



**STATE OF TENNESSEE
DEPARTMENT OF FINANCIAL INSTITUTIONS**

400 Deaderick Street, 6th Floor Citizens Plaza
Nashville, TN 37243
(615) 741-2236 FAX (615) 741-2883

www.tennessee.gov/tdfi/

Formation of a Private Trust Company in Tennessee

A private trust company is a company acting as a fiduciary in Tennessee that does not transact business with the general public. All individuals who control the private trust company as well as those who control or establish entities that control the private trust company must be related within the tenth (10th) degree of affinity or consanguinity to the designated ancestor or lineal descendants of the original owners of the private trust company.

The Tennessee statutes applicable to private trust companies may be found in the Tennessee Banking Act (Banking Act) at Tenn. Code Ann. §§ 45-2-2001, *et seq.* and allow a private trust company applicant to request exemption from certain requirements in the Banking Act. To obtain exempt status as a private trust company in Tennessee, an applicant should submit a letter application addressed to the Commissioner containing the following information:

1. The name (or proposed name) of the private trust company.
2. A nonrefundable application fee in the amount of one thousand dollars (\$1,000), as required by Tenn. Code Ann. § 45-2-2002(a)(1)(A) & Rule 0180-7.08(1)(m) of the Rules of the Department of Financial Institutions. Checks should be made payable to the Tennessee Department of Financial Institutions and mailed directly to the Department of Financial Institutions at the above address.
3. A detailed statement under oath showing the private trust company's assets and liabilities as of the end of the month previous to filing the application, as required by Tenn. Code Ann. § 45-2-2002(a)(1)(B).
4. A statement under oath of the reason for requesting the exemption and listing of the specific provisions of the Tennessee Banking Act from which the company is requesting an exemption, including the reason(s) for each requested exemption, as required by Tenn. Code Ann. §§ 45-2-2002(a)(1)(C) and (F).
5. A statement under oath that the private trust company is not currently transacting business with the public and that the company will not conduct business with the public without the prior written permission of the commissioner, as required by Tenn. Code Ann. § 45-2-2002(a)(1)(D).

Formation of a Private Trust Company in Tennessee, continued

6. The current street mailing address and telephone number of the physical location in this state at which the private trust company will maintain its books and records, together with a statement under oath that the address given is true and correct and is not a United States postal service post office box or a private mail box, postal box or mail drop; as required by Tenn. Code Ann. § 45-2-2002(a)(1)(E).
7. A statement under oath of the name of the individual who will be the “designated ancestor” of the private trust company as defined in Tenn. Code Ann. § 45-2-2001(b)(2)(A), and as required by Tenn. Code Ann. § 45-2-2002(a)(1)(G).
8. A statement of general purpose describing the nature of the private trust company’s proposed fiduciary activities, as well as, the persons that the company intends to serve.
9. A description of how the company is or will be structured, including, but not limited to:
 - a) The identity of each individual who will have an ownership interest in the company, and the extent of each ownership interest;
 - b) Copy of proposed Charter; Articles of Organization; or other organizing documents;
 - c) Copy of the proposed By-Laws or Operating Agreement; and
 - d) The company’s capital structure.
10. The names of the directors and officers of the company.
11. An Affirmation page signed by an individual competent to attest to the truthfulness of the application (*attached to this letter*).

As set forth in Item 4 above, a private trust company must list the provisions of the Banking Act and the rules thereof from which it is requesting an exemption and include the reason for requesting each exemption. Pursuant to Tenn. Code Ann. Section 45-2-2001(b)(1), the Commissioner may grant an exemption in whole or in part if the Commissioner finds that the private trust company does not and will not transact business with the public. Additionally the Commissioner, in granting an exemption, may, pursuant to Tenn. Code Ann. Section 45-2-2001(d), impose limitations or conditions consistent with Chapter 2 of the Banking Act. In order to provide guidance to private trust company applicants in requesting exemptions, a chart is attached.

In addition to the foregoing, and pursuant to Tenn. Code Ann. § 45-2-2001(c), the Commissioner reserves the right to request any additional information deemed necessary in order to complete the review of the application.

Any questions may be directed to Wade McCullough, Trust Program Administrator, at (615) 741-5961 or wade.mccullough@tn.gov. Applications should be addressed as follows:

Tennessee Department of Financial Institutions
Attn: Wade McCullough, Trust Program Administrator
Citizens Plaza, 6th Floor
400 Deaderick Street
Nashville, Tennessee 37243

AFFIRMATION

Having been duly sworn, I hereby affirm that I have reviewed the information submitted to the Tennessee Department of Financial Institutions relative to application of _____ to form a private trust company under the Tennessee Banking Act, Tenn. Code Ann. §§ 45-2-101, *et seq.*, and that all of the information contained therein is true and correct to the best of my knowledge, information and belief.

BY:

Signature

Printed Name

Title

Sworn to and subscribed before me this _____ day of _____, 201_.

Notary Public

My commission expires: _____

Statutes and Rules that apply to Private Trust Companies Unless Expressly Exempted Therefrom	Statutes and Rules that Do Not Apply to Private Trust Companies																		
<p style="text-align: center;">I.</p> <p>Statutes in Title 45, Chapters 1 and 2 that apply to a Public Trust Company and, therefore, to a Private Trust Company, unless expressly exempted therefrom:</p> <p>Title 45, Chapter 1 Title 45, Chapter 2, Parts 6, 9, 10, 11, 13, 15, 16, 17, 18 and 21.</p>	<p style="text-align: center;">IV.</p> <p>Pursuant to Tenn. Code Ann. § 45-2-2101, these statutes do not apply to a Public Trust Company and, therefore, do not apply to a Private Trust Company:</p> <p>Title 45, Chapter 2, Parts 1, 2, 3, 4, 5, 7, 8, 14 and 19** **except for the statutes listed in Box II in the Left Column</p>																		
<p style="text-align: center;">II.</p> <p>Pursuant to Tenn. Code Ann. § 45-2-2101, these statutes apply to a Public Trust Company and, therefore, to a Private Trust Company, unless expressly exempted therefrom:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">§45-2-104</td> <td style="width: 50%;">§45-2-402(d)</td> </tr> <tr> <td>§45-2-105</td> <td>§45-2-402(e)</td> </tr> <tr> <td>§45-2-208</td> <td>§45-2-404</td> </tr> <tr> <td>§45-2-211</td> <td>§45-2-405</td> </tr> <tr> <td>§45-2-215(b)</td> <td>§45-2-1408</td> </tr> <tr> <td>§45-2-217</td> <td>§45-2-1409</td> </tr> <tr> <td>§45-2-218</td> <td>§45-2-1410</td> </tr> <tr> <td>§45-2-219</td> <td>§45-2-1411</td> </tr> <tr> <td>§45-2-220</td> <td></td> </tr> </table>	§45-2-104	§45-2-402(d)	§45-2-105	§45-2-402(e)	§45-2-208	§45-2-404	§45-2-211	§45-2-405	§45-2-215(b)	§45-2-1408	§45-2-217	§45-2-1409	§45-2-218	§45-2-1410	§45-2-219	§45-2-1411	§45-2-220		<p style="text-align: center;">V.</p> <p>Tenn. Code Ann. § 45-2-2102 through § 45-2-2106 - the statutes specific to the Public Trust Company application process.</p>
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<p style="text-align: center;">III.</p> <p>Rules of the Tennessee Department of Financial Institutions that apply to a Public Trust Company and, therefore, to a Private Trust Company, unless expressly exempted therefrom:</p> <p>Chapter 0180-02 Chapter 0180-06 Rule 0180-07-.08 Chapter 0180-13 Chapter 0180-15 Chapter 0180-19 Chapter 0180-20 Chapter 0180-22 Chapter 0180-30</p>	<p style="text-align: center;">VI.</p> <p>Rules of the Tennessee Department of Financial Institutions that do not apply to a Public Trust Company, and, therefore, do not apply to a Private Trust Company:</p> <p>Chapter 0180-05 Chapter 0180-07 (except for Rule 0180-7-.08) Chapters 0180-08 through 0180-12 Chapter 0180-14 Chapters 0180-16 through 0180-18 Chapter 0180-21 Chapters 0180-23 through 0180-29 Chapters 0180-31 through 0180-33</p>																		
	<p style="text-align: center;">VII.</p> <p>Repealed statutes and rules:</p> <p>Tenn. Code Ann. § 45-1-110 Tenn. Code Ann. § 45-1-128 Tenn. Code Ann. §§ 45-1-201 – 45-1-208 Tenn. Code Ann. §§ 45-2-101 and 45-2-102 Tenn. Code Ann. §§ 45-2-209 and 45-2-210 Tenn. Code Ann. § 45-2-301 Tenn. Code Ann. § 45-2-303 Tenn. Code Ann. §§ 45-2-305 and 45-2-306 Tenn. Code Ann. § 45-2-406 Tenn. Code Ann. § 45-2-615 Tenn. Code Ann. § 45-2-617 Tenn. Code Ann. §§ 45-2-1201 – 45-2-1203 Tenn. Code Ann. § 45-2-1809 Chapter 0180-01 Chapters 0180-03 through 0180-04</p>																		