

INTERPRETIVE LETTER 86-3 (DECEMBER 24, 1986)

Relocated main banking premises may only apply home office protection prospectively; branch resulting from relocation of main banking premises is subject to branch restrictions.

This is in response to your request for an opinion on the present state of Illinois law with respect to the relocation of the "place of business" of a bank and the effect of the relocation on the home office protection for such bank.

Section 17(2) of the Illinois Banking Act ("the Act") (Ill. Rev. Stat. 1985, ch. 17, par. 324(2)) allows a state bank to relocate its "place of business" as long as it complies with the minimum capital requirements set by the Commissioner and the Commissioner finds that the convenience and needs of the area to be served by the bank will be promoted. As long as these two requirements are satisfied, a bank may relocate its "place of business" despite the fact that it could not have established a facility at the location of its new "place of business."

Section 5(15)(b) of the Act (Ill. Rev. Stat. 1985, ch. 17, par. 311(15)(b)) provides that any facility established within 3500 yards of the maintaining bank may generally not be closer than 200 yards to any then existing main banking premises of another bank. It further provides that any facility established more than 3500 yards from the main banking premises of the maintaining bank shall not be located closer than one mile to any then existing main banking premises of another bank. Because this Section only restricts the distance between a facility and the main banking premises of a competing bank, there is nothing to prevent a bank from relocating its main banking premises to a site which would be within the "home office protection zone" of a competing bank. Section 5(15)(c) makes clear that home office protection only shields a bank's main banking premises from facilities of other banks.

Home office protection is a privilege accorded to every bank's main banking premises regardless of whether the main banking premises has been relocated. Of course, a bank which has relocated its main banking premises cannot use its home office protection at its new main banking premises to oust facilities of competing banks which were in existence prior to the relocation. Also, a bank which seeks to relocate its main banking premises must make certain that its existing facilities will comply with Section 5(15) once the main banking premises is relocated.

[NOTE: The restrictions on the resulting branch would not apply to a relocation of the main banking premises done in a merger pursuant to Section 5(15)g(i). See Interpretive Letter no. 89-3.]