

flict with the broad basic responsibilities to be discharged by individual members of the commission in their individual capacities, and for that reason should be permitted.

As a declaration of administrative policies, these bylaws can remain in effect in their present form only as long as they are agreed to by a majority of the commission. If it is and remains the commission's will that its ministerial responsibilities should be exercised by the Chairman and in his absence by the Vice-Chairman, there is nothing in the statute to prevent such an arrangement. The case would be entirely different, of course, if the bylaws purported to place discretionary powers and duties in the hands of the Chairman. Such an attempted delegation would contravene the intention of the Legislature in creating the Public Service Commission to exercise its authority in a collegial manner.

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**CREDIT UNIONS: Automated Teller Machines.**

**WORDS AND PHRASES: "Signature."**

The use by credit union members with a line of credit of a personal identification number in lieu of a written signature to withdraw funds is not prohibited by the Michigan Credit Union Act.

Opinion No. 4864

April 10, 1975.

Russell S. Kropschot  
Chief Deputy Commissioner  
Financial Institutions Bureau  
Department of Commerce  
Law Building  
Lansing, Michigan 48913

You have requested my opinion regarding the use by a state chartered credit union of an automated teller machine (ATM). Your memorandum states:

"We have been informed that one of our state chartered credit unions is considering the purchase of an Automated Teller Machine (ATM) which would be placed in the credit union. One purpose or use of the machine would be to dispense cash to members who have an approved line of credit with that credit union. The use of the ATM by the credit union will provide the member with an additional convenient service. The problem that arises is the fact that the customer when obtaining an advance through the use of the ATM does not sign a request but instead enters a personal identification number, in lieu of his signature, which allows him to receive his cash advance. On this basis, it would appear that Section 10 of the Credit Union Act

may be violated on the basis that the unsigned advance was not disbursed in the form of a check payable to the member.

"The question we would like to ask is whether the entering of a personal identification number into the ATM by a credit union member is the equivalent of the member signing a request for an advance so that the requirement of Section 10 would not be violated."

A credit union is authorized to issue line of credit loans to its members by virtue of 1925 PA 285, § 4(b); MCLA 490.4(b); MSA 24.484(b). In pertinent part the section provides that credit unions shall have the power:

"(b) To make loans to members for provident or productive purposes. With the written approval of the commissioner, a credit union may make line of credit loans. A line of credit loan is a loan approved by the credit committee under which a member from time to time may request advances and under which he may maintain an outstanding loan balance not to exceed a stated sum during a specified period of time. . . ."

Additionally, the statute establishes the procedure a credit union must follow in processing line of credit loans. Section 10 of the Michigan Credit Union Act, 1925 PA 285, § 10; MCLA 490.10; MSA 23.490 states in pertinent part as follows:

". . . An application for a line of credit loan need only state as its purpose that it is for a provident and productive purpose. All advances made to the borrower thereunder shall be considered part of a single loan. After approval by the credit committee disbursements may be honored upon the request of the borrower. *Unsigned requests for advances under a preapproved line of credit or open end revolving credit loan can be honored by check payable to the order of the borrower. . . .*" (emphasis added)

A signature can be whatever the maker thereof intends to be his or her signature. This position is supported by numerous cases in various jurisdictions throughout the United States. [See 80 CJS, Signatures, Sec 1(a), p 1284-1296; 39 Words & Phrases, Signature, p 359-369] Although the courts in Michigan have not been asked to provide such an interpretation, the legislature defines the term "signed" at Section 1-201(39) of the Uniform Commercial Code, 1962 PA 174, § 1201(39); MCLA 440.1201(39); MSA 19.1201(39) as follows:

"(39) 'Signed' includes *any symbol executed or adopted by a party with present intention to authenticate a writing, including a carbon copy of his signature.*" (emphasis added)

Assistance in interpretation of the term "signed" is provided by the commentary to the Uniform Commercial Code which states:

"The term (signed) is broadly defined to encompass *any mechanical method of authentication of a writing.*" (See MCLA, Vol. 21, p 70) (emphasis added)

Furthermore, the legislature defines the term "signature" in the Uniform Commercial Code, Section 3-401(2); 1962 PA 174, § 3401; MCLA 440.3401(2); MSA 19.3401(2) as follows:

"(2) A signature is made by use of *any name*, including any trade or assumed name, upon an instrument, *or by any word or mark used in lieu of a written signature.*" (emphasis added)

The official comment to the code provided by its authors, the National Conference of Commissioners & American Law Institute, states that a signature "may be handwritten, typed, printed or made in any other manner. . . . It may be by mark, or even by thumbprint. It may be in any name, including any trade name or assumed name, however false and fictitious, which is adopted for the purpose." (See 22 MCLA, p 236; 14 MSA, p 509)

A personal identification number is in some respects treated as identical to a signature. Where the number is secret and known only to the member and to the credit union, the number possesses the uniqueness of a signature as well as the safety in terms of identification which a signature provides. In addition, use of the number in an ATM provides a record keeping device similar as that which would be provided by a handwritten signed request.

The legislature has deliberately defined the terms "signed" and "signature" with the apparent intent to provide flexibility in the innovative world of commerce. It is therefore my opinion that the use by an individual of a personal identification number in lieu of a written signature is not prohibited under section 10 of the Michigan Credit Union Act, 1925 PA 285, § 10, *supra*.

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*Attorney General.*

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