

December 12, 2001

[redacted]

Re: [redacted]

Dear [redacted]:

I have been requested by [redacted] to advise you of whether or not Pennsylvania law allows an out-of-state state-chartered savings bank, such as an Ohio state-chartered savings bank, to establish a de novo branch in Pennsylvania.

Section 904 of Pennsylvania's Banking Code of 1965 states:

(a) General rule - An institution may establish and maintain:

* * *

(iii) branches established with the prior written approval of the Department of Banking after the filing of an application for approval in a form prescribed by the Department accompanied by any applicable fee and after investigation by the Department, except that Department approval shall not be required for national banks.

(b) Reciprocity condition - A banking institution existing under the laws of another jurisdiction may not establish a branch in this Commonwealth unless the laws of the state where it is located would permit an institution chartered under the laws of this Commonwealth or a national bank located in this Commonwealth to establish and maintain a branch in such other state on substantially the same terms and conditions.

7 P.S. § 904(a) and (b).

For purposes of applying the provisions of section 904 of Pennsylvania's Banking Code, the term "institution" is defined as "...an institution subject to this act, an interstate bank and a banking institution existing under the laws of another jurisdiction which will become an interstate bank upon the acquisition of a branch in this Commonwealth." 7 P.S. § 901. An "interstate bank" is defined as "[a] banking institution existing under the laws of another state, the District of Columbia or a territory or possession of the United States and authorized to engage in the business of receiving demand deposits or a national bank having a head office in another state, the District of Columbia or a territory or possession of the United States and authorized to engage in the business of receiving demand deposits, which lawfully maintains one or more branch offices in this Commonwealth." 7 P.S. § 102(hh).

Accordingly, an Ohio state-chartered savings bank, which is authorized to receive demand deposits, may establish a branch in Pennsylvania pursuant to section 904 of Pennsylvania's Banking Code, provided that the laws of the State of Ohio permit a Pennsylvania state-chartered savings bank to establish a de novo branch in Ohio on substantially the same terms and conditions.

In addition, please be advised that the Pennsylvania Department of Banking applies the procedures and philosophies set forth in the *Nationwide Cooperative Agreement*, dated November 13, 1996, in processing interstate applications of multi-state banking institutions.

The Department's analysis is based upon the facts and conditions as stated in this letter. Any change in the facts could result in an amendment or reversal of the Department's position. This letter states the Department's position regarding the issues discussed herein and may not be relied upon or construed as constituting legal advice.

Please feel free to contact me if you have any questions regarding the contents of this letter.

Very truly yours,

Laurie S. Kennedy
Deputy Chief Counsel

cc: Reginald S. Evans, Chief Counsel
Richard DeMartino, Director of the Bureau of Supervision and Enforcement
Joseph Moretz, Manager - Corporate Applications