

VIRGINIA ACTS OF ASSEMBLY -- 2015 SESSION

CHAPTER 445

An Act to amend and reenact §§ 6.2-831, 6.2-832, and 6.2-1326 of the Code of Virginia, relating to financial institutions; automated teller machines and other terminals; service facilities.

[H 1629]

Approved March 23, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.2-831, 6.2-832, and 6.2-1326 of the Code of Virginia are amended and reenacted as follows:

§ 6.2-831. Establishment of branch banks; redesignation of main office.

A. A bank may establish and operate one or more branch offices, and a bank may relocate a main or branch office, provided the bank applies to the Commission for authority to establish or relocate any such office. Applications shall be made in writing on a form prescribed by the Commission and shall be accompanied by the fee established pursuant to § 6.2-908. *As used in this section, "branch office" does not include any automated teller machine, cash-dispensing machine, or similar electronic or computer terminal, regardless of whether it (i) is located on bank premises or premises properly considered part of an authorized office of the bank or (ii) receives or records deposits, disburses loan proceeds, or provides for electronic fund transfers.*

B. The Commission shall have 30 days from the date it receives a complete application in which to review a branch proposal or a proposed relocation. The review period may be extended for an additional 30 days. The Commission may deny such an application if the Commission finds that a proposal would have a detrimental effect on the applicant bank's safety and soundness or that it is otherwise not in the public interest. A branch office that has been denied shall not be established and a relocation that has been denied shall not be carried out. If the Commission does not issue a denial of a branch proposal or a proposed relocation within 30 days, or 60 days if the review period is extended, the proposed branch office or offices, or the proposed relocation, shall be authorized, and the branch or branches may be established and operated, or the relocation may be completed.

C. The office at which a bank begins business shall be designated initially as its main office. Thereafter, the board of directors may redesignate as the main office any authorized office of the bank in the Commonwealth. The bank shall notify the Commission of any such redesignation not later than 30 days before its effective date and confirm the redesignation to the Commission within 10 days of its occurrence.

D. A bank shall be subject to the prohibition in § 6.2-842 against establishing or maintaining a branch in the Commonwealth on the premises or property of an affiliate if the affiliate engages in commercial activities.

E. The Commission may impose a civil penalty not exceeding \$2,000 upon any bank that it determines, in proceedings commenced in accordance with the Commission's Rules, has violated the provisions of this section.

§ 6.2-832. Establishment of automated teller machines and electronic terminals.

A. ~~A No application to, or approval from, the Commission shall be required for a bank may to establish and or operate an automated teller machine, cash-dispensing machine, or similar electronic, or computer, or similar terminals and may otherwise provide for electronic fund transfers by its customers, provided (i) the bank complies with the Electronic Fund Transfer Act (15 U.S.C. § 1693 et seq.) and Regulation E of the Federal Reserve Board and (ii) in the case of any proposed terminal at which deposits are received or recorded or loan proceeds disbursed, the bank files prior written notice of the proposal with the Commission on forms prescribed by the Commission and pays a fee not to exceed \$350 per terminal terminal, regardless of whether it (i) is located on bank premises or premises properly considered part of an authorized office of the bank or (ii) receives or records deposits, disburses loan proceeds, or provides for electronic fund transfers.~~

B. ~~The Commission shall have 25 days from receipt of the notice to review the proposal. The Commission may deny the proposal on grounds that the bank has failed to comply with federal electronic fund transfer laws or regulations, the bank lacks the resources to operate the proposed facilities successfully, or the proposal is not in the public interest. If the Commission does not issue a denial within 25 days, the bank may establish the terminal or terminals.~~

C. ~~The notice required by clause (ii) of subsection A need not be given if (i) the terminal is on bank premises or premises properly considered part of an authorized office of the bank or (ii) the terminal does not receive or record deposits or disburse loan proceeds.~~

D. ~~B. A Virginia state bank, as defined in § 6.2-836, may establish and operate such automated teller machines, cash-dispensing machines, or similar electronic or computer terminals in the Commonwealth,~~

provided the bank complies with all Commonwealth and federal laws and regulations applicable to such machines and terminals. An out-of-state bank, as defined in § 6.2-836, may establish and operate *such automated teller machines, cash-dispensing machines, or similar electronic or computer terminals* in the Commonwealth, provided (i) the bank complies with all Commonwealth, home state and federal laws applicable to such *machines and terminals* and (ii) ~~in the case of any proposed terminal at which deposits are received or recorded or loan proceeds disbursed, the bank furnishes to the Commission a copy of any notice or application filed with the bank's home state supervisor or responsible federal banking agency, at the time such notice or application is filed.~~

C. The Commission may adopt regulations affecting electronic fund transfers by banks if it finds such regulations necessary for the protection of the public interest.

§ 6.2-1326. Establishing, moving, and closing offices.

A. As used in this section, "service facility" means a physical facility at a location other than its main office that is wholly owned by the credit union establishing it. *"Service facility" does not include any automated teller machine, cash-dispensing machine, or similar electronic or computer terminal, regardless of whether it (i) is located on credit union premises or premises properly considered part of an authorized office of the credit union or (ii) receives or records deposits or disburses loan proceeds.*

B. A credit union may maintain service facilities at locations other than its main office if the maintenance of such offices is reasonably necessary to serve its members, subject to the approval of the Commission. An application to establish such a service facility, accompanied by a fee of \$200, shall be made on a form prescribed by the Commission. The Commission shall approve the establishment of the proposed service facility if it appears that the interest of the members of the applicant will be served thereby and that such establishment will not impair the financial condition of the applicant or any other credit union.

C. A credit union may (i) contract with one or more other credit unions subject to this chapter or organized under the laws of the United States or any other state to provide for the operation of one or more shared service facilities or (ii) provide for its members to have the use of one or more shared service facilities by contracting with a credit union service organization approved by the Commissioner for such purpose. A participating credit union may also invest in the credit union service organization. A credit union shall give prior written notice to the Commissioner of its participation in each shared service facility or credit union service organization. Notice to the Commissioner of a credit union's participation in a credit union service organization shall satisfy the requirement of subsection E that the Commissioner be notified of the establishment of an office, if the credit union service organization has notified the Commissioner of the establishment of the shared service facility.

D. The authority of the Commission and the Commissioner to supervise and regulate credit unions, as set forth in Article 2 (§ 6.2-1308 et seq.) of this chapter, shall extend to any shared service facility and any credit union service organization that is involved in the operation of a shared service facility that provides service to credit unions organized under this chapter, except that such authority shall not extend to the assets, records, books, and accounts of any federal credit union or credit union organized under the laws of another state.

E. A credit union may change the location of its main office, a service facility, or office, and may close any such office, provided it gives at least 30 days' prior written notice thereof to the Commissioner in such form as he may prescribe. A credit union shall notify the Commissioner in writing within 10 days after it establishes, relocates, or closes any office. A credit union shall notify the Commissioner of its withdrawal from participation in any shared service facility within 10 days of such withdrawal.