

Uniform Branch Trust Office Representative Trust Office Application

Form A: For Nebraska Institutions Adding Offices In or Out of Nebraska

INSTRUCTIONS

The Nebraska Trust Company Act and The Interstate Trust Company Office Act require the Director of the Department to approve the establishment, relocation and closing of certain offices of in-state and out-of-state trust companies. This Uniform Branch Trust Office/Representative Trust Office Application/Notice is **Form A**, and is intended to cover the trust activities listed below for Nebraska Chartered institutions. Refer to **Form B** if you are an out-of-state entity branching into Nebraska. Please read carefully before completing the form.

A listing of all fees and assessments to be remitted to the Department, as well as other requirements, are provided in the application. Applications will be accepted for filing when they are substantially complete. If you have any further questions, please contact the Department at 1526 K Street, Suite 300, telephone: 402-471-2171, or via our Web Site, <https://ndbf.nebraska.gov>

These instructions apply to the following trust activities:

Branch Trust Offices	Representative Trust Offices
<p><u>In-State Activities</u></p> <p>Nebraska corporations, organized as trust companies, wanting to establish branch trust offices in Nebraska. Fee: \$500</p> <p>Nebraska chartered banks, authorized to conduct trust businesses, wanting to establish branch trust offices in Nebraska. Fee: \$500</p> <p><u>Out-of-State Activities</u></p> <p>Nebraska chartered trust companies, wanting to establish branch trust offices outside of Nebraska. Fee: \$500</p> <p>Nebraska chartered banks, authorized to conduct trust business, wanting to establish branch trust offices outside of Nebraska. Fee: \$500</p>	<p><u>In-State Activities</u></p> <p>Nebraska corporations, organized to do business as a trust company, wanting to establish a representative trust office in Nebraska. Fee: \$500</p> <p>Nebraska chartered banks, authorized to conduct trust businesses, wanting to establish a representative trust office in Nebraska. Fee: \$500</p> <p><u>Out-of-State Activities</u></p> <p>Nebraska chartered trust companies, wanting to establish representative trust offices outside of Nebraska. Fee: \$500</p> <p>Nebraska chartered banks, authorized to conduct trust business, wanting to establish representative trust offices outside of Nebraska. Fee: \$500</p>
<p>Discontinuance of a Branch Trust Office requires prior approval of the Department. Fee: None</p>	<p>Discontinuance of a Representative Trust Office requires 60 days prior notice to the Department. Fee: none</p>

TYPE OF APPLICATION/NOTICE

The activity conducted at the location (see definitions below) will determine whether the office is considered a Branch Trust Office (BTO) or a Representative Trust Office (RTO).

LAW 8-230. For purposes of the Nebraska Trust Company Act, unless the context otherwise requires:

- (1) Agency capacity means a capacity resulting from a trust company undertaking to act alone or jointly with others primarily as agent for another in all matters connected with its undertaking, including the capacities of registrar, paying agent, or transfer agent with respect to stocks, bonds, or other evidences of indebtedness of any corporation, association, municipality, state, or public authority, escrow agent, or agent for the investment of money or any other similar capacity;
- (2) Branch trust office means an office of a trust company, other than the main or principal office of a trust company, at which a trust company may act in any fiduciary capacity or conduct any activity permitted under the Nebraska Trust Company Act;
- (3) Fiduciary capacity means a capacity resulting from a trust company undertaking to act alone or jointly with others primarily for the benefit of another in all matters connected with the undertaking and includes the capacities of trustee, including trustee of a common trust fund, administrator, personal representative, guardian of an estate, conservator, receiver, attorney in fact, and custodian and any other similar capacity;
- (4) Representative trust office means an office at which a trust company does not act in any fiduciary capacity or conduct or engage in any activity related to its fiduciary capacities but may otherwise engage in any other activity permitted under the Nebraska Trust Company Act; and
- (5) Trust company means any trust company which is incorporated under the laws of this state, any national banking association having its principal office in this state and authorized to conduct a trust company business as defined in the Nebraska Trust Company Act, any bank authorized to conduct a trust company business in a trust department pursuant to sections 8-159 to 8-162, any federal savings association authorized to conduct a trust company business, and any federally chartered trust company.

STATUTORY REFERENCES

Nebraska corporations, organized as trust companies, wanting to establish branch trust offices. **Neb. Rev. Stat. § 8-234(1)** of the Nebraska Trust Company Act states that the Director's approval is needed for a Nebraska corporation, organized to do business as a trust company, to establish and maintain branch trust offices within or outside of Nebraska.

Nebraska state-chartered banks, authorized to conduct trust businesses, wanting to establish branch trust offices. **Neb. Rev. Stat. § 8-234(4)** of the Nebraska Trust Company Act provides that the approval of the director is needed before a state-chartered bank, authorized to conduct a trust business, may establish and maintain branch trust offices within or outside of Nebraska. No banking activities may be conducted at a bank's branch trust office.

Nebraska corporations, organized to do business as a trust company, wanting to establish a representative trust office. **Neb. Rev. Stat. § 8-235(1)** of the Nebraska Trust Company Act provides that the approval of the director is needed before a corporation can establish and maintain representative trust offices within or outside of Nebraska.

Nebraska state-chartered banks, authorized to conduct trust businesses, wanting to establish a representative trust office. **Neb. Rev. Stat. § 8-235(4)** of the Nebraska Trust Company Act provides that Nebraska state-chartered banks should follow the same procedure as Nebraska corporations wanting to establish representative trust offices within or outside of Nebraska. No banking activities may be conducted at a bank's representative trust office.

Nebraska state-chartered trust companies, wanting to establish branch trust offices outside of Nebraska. **Neb. Rev. Stat. § 8-2303** of the Nebraska Interstate Trust Company Act provides that a Nebraska state-chartered trust company may establish branch trust offices in any other state with prior approval of the director. A Nebraska state chartered trust company may conduct any activities at any branch trust office outside the State of Nebraska that are permissible for a trust company chartered by the host state where the branch trust office is located or for a national bank authorized to conduct a trust company business within the host state.

Nebraska chartered trust companies, wanting to establish representative trust offices outside of Nebraska. **Neb. Rev. Stat. § 8-2304** of the Nebraska Interstate Trust Company Act provides that a Nebraska state chartered trust company may establish representative trust offices in any other state in accordance with the laws of the other state and with the prior approval of the director.

UNIFORM BRANCH TRUST OFFICE/REPRESENTATIVE TRUST OFFICE APPLICATION/NOTICE

<input type="checkbox"/> Branch Trust Office (BTO)	<input type="checkbox"/> Representative Trust Office (RTO)
<input type="checkbox"/> Establishment	<input type="checkbox"/> Relocation
<input type="checkbox"/> Notice of Discontinuance	

APPLICANT INFORMATION:

Name _____

Address _____

City _____ State _____ Zip Code _____

Contact Name _____ Phone _____

Address _____

City _____ State _____ Zip Code _____

LOCATION:

Official Name of Office _____

Proposed Address _____

City _____ County _____ State _____ Zip Code _____

Address of Office to be Discontinued _____

City _____ County _____ State _____ Zip Code _____

Proposed Effective Date _____

APPLICATION DETAILS: (Provide answers in letter format)

1. Describe the services to be provided from the location, or in the case of a discontinuance, services which will no longer be provided. If the proposed location is in another state, provide proof of compliance with Nebraska Revised Statutes § 8-2303 (BTO) or § 8-2304 (RTO).
2. Are premises or equipment to be purchased or leased from an officer, director, or ten (10) percent shareholder in connection with this application? If so, provide details.
3. Provide a statement as to why the subject of this application will promote the public convenience and advantage, or not have a material adverse effect on the public convenience and advantage. Include sufficient detail for the Department to make a determination.
4. Is the establishment or relocation of the BTO or RTO consistent with intrastate branching restrictions which may exist in the state where the office is to be located?
5. Will approval of this application result in the demolition or significant alternation of any structure which may have historic or cultural significance? Provide a letter from the State Historic Preservation Office.
6. Does the proposed BTO or RTO comply with local zoning ordinances?
7. Provide a financial analysis that includes all project costs and current proforma financial statements.

Note: If this application is for a new BTO, or to relocate a BTO, the Department will give notice of the application by publishing in a legal newspaper in both the county where the main office of the Applicant is located and in the county where the BTO is to be established. The Applicant must pay the cost of publication and the newspaper will be instructed to bill the Applicant accordingly.

APPLICATION DETAILS (cont'd):

Should objections be filed in this office within fifteen days after publication of a Notice of Application for a Branch Trust Office, a hearing will be scheduled. All expenses incurred, including that of the reporter who will prepare a transcript of the hearing, will be assessed pro rata to the applicant and protestant, and those expenses will be in addition to the original \$500 filing fee. If no protests are filed, and the condition of the Applicant does not warrant a hearing, no hearing will be held. Publication is for Nebraska chartered trust companies and banks only.

If this application is for an RTO, the Department has sixty days from the date a substantially complete application is received to make a decision.

Note: Enclose the appropriate filing fee in the form of a bank/corporate/company check or bank draft, made out to the **Nebraska Department of Banking & Finance**.

Officer's Signature _____ Date _____

Typewritten Name _____ Title _____