



STATE OF KANSAS

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June 1, 1984

ATTORNEY GENERAL OPINION NO. 84-47

The Honorable Gerald "Jerry" Karr
State Senator, Seventeenth District
R. R. 2, Box 101
Emporia, Kansas 66801

Re: Corporations--Agricultural Corporations--Limitations

Synopsis: Pursuant to the restrictions of K.S.A. 17-5904, and subject to exemptions prescribed therein, corporations (other than family farm corporations and authorized farm corporations) may not own agricultural land in this state. An investment plan whereby a corporation (other than a family farm corporation or authorized farm corporation) would own agricultural land, subject to a "buy-back option," would violate the restrictions of the aforesaid statute. Cited herein: K.S.A. 1983 Supp. 17-5903, K.S.A. 17-5904.

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Dear Senator Karr:

You request our interpretation of K.S.A. 17-5904. Said statute prohibits, in part, ownership or leasing of agricultural land in this state by corporations, and you ask whether the restrictions of the statute apply to corporate investment in farm land through a plan referred to as a "lease-back with a buy-back option." Under this plan, a farm owner would sell his land to an investor at 80% or less of its value, and the investor would lease the farm back to the farmer. The farmer would have the option to "buy back" the farm for a prescribed period, at the original

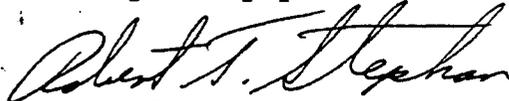
sales price plus an amount deemed to constitute "appreciation in value."

As stated above, K.S.A. 17-5904 prohibits, in part (and subject to certain exemptions not pertinent here) ownership and leasing of agricultural land in this state by corporations (other than family farm corporations and authorized farm corporations). Agricultural land is defined as "land suitable for use in farming" [K.S.A. 1983 Supp. 17-5903(f)] and the term farming is defined as follows:

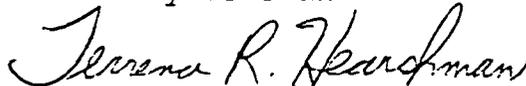
"'Farming' means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock. Farming does not include the production of timber, forest products, nursery products or sod, and farming does not include a contract to provide spraying, harvesting or other farm services." K.S.A. 1983 Supp. 17-5903(g).

Under the investment plan described above, which is referred to as a "lease-back with buy-back option," the investor "buys" farm land at 80% of its value. Based upon the limited description of the plan in question, we must presume that this means the investor becomes the owner of the subject land, i.e. takes title thereto, and holds said title subject to a "buy back option." As K.S.A. 17-5904 prohibits ownership of agricultural land in this state by corporations (other than family farm corporations or authorized farm corporations), it is our opinion that corporate investment in farm land through the plan described above would violate the provisions of aforesaid statute.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
Assistant Attorney General