

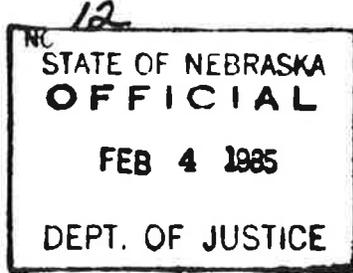
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DEPARTMENT OF JUSTICE

STATE OF NEBRASKA
TELEPHONE 402/471-2682

STATE CAPITOL • LINCOLN, NEBRASKA 68509

January 31, 1985



A. EUGENE CRUMP
Deputy Attorney General
John R. Thompson
Deputy Attorney General

SUBJECT: Auxiliary offices of a bank

REQUESTED BY: Roger M. Beverage, Director, Department of Banking and Finance, 301 Centennial Mall South, Lincoln, NE 68509

OPINION BY: A. Eugene Crump, Deputy Attorney General; Timothy E. Divis, Assistant Attorney General, 2115 State Capitol, Lincoln, NE 68509

QUESTION: If a bank is located outside the corporate limits of a city, what are the restrictions, if any, on where an auxiliary office can be located?

CONCLUSION: Such a bank may not have auxiliary offices.

The Department of Banking and Finance is authorized to issue a charter to a bank which will be located outside the corporate limits of a city or village. Neb.Rev.Stat. §8-115.01 (Reissue 1983). This section also provides that a bank located outside of a village or city may transfer its charter to a location outside of the county in which it is located.

The question has then arisen as to whether or not a bank located outside of the corporate limits of a city or village may have auxiliary offices. It is our opinion that it may not. Neb.Rev.Stat. §8-157(1) (Cum.Supp. 1984) provides: "No bank shall maintain any branch bank and, except as provided in subsections 2 to 9 of this section . . . the general business of every bank shall be transacted at the place of business specified in its charter." Subparagraphs 2 through 9 provide various exceptions to the general rule of no branch banking allowed. Subsection 2 provides in part: "Such auxiliary offices shall be within the corporate limits of the city in which such bank is located." Section 8-157 contains no references to exceptions for banks located outside of the incorporated limits of a village or city to the general rule of

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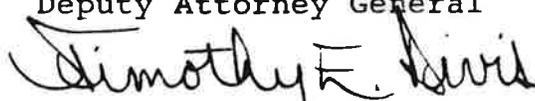
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no branch banking. Without such an exception, the general rule prohibiting branch banking applies. This conclusion is based upon the maxim "expressio unius est exclusio alterius", that is, where a statute or ordinance enumerates the things upon which it is to operate, or forbids certain things, it is to be construed as excluding from its effect all those not expressly mentioned. Nebraska City Education Association v. School District of Nebraska City, 201 Neb. 303, 267 N.W.2d 530 (1978).

While the failure by the Legislature to provide a mechanism for auxiliary banking for banks located outside the corporate limits of a village or city may have been a mere oversight, without an exception to the general rule providing for no branch banking, auxiliary offices for such a bank may not be allowed.

Very truly yours,

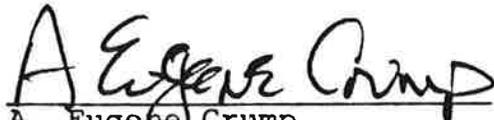
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