



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS

P.O. Box 41200 • Olympia, Washington 98504-1200

Telephone (360) 902-8700 • TDD (360) 664-8126 • FAX (360) 586-5068 • <http://www.dfi.wa.gov>

ISGC – 2004 – 012 - DOB

[REDACTED]

October 5, 2004

[REDACTED]
[REDACTED]

RE: Establishing “Short Duration” Branches at Washington State Colleges & Universities
During Periods of Enrollment/Registration

Dear [REDACTED]:

I have been asked by the Division of Banks (hereinafter, “Division”) of the Washington State Department of Financial Institutions (hereinafter, “DFI”) to follow up with your letter of August 8, 2004, and opine whether a Washington-chartered commercial Bank (“Title 30 Bank”) may open and operate “short duration” branches at Washington State colleges and universities during periods of enrollment/registration.

[REDACTED]’s Representations. We are informed, based upon your correspondence, that the Office of the Comptroller of the Currency (“OCC”) will accept this letter as written evidence of the acceptability of this proposal under Washington State law. Moreover, you have represented in your letter of September 16, 2004, that [REDACTED] Bank, as may be required by the OCC, is prepared to meet all of the requirements of state law applicable to state banks in operating the proposed facilities.

Summary Conclusion. Based upon your representations, the Division concludes that the proposed activity is acceptable and not prohibited by Washington State law for a Title 30 Bank

2.0 Analysis & Interpretation

RCW 30.04.010(3) defines “branch” as follows:

"Branch" means any established office of deposit, domestic or otherwise, maintained by any bank or trust company other than its head office. "Branch" does not mean a machine permitting customers to leave funds in storage or communicate with bank employees who are not located at the site of the machine, unless employees of the bank at the site of the machine take deposits on a regular basis. An office or facility of an entity other than the bank shall not be deemed to be established by the bank, regardless of any affiliation, accommodation arrangement, or other relationship between the other entity and the bank.

According to the activity described by you in your September 16, 2004, letter, such activity, even of short duration, would constitute a “branch.”

RCW 30.04.285 declares as follows:

The director's approval of a branch within the United States or any territory of the United States or in any foreign country shall be conditioned on a finding by the director that the bank has a satisfactory record of compliance with applicable laws and has a satisfactory financial condition. A bank chartered under this title may exercise any powers and authorities at any branch outside Washington that are permissible for a bank operating in that state where the branch is located, except to the extent those activities are expressly prohibited by the laws of this state or by any rule or order of the director applicable to the state bank. However, the director may waive any limitation in writing with respect to powers and authorities that the director determines do not threaten the safety or soundness of the state bank.

Based upon the language of RCW 30.04.285, we conclude that, if Title 30 Bank has a satisfactory record of both safety and soundness and compliance, then it may open a branch in Washington State. Moreover, since there is no specific prohibition under Washington State law for a branch of the type contemplated by [REDACTED] Bank, a Title 30 Bank may engage in such activity.

Because of the enabling nature of commercial banking law in Washington State, we do not need to analyze the additional provisions that would accord “federal parity” (RCW

30.04.215) or state “inter-charter” parity powers of a state mutual savings bank (RCW 30.04.217) in order to conclude that the contemplated activity is permissible for a Title 30 Bank.

3.0 Concluding Remarks

The statutory standards for making the determination above are uniformly applicable for any Title 30 Bank or Title 32 Bank, similarly situated, seeking to conduct the activity proposed by [REDACTED] Bank. However, persons other than [REDACTED] Company and its subsidiary, the [REDACTED] Bank, N.A., are advised that each applicant’s relevant facts and circumstances may be different; and such relevant facts, as applied to the governing law, may result in the Division reaching a conclusion different than the one set forth above.

Should you have any questions, please do not hesitate to call upon Gloria McVey, the Division’s Program Manager, at (360) 902-8700, or contact Joe Vincent at (360) 902-0516.

Sincerely,

WASHINGTON STATE
DEPARTMENT OF FINANCIAL INSTITUTIONS

By: SENT WITHOUT SIGNATURE
TO AVOID DELAY

Joseph M. Vincent
Legal Counsel
WSBA No. 11549