

DOB OPINION 96-003

Date: April 29, 1996

From: John L. Bley, Director, Department of Financial Institutions (concurrence)

Subject:

Interpretation of the amendments contained in Washington State's new interstate branching law as these revisions relate to limited services provided by Bank branch personnel at off-site locations.

This letter is to confirm ___ Bank of Washington's interpretation of the amendments contained in Washington State's new interstate branching law (Chapter 2, Laws 1996) as these revisions relate to limited services provided by ___ Bank branch personnel at off-site locations. Specifically, the bank requests your confirmation that the bank is not required to obtain a branch certificate for off-site locations, such as retirement homes, schools, or similar facilities, where personnel from existing branches periodically cash checks, open accounts, take deposits, and perform other related services (collectively, "limited services"). These limited services do not appear to require the bank to obtain a branch certificate for these off-site locations under the recent revisions of Title 30 RCW.

Sections 2 and 4 of the interstate branching law amend RCW §§ 30.04.010 and 30.04.280, respectively. The revisions in section 2 amend the "branch" definition as follows:

"Branch ((bank))" means any established office of deposit ((or discount)), domestic or otherwise, maintained by any bank or trust company, ((domestic or otherwise,)) other than its ((principal place of business, regardless of whether is be in the same city or locality.)) 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.

The last sentence of the revision appears to encompass the described limited services. Under the limited services program, the bank establishes a relationship with certain entities (e.g., retirement homes, schools, etc.) to provide limited services at a particular entity's facility on an agreed schedule, which is generally once a week for one or two hours. The proposed limited services appear to be satisfy the new "other entity" exemption added to the branch definition. Moreover, the addition of the term "established" within the definition narrows the branch definition to include more permanent branch locations as opposed to periodic provision of limited services at the facility of a retirement home, school, or other similar entity.

The revisions in section 4, which amend RCW § 30.040.280, support the conclusion that the proposed limited services are not branches. RCW § 30.040.280 was amended as follows.

No person shall engage in banking except in compliance with and subject to the provisions of this title, ~~((except it be))~~ unless it is a national bank or except insofar as it may be authorized so to do by the laws of this state relating to mutual savings banks ~~((, nor shall any))~~ or savings and loan associations. A corporation shall not engage in a trust business except in compliance with and subject to the provisions of this title ~~((, nor shall any))~~. A bank shall not engage in a trust business except as ~~((herein))~~ authorized ~~((, nor shall any))~~ under this title. A bank or trust company shall not establish any branch except in accordance with the provisions of this title. ~~((The practice of collecting or receiving deposits or cashing checks at any place or places other than the place where the usual business of a bank or trust company and its operations of discount and deposit are carried on shall be held and construed to be establishing a branch.))~~

The removal of the last sentence from this section when read in conjunction with the revisions to the "branch" definition in RCW § 30.04.010 appears to exclude those locations where limited services are performed from being considered branches or requiring branch applications when the revisions take effect on June 6, 1996.

If the Department concurs in this interpretation of these Title 30 revisions as they apply to the described limited services at off-site locations, please indicate your agreement by signing this letter on the signature line provided below and returning a copy to me. To assist your review of this request, a copy of an initial limited services schedule is attached to further describe the location and frequency of these services.

If I can provide any additional information or you would like to discuss this matter further, please call me.