

286.3-146 Out-of-state trust company doing business in Kentucky -- Scope of activities -- Fiduciary-related activities limited by reciprocity -- Evidence and notice to be provided to commissioner. (Effective until July 15, 2024)

- (1) An out-of-state trust company may establish or acquire and maintain a trust office or a trust representative office in this state only if trust companies chartered under the laws of Kentucky are permitted to establish or acquire and maintain offices, and engage in substantially similar activities permissible for out-of-state trust companies as established in KRS 286.3-145, in the state where the out-of-state trust company has its principal office. An out-of-state trust company that establishes or acquires and maintains a trust office or trust representative office in Kentucky pursuant to this section may conduct any activity in Kentucky that would be authorized under the laws of this state for a Kentucky state trust company.
- (2) An out-of-state trust company:
 - (a) May, at its trust office or offices in Kentucky, act as a fiduciary in Kentucky, and may conduct any activity at the trust office or offices that would be authorized under the laws of this state for a Kentucky state trust company; and
 - (b) May not, at its trust representative office or offices in Kentucky, act as a fiduciary, but it may otherwise engage in other fiduciary related activities including but not limited to marketing, soliciting, and operating through the trust representative office, but only to the extent the home state of the out-of-state trust company permits trust companies chartered in Kentucky to engage in similar activities in the other state.
- (3) An out-of-state trust company shall have and continuously maintain a trust office or trust representative office in this state.
- (4) (a) An out-of-state trust company desiring to establish or acquire and maintain a trust office in this state shall:
 1. Provide, or cause its home state regulator to provide, on a form prescribed by the commissioner written notice of the proposed transaction. This form shall be provided to the commissioner on or after the date on which the out-of-state trust company applies for approval to establish or acquire and maintain an office in this state. The written notice shall set forth:
 - a. The name of the out-of-state trust company;
 - b. The location of the proposed office or offices; and
 - c. The designation of the additional office or offices as trust offices or trust representative offices;
 2. Furnish the commissioner with a copy of the resolution adopted by the board of directors of the out-of-state trust company authorizing the office;
 3. Pay the filing fee, if any, prescribed by the commissioner;
 4. Commence business at the trust office no sooner than sixty-one (61) days after the date the commissioner receives the notice specified by this subsection, unless the commissioner specifies an earlier or later date.

With respect to an out-of-state trust company that is not a depository institution and for which the commissioner shall have conditioned approval upon satisfaction by the out-of-state trust company of any requirement applicable to a Kentucky state trust company, the out-of-state trust company must have satisfied those conditions and provided the commissioner with satisfactory evidence thereof. The sixty (60) day period of review may be extended by the commissioner if he or she determines the written notice raises issues that require additional information or additional time for analysis. If the period of review is extended, the out-of-state trust company may establish or acquire and maintain the office only on prior written approval of the commissioner. The commissioner may deny approval of the office if the commissioner finds that:

- a. The out-of-state trust company lacks sufficient financial resources to undertake the proposed expansion without adversely affecting its safety or soundness;
- b. The proposed office is contrary to the public interest; or
- c. The proposed expansion is not authorized under applicable law.

(5) An out-of-state trust company acquiring an office shall:

- (a) Provide evidence to the commissioner of compliance with:
 1. Requirements of the trust company's home state regulator and home state law for establishing or acquiring and maintaining the office; and
 2. Requirements to qualify as a foreign corporation under KRS Chapter 271B; and
- (b) Provide evidence to the commissioner that all fiduciary obligations and liabilities of the trust company being acquired have been properly discharged or assumed. An acquiring trust company shall succeed by operation of law to all of the rights, privileges, and obligations of the selling trust company.

Fulfillment of the requirements of this subsection shall not result in the establishment of an office of an out-of-state trust company in Kentucky until the commissioner, acting within sixty (60) days after receiving notice pursuant to this subsection, has certified to the home state regulator of the proposed out-of-state trust company that the requirements of this section have been met and the notice has been approved or, if applicable, that any conditions imposed by the commissioner pursuant to this subsection have been satisfied.

(6) An out-of-state trust company that establishes or acquires and maintains an office in this state shall confirm in writing to the commissioner prior to commencing to do business in this state, and at least annually thereafter, that for so long as it maintains a trust office or trust representative office in this state it will comply with all applicable laws of this state.

Effective: June 8, 2011

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