
**The
American
College of
Trust
and Estate
Counsel**

3415 South Sepulveda Blvd.
Suite 460
Los Angeles, CA 90034

Study 4:

**Rights of Nonresident
Banks to Act as Fiduciaries
in Various States**

STUDIES

This study relates to the ability of a bank or trust company with fiduciary powers in its state of incorporation to serve as fiduciary in states where it has not qualified to do business.

The summary of each state's laws reflected in this study has been based on an opinion received from a reporter for that state. With rare exceptions, reporters are Fellows of the College from that state. Following the reporter's name is the date as of which that state's material was most recently reviewed. Neither the College nor the individual reporters and editors (who have volunteered their time and experience in the preparation of the studies) assume any responsibility for the accuracy of the information contained in any study.

Compiled by

**Marshall M. Green
New York, New York**

Can a NONRESIDENT BANK act as:

	Administrator?	Ancillary Administrator?	Executor?	Ancillary Executor?	Testamentary Trustee?
ALABAMA John N. Wrinkle Birmingham, Alabama April 14, 1993	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
ALASKA Trigg T. Davis Anchorage, Alaska April 1, 1993	Yes	Yes(3)	Yes	Yes(3)	Yes
ARIZONA Richard H. Whitney Phoenix, Arizona March 26, 1993	No	No	No	No	Yes(2)
ARKANSAS William S. Arnold Crossett, Arkansas October 19, 1992	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
CALIFORNIA Ronald E. Gother Los Angeles, California October 20, 1992	No	No	No	No	No
COLORADO William S. Hershberger Denver, Colorado March 30, 1993	Yes	Yes	Yes	Yes	Yes
CONNECTICUT Martin Wolman Hartford, Connecticut September 29, 1993	No	No	Yes(1)(4)	Yes(1)(4)	Yes(1)(4)
DELAWARE	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)

Thomas P. Sweeney
Wilmington, Delaware
June 3, 1993

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official to receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT BANK act as:

	Ancillary Testamentary Trustee?	Guardian of Property of Minor?	Ancillary Guardian of Property of Minor?	Guardian or Committee of Property of Incompetent?	Ancillary Guardian or Committee of Property of Incompetent?
ALABAMA See Note C	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
ALASKA See Note C	Yes(3)	Yes	Yes(3)	Yes	Yes(3)
ARIZONA See Note C	Yes(2)	No	Yes(3)	No	Yes(3)
ARKANSAS See Note A	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
CALIFORNIA See Note C	No	No	No	No	No
COLORADO See Note C	Yes	Yes	Yes	Yes	Yes
CONNECTICUT See Note C	Yes(1)(4)	No	No(5)	No	No(5)
DELAWARE See Note C	Yes(1)	Yes(1)(7)	Yes	Yes(1)	Yes

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official or receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT BANK act as:

	Administrator?	Ancillary Administrator?	Executor?	Ancillary Executor?	Testamentary Trustee?
DISTRICT OF COLUMBIA John M. Bixler Washington, D.C. October 21, 1992	Yes	Yes(6)	Yes	Yes(6)	Yes
FLORIDA Robert A. White Miami, Florida April 30, 1993	No(8)	No(8)	No(8)	No(8)	Yes(9)
GEORGIA James P. McLain Atlanta, Georgia October 16, 1992	Yes(1)(10)	Yes(1)(10)	Yes(1)(10)	Yes(1)(10)	Yes(1)(10)
HAWAII John R. Conrad Honolulu, Hawaii February 7, 1994	No	No	No	No	No
IDAHO Loren C. Ipsen Boise, Idaho August 2, 1993	No	No	No	No	No
ILLINOIS Tim J. Emmitt Chicago, Illinois August 17, 1993	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
INDIANA Russell J. Ryan, Jr. Indianapolis, Indiana March 29, 1993	Yes(12)(13)(3)	Yes(12)(13)(3)	Yes(12)(13)(3)	Yes(12)(13)(3)	Yes(3)
IOWA John B. Anderson Sioux City, Iowa April 26, 1993	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official to receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

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	Ancillary Testamentary Trustee?	Guardian of Property of Minor?	Ancillary Guardian of Property of Minor?	Guardian or Committee of Property of Incompetent?	Ancillary Guardian or Committee of Property of Incompetent?
DISTRICT OF COLUMBIA See Note C	Yes	Yes	Yes	Yes	Yes
FLORIDA See Note C	Yes(9)	No(8)	No(8)	No(8)	No(8)
GEORGIA See Note C	Yes(1)(10)	Yes(1)(10)	Yes(1)(10)	Yes(1)(10)	Yes(1)(10)
HAWAII See Note A	No	No	No	No	No
IDAHO See Note C	No	No	No	No	No
ILLINOIS See Note C	Yes(1)	Yes(1)	Yes (1)	Yes(1)	Yes (1)
INDIANA	Yes(3)	Yes(12)(13)(3)	Yes(12)(13)(3)	Yes(12)(13)(3)	Yes(12)(13)(3)
IOWA See Note C	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official or receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT BANK act as:

	Administrator?	Ancillary Administrator?	Executor?	Ancillary Executor?	Testamentary Trustee?
KANSAS Don W. Noah Beloit, Kansas April 6, 1993	No	No(14)	Yes(1)	Yes(1)(14)	Yes(1)
KENTUCKY Harold G. Kelley Ashland, Kentucky April 22, 1993	No	No	No	No	No
LOUISIANA David F. Edwards New Orleans, Louisiana March 20, 1993	No	No	No	No	No
MAINE Robert B. Williamson, Jr. Portland, Maine April 23, 1993	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
MARYLAND Winston R. Brundige Baltimore, Maryland October 15, 1992	Yes(15)	Yes(15)(6)	Yes(15)	Yes(15)(6)	Yes(15)
MASSACHUSETTS Francis S. Moulton, Jr. Boston, Massachusetts April 2, 1993	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
MICHIGAN Fredric Sytsma Midland, Michigan April 8, 1993	No	No(16)	No	No(16)	No
MINNESOTA Larry R. Henneman Minneapolis, Minnesota March 31, 1993	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official to receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT BANK act as:

	Ancillary Testamentary Trustee?	Guardian of Property of Minor?	Ancillary Guardian of Property of Minor?	Guardian or Committee of Property of Incompetent?	Ancillary Guardian or Committee of Property of Incompetent?
KANSAS See Note C	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
KENTUCKY	No	No	No	No	No
LOUISIANA See Note C	No	Yes	Yes	Yes	Yes
MAINE See Note C	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
MARYLAND	Yes(15)(6)	Yes(15)	Yes(15)(6)	Yes(15)	Yes(15)(6)
MASSACHUSETTS See Note C	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
MICHIGAN See Note C	No(16)	No	No(16)	No	No(16)
MINNESOTA See Note C	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official or receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT BANK act as:

	Administrator?	Ancillary Administrator?	Executor?	Ancillary Executor?	Testamentary Trustee?
MISSISSIPPI W. McDonald Nichols Jackson, Mississippi July 26, 1993	Yes(1)	Yes(1)(14)	Yes(1)	Yes(1)(14)	Yes(1)
MISSOURI P. Pierre Dominique Jefferson City, Missouri April 6, 1993	Yes(1)(17)	Yes(1)(17)	Yes(1)(17)	Yes(1)(17)	Yes(1)(17)
MONTANA George D. Goodrich Missoula, Montana October 19, 1992	Yes	Yes	Yes	Yes	Yes
NEBRASKA James I. Shamberg Grand Island, Nebraska January 10, 1992	No	No	No	No	Yes(1)
NEVADA Prince A. Hawkins Reno, Nevada March 24, 1993	No(21)	No(21)	No(21)	No(21)	No(21)
NEW HAMPSHIRE Robert P. Bass, Jr. Concord, New Hampshire June 29, 1994	No	No	Yes(1)	Yes(1)	Yes(1)
NEW JERSEY Gordon A. Millspaugh, Jr. Warren, New Jersey August 2, 1993	No	No	Yes(1)(20)	Yes(1)(20)	Yes(1)(20)
NEW MEXICO William A. Sawtell, Jr. Santa Fe, New Mexico April 5, 1993	Yes	Yes	Yes	Yes	Yes

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official to receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT BANK act as:

	Ancillary Testamentary Trustee?	Guardian of Property of Minor?	Ancillary Guardian of Property of Minor?	Guardian or Committee of Property of Incompetent?	Ancillary Guardian or Committee of Property of Incompetent?
MISSISSIPPI See Note B	Yes(1)(14)	Yes(1)	Yes(1)(14)	Yes(1)	Yes(1)(14)
MISSOURI See Note C	Yes(1)(17)(14)	Yes(1)(17)	Yes(1)(17)(14)	Yes(1)(17)	Yes(1)(17)(14)
MONTANA See Note C	Yes	Yes	Yes	Yes	Yes
NEBRASKA See Note C	Yes(1)	No	No	No	No
NEVADA See Note C	No(21)	No(21)	No(21)	No(21)	No(21)
NEW HAMPSHIRE See Note C	Yes(1)	No	No	No	No
NEW JERSEY See Note C	Yes(1)(20)	Yes(1)(20)	Yes(1)(20)	Yes(1)(20)	Yes(1)(20)
NEW MEXICO See Note C	Yes	Yes	Yes	Yes	Yes

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official or receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT BANK act as:

	Administrator?	Ancillary Administrator?	Executor?	Ancillary Executor?	Testamentary Trustee?
NEW YORK Marshall M. Green New York, New York April 9, 1993	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
NORTH CAROLINA George A. Ragland Winston-Salem, North Carolina August 10, 1993	No	Yes(18)or(19)	Yes(1)(19)	Yes(18)or(19)	Yes(1)(19)
NORTH DAKOTA Robert E. Rosenvold West Fargo, North Dakota August 26, 1993	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
OHIO T. Stephen Phillips Cincinnati, Ohio July 9, 1990	No	No	Yes(1)	No	Yes(1)
OKLAHOMA W. Thomas Coffman Tulsa, Oklahoma December 1, 1993	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
OREGON Joseph J. Hanna, Jr. Portland, Oregon July 28, 1993	No	No(5)	No	No(5)	No
PENNSYLVANIA Edward J. Greene Pittsburgh, Pennsylvania July 26, 1993	Yes(25)	Yes(25)	Yes(25)	Yes(25)	Yes(25)(26)
RHODE ISLAND Kinnaird Howland Providence, Rhode Island March 31, 1993	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official to receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT BANK act as:

	Ancillary Testamentary Trustee?	Guardian of Property of Minor?	Ancillary Guardian of Property of Minor?	Guardian or Committee of Property of Incompetent?	Ancillary Guardian or Committee of Property of Incompetent?
NEW YORK See Note C	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
NORTH CAROLINA See Note A	Yes	No	Uncertain	No	Uncertain
NORTH DAKOTA See Note C	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
OHIO See Note C	Yes(1)	Yes(22)(23)	Yes(22)(23)	Yes(24)	Yes(24)
OKLAHOMA See Note C	Yes(1)	No	No	No	No
OREGON See Note C	No(5)	No	No(5)	No	No(5)
PENNSYLVANIA See Note C	Yes(25)(26)	Yes(25)	Yes(25)	Yes(25)	Yes(25)
RHODE ISLAND See Note C	Yes(1)	Yes(1)	Yes(1)(4)	Yes(1)	Yes(1)

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official or receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT BANK act as:

	Administrator?	Ancillary Administrator?	Executor?	Ancillary Executor?	Testamentary Trustee?
SOUTH CAROLINA William L. Dennis Greenville, South Carolina October 8, 1993	No(27)	Yes	No(27)	Yes	Yes(28)
SOUTH DAKOTA Thomas H. Foye Rapid City, South Dakota October 19, 1992	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
TENNESSEE Albert W. Secor Chattanooga, Tennessee March 28, 1993	Yes(1)or(13)	Yes(1)or(13)	Yes(1)or(13)	Yes(1)or(13)	Yes(1)or(13)
TEXAS Jack M. Kinnebrew Dallas, Texas May 27, 1993	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
UTAH Clark P. Giles Salt Lake City, Utah October 15, 1992	No	No(1)(29)	No	No(1)(29)	No
VERMONT Clarke A. Gravel Burlington, Vermont October 15, 1992	Yes(1)(30)	Yes(1)(30)	Yes(1)	Yes(1)	Yes(1)
VIRGINIA Thomas S. Word, Jr. Richmond, Virginia April 7, 1993	No	No	No	No	No
WASHINGTON Richard A. Klobucher Bellevue, Washington April 5, 1993	No	No	No	No	No(31)

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official to receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT BANK act as:

	Ancillary Testamentary Trustee?	Guardian of Property of Minor?	Ancillary Guardian of Property of Minor?	Guardian or Committee of Property of Incompetent?	Ancillary Guardian or Committee of Property of Incompetent?
SOUTH CAROLINA See Note B	Yes	Yes	Yes	Yes	Yes
SOUTH DAKOTA See Note A	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
TENNESSEE See Note C	Yes(1)or(13)	Yes(1)or(13)	Yes(1)or(13)	Yes(1)or(13)	Yes(1)or(13)
TEXAS	Yes(1)	Yes(1)	Yes(1)	Yes(1)	Yes(1)
UTAH See Note C	Yes(1)	No	No(29)	No	No(29)
VERMONT	Yes(1)	No	No	No	No
VIRGINIA See Note C	No	No	No	No	No
WASHINGTON See Notes A and C	No	No	No	No	No

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The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT BANK act as:

	Administrator?	Ancillary Administrator?	Executor?	Ancillary Executor?	Testamentary Trustee?
WEST VIRGINIA Charles B. Stacy Charleston, West Virginia April 6, 1993	No	No	No	No	No
WISCONSIN Neil J. McCarty Kaukauna, Wisconsin March 17, 1992	No	Yes	Yes(1)(32)	Yes	Yes(1)(32)
WYOMING Joseph F. Maier Cheyenne, Wyoming April 23, 1993	Yes(13)	Yes(13)	Yes(34)	Yes(34)	Yes(34)

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official to receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

Can a NONRESIDENT BANK act as:

	Ancillary Testamentary Trustee?	Guardian of Property of Minor?	Ancillary Guardian of Property of Minor?	Guardian or Committee of Property of Incompetent?	Ancillary Guardian or Committee of Property of Incompetent?
WEST VIRGINIA See Note C	No	No	No(33)	No	No(33)
WISCONSIN See Note C	Yes	No	Yes	No	Yes
WYOMING See Note C	Yes(34)	Yes(11)	Yes(11)	Yes(11)	Yes(11)

The answer "yes" indicates that the right to act is either absolute or dependent on fulfillment of conditions precedent which are generally not too onerous or expensive to warrant compliance (such as designating resident agent or official row receive process, file bond, and the like).

The answer "no" indicates that the prohibition is either absolute or dependent on fulfillment of conditions precedent which are generally too onerous or expensive to warrant compliance.

NOTES

- (1) RECIPROCAL - provided a bank, trust company or national bank located in this state may act in such capacity in the state where the nonresident bank, trust company or national bank is located.
- (2) So long as trust consists only of personal property, but if trust contains any real property, may have to qualify to do business.
- (3) Foreign personal representative and guardians may act under certain circumstances without local letters by complying with local statutory procedure. Under certain circumstances a nonresident state bank or trust company may have to qualify to transact business to act as personal representative, guardian or trustee.
- (4) If named in will or if named by person to whom power of appointing executor or trustee was granted in such will.
- (5) But foreign fiduciary may remove personal property and proceeds of real estate without qualifying as ancillary, provided statutory procedure is followed.
- (6) No formal ancillary appointment required.
- (7) If named in deed or will.
- (8) So much of Florida Statutes Section 659.141(1) (now Section 658.29) which prohibits a bank, trust company or holding company that principally conducts its business outside the State of Florida from owning or controlling a business corporation in Florida which furnishes investment advisory services has been held unconstitutional as violative of the interstate commerce clause of the United States Constitution. *Lewis v. BT Investment Managers, Inc.*, 447 U.S. 27, 64 L. Ed.2d 702 (1980). Nevertheless, the Supreme Court vacated that part of the District Court decision holding unconstitutional Florida Statutes Section 660.10 (now Section 660.41), which prohibits nonresident banks from performing the types of fiduciary functions addressed by this study.
- (9) Florida Statutes Section 660.41(3) provides that "[a]ny corporation that is authorized to act as trustee under the laws of the place where it has its principal place of business may receive bequests as trustee of money or intangible personal property and devises of real property located in [Florida] and may sell, transfer and convey the property." This provision has been interpreted by many Florida practitioners as authority for the proposition that a nonresident corporate fiduciary is qualified to serve as a testamentary trustee under a will of a Florida domiciliary. Nevertheless, in *In re Estate of Laflin*, 580 So.2d 764 (Fla. 4th DCA 1991), the Florida Fourth District Court of Appeal affirmed per curiam, without an opinion, an order of the Palm Beach County Circuit Court determining that a nonresident corporate fiduciary is not qualified pursuant to the provisions of Section 660.41(3) to serve as testamentary trustee under the will of a Florida domiciliary. Per curiam affirmed decisions without opinion, however, have no precedential value. *Dept. of Legal Affairs v. District Court of Appeal*, Fifth District, 434 So.2d 310 (Fla. 1983).
- (10) Limited to banks, trust companies, or national banks in conterminous states.
- (11) For good cause shown, the court may appoint a resident conservator to act jointly with a foreign conservator.
- (12) Subject to court approval.
- (13) In conjunction with a resident of the state.
- (14) All appointments are original.
- (15) May act as fiduciary if it is a trust company that is authorized to exercise trust or fiduciary powers and is organized under the laws of the United States and has an office in Maryland that is not its principal office and meets the definition of a trust institution under 12 U.S.C. Section 1841 (C) (2) (D) or is organized under the laws of another state as a bank, trust company or savings bank and has an office in Maryland that is not its principal office, meets the definition of a trust institution under 12 U.S.C. Section 1841 (C) (2) (D) and is a direct or indirect subsidiary of a bank holding company that may make an acquisition and satisfies the definition of a bank holding company under Maryland law, or is any other corporation authorized by law to be appointed.
- (16) Michigan Banking Code prohibits a corporation from acting as fiduciary unless it is a bank with trust powers having its principal place of business in Michigan. There is no Banking Code statutory exemption for ancillary administration. But an obligor may pay debts and deliver personal property to a foreign fiduciary on proof of

foreign appointment and affidavit of entitlement. Foreign fiduciary may then give land contract deeds and discharges of mortgages and security interests.

(17) Limited to banks, trust companies or national banks of adjoining or next adjoining states and subject to court approval if not named in the will.

(18) Bank or trust company acting in state of residence may be appointed.

(19) If (1) chartered under the banking laws of Georgia, South Carolina, Tennessee or Virginia or as a national banking association in said states, (2) having a paid in capital of at least \$250,000. (Limitation may be subject to constitutional objection.)

(20) If named in the will.

(21) Unless it associates as co-fiduciary a banking corporation authorized to do business in Nevada.

(22) If named in will by parent of minor, selected by minor over 14.

(23) A nonresident shall not be appointed or approved as guardian of a minor resident in this state, but this provision shall not apply to a testamentary guardian.

(24) If named in a durable power of attorney.

(25) RECIPROCAL - provided that the laws of the state under whose laws the nonresident bank exists confer like powers on corporations existing under the laws of Pennsylvania.

(26) But the court in its discretion may appoint a resident as co-trustee to act with the foreign trustee.

(27) A bank created under the laws of the United States and having a place of business in South Carolina may so act.

(28) If such corporation has \$250,000 of bona fide capital paid in, is authorized to act as a testamentary trustee in the state in which it is incorporated or, if it is a national banking association, in the state in which it has its principal place of business, and if the state where the nonresident bank is organized reciprocates by allowing South Carolina banks to serve as trustees for the residents of the state where the nonresident bank is located.

(29) If no local proceeding or petition is pending, a foreign domiciliary fiduciary may exercise powers with respect to local assets and maintain actions or proceedings in this state upon filing of authenticated copies of appointment and any bond.

(30) If the court is so requested by the surviving spouse, the children of lawful age, the surviving parent or parents, or guardian, in that order of sequence.

(31) If no objection made, court may direct distribution to foreign testamentary trustee for administration of assets outside state.

(32) But must deposit securities or cash of at least \$100,000; file a certified copy of its last financial statement; pay license fees; and appoint a resident agent for service of process.

(33) May be permitted in some counties.

(34) If named in the will and a resident is appointed agent for service of process.

A In the following states, banks will ordinarily not turn over to the domiciliary fiduciary cash or securities held by them in the name of a nonresident unless ancillary proceedings are first completed:

ARKANSAS

KENTUCKY (as to administrator, executor and committee of competent—but not required as to testamentary trustee and guardian of infant provided court order is first obtained)

NORTH CAROLINA (as to administrator, executor and testamentary trustee, as to guardian of minor and committee of incompetent, although ancillary appointment not required, statutory procedure must be followed)
SOUTH DAKOTA

B In the following states, while ancillary administration is not required, a court order must first be obtained in the jurisdiction where the cash or securities are deposited before banks will turn them over to the domiciliary fiduciary:

MISSISSIPPI
SOUTH CAROLINA

C In the following states, banks will (where no local fiduciary has been appointed and no local debtor has notified the bank of a claim) ordinarily turn over to the domiciliary fiduciary cash or securities held by them in the name of a nonresident without first requiring ancillary proceedings. In most instances the decision will rest on how large or how small the amount involved may be. Generally speaking, the banks may require any one or more of the following: tax waivers (except for guardians of minors or incompetents), proof of appointment, affidavit of nonresidence, affidavit of no local creditors and affidavit of no pending application or necessity for ancillary letters. In some cases a bond may be required:

ALABAMA (after lapse of 60 days from decedent's death and recording in probate office of exemplified copy of letters)
ALASKA
ARIZONA
CALIFORNIA (personal property as well as cash and securities if gross value does not exceed \$60,000, after lapse of 40 days from death upon filing or recording a declaration and other documents)
COLORADO (after lapse of 60 days from decedent's death and presentation of affidavit)
CONNECTICUT
DELAWARE (after 60 days from decedent's death and upon affidavit and proof of appointment of domiciliary foreign personal representative; upon filing proof of appointment with Court of Chancery in the case of a guardian of a minor or obtaining order of Court of Chancery in case of other guardians)
DISTRICT OF COLUMBIA (foreign personal representative owning property in District of Columbia must publish against creditors and file with the Register of Wills an exemplified copy of the will and an affidavit of publication against creditors; personal property may be removed, leased or transferred upon first publication if the nonresident bank is located within the D.C. metropolitan area, or upon posting bond or after six months from first publication if the bank is located outside that area; comparable rules apply with respect to real property);
FLORIDA (after lapse of 60 days from appointment of domiciliary fiduciary)
GEORGIA
HAWAII (cash, in the bank's discretion over \$20,000)
IDAHO (after 60 days from date of death of nonresident decedent and presentation of proof of appointment such as exemplified copy of letters, plus affidavit)
ILLINOIS
IOWA
KANSAS
LOUISIANA (proof of payment of Louisiana inheritance taxes or revenue also required)
MAINE (after lapse of 60 days from death and presentation of letters and affidavit)
MASSACHUSETTS (but bank may require license to be obtained by special statutory proceeding brought in Probate Court—this is in lieu of ancillary administration)
MICHIGAN (Michigan Banking Code prohibits a corporation from acting as fiduciary unless it is a bank with trust powers having its principal place of business in Michigan. There is no Banking Code statutory exemption for ancillary administration. But an obligor may pay debts and deliver personal property to a foreign fiduciary on proof of foreign appointment and affidavit of entitlement. Foreign fiduciary may then give land contract deeds and discharges of mortgages and security interests)
MINNESOTA (after lapse of 60 days from decedent's death upon presentation of proof of appointment and an affidavit)
MISSOURI (no waiting period)
MONTANA
NEBRASKA

NEVADA

NEW HAMPSHIRE (unless amount is large)

NEW JERSEY (after the expiration of 60 days from the appointment of a domiciliary foreign fiduciary, any person indebted to the estate or having possession or control of personal property, or of an instrument evidencing a debt, obligation, stock or chose in action belonging to the estate may pay the debt, deliver the personal property, or the instrument evidencing the debt, obligation, stock or chose in action, to the domiciliary foreign fiduciary upon being presented with a certificate of his letters or other proof of his authority and an affidavit made by or on his behalf stating: (a) the date of the letters of the domiciliary foreign fiduciary, or the date when he first received authority to act; (b) that no letters have issued in this state and no action therefor is pending in this state; and (c) that the domiciliary foreign fiduciary is entitled to payment or delivery)

NEW MEXICO (after lapse of 60 days from death and presentation of letters and affidavit)

NEW YORK

NORTH DAKOTA

OHIO

OKLAHOMA

OREGON

PENNSYLVANIA (after lapse of one month from decedent's death and filing of exemplified copy of will and appointment and affidavit of no local creditors)

RHODE ISLAND

TENNESSEE (if no fiduciary, resident or nonresident, has been appointed and after a lapse of 30 days from the decedent's death, a bank may distribute not more than \$3,500 and a savings and loan or credit union may distribute no more than \$2,500)

UTAH (after expiration of 60 days from decedent's death and presentment of proof of appointment and affidavit)

VIRGINIA (after lapse of 90 days from decedent's death provided amount is less than \$2,500; over that amount must wait 90 days, advertise for four weeks and wait 30 additional days)

WASHINGTON (after lapse of 60 days from death and presentment of letters and affidavit and state estate tax release)

WEST VIRGINIA

WISCONSIN

WYOMING