

FINANCE CODE

TITLE 3. FINANCIAL INSTITUTIONS AND BUSINESSES

SUBTITLE F. TRUST COMPANIES

CHAPTER 187. MULTISTATE TRUST BUSINESS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 187.001. DEFINITIONS. (a) In this chapter:

(1) "Acquire" means an act that results in direct or indirect control by an out-of-state trust company of a state trust institution, including an act that causes the company to:

(A) merge with the state trust institution;

(B) assume direct or indirect ownership of a controlling interest in any class of voting shares of the state trust institution; or

(C) assume direct ownership or control of all or substantially all of the accounts of a state trust institution.

(2) "Bank" means:

(A) a state bank chartered under Chapter 32 or the laws of another state;

(B) a national bank chartered under federal law;

or

(C) a foreign bank that is organized under the laws of a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands and that has its deposits insured by the Federal Deposit Insurance Corporation.

(3) "Branch" has the meaning assigned by Section 31.002(a).

(4) "Credit union" means a credit union chartered under Chapter 122, the laws of another state, or federal law.

(5) "De novo trust office" means a trust office located in a host state that:

(A) is originally established by a trust company as a trust office; and

(B) does not become a trust office of the trust company as a result of an acquisition or conversion of another trust institution.

(6) "Foreign bank" has the meaning assigned by Section 1(b)(7), International Banking Act (12 U.S.C. Section 3101(7)), as amended.

(7) "Home state" means:

(A) with respect to a federally chartered trust institution or a foreign bank, the state in which the institution maintains its principal office; and

(B) with respect to another trust institution, the state that chartered the institution.

(8) "Home state regulator" means the supervisory agency with primary responsibility for chartering and supervising a trust company.

(9) "Host state" means a state, other than the home state of a trust company, or a foreign country in which the trust company maintains or seeks to acquire or establish an office.

(10) "Office" means, with respect to a trust company, the principal office, a trust office, or a representative trust office.

(11) "Out-of-state trust company" means a trust company:

(A) whose home state is another state; or

(B) that is chartered under the laws of a foreign country.

(12) "Principal office" means:

(A) with respect to a state trust company, its home office as defined by Section 181.002(a); and

(B) with respect to a bank, savings bank, savings association, foreign bank, or out-of-state trust company, its main office or principal place of business in the United States.

(13) "Representative trust office" means an office at which a trust company has been authorized by the banking commissioner to engage in activities other than acting as a fiduciary as provided by Subchapter C.

(14) "Savings association" means a savings and loan association chartered under Chapter 62, the laws of another state, or federal law.

(15) "Savings bank" means a savings bank chartered

under Chapter 92, the laws of another state, or federal law.

(16) "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.

(17) "State trust institution" means a trust institution whose home state is this state.

(18) "Supervisory agency" means:

(A) an agency of another state or a foreign country with primary responsibility for chartering and supervising a trust institution; and

(B) with respect to a federally chartered trust institution or foreign bank, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Office of Thrift Supervision, or the National Credit Union Administration, as applicable.

(19) "Trust company" means a state trust company or a company chartered under the laws of another state or a foreign country to conduct a trust business that is not a bank, credit union, savings association, savings bank, or foreign bank.

(20) "Trust institution" means a bank, credit union, foreign bank, savings association, savings bank, or trust company that is authorized by its charter to conduct a trust business.

(21) "Trust office" means an office, other than the principal office, at which a trust company is licensed by the banking commissioner to conduct a trust business.

(b) The definitions provided by Section 181.002(a) apply to this chapter to the extent not inconsistent with this chapter.

(c) The definitions shall be liberally construed to accomplish the purposes of this chapter.

(d) The finance commission by rule may adopt other definitions to accomplish the purposes of this chapter.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

Sec. 187.002. COMPANIES AUTHORIZED TO CONDUCT A TRUST

BUSINESS. (a) A company may not conduct a trust business in this state unless the company is a trust institution and is:

(1) a state trust company chartered pursuant to this subtitle;

(2) a bank, savings association, savings bank, or credit union that maintains its principal office or a branch in this state in accordance with governing law, or another office in this state with the power to conduct a trust business to the extent permitted by rule;

(3) a trust company chartered under the laws of another state or a foreign country that has a trust office in this state licensed by the banking commissioner pursuant to this chapter; or

(4) a foreign bank with an office in this state that is authorized to act as a fiduciary pursuant to Section 204.106.

(b) Notwithstanding Subsection (a), a trust institution that does not maintain a principal office, branch, or trust office in this state may act as a fiduciary in this state to the extent permitted by Subchapter A, Chapter 505, Estates Code.

(c) A company does not engage in the trust business in this state in a manner requiring a charter or license under this subtitle by engaging in an activity identified in Section 182.021, except that the registration requirements of Section 187.202 may apply to a trust representative office engaging in the activity.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 20.017, eff. September 1, 2015.

Sec. 187.003. INTERSTATE TRUST BUSINESS OF STATE TRUST COMPANY. Subject to the approval of the banking commissioner pursuant to Section 182.203, a state trust company may engage in the trust business in another state or a foreign country at a trust office or a trust representative office to the extent permitted by and subject to applicable laws of the state or foreign country.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept.

1, 2001.

Sec. 187.004. TRUST BUSINESS OF OUT-OF-STATE TRUST COMPANY.

(a) An out-of-state trust company that establishes or maintains an office in this state under this chapter may conduct any activity at the office that would be authorized under the laws of this state for a state trust company to conduct at the office.

(b) Before establishing an office in this state, an out-of-state trust company must comply with Section [201.102](#).

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

Sec. 187.005. DESIGNATION OF TRUSTEE AND GOVERNING LAW.

(a) Unless another law restricts the designation of trustee, a person residing in this state may designate a trust institution to act as a fiduciary on behalf of the person.

(b) Unless another law specifies governing law, if a trust or its subject matter bears a reasonable relation to this state and also to another state or a foreign country, a trust institution and its affected client may agree that the law of this state or of the other state or country governs their rights and duties, including the law of a state or a foreign country where the affected client resides or where the trust institution has its principal office.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 451, Sec. 21, eff. September 1, 2007.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 451 (H.B. [564](#)), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 451 (H.B. [564](#)), Sec. 21, eff. September 1, 2007.

Sec. 187.006. TAXATION. An out-of-state trust institution doing business in this state is subject to the franchise tax to the extent provided by Chapter [171](#), Tax Code.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept.

1, 2001.

Sec. 187.007. SEVERABILITY. The provisions of this chapter or applications of those provisions are severable as provided by Section 312.013, Government Code.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

#### SUBCHAPTER B. OUT-OF-STATE TRUST COMPANY TRUST OFFICE

Sec. 187.101. TRUST OFFICES IN THIS STATE. An out-of-state trust company may engage in a trust business at an office in this state only if it establishes and maintains a trust office in this state as permitted by this subchapter.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

Sec. 187.102. ESTABLISHING AN INTERSTATE TRUST OFFICE. (a) An out-of-state trust company that does not operate a trust office in this state may not establish and maintain a de novo trust office in this state unless:

(1) a state trust company would be permitted to establish a de novo trust office in the home state or foreign country of the out-of-state trust company; and

(2) a bank whose home state is this state would be permitted to establish a de novo branch in the home state or foreign country of the out-of-state trust company.

(b) Subject to Subsection (a), a de novo trust office may be established in this state under this section through the acquisition of a trust office in this state of an existing trust institution.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

#### Sec. 187.103. ACQUIRING AN INTERSTATE TRUST OFFICE.

(a) An out-of-state trust company that does not operate a trust office in this state and that meets the requirements of this

subchapter may acquire an existing trust institution in this state and after the acquisition operate and maintain the acquired institution as a trust office in this state, subject to Subchapter A, Chapter 183, or Subchapter A, Chapter 33, if applicable.

(b) An out-of-state trust institution that does not operate a trust office in this state may not establish and maintain a trust office in this state through the acquisition of a trust office of an existing trust institution except as provided by Section 187.102. This section does not affect or prohibit a trust institution or other person from chartering a state trust company pursuant to Section 182.001.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 940 (H.B. 1664), Sec. 17, eff. June 14, 2013.

Sec. 187.104. REQUIREMENT OF NOTICE. An out-of-state trust company desiring to establish and maintain a de novo trust office or acquire an existing trust institution in this state and to operate and maintain the acquired institution as a trust office pursuant to this subchapter shall provide written notice of the proposed transaction to the banking commissioner on or after the date on which the out-of-state trust company applies to the home state regulator for approval to establish and maintain or acquire the trust office. The filing of the notice shall be preceded or accompanied by a copy of the resolution adopted by the board authorizing the additional office and the filing fee, if any, prescribed by law. The written notice must contain sufficient information to enable an informed decision under Section 187.105.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

Sec. 187.105. CONDITIONS FOR APPROVAL. (a) A trust office of an out-of-state trust company may be acquired or established in this state under this subchapter if:

(1) the out-of-state trust company confirms in writing

to the banking commissioner that while it maintains a trust office in this state, it will comply with all applicable laws of this state;

(2) the out-of-state trust company provides satisfactory evidence to the banking commissioner of compliance with Section 201.102 and the applicable requirements of its home state regulator for acquiring or establishing and maintaining the office;

(3) all filing fees have been paid as required by law; and

(4) the banking commissioner finds that:

(A) applicable conditions of Section 187.102 or 187.103 have been met;

(B) if a state bank is being acquired, the applicable requirements of Subchapter A, Chapter 33 have been met, or if a state trust company is being acquired, the applicable requirements of Subchapter A, Chapter 183 have been met; and

(C) any conditions imposed by the banking commissioner pursuant to Subsection (b) have been satisfied.

(b) The banking commissioner may condition approval of a trust office on compliance by the out-of-state trust company with any requirement applicable to formation of a state trust company pursuant to Sections 182.003(b) and 182.007.

(c) If all requirements of Subsection (a) have been met, the out-of-state trust company may commence business at the trust office on the 61st day after the date the banking commissioner notifies the company that the notice required by Section 187.104 has been accepted for filing, unless the banking commissioner specifies an earlier or later date.

(d) The 60-day period of review may be extended by the banking commissioner on a determination that 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 the office only on prior written approval by the banking commissioner.

(e) If all requirements of Subsection (a) have been met, the banking commissioner may otherwise deny approval of the office if



the banking commissioner finds that the out-of-state trust company lacks sufficient financial resources to undertake the proposed expansion without adversely affecting its safety or soundness or that the proposed office is contrary to the public interest. In acting on the notice, the banking commissioner shall consider the views of the appropriate supervisory agencies.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 940 (H.B. 1664), Sec. 18, eff. June 14, 2013.

Sec. 187.106. ADDITIONAL TRUST OFFICES. An out-of-state trust company that maintains a trust office in this state under this subchapter may establish or acquire additional trust offices or representative trust offices in this state to the same extent that a state trust company may establish or acquire additional offices in this state pursuant to the procedures for establishing or acquiring the offices set forth in Section 182.203.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

#### SUBCHAPTER C. OUT-OF-STATE TRUST INSTITUTION REPRESENTATIVE TRUST OFFICE

Sec. 187.201. REPRESENTATIVE TRUST OFFICE BUSINESS.

(a) An out-of-state trust institution may establish a representative trust office as permitted by this subchapter to:

- (1) solicit, but not accept, fiduciary appointments;
- (2) act as a fiduciary in this state to the extent permitted for a foreign corporate fiduciary by Subchapter A, Chapter 505, Estates Code;
- (3) perform ministerial duties with respect to existing clients and accounts of the trust institution;
- (4) engage in an activity permitted by Section 182.021; and
- (5) to the extent the office is not acting as a

fiduciary:

(A) receive for safekeeping personal property of every description;

(B) act as assignee, bailee, conservator, custodian, escrow agent, registrar, receiver, or transfer agent; and

(C) act as financial advisor, investment advisor or manager, agent, or attorney-in-fact in any agreed capacity.

(b) Except as provided by Subsection (a), a trust representative office may not act as a fiduciary or otherwise engage in the trust business in this state.

(c) Subject to the requirements of this subchapter, an out-of-state trust institution may establish and maintain representative trust offices anywhere in this state.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. [1296](#)), Sec. 20.018, eff. September 1, 2015.

Sec. 187.202. REGISTRATION OF REPRESENTATIVE TRUST OFFICE.

(a) Except as provided by Subsection (e) with respect to a credit union, a savings association, or a savings bank, an out-of-state trust institution that does not maintain a branch or trust office in this state and that desires to establish or acquire and maintain a representative trust office shall:

(1) file a notice on a form prescribed by the banking commissioner, setting forth:

(A) the name of the out-of-state trust institution;

(B) the location of the proposed office; and

(C) satisfactory evidence that the notificant is a trust institution;

(2) pay the filing fee, if any, prescribed by law; and

(3) submit a copy of the resolution adopted by the board authorizing the representative trust office and a copy of the trust institution's registration filed with the secretary of state

pursuant to Section [201.102](#).

(b) The notificant may commence business at the representative trust office on the 31st day after the date the banking commissioner receives the notice unless the banking commissioner specifies an earlier or later date.

(c) The 30-day period of review may be extended by the banking commissioner on a determination that 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 institution may establish the representative trust office only on prior written approval by the banking commissioner.

(d) The banking commissioner may deny approval of the representative trust office if the banking commissioner finds that the notificant lacks sufficient financial resources to undertake the proposed expansion without adversely affecting its safety or soundness or that the proposed office would be contrary to the public interests. In acting on the notice, the banking commissioner shall consider the views of the appropriate supervisory agencies.

(e) A credit union, savings association, or savings bank that does not maintain a branch in this state and desires to establish or acquire and maintain a representative trust office shall comply with this section, except that the notice required by Subsection (a) must be filed with, and the duties and responsibilities of the banking commissioner under Subsections (b)-(d) shall be performed by:

(1) the Texas credit union commissioner, with respect to a credit union; or

(2) the Texas savings and mortgage lending commissioner, with respect to a savings association or savings bank.

(f) An out-of-state trust institution that fails to register as required by this section is subject to Subchapter C, Chapter [185](#).

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 6.056, eff. September 1, 2007.

SUBCHAPTER D. SUPERVISION OF OUT-OF-STATE TRUST COMPANY

Sec. 187.301. COOPERATIVE AGREEMENTS; FEES. (a) To carry out the purposes of this subtitle, the banking commissioner may:

(1) enter into cooperative, coordinating, or information sharing agreements with another supervisory agency or an organization affiliated with or representing one or more supervisory agencies;

(2) with respect to periodic examination or other supervision or investigation, accept reports of examination or investigation by, and reports submitted to, another supervisory agency in lieu of conducting examinations or investigations or receiving reports as might otherwise be required or permissible under this subtitle;

(3) enter into contracts with another supervisory agency having concurrent regulatory or supervisory jurisdiction to engage the services of the agency for reasonable compensation to assist with the banking commissioner's performance of official duties under this subtitle or other law, or to provide services to the agency for reasonable compensation in connection with the agency's performance of official duties under law, except that Chapter [2254](#), Government Code, does not apply to those contracts;

(4) enter into joint examinations or joint enforcement actions with another supervisory agency having concurrent regulatory or supervisory jurisdiction, except that the banking commissioner may independently take action under Section [187.305](#) if the banking commissioner determines that the action is necessary to carry out the banking commissioner's responsibilities under this subtitle or to enforce compliance with the laws of this state; and

(5) assess supervisory and examination fees to be paid by an out-of-state trust company that maintains one or more offices in this state in connection with the banking commissioner's performance of duties under this subtitle.

(b) Supervisory or examination fees assessed by the banking commissioner in accordance with this subtitle may be shared with another supervisory agency or an organization affiliated with or representing one or more supervisory agencies in accordance with an agreement between the banking commissioner and the agency or organization. The banking commissioner may also receive a portion of supervisory or examination fees assessed by another supervisory agency in accordance with an agreement between the banking commissioner and the agency.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

Sec. 187.302. EXAMINATIONS; PERIODIC REPORTS. (a) To the extent consistent with Section 187.301, the banking commissioner may make examinations of a trust office or trust representative office established and maintained in this state by an out-of-state trust company pursuant to this chapter as the banking commissioner considers necessary to determine whether the office is being operated in compliance with the laws of this state and in accordance with safe and sound fiduciary practices. Sections 181.104-181.106 apply to the examinations.

(b) The finance commission may by rule prescribe requirements for periodic reports regarding a trust office or trust representative office in this state. The required reports must be provided by the trust institution maintaining the office. Reporting requirements under this subsection must be appropriate for the purpose of enabling the banking commissioner to discharge the responsibilities of the banking commissioner under this chapter.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

Sec. 187.303. INTERPRETIVE STATEMENTS AND OPINIONS. (a) Subject to Subsection (b), to encourage the effective coordination and implementation of home state laws and host state laws with respect to interstate trust business, the banking commissioner, directly or through a deputy banking commissioner or department

attorney in the manner provided by Sections [181.101](#) and [181.102](#), and with the effect provided by Section [181.103](#), may issue:

(1) an interpretive statement for the general guidance of trust institutions in this state and the public; or

(2) an opinion interpreting or determining the applicability of the laws of this state to the trust business and the operation of a branch, trust office, or another office in this state of an out-of-state trust institution, or in other states by state trust companies.

(b) With respect to the trust business of a credit union, savings association, or savings bank, the duties and responsibilities of the banking commissioner under Subsection (a) shall be performed by:

(1) the Texas credit union commissioner, with respect to a credit union; or

(2) the Texas savings and mortgage lending commissioner, with respect to a savings association or savings bank.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001. Amended by Acts 2001, 77th Leg., ch. 412, Sec. 3.14, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 6.057, eff. September 1, 2007.

Sec. 187.304. CONFIDENTIAL INFORMATION. Information obtained directly or indirectly by the banking commissioner relative to the financial condition or business affairs of a trust institution, other than the public portions of a report of condition or income statement, or a present, former, or prospective shareholder, participant, officer, director, manager, affiliate, or service provider of the trust institution, whether obtained through application, examination, or otherwise, and each related file or record of the department is confidential and may not be disclosed by the banking commissioner or an employee of the department except as expressly provided by Subchapter D, Chapter [181](#).

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

Sec. 187.305. ENFORCEMENT; APPEALS. (a) If the banking commissioner determines that an out-of-state trust company has violated this subtitle or other applicable law of this state, the banking commissioner may take all enforcement actions the banking commissioner would be empowered to take if the out-of-state trust company were a state trust company, except that the banking commissioner shall promptly give notice to the home state regulator of each enforcement action to be taken against an out-of-state trust company and, to the extent practicable, shall consult and cooperate with the home state regulator in pursuing and resolving the enforcement action. An out-of-state trust company may appeal a final order or other decision of the banking commissioner under this subtitle as provided by Sections [181.202](#) and [181.204](#).

(b) Notwithstanding Subsection (a), the banking commissioner may enforce this subtitle against a trust institution by appropriate action in the courts, including an action for injunctive relief, if the banking commissioner concludes the action is necessary or desirable.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. [614](#)), Sec. 29, eff. September 1, 2019.

Sec. 187.306. NOTICE OF SUBSEQUENT EVENT. Each out-of-state trust company that has established and maintains an office in this state pursuant to this subtitle shall give written notice, at least 30 days before the effective date of the event, or, in the case of an emergency transaction, a shorter period before the effective date consistent with applicable state or federal law, to the banking commissioner of:

(1) a merger or other transaction that would cause a change of control with respect to the trust company, with the result that an application would be required to be filed with the home

state regulator or a federal supervisory agency;

(2) a transfer of all or substantially all of the trust accounts or trust assets of the out-of-state trust company to another person; or

(3) the closing or disposition of an office in this state.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 6.001(a), eff. Sept. 1, 2001.