

KHA asked for an outside legal opinion regarding whether Kansas law permits county hospitals to participate in the Paycheck Protection Program loans (“PPP”) administered by the SBA as part of the CARES Act (this analysis assumes that a county hospital qualifies for the PPP).

The opinion states there is a broadly held view that county hospitals are only permitted to borrow funds with bond financing and capital leases as that authority is expressly granted by statute. The applicable statutes do not expressly grant the authority to borrow via loans. However, K.S.A. 19-4608(b) authorizes county hospitals to participate in the PPP. K.S.A. 19-4608(b) states:

K.S.A. 19-4608(b) The board may accept any grants, donations, bequests or gifts to be used for hospital purposes and may accept federal and state aid. Such moneys shall be used in accordance with the terms of the grant, donation, bequest, gift or aid and if no terms are imposed in connection therewith such moneys may be used to provide additional funds for any improvement for which bonds have been issued or taxes levied.

Specifically, 19-4608(b) permits a county hospital board to accept federal aid. The PPP program qualifies as federal aid in that it is potentially forgivable, guaranteed by the SBA, and is part of a larger set of federal programs to provide disaster relief.