



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 82- 125

Mr. Marvin R. Webb
Director
Grain Inspection Department
535 Kansas Avenue
Topeka, Kansas 66603

Re: Grain and Forage -- Grain Storage; Terminal and
Local Warehouses -- Authority to Collect Interest
on Storage Charges

Synopsis: The Kansas Grain Inspection Department lacks au-
thority pursuant to K.S.A. 34-235 to authorize
public warehouses licensed by the Department to
charge and collect interest charges in addition
to approved grain storage charges. Cited herein:
K.S.A. 34-235, K.A.R. 25-1-7, 25-1-8.

* * *

Dear Mr. Webb:

You have requested the Attorney General's Opinion concerning
the legality of charging interest on storage charges. Speci-
fically, you ask:

- "(1) Is it within the statute limits of K.A.R.
25-1-7 and K.A.R. 25-1-8 and K.S.A. 34-235,
to charge interest on storage charges?
- "(2) If so, must written notice be given to
the producers so stating this charge?
- "(3) If not, would you advise a public notice
according?"

Because the answer to your first inquiry is dispositive on
all issues raised in your opinion request, we will confine
our discussion to your first question.

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Pertinent to your inquiry is K.S.A. 34-235 which provides in part:

"The amount to be charged for storage of grain . . . shall include the cost of receiving, unloading, insuring, handling (except extraordinary handling) storage and delivery of grain and no additional or special charge shall be made for any of the aforesaid services." (Emphasis added.)

Hence, from reading K.S.A. 34-235, we believe that for any expense of a public warehouseman to be included in the storage charge, it must be one of those costs specifically enunciated by this statute. Since the payment of interest on storage charges is not specifically listed in K.S.A. 34-235 to be included in the storage charge and since the above emphasized language of the statute precludes other charges, we believe such a charge to be beyond the powers of public warehouses and likewise beyond the authority vested in the Grain Inspection Department to approve storage charges. It is a commonly accepted rule of statutory construction that the intent of the legislature is to be given effect and where the language is clear and unambiguous it is to be construed in its ordinary sense. See Southeast Kansas Landowners Ass'n v. Kansas Turnpike Auth., 224 Kan. 357, 367 (1978). Moreover, the maxim of statutory construction known as expressio unius est exclusio alterius, meaning the inclusion of some implies the exclusion of others, suggests here that charges not listed are not to be implied. See In re Olander, 213 Kan. 282 (1973).

Therefore, it is our opinion that the Kansas Grain Inspection Department lacks authority pursuant to K.S.A. 34-235 to authorize public warehouses licensed by the Department to charge and collect interest charges in addition to approved grain storage charges.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Bradley J. Smoot
Deputy Attorney General

RTS:BJS:hle