

(717) 787-1471

March 24, 1998

RE: Ownership of Automated Teller Machines- Owned by Unlicensed Entity, Leased by
Licensed Entity

Dear *****

This is in response to your letter to the Department of Banking (the "Department"), in which you seek the Department's position regarding whether there is a distinction in Pennsylvania law between ownership and operation of Automated Teller Machines ("ATMs") that would allow a lease finance company to own ATMs, with appropriately licensed entities operating the ATMs.

Your letter states that ***** ("Parent"), through one of its subsidiaries, would like to enter into an agreement with certain automated teller manufacturers and distributors to provide lease financing to operators of ATMs. You indicated in a telephone conversation that the ATMs will be owned by ***** ("Owner"), which is a subsidiary of *****. ***** is a subsidiary of the Parent. Parent will not operate the ATMs, nor will any of Parent's direct subsidiaries.

It is the position of the Department that an ATM which solely provides cash dispensing functions may be owned and operated by a non-banking entity in Pennsylvania. However, an ATM which engages in functions such as deposit taking must be owned and operated by a Pennsylvania bank, a bank and trust company, a savings bank, a savings association or an interstate bank, pursuant to Section 105(a) of the Banking Code. 7 P.S. § 105(a). With respect to deposit taking activities, provided the operator of the ATM is authorized to accept deposits in Pennsylvania, the Owner may lease the ATM to the operator which is authorized to accept deposits in Pennsylvania.

The Department's analysis is based upon the facts and conditions as stated in this letter. Any change in the facts could result in a reversal of the Department's position. This letter states the

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Department's position regarding the issues discussed herein and may not be relied upon or construed as constituting legal advice.

Please contact me if you have any further questions regarding this matter.

Sincerely,