

Banks, Branch Trust, Deposit, Security and Savings Banks Prohibited. Trust, Deposit and Security Banks, Branches Prohibited. Savings Banks, Branches Prohibited.

The laws of this state do not authorize trust, deposit and security banks, or savings banks, incorporated under the laws of this state, to organize branch banks.

Helena, Montana, December 20, 1909.

Hon. H. H. Pigott,
State Examiner,
Helena, Montana.

Dear Sir:—

I am in receipt of your letter of December 7, requesting an opinion upon the following proposition:

“Will you please advise me whether, in your opinion, the restrictions and prohibition as to the operation of branch banks in connection with state banks in this state, as explained and set fourth in your opinion to me of December 2, 1909, would apply to branches organized and operated by corporations formed under the trust deposit and security and savings bank corporations, under the provisions of sections 3923 et sequentia, revised codes of 1907.”

In our opinion trust deposit and security corporations and savings bank corporations, organized under such law, are banking institutions or corporations within the general meaning of the term “banking.”

Under the definition of a bank, as given by Morse on banks and banking (4th Ed.) sections 2 and 3, it is clear that such corporations, when organized under the laws of this state, are banking institutions. Such definition reads as follows:

“A bank is an institution, usually incorporated, with power to issue its promissory notes intended to circulate as money (known as bank notes); or to receive the money of others on general deposit (Sec. 288), to form a joint fund that shall be used by the institution for its own benefit, for one or more of the purposes (Sec. 46 A.) of making temporary loans and discounts, of dealing in notes, foreign and domestic bills of exchange, coin, bullion, credits, and the remission of money; or with both these powers, and with the privileges, in addition to these basic powers, of receiving special deposits, and making collections for the holders of negotiable paper, if the institution sees fit to engage in such business.”

Therefore, all the provisions found in sections 3992 to 4015, relating to the regulation of banking corporations organized under the laws of this state, apply to trust deposit and security corporations and savings banks, the same as they do to banks of discount and deposits, incorporated under section 3909 to 3922; also the provisions of section 209, revised codes, making it the duty of the state examiner to visit each bank, banking corporation and savings bank, etc., and the provisions of section 215, revised codes, providing the fees for examining all banks,

banking corporations and savings banks apply with equal force to trust deposit and security corporations.

What was said in our opinion given to you on December 2, 1909, also applies with equal force to trust deposit and security corporations and to savings bank corporations organized under the laws of this state, as there is no statute of this state authorizing the organization of branch companies for either of such corporations, and as was said in such opinion such corporations must look to such law for their power and authority.

It is true that in section 3929 the phrase

“The place where the principal office for the transaction of business of such corporation is located,”

is used; and, also, that in section 3936 it provides that the articles of agreement of a trust deposit and security corporation must give the

“name of the city or town and county in which the principal office of the corporation is to be located.”

But neither of these expressions are sufficient to warrant us in holding that the statute authorizes such a corporation to establish branches thereof, with power to do and perform all the general work that the parent institution might do. Of course, any bank having a principal office may extend its business throughout the state, but all of its deposits and notes, security, etc., should be held in the principal office, and the bank business proper transacted from such office.

Morse on banks and banking, (4th Ed.) discusses this question in section 46, and says:

“Agencies for specific purposes, as for the redemption of bills or the dealing in bills of exchange, may be established in other places. In these cases, it is for the convenience of the public such should be the case. But there is no case which holds that an agency for the exercise of the more important and valuable functions, such as issuing circulating paper or discounting notes, or an agency designed to carry on the general business of banking, would be regarded as legal. For such nominal establishment of agencies might easily result in the practical establishment of a network of branch banks throughout the home state or in other states. * * * Some business, as receiving deposits, certifying checks, and giving information of most kinds, must be done at the banking house, or place set apart for those purposes by the bank, and cannot be done so as to bind the company by an officer away from the bank; other business, as receiving information, and collecting debts, may be done by an officer away from the bank; the question is, ‘Does the proper performance of the business require any knowledge or appliances that can only be fully possessed at the office.’ * * * Having an agency to receive deposits in another county than that of the bank’s location, contrary to charter, is a cause of forfeiture, though an agency to redeem bills is not. So it is unlawful for a national bank of New Jersey to have an agent to receive deposits in Philadelphia.”

Therefore, in our opinion, as trust deposit and security corporations, and savings bank corporations come within the meaning of the term "banking institutions," they are subject to all of the restrictions and regulations imposed by law upon banking corporations, and they have no more authority to institute a branch bank than have banks of discount and deposit under the laws of this state. And, as was stated in our opinion to you on December 2, they must incorporate under a different corporate name from the parent bank if they desire to have a branch connection.

Yours very truly,
ALBERT J. GALEN,
Attorney General.