

INTERPRETIVE LETTER 92-4 (MAY 14, 1992)

State bank may operate a depository receptacle that is accessible through an ATM, but may not operate a stand-alone, off-premises depository receptacle.

We are in receipt of your letter, dated *, in which you requested opinions from this Agency on issues pertaining to a depository receptacle. It is the conclusion of this Agency that your bank may operate a depository receptacle that is accessible through an ATM at a mall, but that it may not temporarily operate a lone depository receptacle at the same location.

As we understand the facts, the * [Bank] recently ceased operation of its branch in the shopping mall in *. The mall's management asked your bank to continue operating the depository receptacle that was abandoned by * [Bank] at the mall. You stated that your bank intends to establish an automatic teller ("ATM") at the mall later this summer and that the ATM will be connected to the depository receptacle. You also stated in a telephone conversation that once the depository receptacle is connected to the ATM, the receptacle will only be accessible through the use of debit cards with the ATM (i.e., there will be no independent access available to the depository receptacle).

The term "branch" is defined in Section 2 of the Illinois Banking Act, Ill. Rev. Stat. ch. 17, par. 302 (1989) ("Act"), as follows:

A "banking house", "branch", "branch bank" or "branch office" shall mean any place of business of a bank at which deposits are received, checks paid, or loans made....
(emphasis added)

Depository receptacles clearly are places where banks receive deposits from customers. Under the branch definition in Section 2 of the Act, a depository receptacle is a branch. Section 5(15)(f) of the Act does not permit a branch to consist only of one or more devices or machines. Ill. Rev. Stat. ch. 17, par. 311(15)(f) (1989). A "device" has been defined as:

Something devised or constructed for a particular purpose, esp. a machine used to perform one or more relatively simple tasks. The American Heritage Dictionary 389 (2d ed. 1985).

A depository receptacle would perform only the very simple task of receiving deposits. Under Section 5(15)(f) of the Act, a state bank would not be permitted to operate a branch consisting only of a device such as a depository receptacle.

However, if a depository receptacle is attached to an ATM and is only accessible through the use of a debit card at the ATM, this Agency will view the receptacle as part of the ATM. The depository receptacle would be statutorily exempt from the definition of a

"branch" in Section 2 of the Act, and therefore not subject to the geographic and numeric branching limitations of Section 5(15) of the Act. The bank would be authorized to establish and maintain the ATM/depository receptacle at the mall without the necessity of filing a notice with this Agency.

Note: See Interpretive Letter Number 94-10. Section 5(15)(f) was deleted from the Banking Act by Public Act 88-4, effective June 7, 1993. The Banking Act no longer prohibits a bank establishing branches consisting of devices such as a stand-alone night depository receptacle. There are also no further limitations on number or geographic locations of these or any other branches.