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DFI Guidance Regarding KRS 286.3-146 Trust Office Requirement *August 23, 2022*

KRS 286.3-146(3) states an out-of-state trust company doing business in this state, “shall have and continuously maintain a trust office or trust representative office in this state.” KRS Chapter 286.3 does not explicitly define what constitutes a “trust office” or “trust representative office”.

The Kentucky Department of Financial Institutions (DFI) recognizes that the banking and trust industries have evolved due to advances in technology, and tasks that were formerly performed in an office setting may now be performed remotely via electronic means with minimal risk to the public. DFI also recognizes that it is critical for an entity conducting business in this state to identify a physical location that will accept service of process, receive tax documents, and take delivery of other legal or governmental documents on their behalf.

DFI is aware that the physical office requirement stated in KRS 286.3-146 creates an impediment for Kentucky chartered trust companies with strategic plans to expand into other states, as other state regulatory schemes may contain specific reciprocity requirements for out-of-state trust companies seeking to conduct business in that state. DFI is also aware that the physical office requirement stated in KRS 286.3-146 creates an impediment to the expansion of the trust industry within Kentucky and is thereby limiting the trust services available to Kentucky consumers.

For the above stated reasons, DFI seeks to clarify that **the requirement for a trust representative office found in KRS 286.3-146(3) may be satisfied by the following:**

- A physical office, within this state, of a registered agent appointed by the out-of-state trust company to serve as its registered agent under KRS 14A.4-010.
- A physical office, within this state, shared by an out-of-state trust company with a trust company operating within this state.

DFI emphasizes that any existing provisions of KRS 286.3 pertaining to out-of-state trust companies and trust representatives continue to fully apply.