

Interstate Trust Company Office Act
Chapter 8, Article 23
§§ 8-2301 to 8-2313

8-2301

Act, how cited.

Sections 8-2301 to 8-2313 shall be known and may be cited as the Interstate Trust Company Office Act.

Last amended:

~ Reissue 2022

8-2302

Terms, defined.

For purposes of the Interstate Trust Company Office Act, unless the context otherwise requires:

(1) 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;

(2) Department means the Department of Banking and Finance;

(3) Director means the Director of Banking and Finance;

(4) 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;

(5) Home state means (a) with respect to a state-chartered trust company, the state in which the trust company is chartered, and (b) with respect to a federally chartered trust company, the state in which the main or principal office of the federally chartered trust company is located;

(6) Home state regulator means the supervisory agency with primary responsibility for chartering and supervising an out-of-state trust company;

(7) Host state means a state, other than the home state of a trust company, in which the trust company maintains, or seeks to establish and maintain, a branch trust office or a representative trust office;

(8) Nebraska state-chartered trust company means (a) a corporation which is chartered to conduct a trust company business and engage in any fiduciary capacity pursuant to the Nebraska Trust Company Act or (b) a corporation which is chartered to conduct a bank in this state pursuant to the Nebraska Banking Act and which has been authorized to conduct a trust company business in the bank pursuant to sections 8-159 to 8-162;

(9) Nebraska trust company means a trust company whose home state is Nebraska;

(10) Out-of-state state trust company means a trust company chartered under the laws of any state other than Nebraska;

(11) Out-of-state trust company means a trust company whose home state is a state other than Nebraska;

(12) 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;

(13) State means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands; and

(14) Trust company means (a) a company chartered and supervised under the laws of any state or the United States to act in a fiduciary capacity, (b) a bank chartered and supervised under the laws of any state or the United States if such bank has been further chartered or authorized to conduct a trust company business within the bank, or (c) a savings association chartered and supervised under the laws of any state or the United States if such savings association has been further chartered or authorized to engage in a trust company business within the savings association.

Last amended:
~ Reissue 2022

8-2303

Nebraska state-chartered trust company; out-of-state branch trust offices; authorized.

A Nebraska state-chartered trust company may establish and maintain branch trust offices in any other state in accordance with the laws of the other state and with the 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.

Last amended:
~ Reissue 2022

8-2304***Nebraska state-chartered trust company; out-of-state representative trust offices; authorized.***

A Nebraska state-chartered trust company may establish and maintain representative trust offices in any other state in accordance with the laws of the other state and with the prior approval of the director. A Nebraska state-chartered trust company may not act in a fiduciary capacity but may conduct any other trust company activities at any representative trust office outside the State of Nebraska that are permissible for a representative trust office of a trust company chartered by the host state where the representative trust office is located or for a national bank authorized to conduct a trust company business within the host state.

Last amended:

~ Reissue 2022

8-2305***Out-of-state trust company; instate branch trust offices; authorized.***

An out-of-state trust company may establish and maintain branch trust offices in Nebraska only if (1) the requirements of sections 8-2306 and 8-2307 are met and (2) the home state of the out-of-state trust company authorizes the establishment and maintenance of branch trust offices in that state by a Nebraska trust company under conditions no more restrictive than those imposed by the laws of Nebraska, as determined by the director.

Last amended:

~ Reissue 2022

8-2306***Out-of-state trust company; instate branch trust offices; requirements; procedure.***

(1) An out-of-state trust company, in order to establish and maintain branch trust offices in Nebraska pursuant to section 8-2305, shall file written notice of the proposed transaction with the director on a form prescribed by the director on or after the date on which the out-of-state trust company applies to its home state regulator for approval to establish and maintain the branch trust office in this state. The notice shall include a copy of the application made to its home state regulator, a copy of a resolution of its board of directors authorizing the branch trust office, and the filing fee prescribed by section 8-602.

(2) An out-of-state trust company shall provide with the notice satisfactory evidence to the director of compliance with (a) any applicable requirements of the Nebraska Model Business Corporation Act and (b) the applicable requirements of its home state regulator for establishing and maintaining a branch trust office.

(3) An out-of-state trust company shall provide with the notice an affidavit from its president stating that for as long as it maintains a branch trust office in this state the trust company will comply with Nebraska law.

(4) An out-of-state trust company shall obtain a fidelity bond in accordance with section 8-205.01. Submission of a rider to an existing bond indicating that the required coverage is outstanding and evidencing the beneficiaries described in section 8-205.01 shall satisfy the requirements of this subsection. The bond or a substitute bond shall remain in effect during all periods in which the trust company conducts business in Nebraska.

Last amended:

~ Reissue 2022

8-2307

Out-of-state trust company; instate branch trust offices; director; approval.

(1) The director shall act within ninety days after receipt of notice under section 8-2306. The director may extend the ninety-day period if he or she determines that the notice raises issues that require additional information or additional time for analysis.

(2) The director may deny approval of the proposed branch trust office if he or she finds that the out-of-state trust company lacks sufficient financial resources to establish the branch trust office without adversely affecting its safety or soundness or that the establishment of the proposed branch trust office would not be in the public interest.

(3) If the out-of-state trust company is not insured by an agency of the federal government, the director may condition his or her approval on the satisfaction by the out-of-state trust company of any requirement applicable to a Nebraska state-chartered trust company pursuant to the Nebraska Trust Company Act.

(4) If the director does not extend the ninety-day period pursuant to subsection (1) of this section, he or she shall certify his or her approval or denial of the notice to the out-of-state trust company's home state regulator on or before the ninetieth day after receipt of notice. If the director imposes conditions pursuant to subsection (3) of this section, the conditions shall be satisfied prior to the director's certification of approval. A copy of the certification of approval shall be sent to the out-of-state trust company. If the notice is approved, the out-of-state trust company may commence business at the branch trust office upon compliance with sections 8-209 and 8-210.

(5) If the director does extend the ninety-day period pursuant to subsection (1) of this section, he or she shall act on the notice as soon as reasonably possible. Upon reaching a decision on the notice, the director shall certify his or her approval or denial of the notice to the out-of-state trust company's home state regulator. If the director imposes conditions pursuant to subsection (3) of this section, the conditions shall be satisfied prior to the director's certification of approval. A copy of such certification shall be sent to the out-of-state trust company. If the notice is approved, the out-of-state trust company may commence business at the branch trust office upon compliance with sections 8-209 and 8-210.

Last amended:

~ Reissue 2022

8-2308

Out-of-state trust company with instate branch trust office; representative trust offices; authorized; when.

An out-of-state trust company which has established and maintains at least one branch trust office in this state pursuant to the Interstate Trust Company Office Act may establish and maintain representative trust offices in Nebraska only if (1) the requirements of section 8-2309 are met and (2) the home state of the out-of-state trust company authorizes the establishment and maintenance of representative trust offices in that state by a Nebraska trust company under conditions no more restrictive than those imposed by the laws of Nebraska, as determined by the director.

Last amended:

~ Reissue 2022

8-2309

Out-of-state trust company with instate branch trust office; representative trust offices; requirements; procedure.

(1) An out-of-state trust company, in order to establish and maintain representative trust offices in Nebraska pursuant to section 8-2308, shall file written notice of the proposed transaction with the director on a form prescribed by the director. The notice shall include a list of the proposed activities to be conducted at the representative trust office, procedures to ensure that no fiduciary activities will be conducted at the representative trust office, a copy of a resolution of its board of directors authorizing the representative trust office, satisfactory evidence that the bond required pursuant to subsection (4) of section 8-2306 will cover the activities at the representative trust office, any other information which the director may require, and the filing fee prescribed by section 8-602.

(2) The director shall act within sixty days after receipt of the notice under subsection (1) of this section. The director may extend the sixty-day period if he or she determines that the notice raises issues that require additional information or additional time for analysis. If the sixty-day period is extended, the out-of-state trust company may establish a representative trust office only on prior written approval of the director.

(3) The director may deny approval of the proposed representative trust office if he or she finds that the trust company lacks sufficient financial resources to establish the representative trust office without adversely affecting its safety or soundness or that the establishment of the proposed representative trust office would not be in the public interest.

(4) If the director does not extend the sixty-day period pursuant to subsection (2) of this section and does not act within sixty days, the out-of-state trust company may establish representative trust offices on the sixty-first day following the director's receipt of notice.

Last amended:

~ Reissue 2022

8-2310

Out-of-state trust company without instate branch trust office; representative trust offices; authorized; when.

An out-of-state trust company which has not established and does not maintain a branch trust office in this state may establish and maintain representative trust offices in Nebraska only if (1) the requirements of section 8-2311 are met and (2) the home state of the out-of-state trust company authorizes the establishment and maintenance of representative trust offices in that state by a Nebraska trust company under conditions no more restrictive than those imposed by the laws of Nebraska, as determined by the director.

Last amended:

~ Reissue 2022

8-2311

Out-of-state trust company without instate branch trust office; representative trust offices; requirements; procedure.

(1) An out-of-state trust company, in order to establish and maintain representative trust offices in Nebraska pursuant to section 8-2310, shall file written notice of the proposed transaction with the director on a form prescribed by the director. The notice shall include, in addition to the information and fee prescribed in subsection (1) of section 8-2309:

- (a) Satisfactory evidence that the out-of-state trust company is a trust company;
- (b) Satisfactory evidence of compliance with any applicable requirements of the Nebraska Model Business Corporation Act;
- (c) An affidavit from its president stating that for as long as it maintains a representative trust office in this state the trust company will comply with Nebraska law; and
- (d) Submission of a fidelity bond in accordance with section 8-205.01. Submission of a rider to an existing bond indicating that the required coverage is outstanding and evidencing the beneficiaries described in section 8-205.01 shall satisfy the requirements of this subdivision. The bond or a substitute bond shall remain in effect during all periods in which the trust company conducts business in Nebraska.

(2) The director shall act within ninety days after receipt of notice under subsection (1) of this section. The director may extend the ninety-day period if he or she determines that the notice raises issues that require additional information or additional time for analysis. If the ninety-day period is extended, the out-of-state trust company may establish representative trust offices only on prior written approval of the director.

(3) The director may deny approval of the proposed representative trust office if he or she finds that the trust company lacks sufficient financial resources to establish the representative trust office without adversely affecting its safety or soundness, that the trust company does not have adequate

fidelity bond coverage, or that the proposed representative trust office would not be in the public interest.

(4) If the director does not extend the ninety-day period pursuant to subsection (2) of this section and does not act within ninety days, the out-of-state trust company may, upon compliance with sections 8-209 and 8-210, establish representative trust offices on the ninety-first day following the director's receipt of notice.

Last amended:

~ Reissue 2022

8-2312

Branch trust office; representative trust office; director; powers.

(1) The director may examine any branch trust office or representative trust office established and maintained in this state by any out-of-state state trust company as he or she deems necessary to determine whether the branch trust office or representative trust office is being operated in compliance with Nebraska law and in accordance with safe and sound practices.

(2) The director may prescribe requirements for periodic reports by an out-of-state trust company that operates branch trust offices or representative trust offices pursuant to the Interstate Trust Company Office Act. Any such reporting requirements shall be consistent with the reporting requirements applicable to Nebraska trust companies and appropriate for the purpose of enabling the director to carry out his or her responsibilities under the act.

(3) The director may enter into cooperative, coordinating, and information-sharing agreements with any other trust company supervisory agency that has concurrent jurisdiction over a Nebraska state-chartered trust company or an out-of-state state trust company operating a branch trust office or representative trust office in this state to engage the services of such supervisory agency's examiners or to provide the services of department examiners to such supervisory agency.

(4) The director may enter into joint examinations or joint enforcement actions with other trust company supervisory agencies having concurrent jurisdiction over any branch trust office or representative trust office of an out-of-state state trust company or any branch trust office or representative trust office of a Nebraska state-chartered trust company in any host state. The director may, at any time, take such actions independently if he or she deems such actions to be necessary or appropriate to carry out his or her responsibilities under the act or to ensure compliance with Nebraska law. In the case of an out-of-state state trust company, the director shall recognize the exclusive jurisdiction of the home state regulator over corporate government matters and the primary responsibility of the home state regulator with respect to safety and soundness matters.

(5) The cost of any examination conducted under this section shall be assessed against the out-of-state state trust company in the manner set forth in sections 8-605 and 8-606 and paid for by the out-of-state state trust company.

Last amended:
~ Reissue 2022

8-2313
Act, how construed.

Nothing in the Interstate Trust Company Office Act shall be construed to authorize any Nebraska trust company or any out-of-state trust company to conduct the general business of banking at any branch trust office or representative trust office.

Last amended:
~ Reissue 2022
