

By Representative Flanagan

1                                   A bill to be entitled  
2           An act relating to trust powers; amending s.  
3           660.41, F.S.; excluding certain banks or  
4           associations and trust companies from a  
5           prohibition against exercising certain powers  
6           and duties and acting within certain capacities  
7           in this state; providing an effective date.

8

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

10

11           Section 1. Section 660.41, Florida Statutes, is  
12 amended to read:

13           660.41 Corporations; certain fiduciary functions  
14 prohibited.--All corporations, ~~except banks or associations~~  
15 ~~and trust companies incorporated under the laws of this state~~  
16 ~~and having trust powers and except national banking~~  
17 ~~associations or federal associations located in this state and~~  
18 ~~having trust powers~~, are prohibited from exercising any of the  
19 powers or duties and from acting in any of the capacities,  
20 within this state, as follows:

21           (1) As personal representative of the estate of any  
22 decedent, whether such decedent was a resident of this state  
23 or not, and whether the administration of the estate of such  
24 decedent is original or ancillary; however, if the personal  
25 representative of the estate of a nonresident decedent is a  
26 corporation duly authorized, qualified, and acting as such  
27 personal representative in the jurisdiction of the domicile of  
28 the decedent, it may as a foreign personal representative  
29 perform such duties and exercise such powers and privileges as  
30 are required, authorized, or permitted by s. 734.101.

31

1           (2) As receiver or trustee under appointment of any  
2 court in this state.

3           (3) As assignee, receiver, or trustee of any insolvent  
4 person or corporation or under any assignment for the benefit  
5 of creditors.

6           (4) As fiscal agent, transfer agent, or registrar of  
7 any municipal or private corporation, except that this  
8 prohibition shall not be so construed as to prevent banks,  
9 associations, and trust companies not located in this state  
10 from acting within the state where located as fiscal agent,  
11 transfer agent, or registrar of municipal or private  
12 corporations of this state. Nothing herein shall prevent any  
13 Florida corporation that is not a bank, association, or trust  
14 company and that does not have trust powers from being its own  
15 fiscal agent, transfer agent, or registrar concerning its own  
16 affairs, stock, or securities. Nothing herein shall prevent  
17 any Florida corporation or corporation having its principal  
18 place of business in Florida registered as a transfer agent  
19 with the Federal Deposit Insurance Corporation, the  
20 Comptroller of the Currency, the Board of Governors of the  
21 Federal Reserve System, or the Securities and Exchange  
22 Commission from acting as a transfer agent for any other  
23 private corporation. Nothing in this section or in any other  
24 law of this state shall be construed to prohibit a foreign  
25 bank, foreign association, or foreign trust company as trustee  
26 of any charitable foundation or endowment, employees' pension,  
27 retirement or profit-sharing trust, alone or together with a  
28 cotrustee, from: making loans or committing to make loans to  
29 any other person; contracting, in this state or elsewhere,  
30 with any person to acquire from such person a part or the  
31 entire interest in a loan which such person proposes to make,

1 has heretofore made, or hereafter makes, together with a like  
2 interest in any security instrument covering real or personal  
3 property in the state proposed to be given or hereafter or  
4 heretofore given to such person to secure or evidence such  
5 loan; servicing directly or entering into servicing contracts  
6 with persons, and enforcing in this state the loans made by it  
7 or obligations heretofore or hereafter acquired by it in the  
8 transaction of business outside this state or in the  
9 transaction of any business authorized or permitted hereby; or  
10 acquiring, holding, leasing, mortgaging, contracting with  
11 respect to, or otherwise protecting, managing, or conveying  
12 property in this state which has heretofore or may hereafter  
13 be assigned, transferred, mortgaged, or conveyed to it as  
14 security for, or in whole or in part in satisfaction of, a  
15 loan or loans made by it or obligations acquired by it in the  
16 transaction of any business authorized or permitted hereby.  
17 However, no such foreign bank, foreign association, or foreign  
18 trust company shall be deemed to be transacting business in  
19 this state, shall be required to qualify so to do, or shall be  
20 deemed to be unlawfully exercising powers or duties, acting in  
21 an unlawful or prohibited capacity, or violating any of the  
22 provisions of this section or of any other law of this state  
23 solely by reason of the performance of any of the acts or  
24 business hereinbefore permitted or authorized hereby; further,  
25 nothing herein shall be construed as authorizing or permitting  
26 any foreign bank, association, or trust company to maintain an  
27 office within this state.

28  
29 This section does not apply to banks or associations and trust  
30 companies incorporated under the laws of this state and having  
31 trust powers, banks or associations and trust companies

1 resulting from an interstate merger transaction with a Florida  
2 bank pursuant to s. 658.2953 and having trust powers, or  
3 national banking associations or federal associations located  
4 in this state and having trust powers.

5 Section 2. This act shall take effect September 1,  
6 1999.

7  
8 \*\*\*\*\*

9 HOUSE SUMMARY

10 Excludes banks or associations and trust companies  
11 resulting from an interstate merger transaction with a  
12 Florida bank under Florida law and having trust powers  
13 from a prohibition against corporations conducting trust  
14 business in Florida. See bill for details.  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31