 issued pursuant to the National Housing Act, 12 U.S.C. § 1701, et seq. Thus it clearly qualifies under the statutory requirement, supra. The FHA Mortgage Insurance Certificate also meets the specified requirements by insuring the obligation as to principal and interest. 24 C.F.R. § 203.400 et seq.

The final issue is whether a deed of trust qualifies as an "obligation" within the meaning of that term as found in the statute. Ballentine's Law Dictionary (1969) defines "obligation" as ". . . that which binds, as an oath, vow, promise, contract, or debt." The instrument in

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question, insured by an FHA Mortgage Insurance Certificate, is entitled "deed of trust" which Ballentine's defines as "[a] conveyance creating a trust in real estate; a conveyance given as security for the performance of an obligation, which is generally regarded as containing the elements of a valid mortgage." Employing these two definitions, we conclude that the deed of trust qualifies within the meaning of the term "obligations" as used in K.S.A. 1974 Supp. 75-4201(q)(1).

Accordingly, it is the opinion of this office that deeds of trust insured as to principal and interest by FHA Mortgage Insurance Certificate properly fall within the definition of securities as provided in K.S.A. 1974 Supp. 75-4201(q); and may therefore be pledged for state bank accounts pursuant to K.S.A. 1974 Supp. 75-4218.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS/JPS/ksn