

1 A bill to be entitled

2 An act relating to family trust companies; amending s.  
3 655.005, F.S.; revising the definition of the term  
4 "financial institutions codes"; creating chapter 662,  
5 F.S.; creating s. 662.10, F.S.; providing a short  
6 title; creating s. 662.102, F.S.; providing the  
7 purpose of the act; creating s. 662.111, F.S.;  
8 defining terms; creating s. 662.112, F.S.; providing  
9 for the calculation of kinship; creating s. 662.114,  
10 F.S.; exempting a family trust company or foreign  
11 licensed family trust company from licensure; creating  
12 s. 662.115, F.S.; providing for the applicability of  
13 the chapter to a family trust company or foreign  
14 licensed family trust company; creating s. 662.120,  
15 F.S.; specifying the maximum number of designated  
16 relatives allowed for a family trust company and a  
17 licensed family trust company; creating s. 662.121,  
18 F.S.; providing procedures for applying for a family  
19 trust company license; requiring a fee; creating s.  
20 662.1215, F.S.; providing for investigations of  
21 applicants by the Office of Financial Regulation;  
22 creating s. 662.122, F.S.; providing procedures for  
23 the registration of a family trust company or a  
24 foreign licensed family trust company; requiring a  
25 fee; creating s. 662.1225, F.S.; providing  
26 requirements for a family trust company, licensed

27 family trust company, and foreign licensed family  
28 trust company; creating s. 662.123, F.S.; requiring  
29 organizational documents to include certain  
30 provisions; authorizing the use of the term "trust";  
31 creating s. 662.124, F.S.; requiring a minimum capital  
32 account; creating s. 662.125, F.S.; vesting exclusive  
33 authority to manage a family trust company or licensed  
34 family trust company in a board of directors or  
35 managers; providing for appointment of directors and  
36 managers; requiring certain notice to the office in  
37 specified circumstances; requiring the office to issue  
38 a notice of disapproval of a proposed appointment in  
39 specified circumstances; creating s. 662.126, F.S.;  
40 requiring that licensed family trust companies procure  
41 and maintain fidelity bonds or specified minimum  
42 capital account and errors and omissions insurance;  
43 authorizing a family trust company that is not  
44 licensed to procure and maintain such coverage;  
45 authorizing licensed and unlicensed family trust  
46 companies to procure and maintain other insurance  
47 policies; creating s. 662.127, F.S.; requiring certain  
48 books and records to be segregated; creating s.  
49 662.128, F.S.; requiring annual license and  
50 registration renewal; requiring a fee; creating s.  
51 662.129, F.S.; providing for the discontinuance of a  
52 licensed family trust company; creating s. 662.130,

53 F.S.; authorizing family trust companies to conduct  
54 certain activities; creating s. 662.131, F.S.;  
55 prohibiting certain activities on the part of family  
56 trust companies; creating s. 662.132, F.S.; imposing  
57 certain requirements on the assets that form the  
58 minimum capital of licensed family trust companies and  
59 family trust companies; authorizing such trust  
60 companies to purchase or rent real or personal  
61 property, invest funds, and, while acting as a  
62 fiduciary, make certain purchases; imposing a  
63 restriction on that authorization; clarifying the  
64 degree of prudence required of fiduciaries;  
65 restricting the authority of a fiduciary to purchase  
66 certain bonds or securities; specifying additional  
67 authority of fiduciaries; applying the duty of loyalty  
68 to family trust companies in certain cases; creating  
69 s. 662.133, F.S.; requiring certain officers,  
70 directors, or managers of a licensed family trust  
71 company or a family trust company to make an oath,  
72 affirmation, affidavit, or acknowledgment on behalf of  
73 the company in certain circumstances; creating s.  
74 662.134, F.S.; prohibiting a family trust company from  
75 advertising to the public; creating s. 662.135, F.S.;  
76 providing that a licensed family trust company is not  
77 required to post a bond to serve as a court-appointed  
78 fiduciary; creating s. 662.140, F.S.; authorizing the

79 | commission to adopt rules; creating s. 662.141, F.S.;

80 | authorizing the office to conduct examinations and

81 | investigations; requiring that family trust companies

82 | be examined at least once every 18 months; authorizing

83 | the office to accept an independent audit in lieu of

84 | conducting an examination; requiring the office to

85 | examine the books and records of a family trust

86 | company or licensed family trust company; authorizing

87 | the office to rely on a certificate of trust, trust

88 | summary, or written statement in certain

89 | circumstances; authorizing the commission to adopt

90 | rules relating to records and requirements;

91 | authorizing the office to examine the books and

92 | records of a foreign licensed family trust company;

93 | requiring family trust companies to pay examination

94 | fees tied to actual costs incurred by the office;

95 | providing a penalty for late payment and authorizing

96 | an administrative fine if late payment is intentional;

97 | creating s. 662.142, F.S.; providing for license

98 | revocation; specifying acts and conduct that

99 | constitute grounds for revocation; authorizing the

100 | office to suspend a license pending revocation;

101 | creating s. 662.143, F.S.; authorizing the office to

102 | issue a cease and desist order and an emergency cease

103 | and desist order; creating s. 662.144, F.S.;

104 | authorizing the office to collect fines for the

105 failure to submit required reports; creating s.  
106 662.145, F.S.; providing grounds for the removal of an  
107 officer, director, manager, employee, or agent of a  
108 licensed family trust company or a family trust  
109 company; creating s. 662.146, F.S.; providing for the  
110 confidentiality of certain company books and records;  
111 creating s. 662.147, F.S.; providing requirements for  
112 books and records of family trust companies; requiring  
113 the office to retain certain records for a specified  
114 time; allowing the introduction of certain copies into  
115 evidence; requiring the office to establish a schedule  
116 of fees for such copies; providing requirements for  
117 orders issued by courts or administrative law judges  
118 for the production of confidential records or  
119 information; creating s. 662.150, F.S.; providing for  
120 the domestication of a foreign family trust company;  
121 creating s. 662.151, F.S.; providing for the  
122 registration of a foreign licensed family trust  
123 company; amending s. 120.80, F.S.; adding licensed  
124 family trust companies to the entities regulated by  
125 the office that are exempted from licensing timeframes  
126 under ch. 120, F.S.; amending s. 736.0802, F.S.;  
127 providing circumstances under which certain trust  
128 transactions are not voidable by a beneficiary  
129 affected by a transaction; providing circumstances  
130 under which certain transactions involving the

131 investment or management of trust property are not  
 132 presumed to be affected by conflicts of interest;  
 133 providing an exception; amending s. 744.351, F.S.;  
 134 exempting a family trust company from certain bond  
 135 requirements and applying those requirements to  
 136 licensed family trust companies and foreign licensed  
 137 family trust companies; providing a contingent  
 138 effective date.

139

140 Be It Enacted by the Legislature of the State of Florida:

141

142 Section 1. Paragraph (k) of subsection (1) of section  
 143 655.005, Florida Statutes, is amended to read:

144 655.005 Definitions.—

145 (1) As used in the financial institutions codes, unless  
 146 the context otherwise requires, the term:

147 (k) "Financial institutions codes" means:

148 1. Chapter 655, relating to financial institutions  
 149 generally;

150 2. Chapter 657, relating to credit unions;

151 3. Chapter 658, relating to banks and trust companies;

152 4. Chapter 660, relating to trust business;

153 5. Chapter 662, relating to family trust companies;

154 6.5. Chapter 663, relating to international banking;

155 7.6. Chapter 665, relating to associations; and

156 8.7. Chapter 667, relating to savings banks.

157           Section 2. Chapter 662, Florida Statutes, consisting of  
 158 ss. 662.10-662.151, Florida Statutes, to be entitled Family  
 159 Trust Companies, is created.

160           Section 3. Section 662.10, Florida Statutes, is created to  
 161 read:

162           662.10 Short Title.—This chapter may be cited as the  
 163 "Florida Family Trust Company Act."

164           Section 4. Section 662.102, Florida Statutes, is created  
 165 to read:

166           662.102 Purpose.—The purpose of the Family Trust Company  
 167 Act is to establish requirements for licensing family trust  
 168 companies, to provide regulation of those persons who provide  
 169 fiduciary services to family members of no more than two  
 170 families and their related interests as a family trust company,  
 171 and establish the degree of regulatory oversight required of the  
 172 Office of Financial Regulation over such companies. Unlike trust  
 173 companies formed under chapter 658, there is no public interest  
 174 to be served outside of ensuring that fiduciary activities  
 175 performed by a family trust company are restricted to family  
 176 members and their related interests and as otherwise provided  
 177 for in this chapter. Therefore, family trust companies are not  
 178 financial institutions within the meaning of the financial  
 179 institutions codes and licensure of these companies pursuant to  
 180 chapters 658 and 660 should not be required as it would not  
 181 promote the purposes of the codes as set forth in s. 655.001.  
 182 Consequently, the Office of Financial Regulation is not

183 responsible for regulating family trust companies to ensure  
184 their safety and soundness, and the responsibility of the office  
185 is limited to ensuring that fiduciary services provided by such  
186 companies are restricted to family members and related interests  
187 and not to the general public.

188 Section 5. Section 662.111, Florida Statutes, is created  
189 to read:

190 662.111 Definitions.—As used in this chapter, the term:

191 (1) "Applicant" means the corporation or limited liability  
192 company on whose behalf an application for a license to operate  
193 as a licensed family trust company is submitted under s.  
194 662.121.

195 (2) "Authorized representative" means an officer or  
196 director of a family trust company, licensed family trust  
197 company, or foreign licensed family trust company, if organized  
198 as a corporation; or a manager, officer, or member of a family  
199 trust company, licensed family trust company, or foreign  
200 licensed family trust company, if organized as a limited  
201 liability company.

202 (3) "Capital account" means the aggregate value of  
203 unimpaired capital stock based on the par value of the shares,  
204 plus any unimpaired surplus and undivided profits or retained  
205 earnings of a family trust company organized as a corporation;  
206 or the initial cash investment remitted for membership interests  
207 in a family trust company organized as a limited liability  
208 company, plus any undivided profits or retained earnings of the



209 limited liability company.

210 (4) "Capital stock" means the shares of stock issued to  
 211 create nonwithdrawable capital for a corporation, or membership  
 212 interests issued to create nonwithdrawable capital for a limited  
 213 liability company.

214 (5) "Collateral kinship" means a relationship that is not  
 215 lineal but derives from a common ancestor.

216 (6) "Commercial banking" means the business of receiving  
 217 demand and time deposits, paying checks, or lending money to the  
 218 public.

219 (7) "Controlling stockholder or member" means an  
 220 individual who owns or has the ability or power to directly or  
 221 indirectly vote at least 10 percent or more of the outstanding  
 222 shares, membership interest, or membership units of the family  
 223 trust company or licensed family trust company.

224 (8) "Designated relative" means a common ancestor of a  
 225 family, who may be a living or deceased person, and who is so  
 226 designated in the application for a license or annual license.

227 (9) "Family affiliate" means a company or other entity in  
 228 which one or more family members own, control, or have the power  
 229 to directly or indirectly vote more than 50 percent of a class  
 230 of voting securities of that company or other entity.

231 (10) "Family member" means:

232 (a) A designated relative.

233 (b) A person within the fourth degree of lineal kinship to  
 234 a designated relative of a family trust company, or a person

235 within the sixth degree of lineal kinship to a designated  
236 relative of a licensed family trust company.

237 (c) A person within the seventh degree of collateral  
238 kinship to a designated relative of a family trust company, or a  
239 person within the ninth degree of collateral kinship to a  
240 designated relative of a licensed family trust company.

241 (d) The spouse or former spouse of an individual  
242 qualifying as a family member and an individual who is within  
243 the fifth degree of lineal kinship to that spouse or former  
244 spouse.

245 (e) A family affiliate.

246 (f) A trust established by a family member if the trust is  
247 funded exclusively by one or more family members. A trust to  
248 which property has been transferred as a result of a family  
249 member's exercise of a power of appointment shall be deemed  
250 established by that family member if all qualified beneficiaries  
251 of the appointee trust are family members.

252 (g) A trust established by an individual who is not a  
253 family member if all of the noncharitable qualified  
254 beneficiaries of the trust are family members, except that a  
255 trust composed exclusively of nonindividual qualified  
256 beneficiaries is considered to be a family member if all of the  
257 nonindividual qualified beneficiaries are charitable foundations  
258 or other charitable entities as described in paragraph (j).

259 (h) The probate estate of a family member.

260 (i) The probate estate of an individual who is not a

261 family member if all of the noncharitable beneficiaries of the  
262 estate are family members, except that an estate composed  
263 exclusively of nonindividual beneficiaries is considered to be a  
264 family member if all of the nonindividual beneficiaries are  
265 charitable foundations or other charitable entities as described  
266 in paragraph (j).

267 (j) A charitable foundation or other charitable entity in  
268 which a majority of the governing body is composed of family  
269 members.

270 (11) "Family trust company" means a corporation or limited  
271 liability company that:

272 (a) Is exclusively owned by one or more family members.

273 (b) Is organized or qualified to do business in this  
274 state.

275 (c) Acts or proposes to act as a fiduciary to serve one or  
276 more family members.

277 (d) Does not serve as a fiduciary for a person, entity,  
278 trust, or estate that is not a family member, except that it may  
279 serve as a fiduciary for up to 35 individuals who are not family  
280 members if the individuals are current or former employees of  
281 the family trust company or one or more trusts, companies, or  
282 other entities that are family members.

283 (12) "Family trust company-affiliated party" means:

284 (a) A director, officer, manager, employee, or controlling  
285 stockholder or member of a family trust company, licensed family  
286 trust company, or foreign licensed family trust company; or

287 (b) A stockholder, member, or any other person as  
 288 determined by the office who participates in the affairs of a  
 289 family trust company, licensed family trust company, or foreign  
 290 licensed family trust company.

291 (13) "Financial institutions codes" has the same meaning  
 292 as provided in s. 655.005(1).

293 (14) "Foreign licensed family trust company" means a  
 294 family trust company that:

295 (a) Is licensed by a state in the United States other than  
 296 this state or the District of Columbia.

297 (b) Has its principal place of business in a state in the  
 298 United States other than this state or the District of Columbia.

299 (c) Is operated in accordance with family or private trust  
 300 company laws of the state in which it is licensed or of the  
 301 District of Columbia.

302 (d) Is subject to statutory or regulatory mandated  
 303 supervision by the state in which the principal place of  
 304 business is located or by the District of Columbia.

305 (e) Is not owned by, or a subsidiary of, a corporation,  
 306 limited liability company, or other business entity that is  
 307 organized in or licensed by any foreign country as defined in s.  
 308 663.01(3).

309 (15) "Licensed family trust company" means a family trust  
 310 company that operates in accordance with this chapter and has  
 311 been issued a license that has not been revoked or suspended by  
 312 the office.

313       (16) "Lineal kinship" means a family member who is in the  
314 direct line of ascent or descent from a designated relative.

315       (17) "Office" means the Office of Financial Regulation.

316       (18) "Officer" of a family trust company means an  
317 individual, regardless of whether the individual has an official  
318 title or receives a salary or other compensation, who may  
319 participate in the major policymaking functions of a family  
320 trust company, other than as a director. The term does not  
321 include an individual who may have an official title and  
322 exercise discretion in the performance of duties and functions,  
323 but who does not participate in determining the major policies  
324 of the family trust company and whose decisions are limited by  
325 policy standards established by other officers, regardless of  
326 whether the policy standards have been adopted by the board of  
327 directors. The chair of the board of directors, the president,  
328 the chief officer, the chief financial officer, the senior trust  
329 officer, and all executive vice presidents of a family trust  
330 company, and all managers if organized as a limited liability  
331 company, are presumed to be executive officers unless such  
332 officer is excluded, by resolution of the board of directors or  
333 members or by the bylaws or operating agreement of the family  
334 trust company, other than in the capacity of a director, from  
335 participating in major policymaking functions of the family  
336 trust company, and the individual holding such office so  
337 excluded does not actually participate therein.

338       (19) "Qualified beneficiary" has the same meaning as

339 provided in s. 736.0103.

340 Section 6. Section 662.112, Florida Statutes, is created  
341 to read:

342 662.112 Degrees of kinship.—Degrees of kinship shall be  
343 calculated by adding the number of steps from a designated  
344 relative through each person to the family member, directly in  
345 the case of lineal kinship, or through the common ancestor in  
346 the case of collateral kinship.

347 Section 7. Section 662.114, Florida Statutes, is created  
348 to read:

349 662.114 Family trust company and foreign licensed family  
350 trust company licensing not required.—A family trust company or  
351 foreign licensed family trust company is not required to be a  
352 licensed family trust company.

353 Section 8. Section 662.115, Florida Statutes, is created  
354 to read:

355 662.115 Applicability of chapter to a family trust company  
356 or foreign licensed family trust company.—

357 (1) A family trust company that is not a licensed family  
358 trust company or a foreign licensed family trust company is  
359 subject to the provisions of this chapter unless the provisions  
360 are expressly limited in applicability to a licensed family  
361 trust company or foreign licensed family trust company.

362 (2) A licensed family trust company is subject to the  
363 provisions of this chapter that expressly refer to a licensed  
364 family trust company or that are not expressly limited to a

365 family trust company that is not a licensed family trust company  
366 or to a foreign licensed family trust company.

367 (3) A foreign licensed family trust company is subject to  
368 the provisions of this chapter that expressly state that such  
369 provisions apply to a foreign licensed family trust company.

370 Section 9. Section 662.120, Florida Statutes, is created  
371 to read:

372 662.120 Maximum number of designated relatives.—

373 (1) A family trust company may not have more than one  
374 designated relative.

375 (2) A licensed family trust company may not have more than  
376 two designated relatives, and the designated relatives may not  
377 have a common ancestor within five generations.

378 Section 10. Section 662.121, Florida Statutes, is created  
379 to read:

380 662.121 Application for licensed family trust company;  
381 fees.—An applicant seeking to operate as a licensed family trust  
382 company must file an application with the office on forms  
383 prescribed by the office, accompanied by a nonrefundable \$10,000  
384 application fee to be deposited into the Financial Institutions'  
385 Regulatory Trust Fund pursuant to s. 655.049 for the purpose of  
386 administering this chapter. The application must contain or be  
387 accompanied by:

388 (1) The name of the proposed licensed family trust  
389 company.

390 (2) A copy of the articles of incorporation or articles of

391 organization and the bylaws or operating agreement of the  
 392 proposed licensed family trust company.

393 (3) The physical address and mailing address of the  
 394 proposed licensed family trust company, which must be located in  
 395 this state.

396 (4) A statement describing in detail the services that  
 397 will be provided to family members by the proposed licensed  
 398 family trust company.

399 (5) The name and biographical information of each  
 400 individual who will initially serve as a director, officer,  
 401 manager, or member acting in a managerial capacity of the  
 402 proposed licensed family trust company.

403 (6) The name and biographical information of each  
 404 individual who owns or has the ability or power to directly or  
 405 indirectly vote at least 10 percent or more of the outstanding  
 406 shares, membership interest, or membership units of the proposed  
 407 licensed family trust company.

408 (7) The names of the designated relatives.

409 (8) The amount of the initial capital account of the  
 410 proposed licensed family trust company and the form in which the  
 411 capital was paid and will be maintained.

412 (9) The type and amount of bonds or insurance that will be  
 413 procured and maintained on directors, officers, managers, or  
 414 members acting in a managerial capacity or employees pursuant to  
 415 s. 662.126.

416 (10) A statement signed by the applicant, or by the



417 individual signing on behalf of the proposed licensed family  
418 trust company, under penalty of perjury, affirming that the  
419 following statements are true:

420 (a) The proposed licensed family trust company is not  
421 currently transacting business with the general public.

422 (b) No director, officer, manager, or member served as a  
423 director, officer, or manager, or acted in a managerial  
424 capacity, for a trust company or any other financial institution  
425 that had a license issued under the financial institutions codes  
426 or by the Federal Government or any other state, the District of  
427 Columbia, a territory of the United States, or a foreign country  
428 that was suspended or revoked within the 10 years preceding the  
429 date of the application.

430 (c) No director, officer, manager, or member acting in a  
431 managerial capacity has been convicted of, pled guilty or nolo  
432 contendere, regardless of whether adjudication of guilt is  
433 entered by the court, to a violation of the financial  
434 institutions codes, including s. 655.50, chapter 896, or similar  
435 state or federal law or related rule, or to a crime involving  
436 fraud, misrepresentation, or moral turpitude.

437 (d) No director, officer, manager, or member acting in a  
438 managerial capacity has had a professional license suspended or  
439 revoked within the 10 years preceding the date of the  
440 application.

441 (e) All information contained in the application is true  
442 and correct to the best knowledge of the individual signing the

443 application on behalf of the proposed licensed family trust  
444 company.

445 (11) Any other additional information reasonably required  
446 by the office.

447 Section 11. Section 662.1215, Florida Statutes, is created  
448 to read:

449 662.1215 Investigation of license applicants.—

450 (1) For the purpose of this section, the application is  
451 not deemed to be filed until the applicant has provided the  
452 office with all information required to be included pursuant to  
453 s. 662.121.

454 (2) Upon filing an application for a license to operate as  
455 a licensed family trust company, the office shall conduct an  
456 investigation to confirm:

457 (a) That the persons who will serve as directors or  
458 officers of the corporation or, if the applicant is a limited  
459 liability company, managers or members acting in a managerial  
460 capacity, have not:

461 1. Been convicted of, or entered a plea of nolo contendere  
462 to, a crime involving fraud, misrepresentation, or moral  
463 turpitude;

464 2. Been convicted of, or pled nolo contendere to, a  
465 violation of the financial institutions codes, including s.  
466 655.50, chapter 896, or similar state or federal law;

467 3. Been directors, officers, managers, or members of a  
468 financial institution licensed or chartered under the financial

469 institution's codes or by the Federal Government or any other  
470 state, the District of Columbia, a territory of the United  
471 States, or a foreign country, whose license or charter was  
472 suspended or revoked within the 10 years preceding the date of  
473 the application;

474 4. Had a professional license suspended or revoked within  
475 the 10 years preceding the date of the application; or

476 5. Made a false statement of material fact on the  
477 application.

478 (b) That the name of the proposed company complies with s.  
479 662.123.

480 (c) That capital accounts of the proposed company conform  
481 to s. 662.124 and that fidelity bonds and errors and omissions  
482 insurance coverage required under s. 662.126 are issued and  
483 effective.

484 (d) That the articles of incorporation or articles of  
485 organization conform to s. 662.123(1).

486 (3) If the investigation required under this section  
487 confirms that the applicant has met the requirements of ss.  
488 662.1225, 662.123(1), 662.124, 662.125, and 662.126, and that  
489 the persons who will serve as directors or officers of the  
490 corporation or the managers or members acting in a managerial  
491 capacity of the limited liability company, as applicable,  
492 satisfy the criteria set forth in subsection (2), the office  
493 shall issue a license authorizing the applicant to operate as a  
494 licensed family trust company.

495       (4) If the office determines the criteria in subsection  
496 (2) have not been met, the office shall serve notice of its  
497 intent to deny the application and of the applicant's  
498 opportunity to request a hearing pursuant to ss. 120.569 and  
499 120.57.

500       Section 12. Section 662.122, Florida Statutes, is created  
501 to read:

502       662.122 Registration of a family trust company or a  
503 foreign licensed family trust company.-

504       (1) A family trust company that is not applying under s.  
505 662.121 to become a licensed family trust company must register  
506 with the office before beginning operations in this state. The  
507 registration application must:

508       (a) Provide the name of the designated relative.

509       (b) State that the family trust company is a family trust  
510 company as defined under this chapter and that its operations  
511 will comply with ss. 662.1225, 662.125, 662.131, and 662.134.

512       (c) Provide the current telephone number and street  
513 address of the physical location in this state of its principal  
514 place of operations where its books and records will be  
515 maintained.

516       (d) List the name and current street address in this state  
517 of its registered agent.

518       (2) A foreign licensed family trust company must register  
519 with the office before beginning operations in this state.

520       (a) The registration application must state that its

521 operations will comply with ss. 662.1225, 662.125, 662.131, and  
522 662.134 and that it is currently in compliance with the family  
523 trust company laws and regulations of its principal  
524 jurisdiction.

525 (b) The registration application must provide:

526 1. The current telephone number and street address of the  
527 physical location of its principal place of business in its  
528 principal jurisdiction.

529 2. The current telephone number and street address of the  
530 physical location in this state of its principal place of  
531 operations where its books and records pertaining to its  
532 operations in this state will be maintained.

533 3. The current telephone number and street address of the  
534 physical location of any other offices located within this  
535 state.

536 4. The name and current street address in this state of  
537 its registered agent.

538 (c) The registration must include a certified copy of a  
539 certificate of good standing, or an equivalent document,  
540 authenticated by the official having custody of records in the  
541 jurisdiction where the foreign licensed family trust company is  
542 organized, along with satisfactory proof that the company is  
543 organized in a manner similar to a family trust company as  
544 defined under this chapter.

545 (3) The registration application required under this  
546 section for a family trust company and a foreign licensed family

547 trust company must be accompanied by a nonrefundable  
548 registration fee of \$5,000.

549 (4) Registration applications required by this section  
550 shall be submitted on a form prescribed by the office and be  
551 signed, under penalty of perjury, by an officer or director if  
552 the family trust company is organized as a corporation, or by a  
553 manager, officer, or member if the family trust company is  
554 organized as a limited liability company.

555 (5) All fees received by the office pursuant to this  
556 section shall be deposited into the Financial Institutions'  
557 Regulatory Trust Fund pursuant to s. 655.049 for purposes of  
558 administering this chapter.

559 Section 13. Section 662.1225, Florida Statutes, is created  
560 to read:

561 662.1225 Requirements for a family trust company, licensed  
562 family trust company, and foreign licensed family trust  
563 company.—

564 (1) A family trust company and a licensed family trust  
565 company shall maintain:

566 (a) A principal office physically located in this state  
567 where original or true copies of all records and accounts of the  
568 family trust company or licensed family trust company may be  
569 accessed and made readily available for examination by the  
570 office in accordance with this chapter. A family trust company  
571 or licensed family trust company may also maintain one or more  
572 branch offices within or outside of this state.

573 (b) A registered agent who has an office in this state at  
 574 the street address of the registered agent.

575 (c) All applicable state and local business licenses,  
 576 charters, and permits.

577 (d) A deposit account with a state-chartered or national  
 578 financial institution that has a principal or branch office in  
 579 this state.

580 (2) In order to operate in this state, a foreign licensed  
 581 family trust company must be in good standing in its principal  
 582 jurisdiction and maintain:

583 (a) An office physically located in this state where  
 584 original or true copies of all records and accounts of the  
 585 foreign licensed family trust company pertaining to its  
 586 operations in this state may be accessed and made readily  
 587 available for examination by the office in accordance with this  
 588 chapter.

589 (b) A registered agent who has an office in this state at  
 590 the street address of the registered agent.

591 (c) All applicable state and local business licenses,  
 592 charters, and permits.

593 (d) A deposit account with a state-chartered or national  
 594 financial institution that has a principal or branch office in  
 595 this state.

596 Section 14. Section 662.123, Florida Statutes, is created  
 597 to read:

598 662.123 Organizational documents; use of term "family

599 trust" in name.-

600 (1) The articles of incorporation, certificate of  
601 incorporation, or articles of organization of a family trust  
602 company or licensed family trust company must contain:

603 (a) The name adopted by the company, which must  
604 distinguish the company from any other trust company formed in  
605 this state or engaged in the business of a trust company, family  
606 trust company, or licensed family trust company in this state.  
607 If the term "trust" is included in the name adopted by a family  
608 trust company, it must be immediately preceded by the term  
609 "family" so as to distinguish the entity from a trust company  
610 operating under chapter 658. This paragraph does not apply to a  
611 foreign licensed family trust company using a fictitious name,  
612 that is registered and maintained pursuant to s. 865.09 and that  
613 distinguishes it.

614 (b) The purpose for which the company is formed, which  
615 must clearly identify the restricted activities permissible to a  
616 family trust company or licensed family trust company under this  
617 chapter.

618 (c) A statement that the company will not offer its  
619 services to the general public.

620 (d) A statement affirming that the articles of  
621 incorporation, certificate of incorporation, or articles of  
622 organization will not be amended without prior written notice to  
623 the office.

624 (2) A proposed amendment to the articles of incorporation,



625 articles of organization, bylaws, or operating documents of a  
626 limited liability company, family trust company, or licensed  
627 family trust company must be submitted to the office for review  
628 at least 30 days before it is filed or effective. An amendment  
629 is not considered filed or effective if the office issues a  
630 notice of disapproval with respect to the proposed amendment.

631 (3) The term "family trust" in the name adopted by a  
632 family trust company or licensed family trust company does not  
633 disqualify the name from being allowed under s. 605.0112 or s.  
634 607.0401.

635 Section 15. Section 662.124, Florida Statutes, is created  
636 to read:

637 662.124 Minimum capital account required.-

638 (1) A licensed family trust company that has one  
639 designated relative may not be organized or operated with an  
640 owners' capital account of less than \$250,000. The minimum  
641 capital account shall be increased to \$350,000 if two designated  
642 relatives of the licensed family trust company are named in the  
643 application for a license or in the annual license renewal. A  
644 family trust company may not be organized or operated with a  
645 capital account of less than \$250,000.

646 (2) The full amount of the initial capital account of a  
647 family trust company or licensed family trust company must be  
648 composed of one or more of the asset groups described in s.  
649 662.132(1)(a), exclusive of all organization expenses.

650 Section 16. Section 662.125, Florida Statutes, is created

651 to read:

652 662.125 Directors or managers.-

653 (1) Exclusive authority to manage a family trust company  
 654 or licensed family trust company is vested in a board of  
 655 directors, if a corporation, or a board of directors or  
 656 managers, if a limited liability company.

657 (2) A family trust company or licensed family trust  
 658 company shall have at least three directors, if a corporation,  
 659 or three directors or managers, if a limited liability company.  
 660 At least one director or manager of the company must be a  
 661 resident of this state.

662 (3) The licensed family trust company shall notify the  
 663 office of the proposed appointment of an individual to the board  
 664 of directors or addition as a member, or the appointment or  
 665 employment of an individual as an officer or manager or member  
 666 acting in a managerial capacity or equivalent position, at least  
 667 60 days before such appointment or employment becomes effective,  
 668 if the company:

669 (a) Has been licensed for less than 2 years.

670 (b) Has undergone a change in control within the preceding  
 671 2 years.

672 (c) Is operating under a cease and desist order.

673  
 674 The notification must include the name and such biographical  
 675 information as the office may reasonably require.

676 (4) A licensed family trust company may not appoint an

677 individual to the board of directors, add a member, or appoint  
 678 or employ an officer or manager or member acting in a managerial  
 679 capacity or equivalent, if the office issues a notice of  
 680 disapproval with respect to that person.

681 (5) The office shall issue a notice of disapproval if the  
 682 office finds that the proposed appointment or employment of a  
 683 person would otherwise cause the licensed family trust company  
 684 to violate any of the requirements set forth in s.  
 685 662.121(10)(b)-(d) or s. 662.1215(2)(a).

686 Section 17. Section 662.126, Florida Statutes, is created  
 687 to read:

688 662.126 Fidelity bonds; insurance.-

689 (1) The directors or managers of a licensed family trust  
 690 company shall procure and maintain fidelity bonds on all active  
 691 officers, directors, managers, members acting in a managerial  
 692 capacity, and employees of the company, regardless of whether  
 693 they receive a salary or other compensation from the company, in  
 694 order to indemnify the company against loss because of a  
 695 dishonest, fraudulent, or criminal act or omission on their  
 696 part, whether acting alone or in combination with other persons.

697 (2) Each fidelity bond shall be issued in an amount of at  
 698 least \$1 million.

699 (3) In lieu of the fidelity bonds required under  
 700 subsection (1), a licensed family trust company may increase its  
 701 capital account required under s. 662.124 by \$1 million so that  
 702 if it has one designated relative it is organized or operated

703 with a capital account of at least \$1.25 million, or if it has  
704 two designated relatives it is organized or operated with a  
705 capital account of at least \$1.35 million.

706 (4) The licensed family trust company shall also procure  
707 and maintain an errors and omissions insurance policy of at  
708 least \$1 million in which it is listed as the insured to cover  
709 the acts and omissions of officers, directors, managers, and  
710 members acting in a managerial capacity, regardless of whether  
711 the person receives a salary or other compensation from the  
712 company.

713 (5) A family trust company or licensed family trust  
714 company may also procure and maintain other insurance policies  
715 necessary or desirable in connection with the business of the  
716 company, including, but not limited to, one or more casualty  
717 insurance policies.

718 (6) A family trust company that is not a licensed family  
719 trust company may procure and maintain fidelity bonds as  
720 described in this section.

721 (7) A family trust company that is not a licensed family  
722 trust company may procure and maintain errors and omissions  
723 insurance coverage as described in this section.

724 Section 18. Section 662.127, Florida Statutes, is created  
725 to read:

726 662.127 Segregation of books, records, and assets;  
727 fiduciary assets not liable.-

728 (1) Each family trust company and licensed family trust

729 company shall maintain its fiduciary books and records separate  
 730 and distinct from other records of the company and shall  
 731 segregate all assets held in any fiduciary capacity from other  
 732 assets of the company.

733 (2) Assets received or held in a fiduciary capacity by a  
 734 family trust company or licensed family trust company are not  
 735 subject to the debts or obligations of the company.

736 Section 19. Section 662.128, Florida Statutes, is created  
 737 to read:

738 662.128 Annual renewal.—

739 (1) Within 30 days after the end of each calendar year,  
 740 family trust companies, licensed family trust companies, and  
 741 foreign licensed family trust companies shall file their annual  
 742 renewal application with the office.

743 (2) The license renewal application filed by a licensed  
 744 family trust company must include a verified statement that:

745 (a) The licensed family trust company operated in full  
 746 compliance with this chapter, chapter 896, or similar state or  
 747 federal law, or any related rule or regulation. The application  
 748 must include proof acceptable to the office that the company is  
 749 a family trust company as defined under this chapter.

750 (b) Describes any material changes to its operations,  
 751 principal place of business, directors, officers, managers,  
 752 members acting in a managerial capacity, and designated  
 753 relatives since the end of the preceding calendar year.

754 (3) The registration renewal application filed by a family

755 trust company must include a verified statement by an officer of  
 756 the company that it is a family trust company as defined under  
 757 this chapter and that its operations are in compliance with ss.  
 758 662.1225, 662.125, 662.131, and 662.134; chapter 896; or similar  
 759 state or federal law, or any related rule or regulation, and  
 760 include the name of its designated relative or relatives, if  
 761 applicable, and the street address for its principal place of  
 762 business.

763 (4) The registration renewal application filed by a  
 764 foreign licensed family trust company must include a verified  
 765 statement that its operations are in compliance with ss.  
 766 662.1225, 662.125, 662.131, and 662.134 and in compliance with  
 767 the family trust company laws and regulations of its principal  
 768 jurisdiction. It must also provide:

769 (a) The current telephone number and street address of the  
 770 physical location of its principal place of business in its  
 771 principal jurisdiction.

772 (b) The current telephone number and street address of the  
 773 physical location in this state of its principal place of  
 774 operations where its books and records pertaining to its  
 775 operations in this state are maintained.

776 (c) The current telephone number and address of the  
 777 physical location of any other offices located in this state.

778 (d) The name and current street address in this state of  
 779 its registered agent.

780 (e) Documentation satisfactory to the office that the

781 foreign licensed family trust company is in compliance with the  
782 family trust company laws and regulations of its principal  
783 jurisdiction.

784 (5) The annual renewal application shall be submitted on a  
785 form prescribed by the office and signed under penalty of  
786 perjury by an authorized representative.

787 (6) A fee of \$750 for a family trust company, \$1,500 for a  
788 licensed family trust company, and \$1,000 for a foreign licensed  
789 family trust company shall be submitted with the annual renewal  
790 application. All fees received by the office pursuant to this  
791 section shall be deposited into the Financial Institutions'  
792 Regulatory Trust Fund pursuant to s. 655.049 for the purpose of  
793 administering this chapter.

794 Section 20. Section 662.129, Florida Statutes, is created  
795 to read:

796 662.129 Discontinuing business.—If a licensed family trust  
797 company desires to discontinue business as a licensed family  
798 trust company, it must file with the office a certified copy of  
799 the resolution of the board of directors, or members, if a  
800 limited liability company, authorizing that action. Upon  
801 discharge from all fiduciary duties which it has undertaken, the  
802 licensed family trust company shall provide certification of  
803 such discharge and voluntarily relinquish its license to operate  
804 as a licensed family trust company to the office, whereupon it  
805 shall be released from any fidelity bonds that it maintained  
806 pursuant to s. 662.126(1).

807 Section 21. Section 662.130, Florida Statutes, is created  
808 to read:

809 662.130 Powers of family trust companies, licensed family  
810 trust companies, and foreign licensed family trust companies.-

811 (1) A family trust company and a licensed family trust  
812 company may, for its eligible members and individuals:

813 (a) Act as a sole or copersonal representative, executor,  
814 or curator for probate estates being administered in a state or  
815 jurisdiction other than this state.

816 (b) Act as an attorney-in-fact or agent under a power of  
817 attorney, other than a power of attorney governed by chapter  
818 709.

819 (c) Except as provided in s. 662.131, act within or  
820 outside this state as a sole fiduciary or cofiduciary, including  
821 acting as a trustee, advisory agent, assignee, assignee for the  
822 benefit of creditors, authenticating agent, bailee, bond or  
823 indenture trustee, conservator, conversion agent, custodian,  
824 escrow agent, fiscal or paying agent, financial advisor,  
825 guardian, investment advisor or manager, managing agent,  
826 purchase agent, receiver, registrar, safe keeping or  
827 subscription agent, transfer agent, except for public companies,  
828 warrant agent, or similar capacities generally performed by  
829 corporate trustees, and in so acting possess, purchase, sell,  
830 invest, reinvest, safe keep, or otherwise manage or administer  
831 the real or personal property of eligible members and  
832 individuals.



833 (d) Exercise the powers of a corporation or limited  
834 liability company incorporated or organized under the laws of  
835 this state, or qualified to transact business as a foreign  
836 corporation or limited liability company under the laws of this  
837 state, which are reasonably necessary to enable it to fully  
838 exercise, in accordance with commonly accepted customs and  
839 usages, a power conferred under this chapter.

840 (e) Delegate duties and powers, including investment  
841 functions under s. 518.112, in accordance with the powers  
842 granted to a trustee under chapter 736 or other applicable law,  
843 and retain agents, attorneys, accountants, investment advisers,  
844 or other individuals or entities to advise or assist the family  
845 trust company, licensed family trust company, or foreign  
846 licensed family trust company in the exercise of its powers and  
847 duties under this chapter and chapter 736. Such exercise of  
848 power may include, but is not limited to, retaining a bank trust  
849 department, or a public trust company, other than another family  
850 trust company, licensed family trust company, or foreign  
851 licensed family trust company.

852 (f) Perform all acts necessary for exercising the powers  
853 enumerated in this section or authorized by this chapter and  
854 other applicable laws of this state.

855 (2) Except as otherwise provided in s. 662.131, a foreign  
856 licensed family trust company that is in good standing in its  
857 principal jurisdiction may exercise all the trust powers in this  
858 state that a Florida family trust company may exercise.

859 Section 22. Section 662.131, Florida Statutes, is created  
 860 to read:

861 662.131 Prohibitions.—Notwithstanding any provision of  
 862 this chapter, a family trust company, licensed family trust  
 863 company, or foreign licensed family trust company may not:

864 (1) Engage in commercial banking; however, it may  
 865 establish accounts at financial institutions for its own  
 866 purposes or on behalf of family members to whom it provides  
 867 services pursuant to this chapter.

868 (2) Engage in fiduciary services with the public unless  
 869 licensed pursuant to chapter 658.

870 (3) Serve as a personal representative or a copersonal  
 871 representative of a probate estate administered in this state.

872 (4) Serve as an attorney in fact or agent, including as a  
 873 co-attorney in fact or co-agent, under a power of attorney  
 874 pursuant to chapter 709.

875 Section 23. Section 662.132, Florida Statutes, is created  
 876 to read:

877 662.132 Investments.—

878 (1) The assets forming the minimum capital account of a  
 879 family trust company or licensed family trust company must:

880 (a) Consist of cash, United States Treasury obligations,  
 881 or any combination thereof.

882 (b) Have an aggregate market value of at least 100 percent  
 883 of the company's required capital account, as specified in s.  
 884 662.124. If the aggregate market value of 100 percent of the

885 company's capital account is, at any time, less than the amount  
886 required under s. 662.124, the company has 5 business days to  
887 bring such capital account into compliance with s. 662.124.

888 (2) A family trust company or licensed family trust  
889 company may purchase or rent real or personal property for use  
890 in the conduct of the business and other activities of the  
891 company.

892 (3) Notwithstanding any other provision of law, a family  
893 trust company or licensed family trust company may invest funds  
894 for its own account, other than those required or allowed under  
895 subsection (1) or subsection (2), in any type or character of  
896 equity securities, debt securities, or other assets.

897 (4) Notwithstanding any other law, a family trust company  
898 or licensed family trust company may, while acting as a  
899 fiduciary, purchase directly from underwriters or distributors  
900 or in the secondary market:

901 (a) Bonds or other securities underwritten or distributed  
902 by:

903 1. The family trust company or licensed family trust  
904 company;

905 2. A family affiliate; or

906 3. A syndicate, including the family trust company,  
907 licensed family trust company, or family affiliate.

908 (b) Securities of an investment company, including a  
909 mutual fund, closed-end fund, or unit investment trust, as  
910 defined under the federal Investment Company Act of 1940, for

911 which the family trust company or licensed family trust company  
 912 acts as an advisor, custodian, distributor, manager, registrar,  
 913 shareholder servicing agent, sponsor, or transfer agent.

914 (5) The authority granted in subsection (4) may be  
 915 exercised only if:

916 (a) The investment is not expressly prohibited by the  
 917 instrument, judgment, decree, or order establishing the  
 918 fiduciary relationship.

919 (b) The family trust company or licensed family trust  
 920 company procures in writing the consent of any cofiduciaries  
 921 with discretionary investment powers to the investment.

922 (c) The family trust company or licensed family trust  
 923 company discloses in writing to the person or persons to whom it  
 924 sends account statements its intent to exercise the authority  
 925 granted in subsection (4) before the first exercise of that  
 926 authority, and each such disclosure reflects:

927 1. The nature of any interest the family trust company or  
 928 licensed family trust company has, or is reasonably expected to  
 929 have, in the underwriting or distribution of bonds or securities  
 930 purchased.

931 2. The nature and amount of any fee or other compensation  
 932 received, or reasonably expected to be received, by the family  
 933 trust company or licensed family trust company in connection  
 934 with the transaction.

935 3. The nature of the relationship between the family trust  
 936 company or licensed family trust company and an investment

937 company described in paragraph (4) (b).

938 4. The nature and amount of any fee or other compensation  
 939 received, or reasonably expected to be received, by the family  
 940 trust company or licensed family trust company for providing  
 941 services to an investment company described in paragraph (4) (b).

942 (6) Subsections (4) and (5) do not affect the degree of  
 943 prudence required of fiduciaries under the laws of this state.

944 However, a purchase of bonds or securities pursuant to  
 945 subsections (4) and (5) is not presumed to be affected by a  
 946 conflict between the fiduciary's personal and fiduciary  
 947 interests if such purchase:

948 (a) Is negotiated at a fair price.

949 (b) Is in accordance with:

950 1. The interest of the qualified beneficiaries.

951 2. The purposes of the trusts.

952 (c) Otherwise complies with:

953 1. The prudent investor rule in s. 518.11, or other  
 954 prudent investor or similar rule under other applicable law,  
 955 unless such compliance is waived in accordance with s. 518.11 or  
 956 other applicable law.

957 2. The terms of the instrument, judgment, decree, or order  
 958 establishing the fiduciary relationship.

959 (7) Notwithstanding subsections (1)-(6), a family trust  
 960 company or licensed family trust company may not, while acting  
 961 as a fiduciary, purchase a bond or security issued by the  
 962 company or an affiliate thereof unless:

963        (a) The family trust company or licensed family trust  
 964 company is expressly authorized to do so by:  
 965            1. The terms of the instrument creating the trust;  
 966            2. A court order;  
 967            3. The written consent of the settlor of the trust for  
 968 which the family trust company or licensed family trust company  
 969 is serving as trustee; or  
 970            4. The written consent of every adult qualified  
 971 beneficiary of the trust who, at the time of such purchase, is  
 972 entitled to receive income under the trust or who would be  
 973 entitled to receive a distribution of principal if the trust  
 974 were terminated; and  
 975        (b) The purchase of the security is at a fair price and  
 976 complies with:  
 977            1. The prudent investor rule in s. 518.11, or other  
 978 prudent investor or similar rule under other applicable law,  
 979 unless such compliance is waived in accordance with s. 518.11 or  
 980 other applicable law.  
 981            2. The terms of the instrument, judgment, decree, or order  
 982 establishing the fiduciary relationship.  
 983        (8) Except as otherwise expressly limited by this section,  
 984 a family trust company or licensed family trust company, while  
 985 acting as a fiduciary, is also authorized, without limiting any  
 986 powers otherwise conferred on fiduciaries by law, to do any of  
 987 the following, which are not presumed to be affected by a  
 988 conflict between the fiduciary's personal and fiduciary

989 interests:

990 (a) Make an equity investment in a closely held entity  
991 that may or may not be marketable and that is directly or  
992 indirectly owned or controlled by one or more family members.

993 (b) Place a security transaction using a broker who is a  
994 family member.

995 (c) Enter into an agreement with a family member who is  
996 the settlor or a qualified beneficiary of a trust with respect  
997 to the appointment of the family trust company or licensed  
998 family trust company as a fiduciary of the trust, or with  
999 respect to the compensation of the family trust company and  
1000 licensed family trust company for service as a fiduciary.

1001 (d) Transact business with a family member.

1002 (e) Transact business with or invest in any asset of  
1003 another trust, estate, guardianship, or conservatorship for  
1004 which the family trust company or licensed family trust company  
1005 is a fiduciary or in which a family member has an interest.

1006 (f) Deposit trust assets in a financial institution that  
1007 is owned, controlled, or operated by one or more family members.

1008 (g) Purchase, sell, hold, own, or invest in a security,  
1009 bond, real or personal property, stock, or other asset of a  
1010 family member.

1011 (h) With or without adequate security, lend money to or  
1012 borrow money from a family member or a trust, estate, or  
1013 guardianship for which the family trust company or licensed  
1014 family trust company serves as a fiduciary.

1015       (9) If not inconsistent with and subject to the terms of  
 1016 subsections (4)-(8), the duty of loyalty under s. 736.0802  
 1017 applies to family trust companies, licensed family trust  
 1018 companies, and foreign licensed family trust companies when  
 1019 serving as trustee of a trust whose administration is subject to  
 1020 chapter 736.

1021       Section 24. Section 662.133, Florida Statutes, is created  
 1022 to read:

1023       662.133 Oaths, affidavits, and acknowledgments.—If a  
 1024 family trust company or licensed family trust company is  
 1025 required to make an oath, affirmation, affidavit, or  
 1026 acknowledgment regarding a fiduciary capacity in which it is  
 1027 acting or is preparing to act, a director or officer or, if the  
 1028 company is a limited liability company, a manager or officer  
 1029 expressly authorized by the family trust company or licensed  
 1030 family trust company, shall make and, if required, subscribe to  
 1031 such oath, affirmation, affidavit, or acknowledgment on behalf  
 1032 of the company.

1033       Section 25. Section 662.134, Florida Statutes, is created  
 1034 to read:

1035       662.134 Unlawful to advertise services.—A family trust  
 1036 company, licensed family trust company, or foreign licensed  
 1037 family trust company may not advertise its services to the  
 1038 public.

1039       Section 26. Section 662.135, Florida Statutes, is created  
 1040 to read:



1041 662.135 Service as court-appointed fiduciary; bond  
 1042 requirement.—A licensed family trust company is not required to  
 1043 provide or otherwise post a bond or other surety to serve as a  
 1044 court-appointed fiduciary in a proceeding brought or conducted  
 1045 in this state.

1046 Section 27. Section 662.140, Florida Statutes, is created  
 1047 to read:

1048 662.140 Rules.—The commission may adopt rules necessary to  
 1049 carry out the purposes of this chapter.

1050 Section 28. Section 662.141, Florida Statutes, is created  
 1051 to read:

1052 662.141 Examination, investigations, and fees.—The office  
 1053 may conduct an examination or investigation of a family trust  
 1054 company, licensed family trust company, or foreign licensed  
 1055 family trust company at any time it deems necessary to determine  
 1056 whether a family trust company, licensed family trust company,  
 1057 foreign licensed family trust company, or family trust company-  
 1058 affiliated person has violated or is about to violate any  
 1059 provision of the financial institution's codes or the rules  
 1060 adopted by the commission pursuant to such codes.

1061 (1) The office shall conduct an examination of a licensed  
 1062 family trust company, family trust company, and foreign licensed  
 1063 family trust company at least once every 18 months.

1064 (2) In lieu of an examination by the office, the office  
 1065 may accept an audit of a family trust company, licensed family  
 1066 trust company, or foreign licensed family trust company by a

1067 certified public accountant licensed to practice in this state  
 1068 who is independent of the company, or other person or entity  
 1069 acceptable to the office. If the office accepts an audit  
 1070 pursuant to this subsection, the office shall conduct the next  
 1071 required examination.

1072 (3) The office shall examine the books and records of a  
 1073 family trust company or licensed family trust company as  
 1074 necessary to determine whether it is a family trust company or  
 1075 licensed family trust company as defined in this chapter, and is  
 1076 operating in compliance with ss. 662.1225, 662.125, 662.126,  
 1077 662.131 and 662.134, as applicable. The office may rely upon a  
 1078 certificate of trust, trust summary, or written statement from  
 1079 the trust company identifying the qualified beneficiaries of any  
 1080 trust or estate for which the family trust company serves as a  
 1081 fiduciary and the qualification of the qualified beneficiaries  
 1082 as permissible recipients of company services. The commission  
 1083 may establish by rule the records to be maintained or  
 1084 requirements necessary to demonstrate conformity with this  
 1085 chapter as a family trust company or licensed family trust  
 1086 company.

1087 (4) The office shall examine the books and records of a  
 1088 foreign licensed family trust company as necessary to determine  
 1089 if it is a foreign licensed trust company as defined in this  
 1090 chapter and is in compliance with ss. 662.1225, 662.125,  
 1091 662.130(2), 662.131, and 662.134. In connection with an  
 1092 examination of the books and records of the company, the office

1093 may rely upon the most recent examination report or review or  
1094 certification letters or similar documentation issued by the  
1095 regulatory agency to which the foreign licensed family trust  
1096 company is subject to supervision. The commission may establish  
1097 by rule the records to be maintained or requirements necessary  
1098 to demonstrate conformity with this chapter as a foreign  
1099 licensed family trust company. The office's examination of the  
1100 books and records of a foreign licensed family trust company is,  
1101 to the extent practicable, limited to books and records of the  
1102 operations in this state.

1103 (5) For each examination of the books and records of a  
1104 family trust company, licensed family trust company, or foreign  
1105 licensed family trust company as authorized under this chapter,  
1106 the trust company shall pay a fee for the costs of the  
1107 examination by the office. As used in this section, the term  
1108 "costs" means the salary and travel expenses of field staff  
1109 which are directly attributable to the examination of the trust  
1110 company and the travel expenses of any supervisory or support  
1111 staff required as a result of examination findings. The mailing  
1112 of payment for costs incurred must be postmarked within 30 days  
1113 after the receipt of a notice stating that such costs are due.  
1114 The office may levy a late payment of up to \$100 per day or part  
1115 thereof that a payment is overdue, unless waived for good cause.  
1116 However, if the late payment of costs is intentional, the office  
1117 may levy an administrative fine of up to \$1,000 per day for each  
1118 day the payment is overdue.

1119       (6) All fees collected under this section must be  
 1120 deposited into the Financial Institutions' Regulatory Trust Fund  
 1121 pursuant to s. 655.049 for the purpose of administering this  
 1122 chapter.

1123       Section 29. Section 662.142, Florida Statutes, is created  
 1124 to read:

1125       662.142 Revocation of license.—

1126       (1) The following acts or conduct constitute grounds for  
 1127 the revocation by the office of the license of a licensed family  
 1128 trust company:

1129       (a) The company is not a family trust company as defined  
 1130 in this chapter;

1131       (b) A violation of s. 662.1225, s. 662.123(1)(a), s.  
 1132 662.125(2), s. 662.126, s. 662.127, s. 662.128, s. 662.130, s.  
 1133 662.131, s. 662.134, or s. 662.144;

1134       (c) A violation of chapter 896, relating to financial  
 1135 transactions offenses, or any similar state or federal law or  
 1136 any related rule or regulation;

1137       (d) A violation of any rule of the commission;

1138       (e) A violation of any order of the office;

1139       (f) A breach of any written agreement with the office;

1140       (g) A prohibited act or practice under s. 662.131;

1141       (h) A failure to provide information or documents to the  
 1142 office upon written request; or

1143       (i) An act of commission or omission that is judicially  
 1144 determined to be a breach of trust or of fiduciary duty pursuant

1145 to a court of competent jurisdiction.

1146 (2) Upon a finding that a licensed family trust company  
 1147 has committed any of the acts set forth in paragraphs (1)(a)-  
 1148 (h), the office may enter an order suspending the company's  
 1149 license and provide notice of its intention to revoke the  
 1150 license and of the opportunity for a hearing pursuant to ss.  
 1151 120.569 and 120.57. If there has been a commission or omission  
 1152 under paragraph (1)(i), the office may immediately enter an  
 1153 order revoking the license. The licensed family trust company  
 1154 shall have 90 days to wind up its affairs after license  
 1155 revocation. If after 90 days the company is still in operation,  
 1156 the office may seek an order from the circuit court for the  
 1157 annulment or dissolution of the company.

1158 Section 30. Section 662.143, Florida Statutes, is created  
 1159 to read:

1160 662.143 Cease and desist authority.-

1161 (1) The office may issue and serve upon a family trust  
 1162 company, licensed family trust company, or foreign licensed  
 1163 family trust company, or upon a family trust company-affiliated  
 1164 party, a complaint stating charges if the office has reason to  
 1165 believe that such company, family trust company-affiliated  
 1166 party, or individual named therein is engaging in or has engaged  
 1167 in conduct that:

1168 (a) Indicates that the company is not a family trust  
 1169 company or foreign licensed family trust company as defined in  
 1170 this chapter;

1171 (b) Is a violation of s. 662.1225, s. 662.123(1)(a), s.  
 1172 662.125(2), s. 662.126, s. 662.127, s. 662.128, s. 662.130, or  
 1173 s. 662.134;

1174 (c) Is a violation of any rule of the commission;

1175 (d) Is a violation of any order of the office;

1176 (e) Is a breach of any written agreement with the office;

1177 (f) Is a prohibited act or practice pursuant to s.  
 1178 662.131;

1179 (g) Is a willful failure to provide information or  
 1180 documents to the office upon written request;

1181 (h) Is an act of commission or omission or a practice that  
 1182 the office has reason to believe is a breach of trust or of  
 1183 fiduciary duty; or

1184 (i) Is a violation of chapter 896 or similar state or  
 1185 federal law or any related rule or regulation.

1186 (2) The complaint must contain the statement of facts and  
 1187 a notice of opportunity for a hearing pursuant to ss. 120.569  
 1188 and 120.57.

1189 (3) If no hearing is requested within the time allowed by  
 1190 ss. 120.569 and 120.57, or if a hearing is held and the office  
 1191 finds that any of the charges are true, the office may enter an  
 1192 order directing the family trust company, licensed family trust  
 1193 company, or foreign licensed family trust company, or family  
 1194 trust company-affiliated party, or the individual named therein  
 1195 to cease and desist from engaging in the conduct complained of  
 1196 and to take corrective action.

1197 (4) If the family trust company, licensed family trust  
 1198 company, foreign licensed family trust company, or family trust  
 1199 company-affiliated party, or the individual named in such order,  
 1200 fails to respond to the complaint within the time allotted in  
 1201 ss. 120.569 and 120.57, such failure constitutes a default and  
 1202 justifies the entry of a cease and desist order.

1203 (5) A contested or default cease and desist order is  
 1204 effective when reduced to writing and served upon the family  
 1205 trust company, licensed family trust company, or foreign  
 1206 licensed family trust company, or family trust company-  
 1207 affiliated party, or the individual named therein. An  
 1208 uncontested cease and desist order is effective as agreed.

1209 (6) If the office finds that conduct described in  
 1210 subsection (1) is likely to cause substantial prejudice to  
 1211 members, shareholders, or beneficiaries of fiduciary accounts of  
 1212 the family trust company, licensed family trust company, or  
 1213 foreign licensed family trust company, or to beneficiaries of  
 1214 services rendered by such company, it may issue an emergency  
 1215 cease and desist order requiring the family trust company,  
 1216 licensed family trust company, or foreign licensed family trust  
 1217 company, family trust company-affiliated party, or individual  
 1218 named therein to immediately cease and desist from engaging in  
 1219 the conduct complained of and to take corrective action. The  
 1220 emergency order is effective immediately upon service of a copy  
 1221 of the order upon the family trust company, licensed family  
 1222 trust company, or foreign licensed family trust company, or

1223 family trust company-affiliated party and remains effective for  
1224 90 days. If the office begins nonemergency cease and desist  
1225 proceedings under subsection (1), the emergency order remains  
1226 effective until the conclusion of the proceedings under ss.  
1227 120.569 and 120.57.

1228 (7) A family trust company or foreign licensed family  
1229 trust company shall have 90 days to wind up its affairs after  
1230 entry of any order to cease and desist from operating as a  
1231 family trust company or foreign licensed family trust company.  
1232 If, after 90 days, a family trust company is still operating,  
1233 the office may seek an order from the circuit court for the  
1234 annulment or dissolution of the company. If after 90 days a  
1235 foreign licensed family trust company is still operating, the  
1236 office may seek an injunction from the circuit court restraining  
1237 the company from continuing to operate in this state.

1238 Section 31. Section 662.144, Florida Statutes, is created  
1239 to read:

1240 662.144 Failure to submit required report; fines.—If a  
1241 family trust company, licensed family trust company, or foreign  
1242 licensed family trust company fails to submit within the  
1243 prescribed period its annual renewal or any other report  
1244 required by this chapter or any rule, the office may impose a  
1245 fine of up to \$100 for each day that the annual renewal or  
1246 report is overdue. Failure to provide the annual renewal within  
1247 60 days after the end of the calendar year shall automatically  
1248 result in termination of registration of a family trust company



1249 or revocation of the license of a licensed family trust company.  
 1250 The trust company shall thereafter have 90 days to wind up its  
 1251 affairs.

1252 Section 32. Section 662.145, Florida Statutes, is created  
 1253 to read:

1254 662.145 Grounds for removal.-

1255 (1) The office may issue and serve upon a licensed family  
 1256 trust company or a family trust company and a family trust  
 1257 company-affiliated party a complaint stating charges if the  
 1258 office has reason to believe that the family trust company-  
 1259 affiliated party is engaging or has engaged in conduct that:

1260 (a) Demonstrates that the company is not a family trust  
 1261 company as defined in this chapter;

1262 (b) Is a prohibited act or practice under s. 662.131;

1263 (c) Is a violation of s. 662.1225, s. 662.123(1)(a), s.  
 1264 662.126, s. 662.127, s. 662.128, s. 662.130, or s. 662.134;

1265 (d) Is a violation of any other law involving fraud or  
 1266 moral turpitude which constitutes a felony;

1267 (e) Is a violation of chapter 896, relating to offenses  
 1268 related to financial transactions, or similar state or federal  
 1269 law;

1270 (f) Is a willful violation of a rule of the commission;

1271 (g) Is a willful violation of an order of the office;

1272 (h) Is a willful breach of a written agreement with the  
 1273 office; or

1274 (i) Is an act of commission or omission or a practice that

1275 the office has reason to believe is a breach of trust or  
 1276 fiduciary duty.

1277 (2) The complaint must contain a statement of facts and a  
 1278 notice of opportunity for a hearing pursuant to ss. 120.569 and  
 1279 120.57.

1280 (3) If no hearing is requested within the time allowed by  
 1281 ss. 120.569 and 120.57, or if a hearing is held and the office  
 1282 finds that any of the charges in the complaint is true, the  
 1283 office may enter an order removing the family trust company-  
 1284 affiliated party or restricting or prohibiting participation by  
 1285 the family trust company-affiliated party in the affairs of the  
 1286 family trust company, licensed family trust company, or state  
 1287 financial institution, subsidiary, or service corporation.

1288 (4) If the family trust company-affiliated party fails to  
 1289 respond to the complaint within the time allowed in ss. 120.569  
 1290 and 120.57, such failure constitutes a default and justifies the  
 1291 entry of an order of removal.

1292 (5) A contested or default order of removal is effective  
 1293 when reduced to writing and served on the family trust company  
 1294 or licensed family trust company and the family trust company-  
 1295 affiliated party. An uncontested order of removal is effective  
 1296 as agreed.

1297 (6) The chief executive officer, or the person holding the  
 1298 equivalent office, of a family trust company or licensed family  
 1299 trust company shall promptly notify the office if he or she has  
 1300 actual knowledge that a family trust company-affiliated party is

1301 charged with a felony in a state or federal court.

1302 (a) If a family trust company-affiliated party is charged  
1303 with a felony in a state or federal court, or in the courts of a  
1304 foreign country with which the United States maintains  
1305 diplomatic relations which involves a violation of law relating  
1306 to fraud, currency transaction reporting, money laundering,  
1307 theft, or moral turpitude and the charge is equivalent to a  
1308 felony charge under state or federal law, the office may enter  
1309 an emergency order suspending the family trust company-  
1310 affiliated party or restricting or prohibiting participation by  
1311 such company-affiliated party in the affairs of that particular  
1312 family trust company or licensed family trust company or any  
1313 financial institution, subsidiary, or service corporation, upon  
1314 service of the order upon the company and the family trust  
1315 company-affiliated party so charged.

1316 (b) The order must contain notice of opportunity for a  
1317 hearing pursuant to ss. 120.569 and 120.57, at which the family  
1318 trust company-affiliated party may request a postsuspension  
1319 hearing to show that continued service to or participation in  
1320 the affairs of the family trust company or licensed family trust  
1321 company does not pose a threat to the interests of the company.  
1322 In accordance with applicable commission rules, the office shall  
1323 notify the family trust company-affiliated party whether the  
1324 order suspending or prohibiting the company-affiliated party  
1325 from participating in the affairs of a licensed family trust  
1326 company or family trust company, or state financial institution,

1327 subsidiary, or service corporation will be rescinded or  
1328 otherwise modified. The emergency order remains in effect,  
1329 unless otherwise modified by the office, until the criminal  
1330 charge is disposed of. The acquittal of the family trust  
1331 company-affiliated party charged, or the final, unappealed  
1332 dismissal of all charges against such person, dissolves the  
1333 emergency order, but does not prohibit the office from  
1334 instituting proceedings under subsection (1). If the family  
1335 trust company-affiliated party charged is convicted or pleads  
1336 guilty or nolo contendere, regardless of adjudication, the  
1337 emergency order becomes final.

1338 (7) A family trust company-affiliated party removed from  
1339 office pursuant to this section is not eligible for reelection  
1340 to such position or to any official position in a family trust  
1341 company, licensed family trust company, or financial institution  
1342 in this state except with the written consent of the office. A  
1343 family trust company-affiliated party who is removed,  
1344 restricted, or prohibited from participation in the affairs of a  
1345 family trust company, licensed family trust company, or state  
1346 financial institution pursuant to this section may petition the  
1347 office for modification or termination of such removal,  
1348 restriction, or prohibition.

1349 (8) The resignation, termination of employment or  
1350 participation, or separation from a family trust company or a  
1351 licensed family trust company of the family trust company-  
1352 affiliated party does not affect the jurisdiction and authority

1353 of the office to issue a notice and proceed under this section  
1354 against the company-affiliated party if such notice is served  
1355 before the end of the 6-year period beginning on the date such  
1356 person ceases to be a family trust company-affiliated party with  
1357 respect to such company.

1358 Section 33. Section 662.146, Florida Statutes, is created  
1359 to read:

1360 662.146 Confidentiality of books and records.-

1361 (1) The books and records of a family trust company,  
1362 licensed family trust company, and foreign licensed family trust  
1363 company are confidential and shall be made available for  
1364 inspection and examination only:

1365 (a) To the office or its authorized representative;

1366 (b) To any person authorized to act for the company;

1367 (c) As compelled by a court, pursuant to a subpoena issued  
1368 pursuant to the Florida Rules of Civil Procedure, the Florida  
1369 Rules of Criminal Procedure, or the Federal Rules of Civil  
1370 Procedure or pursuant to a subpoena issued in accordance with  
1371 state or federal law. Before the production of the books and  
1372 records of a family trust company, licensed family trust  
1373 company, or foreign licensed family trust company, the party  
1374 seeking production must reimburse the company for the reasonable  
1375 costs and fees incurred in compliance with the production. If  
1376 the parties disagree regarding the amount of reimbursement, the  
1377 party seeking the records may request the court having  
1378 jurisdiction to set the amount of reimbursement;

1379 (d) Pursuant to a subpoena, to any federal or state law  
1380 enforcement or prosecutorial instrumentality authorized to  
1381 investigate suspected criminal activity;

1382 (e) As authorized by the board of directors, if in  
1383 corporate form, or the managers, if in limited liability company  
1384 form; or

1385 (f) As provided in subsection (2).

1386 (2) (a) Each customer and stockholder, if a corporation, or  
1387 member, if a limited liability company, has the right to inspect  
1388 the books and records of a family trust company or licensed  
1389 family trust company as they pertain to his or her accounts or  
1390 the determination of his or her voting rights.

1391 (b) The books and records pertaining to customers,  
1392 members, and stockholders of a family trust company or licensed  
1393 family trust company shall be kept confidential by the company  
1394 and its directors, managers, officers, and employees. The books  
1395 and records of customers, members, and stockholders may not be  
1396 released except upon the express authorization of the customer  
1397 as to his or her own accounts or a stockholder or member  
1398 regarding his or her voting rights. However, information may be  
1399 released, without the authorization of a customer, member, or  
1400 shareholder in a manner prescribed by the board of directors, if  
1401 a corporation, or managers, if a limited liability company, to  
1402 verify or corroborate the existence or amount of a customer's  
1403 account if that information is reasonably provided to meet the  
1404 needs of commerce and to ensure accurate credit information.

1405 Notwithstanding this paragraph, this subsection does not  
1406 prohibit a family trust company or licensed family trust company  
1407 from disclosing financial information referenced in this  
1408 subsection as permitted under 15 U.S.C. s. 6802, as amended.

1409 (c) A person who willfully violates a provision of this  
1410 section which relates to unlawful disclosure of confidential  
1411 information commits a felony of the third degree, punishable as  
1412 provided in s. 775.082, s. 775.083, or s. 775.084.

1413 (d) This subsection does not apply to a foreign licensed  
1414 family trust company. The laws of the jurisdiction of its  
1415 principal place of business govern the rights of customers,  
1416 members, and stockholders to inspect its books and records.

1417 (3) For purposes of this section, the term "books and  
1418 records" includes, but is not limited to, an application for a  
1419 license and any documents connected with the application under  
1420 s. 662.121; the office's corresponding investigation under s.  
1421 662.1215 in granting or denying the issuance of the license; the  
1422 initial registration documents of a family trust company or  
1423 foreign licensed family trust company under s. 662.122; the  
1424 annual renewal made by a family trust company, licensed family  
1425 trust company, or foreign licensed family trust company under s.  
1426 662.128; and the documentation submitted to the office in  
1427 connection with a licensed family trust company discontinuing  
1428 its business under s. 662.129.

1429 Section 34. Section 662.147, Florida Statutes, is created  
1430 to read:

1431 662.147 Records relating to the office examination;  
 1432 limited restrictions on public access.-

1433 (1) A family trust company, licensed family trust company,  
 1434 and foreign licensed family trust company shall keep at the  
 1435 office it is required to maintain pursuant to s. 662.1225 full  
 1436 and complete records of the names and residences of all the  
 1437 shareholders or members of the trust company and the number of  
 1438 shares or membership units held by each, as applicable, as well  
 1439 as the ownership percentage of each shareholder or member, as  
 1440 the case may be. The records are subject to the inspection of  
 1441 all the shareholders or members of the trust company, and the  
 1442 officers authorized to assess taxes under state authority,  
 1443 during the normal business hours of the trust company. A current  
 1444 list of shareholders or members shall be made available to the  
 1445 office's examiners for their inspection and, upon the request of  
 1446 the office, shall be submitted to the office.

1447 (2) The office shall retain for at least 10 years:

1448 (a) Examination reports.

1449 (b) Investigatory records.

1450 (c) The application for a license, any documents connected  
 1451 with the application, and the office's corresponding  
 1452 investigation in granting or denying the issuance of the  
 1453 license.

1454 (d) The initial registration documents of a family trust  
 1455 company or foreign licensed family trust company.

1456 (e) The annual renewal made by a family trust company,



1457 licensed family trust company, or foreign licensed family trust  
1458 company.

1459 (f) The documentation submitted to the office in  
1460 connection with a licensed family trust company discontinuing  
1461 its business and any related information compiled by the office,  
1462 or photographic copies thereof.

1463 (3) A copy of any document on file with the office which  
1464 is certified by the office as being a true copy may be  
1465 introduced in evidence as if it were the original. The office  
1466 shall establish a schedule of fees for preparing true copies of  
1467 documents.

1468 (4) Orders issued by courts or administrative law judges  
1469 for the production of confidential records or information must  
1470 provide for inspection in camera by the court or the  
1471 administrative law judge. If the court or administrative law  
1472 judge determines that the documents requested are relevant or  
1473 would likely lead to the discovery of admissible evidence, the  
1474 documents shall be subject to further orders by the court or the  
1475 administrative law judge to protect the confidentiality thereof.  
1476 An order directing the release of information shall be  
1477 immediately reviewable, and a petition by the office for review  
1478 of the order shall automatically stay any further proceedings in  
1479 the trial court or the administrative hearing until the  
1480 disposition of the petition by the reviewing court. If any other  
1481 party files a petition for review, it will operate as a stay of  
1482 the proceedings only upon order of the reviewing court.

1483 Section 35. Section 662.150, Florida Statutes, is created  
 1484 to read:

1485 662.150 Domestication of a foreign family trust company.-

1486 (1) A foreign family trust company lawfully organized and  
 1487 currently in good standing with the state regulatory agency in  
 1488 the jurisdiction where it is organized may become domesticated  
 1489 in this state by:

1490 (a) Filing with the Department of State a certificate of  
 1491 domestication and articles of incorporation in accordance with  
 1492 and subject to s. 607.1801 or by filing articles of conversion  
 1493 in accordance with s. 605.1045; and

1494 (b) Filing an application for a license to begin  
 1495 operations as a licensed family trust company in accordance with  
 1496 s. 662.121, which must first be approved by the office or by  
 1497 filing the prescribed form with the office to register as a  
 1498 family trust company to begin operations in accordance with s.  
 1499 662.122.

1500 (2) A foreign family trust company may apply pursuant to  
 1501 paragraph (1) (b) before satisfying the requirements of paragraph  
 1502 (1) (a); however, upon receipt of a certificate of authority, the  
 1503 company must satisfy the requirements of paragraph (1) (a) before  
 1504 beginning operations.

1505 Section 36. Section 662.151, Florida Statutes, is created  
 1506 to read:

1507 662.151 Registration of a foreign licensed family trust  
 1508 company to operate in this state.-A foreign licensed family

1509 trust company lawfully organized and currently in good standing  
1510 with the state regulatory agency in the jurisdiction under the  
1511 law of which it is organized may qualify to begin operations in  
1512 this state by:

1513 (1) Filing an application with the Department of State to  
1514 apply for a certificate of authority in accordance with and  
1515 subject to s. 605.0902 or s. 607.1503.

1516 (2) Filing an initial registration to begin operations as  
1517 a foreign licensed family trust company in accordance with and  
1518 subject to s. 662.122 and subject to the sections of this  
1519 chapter which specifically state that they apply to a foreign  
1520 licensed family trust company.

1521 (3) A company in operation as of the effective date of  
1522 this law that meets the definition of a family trust company  
1523 shall have 90 days from the effective date of this act to apply  
1524 for licensure as a licensed family trust company, register as a  
1525 family trust company or foreign licensed family trust company,  
1526 or cease doing business in this state.

1527 Section 37. Paragraph (a) of subsection (3) of section  
1528 120.80, Florida Statutes, is amended to read:

1529 120.80 Exceptions and special requirements; agencies.—

1530 (3) OFFICE OF FINANCIAL REGULATION.—

1531 (a) Notwithstanding s. 120.60(1), in proceedings for the  
1532 issuance, denial, renewal, or amendment of a license or approval  
1533 of a merger pursuant to title XXXVIII:

1534 1.a. The Office of Financial Regulation of the Financial

1535 Services Commission shall have published in the Florida  
1536 Administrative Register notice of the application within 21 days  
1537 after receipt.

1538       b. Within 21 days after publication of notice, any person  
1539 may request a hearing. Failure to request a hearing within 21  
1540 days after notice constitutes a waiver of any right to a  
1541 hearing. The Office of Financial Regulation or an applicant may  
1542 request a hearing at any time prior to the issuance of a final  
1543 order. Hearings shall be conducted pursuant to ss. 120.569 and  
1544 120.57, except that the Financial Services Commission shall by  
1545 rule provide for participation by the general public.

1546       2. Should a hearing be requested as provided by sub-  
1547 subparagraph 1.b., the applicant or licensee shall publish at  
1548 its own cost a notice of the hearing in a newspaper of general  
1549 circulation in the area affected by the application. The  
1550 Financial Services Commission may by rule specify the format and  
1551 size of the notice.

1552       3. Notwithstanding s. 120.60(1), and except as provided in  
1553 subparagraph 4., an every application for license for a new  
1554 bank, new trust company, new credit union, ~~or~~ new savings and  
1555 loan association, or new licensed family trust company must  
1556 ~~shall~~ be approved or denied within 180 days after receipt of the  
1557 original application or receipt of the timely requested  
1558 additional information or correction of errors or omissions. An  
1559 ~~Any~~ application for such a license or for acquisition of such  
1560 control which is not approved or denied within the 180-day

1561 period or within 30 days after conclusion of a public hearing on  
1562 the application, whichever is later, shall be deemed approved  
1563 subject to the satisfactory completion of conditions required by  
1564 statute as a prerequisite to license and approval of insurance  
1565 of accounts for a new bank, a new savings and loan association,  
1566 ~~or~~ a new credit union, or a new licensed family trust company by  
1567 the appropriate insurer.

1568 4. In the case of an ~~every~~ application for license to  
1569 establish a new bank, trust company, or capital stock savings  
1570 association in which a foreign national proposes to own or  
1571 control 10 percent or more of any class of voting securities,  
1572 and in the case of an ~~every~~ application by a foreign national  
1573 for approval to acquire control of a bank, trust company, or  
1574 capital stock savings association, the Office of Financial  
1575 Regulation shall request that a public hearing be conducted  
1576 pursuant to ss. 120.569 and 120.57. Notice of such hearing shall  
1577 be published by the applicant as provided in subparagraph 2. The  
1578 failure of ~~any~~ such foreign national to appear personally at the  
1579 hearing shall be grounds for denial of the application.

1580 Notwithstanding ~~the provisions of~~ s. 120.60(1) and subparagraph  
1581 3., every application involving a foreign national shall be  
1582 approved or denied within 1 year after receipt of the original  
1583 application or any timely requested additional information or  
1584 the correction of any errors or omissions, or within 30 days  
1585 after the conclusion of the public hearing on the application,  
1586 whichever is later.

1587 Section 38. Subsections (2) and (3) of section 736.0802,  
 1588 Florida Statutes, are amended, and paragraph (i) is added to  
 1589 subsection (5) of that section, to read:

1590 736.0802 Duty of loyalty.—

1591 (2) Subject to the rights of persons dealing with or  
 1592 assisting the trustee as provided in s. 736.1016, a sale,  
 1593 encumbrance, or other transaction involving the investment or  
 1594 management of trust property entered into by the trustee for the  
 1595 trustee's own personal account or which is otherwise affected by  
 1596 a conflict between the trustee's fiduciary and personal  
 1597 interests is voidable by a beneficiary affected by the  
 1598 transaction unless:

1599 (a) The transaction was authorized by the terms of the  
 1600 trust;

1601 (b) The transaction was approved by the court;

1602 (c) The beneficiary did not commence a judicial proceeding  
 1603 within the time allowed by s. 736.1008;

1604 (d) The beneficiary consented to the trustee's conduct,  
 1605 ratified the transaction, or released the trustee in compliance  
 1606 with s. 736.1012;

1607 (e) The transaction involves a contract entered into or  
 1608 claim acquired by the trustee when that person had not become or  
 1609 contemplated becoming trustee;

1610 (f) The transaction was consented to in writing by a  
 1611 settlor of the trust while the trust was revocable; ~~or~~

1612 (g) The transaction is one by a corporate trustee that

1613 involves a money market mutual fund, mutual fund, or a common  
 1614 trust fund described in s. 736.0816(3); or

1615 (h) With regard to a trust that is administered by a  
 1616 family trust company, licensed family trust company, or foreign  
 1617 licensed family trust company operating under chapter 662, the  
 1618 transaction is authorized by s. 662.132(4)-(8).

1619 (3) (a) A sale, encumbrance, or other transaction involving  
 1620 the investment or management of trust property is presumed to be  
 1621 affected by a conflict between personal and fiduciary interests  
 1622 if the sale, encumbrance, or other transaction is entered into  
 1623 by the trustee with:

1624 1.(a) The trustee's spouse;

1625 2.(b) The trustee's descendants, siblings, parents, or  
 1626 their spouses;

1627 3.(e) An officer, director, employee, agent, or attorney  
 1628 of the trustee; or

1629 4.(d) A corporation or other person or enterprise in which  
 1630 the trustee, or a person that owns a significant interest in the  
 1631 trustee, has an interest that might affect the trustee's best  
 1632 judgment.

1633 (b) This subsection does not apply to a trust being  
 1634 administered by a family trust company, licensed family trust  
 1635 company, or foreign licensed family trust company operating  
 1636 under chapter 662 if the sale, encumbrance, or other transaction  
 1637 is authorized by s. 662.132(4)-(8).

1638 (5)

1639           (i) This subsection does not apply to a trust administered  
 1640 by a family trust company, licensed family trust company, or  
 1641 foreign licensed family trust company operating under chapter  
 1642 662.

1643           Section 39. Subsection (5) of section 744.351, Florida  
 1644 Statutes, is amended to read:

1645           744.351 Bond of guardian.—

1646           (5) Financial institutions as defined in s. 744.309(4),  
 1647 other than a trust company operating under chapter 662 which is  
 1648 not a licensed family trust company or foreign licensed family  
 1649 trust company, and public guardians authorized by law to be  
 1650 guardians are ~~shall~~ not ~~be~~ required to file bonds.

1651           Section 40. This act shall take effect October 1, 2014, if  
 1652 HB 1269 or similar legislation is adopted in the same  
 1653 legislative session or an extension thereof and becomes law.