



But See 1986 Supp 75-4201

STATE OF KANSAS

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February 13, 1986

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ATTORNEY GENERAL OPINION NO. 86- 20

The Honorable Joan Finney  
State Treasurer  
700 Harrison  
Topeka, Kansas 66604

Re: State Departments; Public Officers and Employees --  
State Moneys -- Definitions; Securities;  
Eligibility of Certain Obligations

Synopsis: A state or national bank which receives a deposit of state moneys is required to secure the account by a pledge of securities. K.S.A. 1985 Supp. 75-4218. Direct obligations of the United States government or its agencies are qualified securities, as are obligations insured as to principal and interest by the United States government or one of its agencies. K.S.A. 75-4201(p)(1). Cited herein: K.S.A. 75-4201; K.S.A. 1985 Supp. 75-4218; K.S.A. 75-4221; 7 U.S.C. §§1981; 1988; 12 U.S.C. §§1435; 1455; 1717; 1719; 1721; 15 U.S.C. §§633; 634; 16 U.S.C. §§831n-1; 831n-3; 831n-4; 31 U.S.C. §3123; 42 U.S.C. §§3534; 4514.

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Dear Mrs. Finney:

As Treasurer of the State of Kansas, you have requested our opinion concerning those securities which may be offered by Kansas financial institutions to secure deposits of the state's funds. Kansas statutes require depositories of state money to secure the deposits with, among other items, "Direct obligations of, or obligations that are insured as to

principal and interest by, the United States government or any agency thereof." K.S.A. 75-4201(p) (1). You have supplied us with a list of specific securities and request our opinion as to their compliance with the above language.

In our opinion, the following obligations from your list are eligible as securities under K.S.A. 75-4201(p) (1):

1. United States Treasury Bills, Notes and Bonds.  
"The faith of the United States Government is pledged to pay, in legal tender, principal and interest on the obligations of the Government . . . ." 31 U.S.C. §3123(a).
2. Government National Mortgage Association (GNMA).  
The Association . . . "shall be in the Department of Housing and Urban Development," 12 U.S.C. §1717(a) (2) (A), and its guaranty of loans is backed by the full faith and credit of the federal government. 12 U.S.C. §1721(g).
3. Farmers Home Administration (FmHA).  
The FmHa is part of the Department of Agriculture pursuant to 7 U.S.C. §1981, and its obligations are guaranteed by 7 U.S.C. §1988.
4. Small Business Administration (SBA).  
The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of trust certificates issued by the SBA pursuant to 15 U.S.C. §634(g) (3). The SBA is an independent agency of the federal government. 15 U.S.C. §633(a).
5. Community Development Corporation.  
"The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest and any redemption premiums." 42 U.S.C. §451(b). This applies to bonds, notes, debentures and other obligations issued by or on behalf of private non-community developers and state development agencies, pursuant to programs approved by the Secretary of Housing and Urban Development. 42 U.S.C. §4514(a).

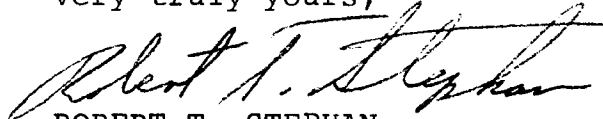
6. Tennessee Valley Authority (TVA).  
Certain bond issues of the TVA shall be "fully and unconditionally guaranteed both as to interest and principal by the United States . . . ." 16 U.S.C. §§831n-1, 831n-3. Others, however, are not. 16 U.S.C. §831n-4. Accordingly, a review must be made of each security as it is presented.
7. Federal Housing Administration.  
"The functions, powers, and duties of the . . . Federal Housing Administration . . ." were transferred to and vested in the Secretary of Housing and Urban Development, effect November 9, 1965. 42 U.S.C. §3534. To the extent that any obligation of the FHA are still outstanding, they are backed by the full faith and credit of the federal government.
8. Federal Home Loan Mortgage Corporation (FHLMC).  
To the extent that they are backed by the Government National Mortgage Association [pursuant to 12 U.S.C. §1721(g)], obligations of FHLMC may be used as security under K.S.A. 75-4201(p). 12 U.S.C. §1455(a).

The following entities' securities are not direct obligations of or insured by the United States government or one of its agencies. Accordingly, they do not qualify for use as security under K.S.A. 75-4201 et seq.

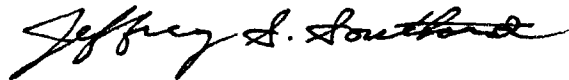
1. Federal National Mortgage Association  
"The corporation [FNMA] shall insert appropriate language in all of its obligations . . . indicating that such obligations . . . are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof . . . ." 12 U.S.C. §1719(b), (e).
2. Federal Home Loan Bank.  
"All obligations of Federal Home Loan Banks shall plainly state that such obligations are not obligations of the United States and are not guaranteed by the United States." 12 U.S.C. §1435.

There are many other United States agencies, instrumentalities, corporations, etc., which issue their own obligations. If you have questions concerning obligations not discussed herein or in our prior opinion regarding the Farm Credit System, No. 86-13, please let us know. Clearly, if an obligation is not qualified under K.S.A. 75-4201(p)(1) and is being held by a depository as security, the security is deemed impaired and requires immediate action by the Pooled Money Investment Board, pursuant to K.S.A. 75-4221.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Jeffrey S. Southard  
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RTS:JSS:crw