



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 87- 18

The Honorable Jim Allen  
Senator, Eleventh District  
State Capitol, Room 128-S  
Topeka, Kansas 66612

Re: Grain and Forage -- Inspecting, Sampling, Storing,  
Weighing and Grading Grain; Terminal and Local  
Warehouses -- Warehouse Bonds

Synopsis: K.S.A. 34-229 was amended by 1986 Senate Bill No.  
518 to make grain warehouse bonds non-  
accumulative. Thus, Kansas has joined the majority  
of the states and the federal government in  
disallowing the "stacking" of bonds. Cited  
herein: K.S.A. 34-229; L. 1986, ch. 153, §1.

\* \* \*

Dear Senator Allen:

As Chairperson of the Senate Agriculture Committee, you  
request our opinion regarding K.S.A. 34-229. Specifically,  
you ask about the validity and the intent of L. 1986, ch.  
153, sec. 1, which states in part:

"Section 1. K.S.A. 1985 Supp. 34-229 is  
hereby amended to read as follows: 34-229

. . . .

"(c) The bond shall be in favor of the  
state of Kansas for the benefit of all  
persons interested, their legal  
representatives, attorneys or assigns and  
shall be conditioned on the faithful

performance of all the licensee's duties as a public warehouseman and such additional obligations as assumed by the warehouseman under contracts with a federal agency relating to storage of grain in each warehouse. Any person injured by the breach of any obligation of the warehouseman may commence suit on the bond in any court of competent jurisdiction to recover damages that the person has sustained, but any suit commenced shall either be a class action or shall join as parties plaintiff or parties defendant or other persons who may be affected by such suit on the bond. No bond shall be cancelled by the surety on less than 60 days' notice by mail to the director and the principal except that no such notice shall be required for cancellation of any bond by reason of nonpayment of the premium thereon. The liability of the surety on the bond may accumulate for each successive license period the bond covers. The total liability of the surety shall be limited to the amount stated on the bond or on an appropriate rider or endorsement to the bond.

In our opinion, the language added to K.S.A. 34-229 makes grain warehouse bonds non-accumulative. The new law has limited the total liability of the surety to the amount stated for the bond. "Stacking" of bonds is no longer permitted. The bonds are continuous but are not cumulative. A bonding company is responsible for shortages, but total liability is only for the amount stated on the bond or rider.

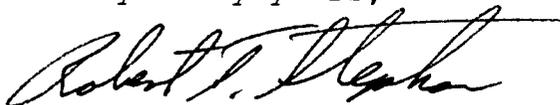
This opinion is based upon conversations with a member of the Senate Agriculture Committee and conversations with two parties of interest in the legislation. Interviews with Bob Hayes and Ray Rathert, Department of Insurance for the State of Kansas (November 18, 1986); telephone interview with Senator Neil Arasmith (November 19, 1986).

Your opinion request indicated a concern about the validity of the new law. In general, the validity of a statute is presumed. All doubts must be resolved in favor of its validity. Leek v. Theis, 217 Kan. at 784, Syl. ¶2;

see also Rogers v. Shanahan, 221 Kan. 221, 223 (1976); State ex rel. v. Bennett, 219 Kan. 285, 289 (1976); Brown v. Wichita State University 219 Kan. 2, 9-10 (1976). Based on this general rule, we cannot say that the legislation is invalid.

In conclusion, K.S.A. 34-229 was amended by 1986 Senate Bill No. 518, making grain warehouse bonds non-accumulative. Thus, Kansas has joined the majority of the states and the federal government in disallowing the "stacking" of bonds and decreeing that bonds be non-accumulative.

Very truly yours,



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