



STATE OF TENNESSEE
DEPARTMENT OF FINANCIAL INSTITUTIONS
APPLICATION TO USE THE TERM(S) "BANK," "BANKS," "BANKING," OR "TRUST"

Tennessee Code Annotated Sections 45-2-1709(a)(1)(A) and (a)(1)(C) provide, in part, that it is unlawful for any person, firm, or corporation to use the terms "bank," "banks," "banking," or "trust" in Tennessee (subject to certain limited exceptions).

Tennessee Code Annotated Section 45-2-1709(a)(1)(B) provides, in part, that the commissioner may permit, upon application, a person, corporation, partnership or other business entity to employ the term "bank," "banks," or "banking" if the commissioner, in the commissioner's discretion, determines that the person, corporation, partnership, or business entity has not or will not mislead the public by employing the terms and the person, corporation, partnership or business does not provide financial services. Tennessee Code Annotated Section 45-2-1709(a)(1)(A) provides that the commissioner may permit, upon application or by rule, the subsidiary of a bank or bank holding company to employ the terms "bank," "banks," or "banking."

Public Chapter 556 of the Acts of 2024 in Section 5 amends Tennessee Code Annotated Section 45-2-1709(a)(1)(C) and provides, in part, that the commissioner may permit the use of the term "trust" upon application if the commissioner, in the commissioner's discretion, determines that the person, corporation, partnership or business entity will not mislead the public by employing the term, and the person, corporation, partnership, or business entity does not engage in trust activity.

INSTRUCTIONS:

1. Please complete this application and submit to the Department to obtain permission to use the term(s) "bank," "banks," "banking," or "trust."
2. Attach additional pages if needed. This includes copies of any (even if rejected) corporate filing(s), approval or denial letter(s) from other states, or any other supporting documentation.
3. Please send the completed application by e-mail to Paula.Cagle@tn.gov or submit by regular mail to:
Department of Financial Institutions
Legal Division - Attention Paula Cagle
Tennessee Tower
312 Rosa Parks Avenue
Nashville, TN 37243
Phone: (615) 253-2864
Fax: (615) 253-7794

Tennessee Tower • 312 Rosa L. Parks Avenue • Nashville, TN 37243
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- 4. Please allow a processing time of at least 30 calendar days after the Department's receipt of a COMPLETE application.
- 5. The Department's response will be either a No-Objection Letter that the applicant may file with the Tennessee Secretary of State or, if not approved, a response stating the reason(s) the application was not approved. Response will be sent by e-mail (if provided).

APPLICANT INFORMATION:

1. Proposed business name to be used in Tennessee. Please include name, address, telephone number and e-mail address of individual who may be contacted to provide additional information if needed.

2. Is the proposed name the applicant's official name or an assumed name/dba?

3. Describe in detail the nature of the applicant's business. Include business purpose and business activities, and reason for using the term "bank," "banks," "banking," or "trust."

4. Will the business:

(a) Offer any financial services?

Yes

No

If Yes, please explain. (Attach additional pages if needed.)

(b) Engage in any fiduciary activities?

Yes

No

If Yes, please explain. (Attach additional pages if needed.)

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5. If using the term "bank," "banks," or "banking," is the applicant a state-chartered bank, a national bank, bank holding company, or a subsidiary of a bank or bank holding company?

Yes No Not applicable

If answer is yes, please answer questions 5 (a) – (c).

(a) Please identify the name of the institution's federal and/or state regulator.

(b) Is the applicant establishing a branch, LPO or other facility in Tennessee?

Yes No

(c) If the applicant is a subsidiary of a bank or bank holding company, please provide the organizational structure of the bank or bank holding company. (Attach additional pages if needed.)

6. If using the term "trust," is the applicant a trust institution (defined as "a depository institution, foreign bank, state bank or trust company authorized to act as a fiduciary")?

Yes No

If yes, please explain. Attach additional pages if needed.

7. Will the applicant have a physical presence in Tennessee?

Yes No

The undersigned attests that he/she is authorized to submit the information requested above and that the statements therein are true and complete to the best of his/her knowledge and belief.

Authorized Representative Name (Printed)

Title

Signature

Date

Tenn. Code Ann. § 45-2-1709

Current through Chapter 1069, with the exception of Chapter 688 secs 79, 80, and 83 of the 2024 Regular Session. The commission may make editorial changes to this version and may relocate or redesignate text. Those changes will appear on Lexis Advance after the publication of the certified volumes and supplements. Pursuant to TCA sections 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code. Until the annual issuance of the certified volumes and supplements, references to the updates made by the most recent legislative session should be to the Public Chapter and not TCA.

TN - Tennessee Code Annotated > Title 45 Banks And Financial Institutions > Chapter 2 Banking Institutions > Part 17 Prohibited Acts

45-2-1709. Unlawful use of banking terms.

(a)

(1)

(A) It is unlawful for any person, firm or corporation, other than those defined in § 45-1-103, to use or employ in any manner the terms bank, banks, or banking in connection with the carrying on or operation of business in this state; provided, that this section shall have no application to national banking associations or existing persons whose name contains these terms. The commissioner of financial institutions may permit, upon application or by rule, the subsidiary of a bank or bank holding company to employ the terms bank, banks, or banking.

(B) Notwithstanding this section, the commissioner may permit, upon application, a person, corporation, partnership or other business entity to employ the term “bank”, “banks”, or “banking” if the commissioner, in the commissioner's discretion, determines that the person, corporation, partnership, or business entity has not or will not mislead the public by employing the terms and the person, corporation, partnership or business does not provide financial services. Upon proper showing, the commissioner may rescind approval if the public welfare so requires. For purposes of this section, any person, corporation, partnership, or business that provides financial services shall include, but not be limited to, insurance companies and agents, money order or exchange companies, investment companies, stock brokers or dealers, mutual funds, industrial loan and thrift companies, credit unions and business and industrial development corporations (BIDCOs).

(C) It is unlawful for any person, firm or corporation, other than those defined as a trust institution pursuant to § 45-1-103, to use or employ in any manner the term “trust” in connection with the carrying on or operation of business in this state. This section shall have no application to existing persons as of July 1, 1999, whose name contains the term “trust.” Notwithstanding the above, the commissioner may permit the use of the term “trust” upon application on the same basis as under subdivisions (a)(1)(A) and (B).

(D) It is unlawful for a person to use the trade name or trademark, or a confusingly similar trade name or trademark, of any bank, savings and loan association, savings bank or subsidiary or affiliate of any bank, saving and loan association, saving bank or subsidiary in a solicitation for the offering of services or products if such use is likely to cause confusion, mistake or deception as to the source of origin, affiliation or sponsorship of such products or services; or, to use the trade name or trademark, or confusingly similar trade name or trademark, to that of any bank, savings and loan association, savings bank or subsidiary or affiliate of any bank, saving and loan association, saving bank or subsidiary in any manner in a solicitation for the offering of services or products unless the solicitation clearly and conspicuously states the following in bold-face type on the front page of the solicitation:

Tenn. Code Ann. § 45-2-1709

- (i) The name, address and telephone number of the person making the solicitation;
- (ii) A statement that the person making the solicitation is not affiliated with the bank, savings and loan association, savings bank or subsidiary or affiliate of any bank, saving and loan association, saving bank or subsidiary; and
- (iii) A statement that the solicitation is not authorized or sponsored by the bank, savings and loan association, savings bank or subsidiary or affiliate of any bank, saving and loan association, saving bank or subsidiary.

(E) It is unlawful for a person, other than the lender or a person authorized by the lender, to use a loan number, loan amount, or other specific loan information that is not publicly available in a solicitation for the purchase of services or products, unless the solicitation clearly and conspicuously states the following in bold-face type on the front page of the solicitation:

- (i) The name, address, and telephone number of the person making the solicitation;
- (ii) A statement that the person making the solicitation is not affiliated with the bank, savings and loan association, savings bank or subsidiary or affiliate of any bank, saving and loan association, saving bank or subsidiary;
- (iii) A statement that the solicitation is not authorized or sponsored by the bank, savings and loan association, savings bank or subsidiary or affiliate of any bank, saving and loan association, saving bank or subsidiary; and
- (iv) A statement that the loan information used was not provided by the bank, savings and loan association, savings bank or subsidiary or affiliate of any bank, saving and loan association, saving bank or subsidiary.

(2) A violation of subdivision (a)(1) is a Class C misdemeanor.

(b) The commissioner or attorney general and reporter in the name of the state is given the power and right by bill of complaint in any court of competent jurisdiction of the parties, to seek injunctive relief to compel compliance by any offending parties with this section.

History

Acts 1969, ch. 36, § 1 (3.609); 1973, ch. 294, § 6; T.C.A., § 45-1109; *Acts 1989, ch. 591, § 113*; 1990, ch. 759, § 1; *1993, ch. 397, § 1*; *1999, ch. 112, § 17*; 2003, ch. 31, § 4; *2011, ch. 89, §§ 2, 3*.

Annotations

Opinion Notes

Attorney General Opinions.

T.C.A. § 45-2-1709(a)(1)(D) and (E), which regulate commercial speech and prescribe criminal penalties, are constitutional and do not offend either the First Amendment of the United States Constitution or Article I, § 19 of the Tennessee Constitution. OAG 13-54, 2013 Tenn. AG LEXIS 55 (7/11/13).

Research References & Practice Aids

Cross-References.

Penalty for Class C misdemeanor, [§ 40-35-111](#).

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State of Tennessee

PUBLIC CHAPTER NO. 556

SENATE BILL NO. 2072

By Johnson

Substituted for: House Bill No. 2087

By Lamberth, Cochran, Bricken

AN ACT to amend Tennessee Code Annotated, Title 45, Chapter 1 and Title 45, Chapter 2, relative to financial institutions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 45-1-103, is amended by adding the following as new subdivisions:

() "Private trust company" means a company that is a private trust company as set forth in § 45-2-2001;

() "Public trust company" means a state trust company that is not a private trust company;

SECTION 2. Tennessee Code Annotated, Section 45-1-118(c), is amended by deleting the subsection and substituting:

(c)(1) The assessment against each state bank, which shall be known as the banking fee, must be allocated in proportion to the total assets beneficially owned by each state bank.

(2)(A) The amount of the department's annual budget attributable to the regulation and examination of public trust companies must be allocated and assessed among all public trust companies in proportion to each public trust company's total assets under the public trust company's administration; provided, that in determining the allocation:

(i) Safekeeping and custody agency assets, where the public trust company is neither acting as trustee nor responsible for managing the asset selection for account assets, must be weighted at fifty percent (50%) of their total amount and all other assets must be weighted at one hundred percent (100%) of their total amount; and

(ii) The minimum amount assessed to any public trust company must be ten thousand dollars (\$10,000).

(B) A company that is a public trust company on the first day of a fiscal year shall pay the full assessment for that fiscal year, and the public trust company's assessment must not be prorated for any reason. Unless public trust companies receive a different notification from the department, the department shall send each public trust company, or its successor, notice of the public trust company's assessment in December of the fiscal year in which the fee is being collected. Each public trust company's assessment will be calculated based on assets under the public trust company's administration as reported in the public trust company's report of financial condition as of June 30 of the prior fiscal year. If, for any reason, a company that was a public trust company on July 1 does not file a June 30 report of financial condition, then the commissioner must determine the public trust company's assets under administration for purposes of making the assessment from other sources of

information. The assessment must be paid into the state treasury upon notice from the commissioner, and all moneys collected by the commissioner must be used solely by the department for administration expenses.

(3)(A) The amount of the department's annual budget attributable to the regulation and examination of private trust companies must be allocated and assessed among all private trust companies such that each private trust company is assessed an equal amount.

(B) A company that is a private trust company on the first day of a fiscal year shall pay the full assessment for that fiscal year, and the private trust company's assessment must not be prorated for any reason. Unless private trust companies receive different notification by the department, the department shall send each private trust company, or its successor, notice of the private trust company's assessment in December of the fiscal year in which the fee is being collected. The assessment must be paid into the state treasury upon notice from the commissioner, and all moneys collected by the commissioner must be used for the administration of the department and for the department's sole use.

SECTION 3. Tennessee Code Annotated, Section 45-2-607(b)(2)(E)(i), is amended by deleting "two hundred fifty thousand dollars (\$250,000)" and substituting "five hundred thousand dollars (\$500,000)".

SECTION 4. Tennessee Code Annotated, Section 45-2-607(b)(2)(E)(ii), is amended by deleting "one hundred thousand dollars (\$100,000)" and substituting "two hundred fifty thousand dollars (\$250,000)".

SECTION 5. Tennessee Code Annotated, Section 45-2-1709(a)(1)(C), is amended by deleting the last sentence and substituting:

Notwithstanding this subdivision (a)(1)(C), the commissioner may permit the use of the term "trust" upon application if the commissioner, in the commissioner's discretion, determines that the person, corporation, partnership, or business entity will not mislead the public by employing the term, and the person, corporation, partnership, or business entity does not engage in trust activity. Upon proper showing, the commissioner may rescind approval if the commissioner determines that the public welfare so requires it.

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared severable.

SECTION 7. This act takes effect July 1, 2024, the public welfare requiring it, and applies to assessments made under Tennessee Code Annotated, Section 45-1-118(c) for fiscal year 2024-2025 and subsequent years.

SENATE BILL NO. 2072

PASSED: February 22, 2024



RANDY McNALLY
SPEAKER OF THE SENATE



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 11th day of March 2024



BILL LEE, GOVERNOR