



STATE OF KANSAS

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September 12, 1985

ATTORNEY GENERAL OPINION NO. 85-120

Marvin R. Webb
Director
Grain Inspection Department
235 S. Topeka, P.O. Box 1918
Topeka, Kansas 66601

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

Synopsis: Public grain warehouses licensed by the Grain
Inspection Department do not have the authority
to charge a finance fee for overdue storage
charges. Cited herein: K.S.A. 34-125, 34-235.

* * *

Dear Mr. Webb:

As Director of the Grain Inspection Department, you have requested our opinion concerning the legality of instituting a finance fee in addition to the regular storage fee charged by public warehouses. Specifically, you question whether a warehouse may charge a finance fee for overdue storage charges on accounts which are a year old or more.

In your letter to this office, you refer to K.S.A. 34-125 as relevant to your inquiry. This statute authorizes the grain advisory commission to set a schedule of maximum and minimum charges to be made by public warehouses. We are of the opinion, however, that the more pertinent section is K.S.A. 34-235, which provides in part:

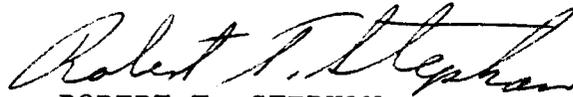
"The amount to be charged for storage of grain . . . shall include the cost of receiving, unloading, loading, insuring, handling (except extraordinary handling), storage and delivery of grain and no additional or special charge shall be made for any of the aforesaid services. . . ." (Emphasis added.)

In a prior Attorney General opinion concerning the legality of charging interest on storage charges, this statute was interpreted as follows:

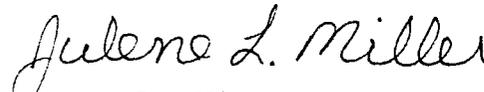
"from reading K.S.A. 34-235, we believe that for any expense of a public warehouseman to be included in the storage charge, it must be one of those costs specifically enunciated by this statute. Since the payment of interest on storage charges is not specifically listed in K.S.A. 34-235 to be included 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."
Opinion No. 82-125.

It would appear that the same rule would apply to a finance fee as to an interest charge. Both are fees imposed in addition to the regular storage charge and as such are not allowed. In conclusion therefore, public grain warehouses lack the authority to charge finance fees in addition to their regular storage charges.

Very truly yours,



ROBERT T. STEPHAN
Attorney General



Julene L. Miller
Assistant Attorney General