



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

June 9, 1978

ATTORNEY GENERAL OPINION NO. 78- 181

Mr. Payne H. Ratner, Jr.
Attorney
State Banking Board
Suite 600 - 818 Kansas Avenue
Topeka, Kansas 66612

Re: Banks--Remote Service Units--Bag Depositories

Synopsis: A bag depository which is electronically interfaced with an automated customer service unit is a permissible constituent part of a remote service unit under K.S.A. 9-1111.

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Dear Mr. Ratner:

You advise that a Kansas state bank has applied to the Federal Deposit Insurance Corporation for authority to operate a remote service facility which includes a night or bag depository. There being, apparently, some question concerning the legality of the proposed installation under K.S.A. 9-1111, at the request of the regional director of the F.D.I.C. you request our opinion concerning application of the referenced statute to the planned facility.

You enclose a letter to Mr. Fager, State Banking Commissioner, dated May 23, 1978, describing the proposal, and outlining the legal position of the bank. The remote service facility consists of a LeFebure 724 Automated Customer Terminal. By inserting a card, the customer causes a security door to open, providing access to the operation console. After keying in a four digit identification number, the customer then selects the type of transaction which he or she wishes to make, including cash withdrawal, deposit, transfer money, or payments. Under each of

Mr. Payne H. Ratner, Jr.

Page Two

June 9, 1978

these transaction classes, the customer must select a particular button describing the nature of the particular transaction involved. For example, under cash withdrawal, the customer may withdraw money from either a savings or checking account. Under the deposit type of transaction, the customer may make a deposit to a checking account, savings account or may make a bag deposit. If the customer selects a bag deposit, he presses the "Bag Deposit" button. The terminal, which is electronically interfaced with the bag depository, unlocks the depository. The customer drops the bag into the chute, and the depository relocks itself. The customer receives a receipt and the return of his or her card at the same place on the automated teller console as in the case of any other transaction. In the instance of a bag deposit, the receipt does not show the amount of the deposit, because the facility is designed to permit deposits without requiring the person delivering the money to key in the amount of the deposit. However, in all other respects, counsel for the bank indicates, the bag deposit transaction is handled precisely the same as a regular deposit transaction.

K.S.A. 9-1111(f) provides that "any state bank . . . may provide, and engage in *banking transactions* by means of, remote service units located anywhere within the state of Kansas" [Emphasis supplied.] Subsection (h) defines "remote service unit" to mean

"an electronic information processing device, including associated equipment, structures and systems, through or by means of which information relating to financial services rendered to the public is stored and transmitted . . . to a bank and which, for activation and account access, is dependent upon the use of a machine-readable instrument in the possession and control of the holder of an account with a bank. The term shall include 'on line' computer terminals and 'off line' automated cash dispensing machines and automated teller machines, but shall not include computer terminals or automated teller machines or automated cash dispensing machines using systems in which account numbers are not machine-read and verified."

Subsection (f), quoted above, provides simply that remote service units may be used for "banking transactions." The phrase is not

Mr. Payne H. Ratner, Jr.
Page Three
June 9, 1978

otherwise elaborated upon. Counsel for the applicant bank states that in the 1975 legislative session, two bills, S.B. 515 and 519, were introduced to authorize remote service units by banks and savings and loan associations, respectively. The latter bill, which as enacted appears at K.S.A. 1977 Supp. 17-5565, permits the remote units to be used for financial, rather than banking transactions, which are defined at K.S.A. 1977 Supp. 17-5570(a) as including

"receiving deposits of every kind and nature, receiving payments payable to the savings and loan association and making withdrawals from the customer's account"

S.B. 515, as enacted as K.S.A. 9-1111, is not so specific. However, counsel for the bank cites minutes of the House Committee on Commercial and Financial Institutions of a meeting on March 26, 1975, which states that "[t]hese two bills [S.B. 515 and 519] would provide competitive equity between savings and loan associations and the banks," and argues, persuasively in my judgment, that the "banking transactions" permitted to remote service units under K.S.A. 9-1111(f) should be, so far as technology and circumstances permit, comparable to the "financial transactions" permitted to remote service units operated by savings and loan associations. Even without reference to the other bill, considering K.S.A. 9-1111 alone, surely those "banking transactions" which a remote service unit which includes an automated teller may provide are as inclusive as those services defined as "auxiliary teller services" in K.S.A. 9-1111(d)(1). Certainly, a deposit is an elementary banking transaction, and is a kind of transaction which may be made through a remote service unit.

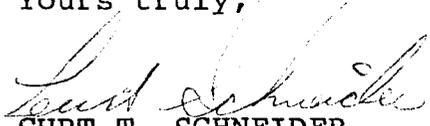
The remaining question is whether a bag depository may be utilized in conjunction with and as a part of a remote service unit which is defined, as quoted above, as "an electronic information processing device, including associated equipment, structures and systems" The definition is obviously broad and inclusive. Counsel for the applicant bank states that it was purposely so, reflecting the intent of the drafters of the measure, a task force of the Kansas Bankers Association and, subsequently the legislature, to permit the use of technological advances and hardware configurations which would become available in the future but were unknown or unforeseeable in 1975. Whatever the specific legislative intent, it requires no extraordinarily liberal

Mr. Payne H. Ratner, Jr.
Page Four
June 9, 1978

construction of the language in K.S.A. 9-1111(h) to conclude that a depository which is electronically interfaced with an automated customer service unit and physically associated therewith constitutes "associated equipment [and] structures" which are operated directly in conjunction with an "electronic information processing device," and is therefore, permissible under K.S.A. 9-1111.

In my opinion, the proposed installation is entirely permissible under K.S.A. 9-1111.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj