

SENATE BILL NO. 1482

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

5893S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 362.1010, 362.1015, 362.1030, 362.1035, 362.1055, 362.1060, 362.1085, 362.1090, 362.1095, 362.1100, 362.1105, 362.1110, 362.1115, 362.1116, and 362.1117, RSMo, and to enact in lieu thereof fifteen new sections relating to family trust companies, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 362.1010, 362.1015, 362.1030, 362.1035, 362.1055, 362.1060, 362.1085, 362.1090, 362.1095, 362.1100, 362.1105, 362.1110, 362.1115, 362.1116, and 362.1117, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 362.1010, 362.1015, 362.1030, 362.1035, 362.1055, 362.1060, 362.1085, 362.1090, 362.1095, 362.1100, 362.1105, 362.1110, 362.1115, 362.1116, and 362.1117, to read as follows:

362.1010. Sections 362.1010 to [362.1115] **362.1117** shall be known and may be cited as the "Missouri Family Trust Company Act".

362.1015. For purposes of sections 362.1010 to [362.1115] **362.1117**, the following terms mean:

(1) "Authorized representative", if a family trust company is organized as a corporation, then an officer or director of the family trust company or, if a family trust company is organized as a limited liability company, then a manager, officer, or member of the family trust company;

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

8 (2) "Collateral kinship", a relationship that is not
9 lineal but stems from a common ancestor;

10 (3) "Controlling stockholder or member", an individual
11 who owns or has the ability or power to directly or
12 indirectly vote ten percent or more of the outstanding
13 shares, membership interest, or membership units of the
14 family trust company;

15 (4) "Designated relative", a common ancestor of a
16 family, either living or deceased, who is so designated in a
17 family trust company's initial registration application and
18 any annual registration report;

19 (5) **"Director", the director of the division of**
20 **finance within the department of commerce and insurance;**

21 (6) **"Director's designee", an attorney-at-law or**
22 **certified public accountant designated by the director**
23 **pursuant to subsection 1 of section 362.1085;**

24 (7) "Engage in trust company business with the general
25 public", any sales, solicitations, arrangements, agreements,
26 or transactions to provide trust or other business services,
27 whether for a fee, commission, or any other type of
28 remuneration, with any person who is not a family member or
29 any sole proprietorship, partnership, limited liability
30 company, joint venture, association, corporation, trust,
31 estate, business trust, or other company that is not one
32 hundred percent owned by one or more family members;

33 [(6)] (8) "Family affiliate", a company or other
34 entity wholly and exclusively owned by, directly or
35 indirectly, and operated for the sole benefit of:

36 (a) One or more family members; or

37 (b) Charitable foundations, charitable trusts, or
38 other charitable entities if such foundation, trust, or
39 entity is funded exclusively by one or more family members;

- 40 [(7)] (9) "Family member":
- 41 (a) A designated relative;
- 42 (b) Any person within the tenth degree of lineal
- 43 kinship of a designated relative;
- 44 (c) Any person within the ninth degree of collateral
- 45 kinship to a designated relative;
- 46 (d) The spouse of any person who qualifies under
- 47 paragraphs (a) through (c) of this subdivision;
- 48 (e) Any former spouse of any person who qualifies
- 49 under paragraphs (a) through (c) of this subdivision;
- 50 (f) The probate estate of any person who qualified as
- 51 a family member under paragraphs (a) through (e) of this
- 52 subdivision;
- 53 (g) A family affiliate;
- 54 (h) An irrevocable trust funded exclusively by one or
- 55 more family members of which all permissible distributees,
- 56 as defined under subdivision (16) of section 456.1-103,
- 57 qualify under paragraphs (a) through (g) of this subdivision
- 58 or are charitable foundations, charitable trusts, or other
- 59 charitable entities;
- 60 (i) An irrevocable trust of which one or more family
- 61 members are the only permissible distributees; or
- 62 (j) A revocable trust of which one or more family
- 63 members are the sole settlors.

64 For purposes of this subdivision, a legally adopted person

65 shall be treated as a natural child of the adoptive parents;

66 a stepchild shall be treated as a natural child of the

67 family member who is or was the stepparent of that child;

68 and a foster child or an individual who was a minor when a

69 family member became his or her legal guardian shall be

70 treated as a natural child of the family member appointed as

71 foster parent or guardian. Degrees of kinship are
72 calculated by adding the number of steps from the designated
73 relative through each person to the family member either
74 directly in case of lineal kinship or through the common
75 ancestor in the case of collateral kinship;

76 [(8)] (10) "Family trust company", a corporation or
77 limited liability company organized or qualified to do
78 business in this state that is wholly owned and exclusively
79 controlled by, directly or indirectly, one or more family
80 members, excluding any former spouse of a family member;
81 that operates for the exclusive benefit of a family member
82 regardless of whether compensation is received or
83 anticipated; and that does not engage in trust company
84 business with the general public or otherwise hold itself
85 out as a trustee for hire by advertisement, solicitation, or
86 other means. The term "family trust company" shall include
87 foreign family trust companies unless context indicates
88 otherwise;

89 [(9)] (11) "Family trust company affiliated party":

90 (a) A director, officer, manager, employee, or
91 controlling stockholder or member of a family trust company;
92 or

93 (b) A stockholder, member, or any other person as
94 determined by the [secretary] **director** who participates in
95 the affairs of a family trust company;

96 [(10)] (12) "Foreign family trust company", a family
97 trust company that:

98 (a) Is licensed by the District of Columbia or a state
99 in the United States other than this state;

100 (b) Has its principal place of business in the
101 District of Columbia or a state in the United States other
102 than this state;

103 (c) Is operated in accordance with family or private
104 trust company laws of the District of Columbia or of the
105 state in which it is licensed;

106 (d) Is subject to statutory or regulatory mandated
107 oversight by the District of Columbia or state in which the
108 principal place of business is located; and

109 (e) Is not owned by or a subsidiary of a corporation,
110 limited liability company, or other business entity that is
111 organized in or licensed by any foreign country;

112 [(11)] (13) "Lineal kinship", a relationship in the
113 direct line of ascent or descent from a designated relative;

114 [(12)] (14) "Officer", an individual, regardless of
115 whether the individual has an official title or receives a
116 salary or other compensation, who may participate in the
117 major policy-making functions of a family trust company
118 other than as a director. The term shall not include an
119 individual who may have an official title and exercises
120 discretion in the performance of duties and functions but
121 who does not participate in determining the major policies
122 of the family trust company and whose decisions are limited
123 by policy standards established by other officers,
124 regardless of whether the policy standards have been adopted
125 by the board of directors. The chair of the board of
126 directors, the president, the chief executive officer, the
127 chief financial officer, the senior trust officer, all
128 executive vice presidents of a family trust company, and all
129 managers if organized as a limited liability company are
130 presumed to be officers unless such officer is excluded,
131 other than in the capacity of a director, by resolution of
132 the board of directors or members or by the bylaws or
133 operating agreement of the family trust company from
134 participating in major policy-making functions of the family

135 trust company, and such excluded officer does not actually
136 participate therein;

137 [(13)] (15) "Organizational instrument", the articles
138 of incorporation for a corporation or the articles of
139 organization for a limited liability company, as they may be
140 amended or supplemented from time to time;

141 [(14)] (16) "Principal place of business", the
142 physical location where officers of a family trust company
143 direct, control, and coordinate the trust company's
144 activities;

145 [(15)] (17) "Principal place of operations", the
146 physical location in this state where a foreign family trust
147 company stores and maintains its books and records
148 pertaining to operations in this state;

149 [(16)] (18) "Qualified beneficiary", the same meaning
150 as defined under subdivision (21) of section 456.1-103;

151 [(17)] (19) "Registered agent", a business or
152 individual designated by a family trust company to receive
153 service of process on behalf of the family trust company;

154 [(18)] (20) "Reports of examinations, operations, or
155 conditions", records submitted to the [secretary] **director**
156 or prepared by the [secretary] **director** as part of the
157 [secretary's] **director's** duties performed under sections
158 362.1010 to 362.1117;

159 [(19)] (21) "Secretary", the secretary of state for
160 the state of Missouri;

161 [(20)] "Secretary's designee", an attorney-at-law or a
162 certified public accountant designated by the secretary
163 under subsection 1 of section 362.1085;

164 [(21)] (22) "Working papers", the records of the
165 procedures followed, tests performed, information obtained,
166 and conclusions reached in an investigation under sections

167 362.1010 to 362.1117. The term "**working papers**" shall also
168 include books and records.

362.1030. 1. There is hereby established in the state
2 treasury the "Family Trust Company Fund", which shall
3 consist of all fees collected by the [secretary] **director**
4 from family trust companies registering as provided in this
5 section. The state treasurer shall be custodian of the
6 fund. In accordance with sections 30.170 and 30.180, the
7 state treasurer may approve disbursements. The fund shall
8 be a dedicated fund, and moneys in the fund shall be used
9 solely to support the [secretary's] **director's** role and
10 fulfillment of duties under sections 362.1010 to 362.1117.
11 Notwithstanding the provisions of section 33.080 to the
12 contrary, any moneys remaining in the fund at the end of the
13 biennium that exceed twenty thousand dollars shall revert to
14 the credit of the general revenue fund. The state treasurer
15 shall invest moneys in the fund in the same manner as other
16 funds are invested. Any interest and moneys earned on such
17 investments shall be credited to the fund.

18 2. A family trust company that is not a foreign family
19 trust company shall not conduct business in this state
20 unless such family trust company:

21 (1) Files [its organizational instrument with the
22 secretary;

23 (2) Pays] **with the director, an initial registration**
24 **application in a format prescribed by the director**, a one-
25 time original filing fee of five thousand dollars [to the
26 secretary; and

27 (3) Registers by filing with the secretary an initial
28 registration application in a format prescribed by the
29 secretary], **the proposed organizational instruments to be**

30 filed with the secretary, and all required filing fees for
31 the proposed organizational instruments; and

32 (2) Receives an order approving the application from
33 the director, who shall file with the secretary the order,
34 the proposed organizational instruments, and all required
35 filing fees for the proposed organizational instruments.

36 A family trust company that is not a foreign family trust
37 company and that, as of August 28, 2024, was a registered
38 family trust company in good standing with the secretary
39 shall be deemed to have complied with the requirements of
40 subdivisions (1) and (2) of this subsection.

41 3. A foreign family trust company shall not conduct
42 business in this state unless such foreign family trust
43 company:

44 (1) [Pays] Files with the director, an initial
45 registration application in a format prescribed by the
46 director and as provided by subsection 5 of this section, a
47 one-time original filing fee of five thousand dollars [to],
48 the proposed application for a certificate of authority if
49 the foreign family trust company is filing as a corporation
50 or the proposed application for registration if the foreign
51 family trust company is filing as a limited liability
52 company to be filed with the secretary and all required
53 filing fees for the proposed application; and

54 (2) [Registers by filing with the secretary an initial
55 registration application in a format prescribed by the
56 secretary; and

57 (3) If such foreign family trust company is a
58 corporation, files an application for a certificate of
59 authority or, if such foreign family trust company is a
60 limited liability company, files an application for

61 [registration] **Receives an order approving the application**
62 **from the director, who shall file with the secretary the**
63 **order, the proposed application for a certificate of**
64 **authority or the proposed application for registration, and**
65 **all required filing fees for the proposed application.**

66 **A foreign family trust company that is, as of August 28,**
67 **2024, a registered family trust company in good standing**
68 **with the secretary shall be deemed to have complied with the**
69 **requirements of subdivisions (1) and (2) of this subsection.**

70 4. The [secretary] **director** shall deposit all family
71 trust company filing fees into the family trust company fund
72 established under subsection 1 of this section.

73 5. A foreign family trust company application shall be
74 submitted on a form prescribed by the [secretary] **director**
75 and be signed, under penalty of perjury, by an authorized
76 representative. At a minimum, the application shall include:

77 (1) A statement attesting that the foreign family
78 trust company:

79 (a) Will comply with the provisions of sections
80 362.1010 to 362.1117; and

81 (b) Is in compliance with the family trust company
82 laws and regulations of the jurisdiction of its
83 incorporation or organization;

84 (2) The current telephone number and street address of:

85 (a) The foreign family trust company's principal place
86 of business in the jurisdiction of its incorporation or
87 organization;

88 (b) The foreign family trust company's principal place
89 of operations; and

90 (c) Any other offices located within this state;

91 (3) The name and current street address in this state
92 of its registered agent;

93 (4) A certified copy of a certificate of good
94 standing, or an equivalent document, authenticated by the
95 official having custody of records in the jurisdiction where
96 the foreign family trust company is incorporated or
97 organized;

98 (5) Satisfactory proof, as determined by the
99 **[secretary] director**, that the foreign family trust company
100 is organized in a manner similar to a Missouri family trust
101 company and is in compliance with the family trust company
102 laws and regulations of the jurisdiction in which the
103 foreign family trust company was incorporated or organized;
104 and

105 (6) Any other information reasonably **[and customarily]**
106 required by the **[secretary of foreign corporations or**
107 **foreign limited liability companies seeking to qualify to**
108 **conduct business in this state] director**.

362.1035. 1. No family trust company shall be
2 organized or operated with a capital account of less than
3 two hundred fifty thousand dollars. The full amount of the
4 initial capital account of a family trust company shall
5 consist of one or more asset groups described under
6 subsection 1 of section 362.1070, exclusive of all
7 organization expenses.

8 2. A family trust company shall maintain:

9 (1) A physical office in this state where original or
10 true copies, including electronic copies, of all material
11 business records and accounts of the family trust company
12 may be accessed and are readily available for examination by
13 the **[secretary] director**. A family trust company may also

14 maintain one or more branch offices within or outside of
15 this state;

16 (2) A registered agent who maintains an office in this
17 state;

18 (3) All applicable state and local business licenses,
19 charters, and permits; and

20 (4) A deposit account with a state-chartered or
21 national financial institution that has a principal or
22 branch office in this state.

23 3. In addition to the requirements of subsection 2 of
24 this section, a foreign family trust company shall also:

25 (1) Be in good standing in the jurisdiction in which
26 it is incorporated or organized; and

27 (2) Stay in compliance with the family trust company
28 laws and regulations of such jurisdiction.

362.1055. 1. A family trust company shall file an
2 annual registration report with, and shall pay an annual
3 filing fee of one thousand dollars to, the **[secretary]**
4 **director.**

5 2. The annual registration report filed by a family
6 trust company that is not a foreign family trust company
7 shall include:

8 (1) A statement by an authorized representative
9 verifying that the family trust company is in compliance
10 with the provisions of sections 362.1010 to 362.1117 and
11 with applicable federal laws including, but not limited to,
12 anti-money laundering and customer-identification rules or
13 regulations;

14 (2) The name of the company's designated relative and
15 the street address for its principal place of business; and

16 (3) Any other information reasonably **[and customarily]**
17 required by the **[secretary of general business corporations]**

18 in connection with filing their annual registration reports]
19 **director.**

20 3. The annual registration report filed by a foreign
21 family trust company shall include:

22 (1) A statement by an authorized representative
23 verifying that the foreign family trust company is in
24 compliance with the provisions of sections 362.1010 to
25 362.1117, with the family trust company laws and regulations
26 of the jurisdiction in which it was incorporated or
27 organized, and with applicable federal laws including, but
28 not limited to, anti-money laundering and customer-
29 identification rules or regulations;

30 (2) The current telephone number and street address of
31 the foreign family trust company's principal place of
32 business in the jurisdiction in which it was incorporated or
33 organized;

34 (3) The current telephone number and street address of
35 the foreign family trust company's principal place of
36 operations;

37 (4) The current telephone number and address of the
38 physical location of any other offices located in this state;

39 (5) The name and current street address in this state
40 of the trust company's registered agent;

41 (6) Documentation, to the satisfaction of the
42 **[secretary] director**, showing that the foreign family trust
43 company is in compliance with the family trust company laws
44 and regulations of the jurisdiction in which it was
45 incorporated or organized; and

46 (7) Any other information reasonably **[and customarily]**
47 required by the **[secretary of general business corporations]**
48 **in connection with filing their annual registration reports]**

49 **director.**

50 4. An annual registration report shall be submitted on
51 a form prescribed by the [secretary] **director** and signed
52 under penalty of perjury by an authorized representative.

 362.1060. 1. A family trust company may, but only for
2 family members:

3 (1) Act as a sole or copersonal representative,
4 executor, or administrator for a probate estate within or
5 outside this state;

6 (2) Act as an attorney-in-fact or agent under a power
7 of attorney;

8 (3) Except as provided under section 362.1065, act
9 within or outside this state as a sole fiduciary or
10 cofiduciary, including acting as a trustee, advisory agent,
11 assignee, assignee for the benefit of creditors,
12 authenticating agent, bailee, bond or indenture trustee,
13 conservator, conversion agent, custodian, escrow agent,
14 fiscal or paying agent, financial advisor, guardian,
15 investment advisor or manager, managing agent, purchase
16 agent, receiver, registrar, safekeeping or subscription
17 agent, transfer agent for entities other than public
18 companies, warrant agent, or other similar capacity
19 generally performed by a corporate trustee. In so acting,
20 the family trust company may possess, purchase, sell,
21 invest, reinvest, safekeep, or otherwise manage or
22 administer the real or personal property of family members;

23 (4) Exercise the powers of a corporation or limited
24 liability company incorporated or organized under the laws
25 of this state, or qualified to transact business as a
26 foreign corporation or limited liability company under the
27 laws of this state that are reasonably necessary to enable
28 the trust company to fully exercise a power conferred under

29 sections 362.1010 to 362.1117 in accordance with commonly
30 accepted customs and usages;

31 (5) Delegate duties and powers, including investment
32 and management functions under section 469.909, in
33 accordance with the powers granted to a trustee under
34 chapter 456 or other applicable law and retain agents,
35 attorneys, accountants, investment advisors, or other
36 individuals or entities to advise or assist the family trust
37 company in the exercise of its powers and duties under
38 sections 362.1010 to 362.1117 and chapter 456. Such
39 exercise of power may include, but is not limited to,
40 retaining a bank trust department or a public trust company
41 other than another family trust company; and

42 (6) Perform all acts necessary to exercise the powers
43 enumerated in this section or authorized under sections
44 362.1010 to 362.1117 and other applicable laws of this state.

45 2. A foreign family trust company **that has complied**
46 **with section 362.1030 and is** in good standing in the
47 jurisdiction in which it is incorporated or organized may
48 exercise all the trust powers in this state that a Missouri
49 family trust company may exercise.

362.1085. 1. The [secretary] **director** may designate
2 an attorney-at-law or a certified public accountant to
3 examine or investigate, or assist in the examination of, a
4 family trust company.

5 2. The [secretary] **director** or the [secretary's]
6 **director's** designee may examine or investigate a family
7 trust company at any time the [secretary] **director** deems
8 necessary to determine if the family trust company engaged
9 in an act prohibited under section 362.1065 or 362.1080 and,
10 if a family trust company engaged in such act, to determine
11 whether any other applicable law was violated.

12 3. The **[secretary] director** or the **[secretary's]**
13 **director's** designee may examine the books and records of a
14 foreign family trust company at any time the **[secretary]**
15 **director** deems necessary to determine if such foreign family
16 trust company is in compliance with sections 362.1010 to
17 362.1117. In connection with an examination of the books
18 and records of the trust company, the **[secretary] director**
19 or the **[secretary's] director's** designee may rely upon the
20 most recent examination report, review, certification
21 letters, or similar documentation issued by the agency
22 supervising the foreign family trust company in the
23 jurisdiction in which the foreign family trust company is
24 incorporated or organized. The examination by the
25 **[secretary] director** or the **[secretary's] director's**
26 designee of the books and records of a foreign family trust
27 company shall be, to the extent practicable, limited to
28 books and records of operations in this state.

29 4. For each examination or investigation of a family
30 trust company under this section, the family trust company
31 shall pay the costs of the examination or investigation. As
32 used in this subsection, the term "costs" means the salary
33 of and travel expenses incurred by any individual that are
34 directly attributable to the examination or investigation of
35 the family trust company. The mailing of payment for costs
36 incurred shall be postmarked within thirty days after the
37 receipt of a notice that states the costs are due. The
38 **[secretary] director** may levy a late payment of up to one
39 hundred dollars per day for each day that a payment is
40 overdue unless waived for good cause. However, if the late
41 payment of costs is intentional, the **[secretary] director**
42 may levy an administrative fine of up to one thousand
43 dollars per day for each day the payment is overdue.

44 5. The **[secretary] director** may establish by rule the
45 requirements and records necessary to demonstrate conformity
46 with sections 362.1010 to 362.1117 by a family trust company.

 362.1090. 1. The **[secretary] director** or the
2 **[secretary's] director's** designee may issue and serve upon a
3 family trust company or family trust company affiliated
4 party a notice of charges if the **[secretary] director** or the
5 **[secretary's] director's** designee has reason to believe that
6 such company, family trust company affiliated party, or
7 individual named therein is engaging in or has engaged in
8 any of the following acts:

9 (1) The family trust company fails to satisfy the
10 requirements of a family trust company or foreign family
11 trust company under sections 362.1010 to 362.1117;

12 (2) A violation of section 362.1035, 362.1040,
13 362.1050, 362.1055, 362.1060, or 362.1080;

14 (3) A violation of any rule of the **[secretary]**
15 **director;**

16 (4) A violation of any order of the **[secretary]**
17 **director;**

18 (5) A breach of any written agreement with the
19 **[secretary] director;**

20 (6) A prohibited act or practice under section
21 362.1065;

22 (7) A willful failure to provide information or
23 documents to the **[secretary] director** upon written request;

24 (8) An act of commission or omission that is
25 judicially determined by a court of competent jurisdiction
26 to be a breach of trust or fiduciary duty; or

27 (9) A violation of state or federal law related to
28 anti-money laundering, customer identification, or any
29 related rule or regulation.

30 2. The notice of charges shall contain a statement of
31 facts and notice of opportunity for a hearing.

32 3. If no hearing is requested within thirty days after
33 the date of service of the notice of charges or if a hearing
34 is held and the [secretary] **director** or [secretary's]
35 **director's** designee finds that any of the charges are true,
36 the [secretary] **director** or [secretary's] **director's**
37 designee may enter an order directing the family trust
38 company, family trust company affiliated party, or the
39 individual named in the notice of charges to cease and
40 desist such conduct and to take corrective action.

41 4. A contested or default cease and desist order is
42 effective when reduced to writing and served upon the family
43 trust company, family trust company affiliated party, or the
44 individual named therein. An uncontested cease and desist
45 order is effective as agreed.

46 5. If the [secretary] **director** or the [secretary's]
47 **director's** designee finds that conduct described under
48 subsection 1 of this section is likely to cause substantial
49 prejudice to members, [shareholders] **stockholders**,
50 beneficiaries of fiduciary accounts of the family trust
51 company, or beneficiaries of services rendered by the family
52 trust company, the [secretary] **director** or the [secretary's]
53 **director's** designee may issue an emergency cease and desist
54 order requiring the family trust company, family trust
55 company affiliated party, or individual named therein to
56 immediately cease and desist from engaging in the conduct
57 stated and to take corrective action. The emergency order
58 is effective immediately upon service of a copy of the order
59 upon the family trust company or family trust company
60 affiliated party and shall remain effective for ninety
61 days. If the [secretary] **director** or the [secretary's]

62 **director's** designee begins nonemergency cease and desist
63 proceedings under subsection 1 of this section, the
64 emergency order shall remain effective until the conclusion
65 of the proceedings under this section.

66 6. A family trust company shall have ninety days to
67 wind up its affairs after entry of any order to cease and
68 desist from operating as a family trust company. If a
69 family trust company that is not a foreign family trust
70 company is still operating after ninety days, the
71 **[secretary] director** or the **[secretary's] director's**
72 designee may seek an order from a circuit court for the
73 annulment or dissolution of the company. If a foreign
74 family trust company is still operating after ninety days,
75 the **[secretary] director** or the **[secretary's] director's**
76 designee may seek an injunction from a circuit court
77 restraining the company from continuing to operate in this
78 state.

362.1095. If a family trust company fails to submit
2 within the prescribed period its annual registration report
3 or any other report required by sections 362.1010 to
4 362.1117 or rule, the **[secretary] director** may impose a fine
5 of up to one hundred dollars for each day that the annual
6 registration report or other report is overdue. Failure to
7 provide the annual registration report within sixty days
8 after the end of the calendar year shall automatically
9 result in termination of the registration of a family trust
10 company. A family trust company may have its registration
11 automatically reinstated by submitting to the **[secretary]**
12 **director**, on or before August thirty-first of the calendar
13 year in which the annual registration report is due, the
14 company's annual registration report, a five hundred dollar
15 late fee, and the amount of any fine imposed by the

16 [secretary] **director** under this section. A family trust
17 company that fails to renew or reinstate its registration
18 shall wind up its affairs on or before November thirtieth of
19 the calendar year in which such failure occurs.

362.1100. 1. The [secretary] **director** or the
2 [secretary's] **director's** designee may issue and serve upon a
3 family trust company and a family trust company affiliated
4 party a notice of charges if the [secretary] **director** or the
5 [secretary's] **director's** designee has reason to believe that
6 the family trust company affiliated party is engaging or has
7 engaged in conduct that:

8 (1) Demonstrates that the family trust company does
9 not satisfy the requirements of a family trust company or of
10 a foreign family trust company under sections 362.1010 to
11 362.1117;

12 (2) Is a prohibited act or practice under section
13 362.1065;

14 (3) Violates section 362.1035, 362.1040, 362.1050,
15 362.1055, 362.1060, or 362.1080;

16 (4) Violates any other law involving fraud or moral
17 turpitude that constitutes a felony;

18 (5) Violates a state or federal law related to anti-
19 money laundering, customer identification, or any related
20 rule or regulation;

21 (6) Is a willful violation of a rule of the
22 [secretary] **director**;

23 (7) Is a willful violation of an order of the
24 [secretary] **director**;

25 (8) Is a willful breach of a written agreement with
26 the [secretary] **director**; or

27 (9) Is an act of commission or omission or a practice
28 that the [secretary] **director** or the [secretary's]

29 **director's** designee has reason to believe is a breach of
30 trust or fiduciary duty.

31 2. The notice of charges shall contain a statement of
32 facts and notice of opportunity for a hearing.

33 3. If no hearing is requested within thirty days after
34 the date of service of the notice of charges or if a hearing
35 is held and the **[secretary] director** or **[secretary's]**
36 **director's** designee finds that any of the charges in the
37 notice of charges are true, the **[secretary] director** or
38 **[secretary's] director's** designee may enter an order that
39 removes the family trust company affiliated party from the
40 family trust company or that restricts or prohibits the
41 family trust company affiliated party from participating in
42 the affairs of the family trust company.

43 4. A contested or default order of removal is
44 effective when reduced to writing and served upon the family
45 trust company and the family trust company affiliated
46 party. An uncontested order of removal is effective as
47 agreed.

48 5. (1) The chief executive officer of a family trust
49 company or the person holding the equivalent office shall
50 promptly notify the **[secretary] director** if such person has
51 actual knowledge that a family trust company affiliated
52 party is charged with a felony in a state or federal court.

53 (2) If a family trust company affiliated party is
54 charged with a felony in a state or federal court or, in a
55 court of a foreign country with which the United States
56 maintains diplomatic relations, is charged with an offense
57 that involves a violation of law relating to fraud, currency
58 transaction reporting, money laundering, theft, or moral
59 turpitude and such offense is equivalent to a felony charge
60 under state or federal law, then the **[secretary] director** or

61 the [secretary's] **director's** designee may enter an emergency
62 order that suspends the family trust company affiliated
63 party or that restricts or prohibits participation by such
64 party in the affairs of the family trust company effective
65 upon service of the order on the company and such family
66 trust company affiliated party.

67 (3) The order shall contain notice of opportunity for
68 a hearing, at which the family trust company affiliated
69 party may request a postsuspension hearing to show that
70 continued service to or participation in the affairs of the
71 family trust company does not pose a threat to the interests
72 of the family trust company. In accordance with applicable
73 rules, the [secretary] **director** or [secretary's] **director's**
74 designee shall notify the family trust company affiliated
75 party whether the order suspending or prohibiting the family
76 trust company affiliated party from participating in the
77 affairs of the family trust company will be rescinded or
78 otherwise modified. The emergency order shall remain in
79 effect, unless otherwise modified by the [secretary]
80 **director** or [secretary's] **director's** designee, until the
81 criminal charge is disposed. The emergency order shall
82 dissolve upon the final, unappealed dismissal of all charges
83 against or the acquittal of the family trust company
84 affiliated party. Such occurrences shall not prohibit the
85 [secretary] **director** or the [secretary's] **director's**
86 designee from instituting proceedings under subsection 1 of
87 this section. If the family trust company affiliated party
88 charged is convicted or pleads guilty or nolo contendere,
89 regardless of adjudication, the emergency order shall become
90 final.

91 6. No family trust company affiliated party removed
92 from office under this section shall be eligible for

93 reinstatement to such office or to any other official
94 position in a family trust company or financial institution
95 in this state except with the written consent of the
96 **[secretary] director**. A family trust company affiliated
97 party who is removed, restricted, or prohibited from
98 participation in the affairs of a family trust company under
99 this section may petition the **[secretary] director** for
100 modification or termination of such removal, restriction, or
101 prohibition.

102 7. The resignation, termination of employment or
103 participation, or separation from a family trust company of
104 the family trust company affiliated party shall not affect
105 the jurisdiction and authority of the **[secretary] director**
106 or the **[secretary's] director's** designee to issue a notice
107 and proceed under this section against the family trust
108 company affiliated party if such notice is served within six
109 years of the date such person ceased to be a family trust
110 company affiliated party.

362.1105. 1. The books and records of a family trust
2 company are confidential and shall be made available for
3 inspection and examination only:

4 (1) To the **[secretary] director** or the **[secretary's**
5 **authorized representative] director's designee;**

6 (2) To any person authorized to act for the family
7 trust company;

8 (3) As compelled by a court, pursuant to a subpoena
9 issued in accordance with state or federal law. Before the
10 production of the books and records, the party seeking
11 production shall agree to reimburse the company for the
12 reasonable costs and fees incurred in compliance with the
13 production. If the parties disagree on the amount of
14 reimbursement, the party seeking the records may request the

15 court that issued the subpoena to set the amount of
16 reimbursement;

17 (4) Pursuant to a subpoena held by any federal or
18 state law enforcement or prosecutorial instrumentality
19 authorized to investigate suspected criminal activity;

20 (5) As authorized by, if a corporation, the board of
21 directors or, if a limited liability company, the managers;
22 or

23 (6) As provided under subsection 2 of this section.

24 2. (1) If a corporation, each customer and
25 stockholder, or if a limited liability company, each member
26 has the right to inspect the books and records of a family
27 trust company as they pertain to such person's accounts or
28 the determination of such person's voting rights.

29 (2) The books and records pertaining to customers,
30 members, and stockholders of a family trust company shall be
31 kept confidential by the company and its directors,
32 managers, officers, and employees. The books and records of
33 customers, members, and stockholders shall not be released
34 except upon the express authorization of the customer as to
35 his or her own accounts or a stockholder or member regarding
36 his or her voting rights. However, information may be
37 released without the authorization of a customer, member, or
38 **[shareholder] stockholder** in a manner prescribed by the
39 board of directors of a corporation or managers of a limited
40 liability company for the purposes of verifying or
41 corroborating the existence or amount of a customer's
42 account if such information is reasonably provided to meet
43 the needs of commerce and to ensure accurate credit
44 information. Notwithstanding this subdivision, this
45 subsection shall not prohibit a family trust company from

46 disclosing financial information as permitted under 15
47 U.S.C. Section 6802, as amended.

48 (3) The willful unlawful disclosure of confidential
49 information in violation of this section shall be a class E
50 felony.

51 (4) This subsection shall not apply to a foreign
52 family trust company. The laws of the jurisdiction in which
53 a foreign family trust company was incorporated or organized
54 govern the rights of its customers, members, and
55 stockholders to inspect its books and records.

56 3. For purposes of this section, the term "books and
57 records" shall include, but is not limited to, the initial
58 registration documents of a family trust company under
59 section 362.1030 and the annual registration report made by
60 a family trust company under section 362.1055.

362.1110. 1. A family trust company shall keep at its
2 principal place of business or principal place of operations:

3 (1) Full and complete records of the names and
4 residences of all its **[shareholders]** **stockholders** or members;

5 (2) The number of shares or membership units held by
6 each, as applicable; and

7 (3) The ownership percentage of each **[shareholder]**
8 **stockholder** or member.

9 The records are subject to inspection by all **[shareholders]**
10 **stockholders** or members of the family trust company and the
11 **[secretary]** **director** or the **[secretary's authorized**
12 **representative]** **director's designee** during the normal
13 business hours of the family trust company. A current list
14 of **[shareholders]** **stockholders** or members shall be made
15 available to the **[secretary]** **director** or the **[secretary's**
16 **authorized representative]** **director's designee** for their

17 inspection and, upon the request of the [secretary]
18 **director**, shall be submitted to the [secretary] **director**.

19 2. The [secretary] **director** shall retain for at least
20 ten years:

21 (1) Examination reports;

22 (2) Investigatory records;

23 (3) The organizational instrument of a family trust
24 company; and

25 (4) The annual registration reports filed by a family
26 trust company.

27 3. A copy of any document on file with the [secretary]
28 **director** that is certified by the [secretary] **director** as a
29 true copy may be introduced in evidence as if it were the
30 original. The [secretary] **director** shall establish a
31 schedule of fees for preparing true copies of documents.

32 4. Orders issued by courts or administrative law
33 judges for the production of confidential records or
34 information shall provide for inspection in camera by the
35 court or the administrative law judge. If the court or
36 administrative law judge determines that the documents
37 requested are relevant or would likely lead to the discovery
38 of admissible evidence, the documents shall be subject to
39 further orders by the court or the administrative law judge
40 to protect the confidentiality thereof. An order directing
41 the release of information shall be immediately reviewable,
42 and a petition by the [secretary] **director** for review of the
43 order shall automatically stay any further proceedings in a
44 trial court or administrative hearing until the disposition
45 of the petition by the reviewing court. If any other party
46 files a petition for review, such filing shall stay
47 proceedings only upon an order of the reviewing court.

362.1115. 1. The following information held by the
2 **[secretary] director** is confidential and exempt from chapter
3 610:

4 (1) Any personal identifying information appearing in
5 records relating to a registration or an annual
6 certification of a family trust company;

7 (2) Any personal identifying information appearing in
8 records relating to an examination of a family trust company;

9 (3) Any personal identifying information appearing in
10 reports of examinations, operations, or conditions of a
11 family trust company, including working papers;

12 (4) Any portion of a list of names of the
13 **[shareholders] stockholders** or members of a family trust
14 company;

15 (5) Information received by the **[secretary] director**
16 from a person from another state or nation or the federal
17 government that is otherwise confidential or exempt under
18 the laws of such state or nation or under federal law; and

19 (6) An emergency cease and desist order issued under
20 section 362.1090 until the emergency order is made
21 permanent, unless the **[secretary] director** finds that such
22 confidentiality will result in substantial risk of financial
23 loss to the public.

24 2. Information made confidential and exempt under
25 subsection 1 of this section may be disclosed by the
26 **[secretary] director** to:

27 (1) The authorized representative or representatives
28 of the family trust company under examination. The
29 authorized representative or representatives shall be
30 identified in a resolution or by written consent of the
31 board of directors if a corporation or the managers if a
32 limited liability company;

33 (2) A fidelity insurance company upon written consent
34 of the family trust company's board of directors if a
35 corporation or its managers if a limited liability company;

36 (3) An independent auditor upon written consent of the
37 family trust company's board of directors if a corporation
38 or its managers if a limited liability company;

39 (4) A liquidator, receiver, or conservator if
40 appointed. However, any portion of the information that
41 discloses the identity of a bondholder, customer, family
42 member, member, or stockholder shall be redacted by the
43 [secretary] **director** before releasing such information;

44 (5) Any other state, federal, or foreign agency
45 responsible for the regulation or supervision of family
46 trust companies;

47 (6) A law enforcement agency in the furtherance of
48 such agency's official duties and responsibilities;

49 (7) The appropriate law enforcement or prosecutorial
50 agency for the purpose of reporting any suspected criminal
51 activity; or

52 (8) Comply with a legislative subpoena. A legislative
53 body or committee that receives records or information
54 pursuant to such subpoena shall maintain the confidential
55 status of such records or information. However, in a case
56 involving the investigation of charges against a public
57 official subject to impeachment or removal, records or
58 information may be disclosed to the extent necessary as
59 determined by the legislative body or committee.

60 3. This section shall not prevent or restrict the
61 publication of:

62 (1) A report required by federal law; or

63 (2) The name of the family trust company and the
64 address of its registered agent.

65 4. The willful disclosure of information made
66 confidential and exempt by this section is a class E felony.

 362.1116. 1. The **[secretary] director** may issue forms
2 and orders and, after notice and comment, may adopt and
3 amend rules necessary or appropriate to carry out the
4 provisions of sections 362.1010 to 362.1117 and may repeal
5 rules and forms.

6 **2. Any rule or portion of a rule, as that term is**
7 **defined in section 536.010, that is created under the**
8 **authority delegated in this section shall become effective**
9 **only if it complies with and is subject to all of the**
10 **provisions of chapter 536 and, if applicable, section**
11 **536.028. This section and chapter 536 are nonseverable and**
12 **if any of the powers vested with the general assembly**
13 **pursuant to chapter 536 to review, to delay the effective**
14 **date, or to disapprove and annul a rule are subsequently**
15 **held unconstitutional, then the grant of rulemaking**
16 **authority and any rule proposed or adopted after August 28,**
17 **2024, shall be invalid and void.**

 362.1117. 1. Except as otherwise provided in sections
2 362.1010 to 362.1117, any interested person aggrieved by any
3 order of the **[secretary] director** or **[secretary's]**
4 **director's** designee under any provision of sections 362.1010
5 to 362.1117 shall be entitled to a hearing before the
6 **[secretary] director** or the **[secretary's authorized**
7 **representative] director's designee** in accordance with the
8 provisions of chapter 536. A cease and desist order issued
9 by the **[secretary] director** or **[secretary's] director's**
10 designee is subject to judicial review in accordance with
11 the provisions of chapter 536 in the circuit court of Cole
12 County.

13 2. A rule adopted under sections 362.1010 to 362.1117
14 is subject to judicial review in accordance with the
15 provisions of chapter 536 in the circuit court of Cole
16 County.

✓