



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

February 27, 1975

Opinion No. 75- 82

Mr. Herman H. Josefiak
Assistant State Treasurer
535 Kansas Avenue
Topeka, Kansas 66603

RE: K.S.A. 1974 Supp. 75-4201(q)
and 1974 Supp. 75-4218; Newton
Creative Housing Subordinated
Revenue Bonds (Series 1974)

Dear Mr. Josefiak:

You have requested an opinion from this office ruling whether the Newton Creative Housing Subordinated Revenue Bond (Series 1974) issue qualifies as pledgable collateral for state funds pursuant to K.S.A. 1974 Supp. 75-4201(q) and 1974 Supp. 75-4218. We are advised via information supplied in the official statement for the above bond issue (as circulated by Municipal Investments of Memphis, Tennessee) that the proceeds derived from the sale of said bonds will be used to purchase Certificates of Beneficial Ownership of the Farmers Home Loan Administration in an amount which together with interest earned thereon will pay the issue's principal and interest. The specific question thus presented is whether this bond issue, which is indirectly guaranteed by an agency of the federal government, falls within the definition of the term "securities" as set out in K.S.A. 1974 Supp. 75-4201(q).

K.S.A. 1974 Supp. 75-4201(q) in pertinent part, provides:

"'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."

Applying this definition to the bond issue in question, it becomes at once apparent that the bonds are not direct obligations of the

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federal government or any of its agencies. We further note that the bonds themselves are not insured as required. So, the question becomes one of ascertaining whether an indirect federal guaranty such as the one presented is permissible.

The ultimate objective of the security requirements specified in the State Monies Act is to provide the state with a marketable security which may be sold, if necessary, to cover any loss which the state incurs as a result of a bank failing to safely keep and account for state or special monies, K.S.A. 75-4220. We believe this purpose, in itself, clearly reflects the legislative intent to limit the application of the Act's definition of securities to the instrument which the state would ultimately have to sell, should it become necessary. The insurance for the principal and interest on the issue in question does not arise from a guaranty given by the government to the subordinated mortgage revenue bonds themselves, but rather it is a guaranty pivoting on the Subordinated Indenture of Mortgage and Trust by and between Newton Creative Housing, Inc. of Newton, Kansas and the Exchange Security Bank, Birmingham, Alabama (trustee). Accordingly, it is the opinion of this office that since these bonds are not themselves insured as to principal and interest, they do not meet the requirements of pledgibility for state funds as required by the Act.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JPS;ksn

cc: Mr. R. W. Monk, Vice President
First National Bank
Fort Lauderdale, Florida

Mr. William Embury
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