

INTERPRETIVE LETTER 91-2 (JANUARY 23, 1991)

University's use of debit card system for its students is not "general banking business."

This letter presents the position of the Illinois Commissioner of Banks and Trust Companies ("Commissioner's Office") pertaining to the proposed use of the * debit-card system at * University ("University"). This is in response to a request by both of you, on behalf of a study committee appointed by the University's president, for an interpretation by the Commissioner's Office whether the University would be conducting a general banking business by using the * system.

As I understand it, a transaction in the * system would commence with a deposit by a student, parent, faculty or staff member at the ID Card Office. That deposit would be maintained in a special account for use with the * system. A magnetic stripe on the back of the identification card issued to the student, faculty or staff member would be encoded to access the relevant * account via a central processing unit. At the time a student, faculty or staff member would make a purchase on campus, the cashier would slide that individual's identification card through an electronic reading terminal. The amount of the purchase would be electronically transmitted to the central processing unit, and thereafter the * account of the student, faculty or staff member would be reduced accordingly.

Generally speaking, a typical deposit account in a state bank subject to regulation by the Commissioner's Office has the following characteristics:

The term "deposit," when used in connection with a banking transaction, denotes a contractual relationship ensuing from the delivery, by one known as the "depositor," of moneys, funds, or things into the possession of the bank, which receives the same upon agreement to pay, repay, or return, upon the order or demand of the depositor, the moneys, funds, or equivalent amount, or things, received.... 10 Am. Jur. 2d Section 337.

Typical deposit accounts in state banks which are available for the purchase of goods and services from any business usually provide depositors the ability to withdraw their funds upon demand.

The safety and soundness concerns pertaining to commercial bank depositors would simply not be present with the * deposits. The University would not have the ability or responsibility to honor cash withdrawals upon demand. Purchases would be processed through reading terminals which would be located only on the campus. A * deposit would be analogous to a room and board payment where a student makes a one-time transfer to the University to be applied against housing and cafeteria costs, which transfer is not subject to withdrawal in cash by the student upon demand. Upon review of these considerations, the Commissioner's Office takes the position that the University's receipt

of deposits for use in conjunction with the * debit-card system would not constitute a general banking business and that the receipt of those deposits would not be subject to regulation under the Act.

You also asked whether, under the authority of the Illinois Retail Installment Sales Act ("Sales Act") (Ill. Rev. Stat. 1989, ch. 121~~2~~, par. 501 et seq.), the University could retain the funds in those special accounts if they had not been completely depleted through on-campus purchases by the end of an academic year. The Sales Act does not specifically address whether residual balances in deposit accounts must be returned to depositors. The Commissioner's Office recommends that you present this issue to the University's Legal Counsel for a legal interpretation and determination.

This interpretation is based upon the aforementioned facts presented to the Commissioner's Office, which reserves the right to review this interpretation if the facts are materially different than as presented.