

Subject

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*Banking*  
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STATE OF KANSAS

*Office of the Attorney General*

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VERN MILLER  
Attorney General

November 15, 1974

Opinion No. 74- 364

The Honorable Carl O'Leary  
State Bank Commissioner  
Suite 600, 818 Kansas Avenue  
Topeka, Kansas 66603

Dear Commissioner O'Leary:

You inquire whether the opening of new accounts is permitted at a detached auxiliary banking services facility. K.S.A. 1973 Supp. 9-1111 provides in pertinent part thus:

"The general business of every bank shall be transacted at the place of business specified in its certificate of authority, and it shall be unlawful for any bank to establish and operate any branch bank, or branch office or agency or place of business except as hereinafter provided:  
\* \* \*

(d) each bank establishing and maintaining detached auxiliary banking services facilities may provide the following services at such facilities:

(1) Such bank may provide auxiliary teller services, limited to rental of safe deposit boxes receiving deposits of every kind and nature, cashing checks or orders to pay, issuing exchange, and receiving payments payable at the bank, at any such detached facility...."

The same definition of "auxiliary services" appears at (d) (2).

The "general business of banking" is required to be conducted at the place of business of the bank, and only those services defined as "auxiliary teller services" may be offered by a bank at detached facilities. The general business of banking includes, of course, both the

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opening of new accounts and the receipt of deposits. Only the latter, however, and not the former is enumerated as a permissible service to be offered at detached facilities.

It may be argued that a prospective customer opens a new account, most commonly if not virtually always, by making a deposit, and that because the receipt of deposits is permitted at a detached facility, any collateral transaction pertinent to or necessary therefor is also permitted. The argument disregards the plain language of the statute. It is a precise enumeration of services which, and only which, may be offered at detached facilities. A bank may receive deposits at a detached facility from only those persons from whom it is lawfully entitled to receive deposits. Any other banking transaction or service which is necessary to permit the receipt of a deposit and which is not enumerated among permissible "auxiliary teller services" must be performed as a part of the general business of banking on the main banking premises. The opening of new accounts is not one of the enumerated "auxiliary teller services," and cannot, thus, be performed at a detached auxiliary banking services facility.

Yours very truly,



VERN MILLER  
Attorney General

VM:JRM:tp