

INTERPRETIVE LETTER 91-25 (SEPTEMBER 19, 1991)

State bank's incidental powers include the authority to contribute to bank trade association's building fund.

You have inquired whether it is within a state bank's powers under the Illinois Banking Act to voluntarily contribute to an industry trade association's building fund. Such contributions would not be instituted as a payment that is mandatory for the retention by a bank of its membership privileges. However, the payments would otherwise be similar to dues payments, in that they would be applied to reduce the trade association's occupancy expenses. Moreover, the trade association would in some fashion publicly recognize the contributions of participating banks.

It is the opinion of this Agency that such contributions are permissible pursuant to Section 3 of the Illinois Banking Act, which authorizes banks to conduct "a general banking business." A general banking business traditionally has been interpreted to include those activities that are "incidental and germane" to the conduct of a general banking business. Membership within an industry trade association traditionally has been included in the sphere of business activities that are considered to be incidental and germane to banking. It is our view that contributions to that association's building fund could validly be characterized as aiding in the accomplishment of the purposes of membership in the trade association, and therefore would also be incidental and germane to banking. Moreover, contributions to the fund could be characterized as marketing efforts intended to promote the identity and goodwill of the participating banks, activities that are directly related to the general banking business.

We do not take any position as to whether such payment would be viewed as charitable contributions for tax purposes. However, that determination would not be relevant to our construction of Section 3 of the Illinois Banking Act.