

OPINION NO. 66-037

Syllabus:

Pursuant to Section 1103.09, Revised Code, a bank, with the consent of the superintendent of banks, may establish a branch in a municipal corporation contiguous to the place designated in its articles of incorporation although such contiguous municipal corporation is not in the same county as such designated place.

To: J. Gordon Peltier, Director, Department of Commerce, Columbus, Ohio
By: William B. Saxbe, Attorney General, February 21, 1966

I have your request for opinion of December 16, 1965, which reads, in part:

"A state chartered bank in Toledo, Lucas County, Ohio has filed an application for a branch bank to be located in Rossford in Wood County, Ohio. Rossford and Toledo are contiguous and their boundary line is the county line separating Lucas and Wood counties.

* * * * *

"We are requesting an opinion of you as to whether the above section of Ohio law permits a bank in one city to establish a branch bank in a contiguous city when the latter is in a county other than the one of the main office."

As you indicate in your letter of request, Section 1103.09, Revised Code, is controlling and its provisions are dispositive of the question. That section provides:

"No branch bank shall be established until the consent of the superintendent of banks has been obtained, and no bank shall establish a branch bank

in any place other than that designated in its articles of incorporation, except in a municipal corporation contiguous to such designated place, or in other parts of the county in which the municipal corporation containing the main bank is located, provided any bank may maintain and operate as a branch bank a bank located in a county which is contiguous to the county in which the municipal corporation containing the main bank is located, and which on January 1, 1935, and prior thereto, bore to the main bank the relationship of 'affiliate' within the meaning of that term as it is used in 'The Banking Act of 1933' and the amendments thereto."

(Emphasis added)

The emphasized language of the above set out section is not restricted by any requirement that the municipal corporation therein described, be in the same county as the place designated in the bank's articles of incorporation. If the General Assembly had intended to so restrict its provision it could have added words such as "and in the same county" to the emphasized words. It is clear from the language following that emphasized that the General Assembly considered whether a bank could establish a branch in another county. Inasmuch as no restriction was placed on the right of a bank to establish a branch in a municipal corporation contiguous to the place designated in its articles of incorporation, I conclude that no such restriction was intended.

Accordingly, it is my opinion that, pursuant to Section 1103.09, Revised Code, a bank, with the consent of the superintendent of banks may establish a branch in a municipal corporation contiguous to the place designated in its articles of incorporation although such contiguous municipal corporation is not in the same county as such designated place.