

Subject

Banking
Branch Banking

Copy to



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

April 29, 1974

Opinion No. 74-127

Carl O'Leary
State Bank Commissioner
Suite 600, 818 Kansas Ave.
Topeka, Kansas

Dear Commissioner O'Leary:

You inquire concerning names which may properly be used by Kansas banks to identify and advertise detached auxiliary banking service facilities. By way of illustration, you advise that Planters State Bank and Trust Company proposes to designate a detached auxiliary banking facility as "Planters South." The services which may be provided at such facilities are limited to those "auxiliary teller services" described by K.S.A. 9-1111.

K.S.A. 9-801 states thus in pertinent part:

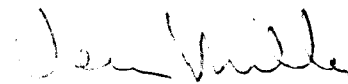
"Any five or more persons may organize a bank and make and file articles of incorporation as provided by the laws of the state of Kansas The name selected for such bank shall not be the name of any other bank doing business in the same city or town, but shall include the word 'state' and such name shall be accepted or rejected by the board."

This statutory requirement extends on its face only to the corporate name of the banking organization, and not to the trade name or designation by which its facilities are advertised and promoted. A reading of K.S.A. 9-1111 through -1111c discloses no statutory prescription whatever regarding the name by which such detached facility shall be known. Absent any specific statutory restriction, there appears to be no basis for disapproving the use of any name which is not misleading to the public or which is not improperly similar to the name of any other bank or banking facility operated by another bank. The name "Planters South" is proper, in our view.

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We are aware of instances in which auxiliary banking service facilities are advertised and described as banks. For example, a facility may be advertised, to use a hypothetical example, as "The Foxwood Bank," although there be no such banking corporation organized in this state, and the installation is not what is commonly known as a "full service bank," but offers only those limited "auxiliary teller services" described in K.S.A. 9-1111, under the certificate of authority of a banking corporation lawfully organized under another name. It becomes problematic in any specific instance whether the fact is adequately communicated to the public that a detached facility so advertised is not itself a banking corporation, but merely an outlet for the offering of the limited banking services of a banking corporation organized under another name. Although the present likelihood of abuse on this score may be small, the potential is apparent. We recommend that you give this matter your attention, and that consideration be given to protective and remedial measures to safeguard against possibly misleading practices on this score.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm