



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

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February 7, 2012

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The Honorable Ann Mah
Docking State Office Building
Topeka, Kansas 66612

Re: Contracts and Promises—Regulation of Pawnbrokers and Precious Metal Dealers—Pawnbrokers and Precious Metal Dealers; Qualifications; Residence Requirement; Constitutionality


Dear Representative Mah:

As State Representative for the 53rd District, you ask whether Attorney General Opinion No. 98-44 reflects the current view of this office.

In Attorney General Opinion No. 98-44, the requirements for licensure of pawnbrokers and precious metal dealers set out in K.S.A. 16-708 were reviewed. The statute states in part that a license shall not be issued to any person who has not been an actual resident of the State of Kansas for at least two years immediately preceding the date of application for licensure.¹ It was determined that the provision violates Article IV, Section 2 of the United States Constitution, commonly referred to as the Privileges and Immunities Clause.

The two-step inquiry applied in Attorney General Opinion No. 98-44 remains the test for determining whether violations of the Privileges and Immunities Clause occur.² We believe that the conclusion expressed in Attorney General Opinion No. 98-44 is accurate.

Sincerely,


Richard D. Smith
Assistant Attorney General

AA:RDS:

¹ K.S.A. 17-608(b).

² See *Cohen v. Rhode Island Turnpike & Bridge Authority*, 775 F.Supp.2d 439, 450-51 (D.C. RI 2011).