

DOB OPINION 96-006

Date: September 6, 1996

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

Subject:
Concerning sales of Prepaid Telephone Cards

This letter responds to your request for an opinion of the Washington Department of Financial Institutions (the "Department") concerning the ability of _____ Bank ("Bank"), a savings bank chartered under Title 32 RCW, to market and sell prepaid telephone cards on the same terms allowed for federal savings banks. As discussed below, it is the Department's opinion that Bank may market and sell prepaid telephone cards as allowed for federal savings banks.

I. Background

Bank proposes to enter into an agreement with a company that purchases telephone services from long distance carriers at bulk rates and resells these services to the general public (the "Phone Company"). Under the agreement, the Phone Company would provide prepaid telephone cards to Bank, and Bank, as agent for the Phone Company, would market and sell the cards to its customers at set prices. Bank's marketing activities would include mailing notices to its customers informing them of the availability of the cards, and posting advertisements at Bank's retail offices. Bank would remit sales proceeds to the Phone Company, less a commission equal to a percentage of the sales proceeds.

The telephone cards would provide the cardholding customer with access to a specified number of long distance "units," with each unit representing a period of long distance calling time. Cardholders would access long distance telephone service through any touch tone phone by dialing the Phone Company's toll-free telephone number. The toll-free number would connect the cardholder to the Phone Company's computer system which prompts the customer to enter a unique account number preprinted on the card and the desired telephone number to be called. The computer would place the call and deduct an appropriate amount from the cardholder's account balance.

II. Discussion

In a letter dated August 19, 1996, addressed to _____ (the ___ Letter"), the Department concluded that Title 32 RCW savings banks have "essentially the same powers as federal and state-chartered savings and loans and commercial banks, among others." The Department reached this conclusion based on its review of Title 32 and a relevant decision of the Supreme Court of the State of Washington. It is not necessary in this letter to repeat the analysis of the ___ Letter.

You have forwarded to me a copy of a letter from the Office of Thrift Supervision (the "OTS") dated August 29, 1996, in which the OTS confirmed under existing law that a federal savings

bank may market and sell prepaid telephone cards as agent in the manner described above. The laws of the United States relating to federal savings banks have not been amended in material respects since June 9, 1996. Accordingly, I find that the ability to market and sell such cards in such manner was among the powers and authorities of federal savings banks as of June 9, 1996.

Under RCW 32.08.142 as amended effective June 9, 1996, Title 32 savings banks have the powers and authorities that a federal mutual savings bank has as of June 9, 1996. In accord with RCW 32.08.142 and the ____ Letter, we conclude that Bank may also market and sell prepaid telephone cards as described above.