

INTERPRETIVE LETTER 94-007 (MAY 4, 1994)

Out of state banks are not permitted to establish offices for the conduct of business as corporate fiduciaries in Illinois.

Your letter of * to * has been referred to me for a response. You have asked the Office of the Commissioner of Banks and Trust Companies to indicate whether you have accurately summarized the substance of the Corporate Fiduciary Act as it applies to out-of-state banks. According to your letter, the Illinois insurance laws permit an insurance company to select as its custodian only a bank that has trust powers and a trust office in Illinois. You have asked whether the state banking laws preclude an out-of-state bank from maintaining an office in Illinois.

We concur with your conclusion that the Corporate Fiduciary Act does not permit a foreign corporation to establish an office for the conduct of business as a fiduciary in this state. 205 ILCS 620/4-4. A foreign corporation is defined as a bank, savings and loan association, or corporation, including a national bank or federal savings and loan association, having its principal place of business in any state or territory of the United States, other than the State of Illinois. 205 ILCS 620/1.5.08. Therefore, an "out-of-state bank" may not establish an office in Illinois. National banks and federal savings and loan associations whose principal places of business are in Illinois and that have trust powers, a trust company organized under the laws of Illinois, and state banks and savings and loan associations with trust powers may all maintain offices for the conduct of fiduciary activities in Illinois. Although we do not purport to interpret the provisions of the Illinois Insurance Code, any of these entities would be qualified to administer trusts and maintain offices in the state under the Corporate Fiduciary Act and be appropriate custodians for the securities.