

ALM GL ch. 167B, § 3

§ 3. Electronic Branches - Authorization by Board of Trustees or Directors; Safeguards; Shared Use.

After a vote of its board of trustees or directors, a financial institution or organization, except as otherwise provided in this section, may purchase, establish, install, operate, lease or use individually or with any other financial institution or organization or share with any other financial institution or organization any number of manned or unmanned electronic branches at which a customer may make deposits, withdrawals, transfers of funds, obtain advances against preauthorized lines of credit, cash checks or pay obligations, and any number of point-of-sale terminals; provided, however, that withdrawals from such electronic branches, other than those located at an office of such financial institution or organization, shall be made only from a demand deposit account, negotiable withdrawal order account, or statement account or against a preauthorized line of credit; and provided, further that such financial institution or organization, shall have applied for and obtained the approval of the commissioner for such electronic branch except that a financial institution at whose office such electronic branch is located need not have applied for or obtained such approval. The commissioner shall approve such application if, in his opinion, such action will promote a sound banking system which provides for the needs of the people and business, encourages competition, discourages monopolies and does not ignore legislative policies.

There shall be no geographical limitation on the location of electronic branches which a financial institution or organization may purchase, establish, install, operate, lease or use individually or with any other financial institution or organization or share with any other financial institution or organization; provided, however, that the site location for such electronic branches, other than an electronic branch located at an office of a financial institution or in another state, shall be subject to approval by, and regulation of, the commissioner. An electronic branch may be located in a mobile unit under such conditions and limitations as the commissioner, by regulation, shall establish. No electronic branch shall be located upon premises where there occurs legalized gambling, other than a state lottery.

A financial institution or organization shall adopt and maintain safeguards to insure the safety of a customer using the electronic branch, to insure the safety of the funds, items and other information at the electronic branch and to assist in the identification of criminals. The commissioner shall promulgate rules and regulations establishing minimum standards for such safeguards. Such safeguards shall be in place and operational at the time such electronic branch begins to transact business; provided, however, that such safeguards shall not apply to an electronic branch located at an office of a financial institution.

No such electronic branch located at other than the office of a financial institution shall be manned or operated at any time by an employee of any financial institution, holding company of a financial institution or affiliate thereof, or any organization except on a temporary basis for the purpose of instructing operators or customers, servicing the electronic branch or for the purpose of using such electronic branch on said employee's own behalf.

If the commissioner finds that a financial institution which is in full compliance with this chapter is placed at a competitive disadvantage because such financial institution has not been permitted access to one or more electronic branches or any equipment, regardless of location, which is interconnected

with one or more electronic branches and which is necessary to transmit, route and process electronic impulses in order to enable the electronic branch to perform any function for which it is designed on reasonable and nondiscriminatory terms, the commissioner may issue regulations mandating the shared use of any such electronic branches or equipment, except for electronic branches which are located at any office of a financial institution. Such regulations shall set forth the conditions under which a financial institution may obtain mandatory sharing, the procedures for doing so, the reasonable and non-discriminatory terms, which shall include a reasonable return on capital expenditures incurred in connection with its development, installation and operation, the conditions of such mandatory sharing including provisions on fair and reasonable advertising and any other provisions which the commissioner deems necessary or appropriate.

A financial institution may only purchase, establish, install, operate, lease, use and share such electronic branches with another financial institution or organization which complies with all applicable provisions of this chapter; provided, however, that a financial institution shall receive certification of all such compliance from the commissioner prior to any relationship with another financial institution or organization.

No financial institution, other than a bank, or organization, other than an organization which is a subsidiary of a bank holding company with its main office in the commonwealth, or bank holding company or subsidiary of a bank holding company organized under the laws of or having its main office in any state other than the commonwealth, and no foreign bank shall purchase, establish, install, operate, lease or use individually or with any financial institution or organization or share with any financial institution or organization any such electronic branch in the commonwealth unless the financial institution, organization, bank holding company or subsidiary of a bank holding company or foreign bank purchasing, establishing, installing, operating, leasing or using individually or with any other financial institution or organization or sharing with any financial institution or organization any such electronic branch in the commonwealth for any purposes authorized by this section has its main office in one of the states of the United States, and the laws of such state expressly authorize, under conditions no more restrictive than those imposed by this chapter as determined by the commissioner, financial institutions or organizations organized under the laws of the commonwealth to purchase, establish, install, operate, lease, use or share electronic branches in such other state; provided, however, that any such financial institution, organization or bank holding company or subsidiary of a bank holding company shall have applied for and obtained approval of the commissioner prior to engaging in any activity pursuant to this section. For the purposes of this paragraph, the term "bank holding company" shall have the meaning set forth in the Bank Holding Company Act of 1956, 12 USC 1841 et seq.