

**OPINION
66-25**

June 27, 1966 (OPINION)

Honorable Ben Meier

Secretary of State

RE: Banks and Banking - Trust Company - Inclusion of Term Bank in Na

This is in reply to your letter of June 22, 1966, in which you state the following facts and question:

"We have received for processing an amendment of change of name for a Trust Company corporation - American Trust and Deposit, Inc., changing its name to First American Bank & Trust Company. We believe that in a recent opinion given to our State Examiner you contended that such use of the word 'Bank' in a trust company corporate name was legal.

"We now ask you for your OFFICIAL OPINION on the following question: Is it required that this office request that an amendment such as the one in question (see attached copy) be approved by the state examiner before it is processed by this office?"

In a letter from this office to the chief deputy examiner, Mr. G. W. Ellwein, dated April 22, 1966, it was stated: "Section 6-02-01 states that no person, firm, company, co-partnership, or corporation not organized under this chapter or Chapter 6-04 or 6-05 shall make use of or display such words as 'bank', 'banker', 'savings bank', or other words of like import * * *. A trust company is organized under Chapter 6-05 which according to the provisions of Section 6-01-02 would be permitted to use the word 'bank' or 'banker' in its title."

The use of the word "bank" in a title does not indicate that a trust company possesses all powers of banking associations and is not empowered to conduct general banking business unless it has obtained a charter to engage in banking business upon compliance with state statutes governing state banking associations. See Nelson v. Dakota Bankers Trust Company, 132, N.W.2d. 903 (N.D. 1964). The Nelson case also held that a corporation organized under statutes governing trust companies had no power to engage in general banking and could not obtain such powers by amending its articles of incorporation. In this instance, as we understand it, there is no intent to amend the articles of incorporation to permit the Trust Company to do banking but only a change in the name of the corporation to include the word "bank."

We have found no statute which would require the approval by the state examiner of a mere change in name of a trust company. The proposed name, while including the term "bank," does not, as indicated above, confer any general banking powers upon the trust company. As also noted above, the use of the term "bank" in the name of a trust company is not prohibited by statute. It is therefore our opinion that an amendment of the articles of incorporation to change the name of a trust company to include the term "bank" does not

require the approval of the state examiner before it is processed by the office of the Secretary of State.

HELGI JOHANNESON

Attorney General