



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider,
Attorney General

February 9, 1976

ATTORNEY GENERAL OPINION NO. 76- 59

Mr. Don Vsetecka
Finney County Attorney
County Courthouse
Garden City, Kansas

Re: Laws of 1975, Chap. 514, Sec. 8(h) and Sec. 26(7) amend-
ing K.S.A. 84-9-105 and 84-9-403. Also, 84-2-107 as
amended by Chap. 514, Section 3, amending K.S.A. 84-2-107.

Synopsis: The Register of Deeds must file and index liens on
growing crops, under the above statutes as amended,
in the land records for the land upon which the crops
are located as well as in the alphabetical records
under the name of the owner of said crops.

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Dear Mr. Vsetecka:

You ask if under the amendments of 1975 to the above statutes
it is required that the Register of Deeds file and index liens
upon growing crops in land records for the land upon which the
crops are located as well as the alphabetical records under the
name of the owner of the crops. Our answer is yes.

Section 8(h) of Chapter 514, amending 89-9-105 (formerly (f)
and redesignated as (h)), did not change "growing crops" as being
included in the definition of "goods". That part remained
unchanged.

Section 26(7) is an entirely new subparagraph which is added
to 84-9-402. It covers "goods", but the full statement is "goods
which are or are to become fixtures". It then references to
subsection 5 of 89-9-204 (see Chap. 514, Section 25(5)) and
84-9-313 (see Chap. 514 Section 22). These sections still reference
further ones, but all of them deal with goods which are or are to

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become fixtures. "Growing crops" are not fixtures nor are they to become fixtures. Growing crops are "goods" which are to be "severed" from real estate. Therefore, Chap. 514, Section 26(5) does not refer to "growing crops".

However, the legislature did take care of growing crops in Chapter 514, Section 3, now K.S.A. 1975 Supp. 84-2-107 and said that any sale thereof capable of severance without harm to the real estate must be "recorded as a document transferring an interest in land and shall then constitute notice to third parties..." Then, the sale or incumbrance instrument, wherein a growing crop is given as security for a loan, is within the meaning of "financing statement" of Chap. 514, Section 25(4), and must be recorded as required by Chap. 514, Section 26(4), and indexed as to debtor's name, address, etc.

So, the answer to both your questions is yes.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS/CJM/cgm