

STATE OF NEBRASKA
Department of Banking & Finance

UNIFORM BRANCH TRUST OFFICE/REPRESENTATIVE TRUST OFFICE APPLICATION/NOTICE

Form B: Out-of-State Institutions Entering 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 B**, and is intended to cover the trust activities listed below. Refer to **Form A** if you are a Nebraska institution. 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 the address or telephone number below, or via our Web Site, <http://www.ndbf.org>.

These instructions apply to the following trust activities:

Branch Trust Offices	Representative Trust Offices
<p><u>Out-of-State Activities</u></p> <ul style="list-style-type: none"> ▪ Out-of-state trust companies, wanting to establish branch trust offices in Nebraska. Fee: \$500 	<p><u>Out-of-State Activities</u></p> <ul style="list-style-type: none"> ▪ Out-of-state trust companies, that already have at least one branch trust office in Nebraska, wanting to establish representative trust offices in Nebraska. Fee: \$500 ▪ Out-of-state trust companies, that do NOT have a branch trust office in Nebraska, wanting to establish representative trust offices in Nebraska. Fee: \$500

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). Check the appropriate box for establishment or relocation and whether this filing represents an application or notice of discontinuance.

Terms Defined

For purposes of the **Interstate Trust Company Office Act** (Section 8-2302), 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.

STATUTORY REFERENCES

Out-of-state trust companies, wanting to establish branch trust offices in Nebraska. **Neb. Rev. Stat. § 8-2305** provides that an out-of-state trust company may establish and maintain branch trust offices in Nebraska if the state where the out-of-state trust company is located provides reciprocity to Nebraska trust companies.

Out-of-state trust companies, that already have at least one branch trust office in Nebraska, wanting to establish representative trust offices in Nebraska. **Neb. Rev. Stat. § 8-2308** provides that an out-of-state trust company which has established and maintains at least one branch trust office in Nebraska may establish and maintain representative trust offices in Nebraska if the home state of the out-of-state trust company provides reciprocity to Nebraska trust companies.

Out-of-state trust companies, that do NOT have a branch trust office in Nebraska, wanting to establish representative trust offices in Nebraska. **Neb. Rev. Stat. § 8-2310** proves that an out-of-state trust company, which does not have a branch trust office in Nebraska, can establish a representative trust office in Nebraska if the home state of the out-of-state trust company provides reciprocity to Nebraska Trust Companies.

**UNIFORM BRANCH TRUST OFFICE/REPRESENTATIVE TRUST OFFICE
APPLICATION/NOTICE**

Branch Trust Office (BTO)	Representative Trust Office (RTO)	
Establishment	Relocation	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.
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. Provide a copy of the law and/or regulations of Applicant's home state to show that reciprocity exists.
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. If Applicant is establishing a BTO, provide:
 - a) a copy of any application made to the home state regulator;
 - b) a resolution of the Board of Directors authorizing this application;
 - c) proof of compliance with the Nebraska Business Corporation Act;
 - d) an affidavit from Applicant's President that it will comply with Nebraska law;

e) a bond in accordance with Section 8-205.01 of the Nebraska Trust Company Act. Submission of the appropriate rider to an existing bond is sufficient.

8. If Applicant operates a Nebraska BTO and is establishing only a representative trust office, provide:

- (a) a summary of procedures to ensure no fiduciary activities will take place;
- (b) a resolution of the board of directors authorizing this application, and;
- (c) evidence that its bond will cover the proposed activities.

9. If Applicant does not operate a Nebraska BTO and is establishing a RTO, provide:

- (a) all of the information required in number 7, above;
- (b) proof that Applicant is a trust company, and;
- (c) a summary of procedures to ensure no fiduciary activities will take place.

Note: If the Department does not disapprove the application, a pledge of securities will also be required.

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 _____