

By Senator Richter

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1                                   A bill to be entitled  
2       An act relating to family trust companies; creating  
3       chapter 662, F.S.; creating s. 662.10, F.S.; providing  
4       a short title; creating s. 662.102, F.S.; providing  
5       the purpose of the act; creating s. 662.111, F.S.;  
6       defining terms; creating s. 662.112, F.S.; providing  
7       for the calculation of kinship; creating s. 662.113,  
8       F.S.; providing for the applicability of financial  
9       institutions codes; creating s. 662.114, F.S.;  
10      exempting a family trust company or foreign licensed  
11      family trust company from licensure; creating s.  
12      662.115, F.S.; providing for the applicability of the  
13      chapter to a family trust company or foreign licensed  
14      family trust company; creating s. 662.120, F.S.;  
15      specifying the maximum number of designated relatives  
16      allowed for a family trust company and a licensed  
17      family trust company; creating s. 662.121, F.S.;  
18      providing procedures for applying for a family trust  
19      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

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30 provisions; authorizing the use of the term "trust";  
31 creating s. 662.124, F.S.; requiring a minimum amount  
32 of owners' equity; creating s. 662.125, F.S.; vesting  
33 exclusive authority to manage a family trust company  
34 or licensed family trust company in a board of  
35 directors or managers; providing for appointment of  
36 directors and managers; requiring certain notice to  
37 the office in specified circumstances; requiring the  
38 office to issue a notice of disapproval of a proposed  
39 appointment in specified circumstances; authorizing  
40 the office to obtain criminal history information;  
41 creating s. 662.126, F.S.; requiring that licensed  
42 family trust companies procure and maintain fidelity  
43 bonds or specified minimum owners' equity and errors  
44 and omissions insurance; authorizing a family trust  
45 company that is not licensed to procure and maintain  
46 such coverage; authorizing licensed and unlicensed  
47 family trust companies to procure and maintain other  
48 insurance policies; creating s. 662.127, F.S.;

49 requiring certain books and records to be segregated;  
50 creating s. 662.128, F.S.; requiring annual license  
51 and registration renewal; requiring a fee; creating s.  
52 662.129, F.S.; providing for the discontinuance of a  
53 licensed family trust company; creating s. 662.130,  
54 F.S.; authorizing family trust companies to conduct  
55 certain activities; creating s. 662.131, F.S.;

56 prohibiting certain activities on the part of family  
57 trust companies; creating s. 662.132, F.S.; imposing  
58 certain requirements on the assets that form the

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59 minimum capital of licensed family trust companies and  
60 family trust companies; authorizing such trust  
61 companies to purchase or rent real or personal  
62 property, invest funds, and, while acting as a  
63 fiduciary, make certain purchases; imposing a  
64 restriction on that authorization; clarifying the  
65 degree of prudence required of fiduciaries;  
66 restricting the authority of a fiduciary to purchase  
67 certain bonds or securities; specifying additional  
68 authority of fiduciaries; applying the duty of loyalty  
69 to family trust companies in certain cases; creating  
70 s. 662.133, F.S.; requiring certain officers,  
71 directors, or managers of a licensed family trust  
72 company or a family trust company to make an oath,  
73 affirmation, affidavit, or acknowledgment on behalf of  
74 the company in certain circumstances; creating s.  
75 662.134, F.S.; prohibiting a family trust company from  
76 advertising to the public; creating s. 662.135, F.S.;  
77 providing that a licensed family trust company is not  
78 required to post a bond to serve as a court-appointed  
79 fiduciary; creating s. 662.140, F.S.; authorizing the  
80 office to adopt rules; creating s. 662.141, F.S.;  
81 authorizing the office to conduct examinations and  
82 investigations; requiring that family trust companies  
83 be examined at least once every 18 months; authorizing  
84 the office to accept an independent audit in lieu of  
85 conducting an examination; requiring the office to  
86 examine the books and records of a family trust  
87 company or licensed family trust company; authorizing

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88 the office to rely on a certificate of trust, trust  
89 summary, or written statement in certain circumstances  
90 and to adopt rules relating to records and  
91 requirements; authorizing the office to examine the  
92 books and records of a foreign licensed family trust  
93 company; requiring family trust companies to pay  
94 examination fees tied to actual costs incurred by the  
95 office; providing a penalty for late payment and  
96 authorizing an administrative fine if late payment is  
97 intentional; creating s. 662.142, F.S.; providing for  
98 license 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; creating s. 662.150, F.S.;

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117 providing for the domestication of a foreign family  
118 trust company; creating s. 662.151, F.S.; providing  
119 for the registration of a foreign licensed family  
120 trust company; amending s. 120.80, F.S.; adding  
121 licensed family trust companies to the entities  
122 regulated by the office that are exempted from  
123 licensing timeframes under ch. 120, F.S.; amending s.  
124 736.0802, F.S.; providing circumstances under which  
125 certain trust transactions are not voidable by a  
126 beneficiary affected by a transaction; providing  
127 circumstances under which certain transactions  
128 involving the investment or management of trust  
129 property are not presumed to be affected by conflicts  
130 of interest; providing an exception; amending s.  
131 744.351, F.S.; exempting a family trust company from  
132 certain bond requirements and applying those  
133 requirements to licensed family trust companies and  
134 foreign licensed family trust companies; providing a  
135 contingent effective date.

136

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

138

139 Section 1. Chapter 662, Florida Statutes, consisting of ss.  
140 662.10-662.151, Florida Statutes, to be entitled Family Trust  
141 Companies, is created.

142 Section 2. Section 662.10, Florida Statutes, is created to  
143 read:

144 662.10 Short Title.—This chapter may be cited as the  
145 "Florida Family Trust Company Act."

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146 Section 3. Section 662.102, Florida Statutes, is created to  
147 read:

148 662.102 Purpose.—The purpose of the Family Trust Company  
149 Act is to establish requirements for licensing private trust  
150 companies, to provide regulation of those persons who provide  
151 fiduciary services to family members of no more than two  
152 families and their related interests as a private family trust  
153 company, and establish the degree of regulatory oversight  
154 required of the Office of Financial Regulation over such  
155 companies. Unlike trust companies formed under chapter 658,  
156 there is no public interest to be served outside of ensuring  
157 that fiduciary activities performed by a family trust company  
158 are restricted to family members and their related interests and  
159 as otherwise provided for in this chapter. Therefore, family  
160 trust companies are not financial institutions within the  
161 meaning of the financial institutions codes and licensure of  
162 these companies pursuant to chapters 658 and 660 should not be  
163 required as it would not promote the purposes of the codes as  
164 set forth in s. 655.001. Consequently, the Office of Financial  
165 Regulation is not responsible for regulating family trust  
166 companies to ensure their safety and soundness, and the  
167 responsibility of the office is limited to ensuring that  
168 fiduciary services provided by such companies are restricted to  
169 family members and related interests and not to the general  
170 public.

171 Section 4. Section 662.111, Florida Statutes, is created to  
172 read:

173 662.111 Definitions.—As used in this chapter, the term:  
174 (1) "Applicant" means the corporation or limited liability

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175 company on whose behalf an application for a license to operate  
176 as a licensed family trust company is submitted under s.  
177 662.121.

178 (2) "Authorized representative" means an officer or  
179 director of a family trust company, licensed family trust  
180 company, or foreign licensed family trust company, if organized  
181 as a corporation; or a manager, officer, or member of a family  
182 trust company, licensed family trust company, or foreign  
183 licensed family trust company, if organized as a limited  
184 liability company.

185 (3) "Capital account" means the aggregate value of  
186 unimpaired capital stock based on the par value of the shares,  
187 plus any unimpaired surplus and undivided profits or retained  
188 earnings of a family trust company organized as a corporation;  
189 or the initial cash investment remitted for membership interests  
190 in a family trust company organized as a limited liability  
191 company, plus any undivided profits or retained earnings of the  
192 limited liability company. For the purposes of determining  
193 insolvency or imminent insolvency, the term does not include  
194 allowances for loan or lease loss reserves, intangible assets,  
195 subordinated debt, deferred tax assets, or similar assets.

196 (4) "Capital stock" means the shares of stock issued to  
197 create nonwithdrawable capital for a corporation, or membership  
198 interests issued to create nonwithdrawable capital for a limited  
199 liability company.

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

202 (6) "Commercial banking" means the business of receiving  
203 demand and time deposits, paying checks, or lending money to the

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204 public.

205 (7) "Controlling stockholder or member" means an individual  
206 who owns or has the ability or power to directly or indirectly  
207 vote at least 10 percent or more of the outstanding shares,  
208 membership interest, or membership units of the family trust  
209 company or licensed family trust company.

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

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

217 (10) "Family member" means:

218 (a) A designated relative.

219 (b) A person within the fourth degree of lineal kinship to  
220 a designated relative of a family trust company, or a person  
221 within the sixth degree of lineal kinship to a designated  
222 relative of a licensed family trust company.

223 (c) A person within the seventh degree of collateral  
224 kinship to a designated relative of a family trust company, or a  
225 person within the ninth degree of collateral kinship to a  
226 designated relative of a licensed family trust company.

227 (d) The spouse or former spouse of an individual qualifying  
228 as a family member and an individual who is within the fifth  
229 degree of lineal kinship to that spouse or former spouse.

230 (e) A family affiliate.

231 (f) A trust established by a family member if the trust is  
232 funded exclusively by one or more family members. A trust to



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233 which property has been transferred as a result of a family  
234 member's exercise of a power of appointment shall be deemed  
235 established by that family member if all qualified beneficiaries  
236 of the appointee trust are family members.

237 (g) A trust established by an individual who is not a  
238 family member if all of the noncharitable qualified  
239 beneficiaries of the trust are family members, except that a  
240 trust composed exclusively of nonindividual qualified  
241 beneficiaries is considered to be a family member if all of the  
242 nonindividual qualified beneficiaries are charitable foundations  
243 or other charitable entities as described in paragraph (j).

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

245 (i) The probate estate of an individual who is not a family  
246 member if all of the noncharitable beneficiaries of the estate  
247 are family members, except that an estate composed exclusively  
248 of nonindividual beneficiaries is considered to be a family  
249 member if all of the nonindividual beneficiaries are charitable  
250 foundations or other charitable entities as described in  
251 paragraph (j).

252 (j) A charitable foundation or other charitable entity in  
253 which a majority of the governing body is composed of family  
254 members.

255 (11) "Family trust company" means a corporation or limited  
256 liability company that:

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

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

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

261 (d) Does not serve as a fiduciary for a person, entity,

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262 trust, or estate that is not a family member, except that it may  
263 serve as a fiduciary for up to 35 individuals who are not family  
264 members if the individuals are current or former employees of  
265 the family trust company or one or more trusts, companies, or  
266 other entities that are family members.

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

268 (a) A director, officer, manager, employee, or controlling  
269 stockholder or member of a family trust company, licensed family  
270 trust company, or foreign licensed family trust company; or

271 (b) A stockholder, member, or any other person as  
272 determined by the office who participates in the affairs of a  
273 family trust company, licensed family trust company, or foreign  
274 licensed family trust company.

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

277 (14) "Foreign licensed family trust company" means a family  
278 trust company that:

279 (a) Is licensed by a state in the United States other than  
280 this state.

281 (b) Has its principal place of business in a jurisdiction  
282 in the United States other than this state.

283 (c) Is operated in accordance with family or private trust  
284 company laws of a jurisdiction other than this state.

285 (d) Is subject to statutory or regulatory mandated  
286 supervision by the jurisdiction in which the principal place of  
287 business is located.

288 (15) "Licensed family trust company" means a family trust  
289 company that operates in accordance with this chapter and has  
290 been issued a license that has not been revoked or suspended by

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291 the office.

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

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

295 (18) "Officer" of a family trust company means an  
296 individual, regardless of whether the individual has an official  
297 title or receives a salary or other compensation, who may  
298 participate in the major policymaking functions of a family  
299 trust company, other than as a director. The term does not  
300 include an individual who may have an official title and  
301 exercise discretion in the performance of duties and functions,  
302 but who does not participate in determining the major policies  
303 of the family trust company and whose decisions are limited by  
304 policy standards established by other officers, regardless of  
305 whether the policy standards have been adopted by the board of  
306 directors. The chair of the board of directors, the president,  
307 the chief executive officer, the chief financial officer, and  
308 all executive vice presidents of a family trust company, and the  
309 senior trust officer of a family trust company, are presumed to  
310 be executive officers unless such officer is excluded, by  
311 resolution of the board of directors or members or by the bylaws  
312 or operating agreement of the family trust company, other than  
313 in the capacity of a director, from participating in major  
314 policymaking functions of the family trust company, and the  
315 individual holding such office so excluded does not actually  
316 participate therein.

317 (19) "Qualified beneficiary" has the same meaning as  
318 provided in s. 736.0103.

319 Section 5. Section 662.112, Florida Statutes, is created to

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320 read:

321 662.112 Degrees of kinship.—Degrees of kinship shall be  
322 calculated by adding the number of steps from a designated  
323 relative through each person to the family member, directly in  
324 the case of lineal kinship, or through the common ancestor in  
325 the case of collateral kinship.

326 Section 6. Section 662.113, Florida Statutes, is created to  
327 read:

328 662.113 Applicability of the financial institutions codes.—  
329 Except as expressly provided in this chapter, other chapters of  
330 the financial institutions codes do not apply to a family trust  
331 company, licensed family trust company, or foreign licensed  
332 family trust company.

333 Section 7. Section 662.114, Florida Statutes, is created to  
334 read:

335 662.114 Family trust company and foreign licensed family  
336 trust company licensing not required.—A family trust company or  
337 foreign licensed family trust company is not required to be a  
338 licensed family trust company.

339 Section 8. Section 662.115, Florida Statutes, is created to  
340 read:

341 662.115 Applicability of chapter to a family trust company  
342 or foreign licensed family trust company.—

343 (1) A family trust company that is not a licensed family  
344 trust company or a foreign licensed family trust company is  
345 subject to the provisions of this chapter unless the provisions  
346 are expressly limited in applicability to a licensed family  
347 trust company or foreign licensed family trust company.

348 (2) A licensed family trust company is subject to the

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349 provisions of this chapter that expressly refer to a licensed  
350 family trust company or that are not expressly limited to a  
351 family trust company that is not a licensed family trust company  
352 or to a foreign licensed family trust company.

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

356 Section 9. Section 662.120, Florida Statutes, is created to  
357 read:

358 662.120 Maximum number of designated relatives.-

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

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

364 Section 10. Section 662.121, Florida Statutes, is created  
365 to read:

366 662.121 Application for licensed family trust company;  
367 fees.-An applicant seeking to operate as a licensed family trust  
368 company must file an application with the office on forms  
369 prescribed by the office, accompanied by a nonrefundable \$10,000  
370 application fee to be deposited into the Financial Institutions'  
371 Regulatory Trust Fund pursuant to s. 655.049 for the purpose of  
372 administering this chapter. The application must contain or be  
373 accompanied by:

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

375 (2) A copy of the articles of incorporation or articles of  
376 organization and the bylaws or operating agreement of the  
377 proposed licensed family trust company.

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

381       (4) A statement describing in detail the services that will  
382 be provided to family members by the proposed licensed family  
383 trust company.

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

388       (6) The name and biographical information of each  
389 individual who owns or has the ability or power to directly or  
390 indirectly vote at least 10 percent or more of the outstanding  
391 shares, membership interest, or membership units of the proposed  
392 licensed family trust company.

393       (7) The names of the designated relatives.

394       (8) The amount of the initial owners' equity of the  
395 proposed licensed family trust company and the form in which the  
396 capital was paid and will be maintained.

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

401       (10) A statement signed by the applicant, or by the  
402 individual signing on behalf of the proposed licensed family  
403 trust company, under penalty of perjury, affirming that the  
404 following statements are true:

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

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407       (b) No director, officer, manager, or member served as a  
408 director, officer, or manager, or acted in a managerial  
409 capacity, for a trust company or any other financial institution  
410 that had a license issued under the financial institutions codes  
411 or by the Federal Government or any other state, the District of  
412 Columbia, a territory of the United States, or a foreign country  
413 that was suspended or revoked within the 10 years preceding the  
414 date of the application.

415       (c) No director, officer, manager, or member acting in a  
416 managerial capacity has been convicted of, or pled nolo  
417 contendere to a violation of the financial institutions codes,  
418 including s. 655.50, chapter 896, or similar state or federal  
419 law or related rule.

420       (d) No director, officer, manager, or member acting in a  
421 managerial capacity has had a professional license suspended or  
422 revoked within the 10 years preceding the date of the  
423 application.

424       (e) All information contained in the application is true  
425 and correct to the best knowledge of the individual signing the  
426 application on behalf of the proposed licensed family trust  
427 company.

428       (11) Any other additional information reasonably required  
429 by the office.

430       Section 11. Section 662.1215, Florida Statutes, is created  
431 to read:

432       662.1215 Investigation of license applicants.—

433       (1) For the purpose of this section, the application is not  
434 deemed to be filed until the applicant has provided the office  
435 with all information required to be included pursuant to s.

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436 662.121.

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

440 (a) That the persons who will serve as directors or  
441 officers of the corporation or, if the applicant is a limited  
442 liability company, managers or members acting in a managerial  
443 capacity, have not:

444 1. Been convicted of, or entered a plea of nolo contendere  
445 to, a crime involving fraud, misrepresentation, or moral  
446 turpitude;

447 2. Been convicted of, or pled nolo contendere to, a  
448 violation of the financial institutions codes, including s.  
449 655.50, chapter 896, or similar state or federal law;

450 3. Been directors or executive officers of a financial  
451 institution licensed or chartered under the financial  
452 institution's codes or by the Federal Government or any other  
453 state, the District of Columbia, a territory of the United  
454 States, or a foreign country, whose license or charter was  
455 suspended or revoked within the 10 years preceding the date of  
456 the application;

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

459 5. Made a false statement of material fact on the  
460 application.

461 (b) That the name of the proposed company complies with s.  
462 662.123.

463 (c) That capital accounts of the proposed company conform  
464 to s. 662.124 and that fidelity bonds and errors and omissions



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465 insurance coverage required under s. 662.126 are issued and  
466 effective.

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

469 (3) If the investigation required under this section  
470 confirms that the applicant has met the requirements of ss.  
471 662.123(1), 662.124, 662.126, and 662.1225, and that the persons  
472 who will serve as directors or officers of the corporation or  
473 the managers or members acting in a managerial capacity of the  
474 limited liability company, as applicable, satisfy the criteria  
475 set forth in subsection (2), the office shall issue a license  
476 authorizing the applicant to operate as a licensed family trust  
477 company.

478 (4) The office may obtain criminal history information from  
479 the National Crime Information Center or from the Department of  
480 Law Enforcement, as necessary, for conducting the investigation  
481 required under this section.

482 (5) If the office determines the criteria in subsection (2)  
483 have not been met, the office shall serve notice of its intent  
484 to deny the application and of the applicant's opportunity to  
485 request a hearing pursuant to ss. 120.569 and 120.57.

486 Section 12. Section 662.122, Florida Statutes, is created  
487 to read:

488 662.122 Registration of a family trust company or a foreign  
489 licensed family trust company.—

490 (1) A family trust company that is not applying under s.  
491 662.121 to become a licensed family trust company must register  
492 with the office before beginning operations in this state. The  
493 registration application must:

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- 494 (a) Provide the name of the designated relative.
- 495 (b) State that the family trust company is a family trust  
496 company as defined under this chapter and that its operations  
497 will comply with ss. 662.1225, 662.131, and 662.134.
- 498 (c) Provide the current telephone number and street address  
499 of the physical location in this state of its principal place of  
500 operations where its books and records will be maintained.
- 501 (d) List the name and current street address in this state  
502 of its registered agent.
- 503 (2) A foreign licensed family trust company must register  
504 with the office before beginning operations in this state.
- 505 (a) The registration application must state that its  
506 operations will comply with ss. 662.1225, 662.131, and 662.134  
507 and that it is currently in compliance with the family trust  
508 company laws and regulations of its principal jurisdiction.
- 509 (b) The registration application must provide:
- 510 1. The current telephone number and street address of the  
511 physical location of its principal place of business in its  
512 principal jurisdiction.
- 513 2. The current telephone number and street address of the  
514 physical location in this state of its principal place of  
515 operations where its books and records pertaining to its  
516 operations in this state will be maintained.
- 517 3. The current telephone number and street address of the  
518 physical location of any other offices located within this  
519 state.
- 520 4. The name and current street address in this state of its  
521 registered agent.
- 522 (c) The registration must include a certified copy of a

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523 certificate of good standing, or an equivalent document,  
524 authenticated by the official having custody of records in the  
525 jurisdiction where the foreign licensed family trust company is  
526 organized, along with satisfactory proof that the company is  
527 organized in a manner similar to a family trust company as  
528 defined under this chapter.

529 (3) The registration application required under this  
530 section for a family trust company and a foreign licensed family  
531 trust company must be accompanied by a registration fee of  
532 \$5,000.

533 (4) Registration applications required by this section  
534 shall be submitted on a form prescribed by the office and be  
535 signed, under penalty of perjury, by an officer or director if  
536 the family trust company is organized as a corporation, or by a  
537 manager, officer, or member if the family trust company is  
538 organized as a limited liability company.

539 (5) All fees received by the office pursuant to this  
540 section shall be deposited into the Financial Institutions'  
541 Regulatory Trust Fund pursuant to s. 655.049 for purposes of  
542 administering this chapter.

543 Section 13. Section 662.1225, Florida Statutes, is created  
544 to read:

545 662.1225 Requirements for a family trust company, licensed  
546 family trust company, and foreign licensed family trust  
547 company.—

548 (1) A family trust company and a licensed family trust  
549 company shall maintain:

550 (a) A principal office physically located in this state  
551 where original or true copies of all records and accounts of the

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552 family trust company or licensed family trust company may be  
553 accessed and made readily available for examination by the  
554 office in accordance with this chapter. A family trust company  
555 or licensed family trust company may also maintain one or more  
556 branch offices within or outside of this state.

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

559 (c) All applicable state and local business licenses,  
560 charters, and permits.

561 (d) A deposit account with a state-chartered or national  
562 financial institution that has a principal or branch office in  
563 this state.

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

567 (a) An office physically located in this state where  
568 original or true copies of all records and accounts of the  
569 foreign licensed family trust company pertaining to its  
570 operations in this state may be accessed and made readily  
571 available for examination by the office in accordance with this  
572 chapter.

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 Section 14. Section 662.123, Florida Statutes, is created

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581 to read:

582 662.123 Organizational documents; use of term "family  
583 trust" in name.-

584 (1) The articles of incorporation, certificate of  
585 incorporation, or articles of organization of a family trust  
586 company or licensed family trust company must contain:

587 (a) The name adopted by the company, which must include the  
588 term "family trust" and which distinguishes it from any other  
589 trust company formed in this state or engaged in the business of  
590 a trust company, family trust company, or licensed family trust  
591 company in this state. This paragraph does not apply to a  
592 foreign licensed family trust company using a fictitious name,  
593 that is registered and maintained pursuant to s. 865.09 and that  
594 distinguishes it.

595 (b) The purpose for which the company is formed, which must  
596 clearly identify the restricted activities permissible to a  
597 family trust company or licensed family trust company under this  
598 chapter.

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

601 (d) A statement affirming that the articles of  
602 incorporation, certificate of incorporation, or articles of  
603 organization will not be amended without the prior written  
604 consent of the office.

605 (2) A proposed amendment to the articles of incorporation,  
606 articles of organization, bylaws, or operating agreement of a  
607 family trust company or licensed family trust company must be  
608 submitted to the office for review at least 30 days before it is  
609 filed or effective. An amendment is not considered filed or

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610 effective if the office issues a notice of disapproval with  
611 respect to the proposed amendment.

612 (3) The term "family trust" in the name adopted by a family  
613 trust company or licensed family trust company does not  
614 disqualify the name from being allowed under s. 605.0112, s.  
615 607.0401, or s. 608.406.

616 Section 15. Section 662.124, Florida Statutes, is created  
617 to read:

618 662.124 Minimum amount of owners' equity required.-

619 (1) A licensed family trust company that has one designated  
620 relative may not be organized or operated with an owners'  
621 capital account of less than \$250,000. The minimum owners'  
622 equity shall be increased to \$350,000 if two designated  
623 relatives of the licensed family trust company are named in the  
624 application for a license or in the annual license renewal. A  
625 family trust company may not be organized or operated with  
626 owners' equity of less than \$250,000.

627 (2) The full amount of the initial minimum owners' equity  
628 of a family trust company or licensed family trust company must  
629 be composed of one or more of the asset groups described in s.  
630 662.132(1)(a), exclusive of all organization expenses.

631 Section 16. Section 662.125, Florida Statutes, is created  
632 to read:

633 662.125 Directors or managers.-

634 (1) Exclusive authority to manage a family trust company or  
635 licensed family trust company is vested in a board of directors,  
636 if a corporation, or a board of directors or managers, if a  
637 limited liability company.

638 (2) A family trust company or licensed family trust company

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639 shall have at least three directors, if a corporation, or three  
640 directors or managers, if a limited liability company. At least  
641 one director or manager of the company must be a resident of  
642 this state.

643 (3) The licensed family trust company shall notify the  
644 office of the proposed appointment of an individual to the board  
645 of directors or addition as a member, or the appointment or  
646 employment of an individual as an officer or manager or member  
647 acting in a managerial capacity or equivalent position, at least  
648 60 days before such appointment or employment becomes effective,  
649 if the company:

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

651 (b) Has undergone a change in control within the preceding  
652 2 years.

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

654  
655 The notification must include the name and such biographical  
656 information as the office may reasonably require.

657 (4) A licensed family trust company may not appoint an  
658 individual to the board of directors, add a member, or appoint  
659 or employ an officer or manager or member acting in a managerial  
660 capacity or equivalent, if the office issues a notice of  
661 disapproval with respect to that person.

662 (5) The office shall issue a notice of disapproval if the  
663 office finds that the proposed appointment or employment of a  
664 person is not in the best interests of the members or  
665 shareholders, or beneficiaries of fiduciary accounts of the  
666 licensed family trust company, or beneficiaries of services  
667 rendered by a licensed family trust company.

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668       (6) The office may obtain criminal history information from  
669 the National Crime Information Center or from the Department of  
670 Law Enforcement as necessary to fulfill its responsibilities  
671 under this section.

672       Section 17. Section 662.126, Florida Statutes, is created  
673 to read:

674       662.126 Fidelity bonds; insurance.-

675       (1) The directors or managers of a licensed family trust  
676 company shall procure and maintain fidelity bonds on all active  
677 officers, directors, managers, members acting in a managerial  
678 capacity, and employees of the company, regardless of whether  
679 they receive a salary or other compensation from the company, in  
680 order to indemnify the company against loss because of a  
681 dishonest, fraudulent, or criminal act or omission on their  
682 part, whether acting alone or in combination with other persons.

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

685       (3) In lieu of the fidelity bonds required under subsection  
686 (1), a licensed family trust company may increase its minimum  
687 owners' equity required under s. 662.124 by \$1 million so that  
688 if it has one designated relative it is organized or operated  
689 with an owners' equity of at least \$1.25 million, or if it has  
690 two designated relatives it is organized or operated with an  
691 owners' equity of at least \$1.35 million.

692       (4) The licensed family trust company shall also procure  
693 and maintain an errors and omissions insurance policy of at  
694 least \$1 million in which it is listed as the insured to cover  
695 the acts of officers, directors, managers, and members acting in  
696 a managerial capacity, regardless of whether the person receives



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697 a salary or other compensation from the company.

698 (5) A family trust company or licensed family trust company  
699 may also procure and maintain other insurance policies necessary  
700 or desirable in connection with the business of the company,  
701 including, but not limited to, one or more casualty insurance  
702 policies.

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

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

709 Section 18. Section 662.127, Florida Statutes, is created  
710 to read:

711 662.127 Segregation of books, records, and assets;  
712 fiduciary assets not liable.-

713 (1) Each family trust company and licensed family trust  
714 company shall maintain its fiduciary books and records separate  
715 and distinct from other records of the company and shall  
716 segregate all assets held in any fiduciary capacity from other  
717 assets of the company.

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

721 Section 19. Section 662.128, Florida Statutes, is created  
722 to read:

723 662.128 Annual renewal.-

724 (1) Within 30 days after the end of each calendar year,  
725 family trust companies, licensed family trust companies, and

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726 foreign licensed family trust companies shall file their annual  
727 renewal application with the office.

728 (2) The license renewal application filed by a licensed  
729 family trust company must include a verified statement by an  
730 officer of the company that:

731 (a) The licensed family trust company operated in full  
732 compliance with this chapter, chapter 896, and related rules.  
733 The application must include proof acceptable to the office that  
734 the company is a family trust company as defined under this  
735 chapter.

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

740 (3) The registration renewal application filed by a family  
741 trust company must include a verified statement by an officer of  
742 the company that it is a family trust company as defined under  
743 this chapter and that its operations are in compliance with ss.  
744 662.1225, 662.131, 662.134, and related rules, and include the  
745 name of its designated relative or relatives, if applicable, and  
746 the street address for its principal place of business.

747 (4) The registration renewal application filed by a foreign  
748 licensed family trust company must include a verified statement  
749 by an officer of the company that its operations are in  
750 compliance with ss. 662.1225, 662.131, and 662.134 and in  
751 compliance with the family trust company laws and regulations of  
752 its principal jurisdiction. It must also provide:

753 (a) The current telephone number and street address of the  
754 physical location of its principal place of business in its

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755 principal jurisdiction.

756 (b) The current telephone number and street address of the  
757 physical location in this state of its principal place of  
758 operations where its books and records pertaining to its  
759 operations in this state are maintained.

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

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

764 (e) Documentation satisfactory to the office that the  
765 foreign licensed family trust company is in compliance with the  
766 family trust company laws and regulations of its principal  
767 jurisdiction.

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

771 (6) A fee of \$750 for a family trust company, \$1,500 for a  
772 licensed family trust company, and \$1,000 for a foreign licensed  
773 family trust company shall be submitted with the annual renewal  
774 application. All fees received by the office pursuant to this  
775 section shall be deposited into the Financial Institutions'  
776 Regulatory Trust Fund pursuant to s. 655.049 for the purpose of  
777 administering this chapter.

778 Section 20. Section 662.129, Florida Statutes, is created  
779 to read:

780 662.129 Discontinuing business.—If a licensed family trust  
781 company desires to discontinue business as a licensed family  
782 trust company, it must file with the office a certified copy of  
783 the resolution of the board of directors authorizing that

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784 action. Upon discharge from all fiduciary duties which it has  
785 undertaken, the company shall provide certification of such  
786 discharge and voluntarily relinquish its license to operate as a  
787 licensed family trust company to the office, whereupon it shall  
788 be released from any fidelity bonds that it maintained pursuant  
789 to s. 662.126(1).

790 Section 21. Section 662.130, Florida Statutes, is created  
791 to read:

792 662.130 Powers of family trust companies, licensed family  
793 trust companies, and foreign licensed family trust companies.-

794 (1) A family trust company and a licensed family trust  
795 company may:

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

799 (b) Act as an attorney-in-fact or agent under a power of  
800 attorney, other than a power of attorney governed by chapter  
801 709.

802 (c) Act as an attorney in fact or agent under a power of  
803 attorney instrument, other than a power of attorney under  
804 chapter 709.

805 (d) In conformity with s. 660.41, act within or outside  
806 this state as a trustee; a committee, guardian, custodian,  
807 conservator, or other personal representative of a person,  
808 property, or estate; a registrar or transfer agent of or in  
809 connection with evidences of indebtedness and stocks, bonds, and  
810 other securities; fiscal or financial agent; an investment  
811 advisor; a receiver; a trustee in bankruptcy; an assignee for  
812 creditors; or a holder of any similar representative position in

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813 any other position of trust.

814 (e) Exercise the powers of a corporation or limited  
815 liability company incorporated or organized under the laws of  
816 this state, or qualified to transact business as a foreign  
817 corporation or limited liability company under the laws of this  
818 state, which are reasonably necessary to enable it to fully  
819 exercise, in accordance with commonly accepted customs and  
820 usages, a power conferred under this chapter.

821 (f) Delegate duties and powers, including investment  
822 functions under s. 518.112, in accordance with the powers  
823 granted to a trustee under chapter 736 or other applicable law,  
824 and retain agents, attorneys, accountants, investment advisers,  
825 or other individuals or entities to advise or assist the family  
826 trust company, licensed family trust company, or foreign  
827 licensed family trust company in the exercise of its powers and  
828 duties under this chapter and chapter 736. Such exercise of  
829 power may include, but is not limited to, retaining a bank trust  
830 department, or a public trust company, other than another family  
831 trust company, licensed family trust company, or foreign  
832 licensed family trust company.

833 (g) Perform all acts necessary for exercising the powers  
834 enumerated in this section or authorized by this chapter and  
835 other applicable laws of this state.

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

840 Section 22. Section 662.131, Florida Statutes, is created  
841 to read:

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842 662.131 Prohibitions.—Notwithstanding any provision of this  
843 chapter, a family trust company, licensed family trust company,  
844 or foreign licensed family trust company may not:

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

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

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

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

856 Section 23. Section 662.132, Florida Statutes, is created  
857 to read:

858 662.132 Investments.—

859 (1) The assets forming the minimum capital of a family  
860 trust company or licensed family trust company must:

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

863 (b) Have an aggregate market value of at least 100 percent  
864 of the company's required owners' equity, as specified in s.  
865 662.124. If the aggregate market value of 100 percent of the  
866 company's required owners' equity is, at any time, less than the  
867 amount required under s. 662.124, the company has 5 business  
868 days to bring the owners' equity into compliance with s.  
869 662.124.

870 (2) A family trust company or licensed family trust company

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871 may purchase or rent real or personal property for use in the  
872 conduct of the business and other activities of the company.

873 (3) Notwithstanding any other provision of law, a family  
874 trust company or licensed family trust company may invest funds  
875 for its own account, other than those required or allowed under  
876 subsection (1) or subsection (2), in any type or character of  
877 equity securities, debt securities, or other assets.

878 (4) Notwithstanding any other law, a family trust company  
879 or licensed family trust company may, while acting as a  
880 fiduciary, purchase directly from underwriters or distributors  
881 or in the secondary market:

882 (a) Bonds or other securities underwritten or distributed  
883 by:

884 1. The family trust company or licensed family trust  
885 company;

886 2. A family affiliate; or

887 3. A syndicate, including the family trust company,  
888 licensed family trust company, or family affiliate.

889 (b) Securities of an investment company, including a mutual  
890 fund, closed-end fund, or unit investment trust, as defined  
891 under the federal Investment Company Act of 1940, for which the  
892 family trust company or licensed family trust company acts as an  
893 advisor, custodian, distributor, manager, registrar, shareholder  
894 servicing agent, sponsor, or transfer agent.

895 (5) The authority granted in subsection (4) may be  
896 exercised only if:

897 (a) The investment is not expressly prohibited by the  
898 instrument, judgment, decree, or order establishing the  
899 fiduciary relationship.

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900       (b) The family trust company or licensed family trust  
901 company procures in writing the consent of any cofiduciaries  
902 with discretionary investment powers to the investment.

903       (c) The family trust company or licensed family trust  
904 company discloses in writing to the person or persons to whom it  
905 sends account statements its intent to exercise the authority  
906 granted in subsection (4) before the first exercise of that  
907 authority, and each such disclosure reflects:

908       1. The nature of any interest the family trust company or  
909 licensed family trust company has, or is reasonably expected to  
910 have, in the underwriting or distribution of bonds or securities  
911 purchased.

912       2. The nature and amount of any fee or other compensation  
913 received, or reasonably expected to be received, by the family  
914 trust company or licensed family trust company in connection  
915 with the transaction.

916       3. The nature of the relationship between the family trust  
917 company or licensed family trust company and an investment  
918 company described in paragraph (4) (b).

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

923       (6) Subsections (4) and (5) do not affect the degree of  
924 prudence required of fiduciaries under the laws of this state.  
925 However, a purchase of bonds or securities pursuant to  
926 subsections (4) and (5) is not presumed to be affected by a  
927 conflict between the fiduciary's personal and fiduciary  
928 interests if such purchase:



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- 929       (a) Is negotiated at a fair price.
- 930       (b) Is in accordance with:
- 931       1. The interest of the qualified beneficiaries.
- 932       2. The purposes of the trusts.
- 933       (c) Otherwise complies with:
- 934       1. The prudent investor rule in s. 518.11, or other prudent
- 935 investor or similar rule under other applicable law, unless such
- 936 compliance is waived in accordance with s. 518.11 or other
- 937 applicable law.
- 938       2. The terms of the instrument, judgment, decree, or order
- 939 establishing the fiduciary relationship.
- 940       (7) Notwithstanding subsections (1)-(6), a family trust
- 941 company or licensed family trust company may not, while acting
- 942 as a fiduciary, purchase a bond or security issued by the
- 943 company or an affiliate thereof unless:
- 944       (a) The family trust company or licensed family trust
- 945 company is expressly authorized to do so by:
- 946       1. The terms of the instrument creating the trust;
- 947       2. A court order;
- 948       3. The written consent of the settlor of the trust for
- 949 which the family trust company or licensed family trust company
- 950 is serving as trustee; or
- 951       4. The written consent of every adult qualified beneficiary
- 952 of the trust who, at the time of such purchase, is entitled to
- 953 receive income under the trust or who would be entitled to
- 954 receive a distribution of principal if the trust were
- 955 terminated; and
- 956       (b) The purchase of the security is at a fair price and
- 957 complies with:

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958       1. The prudent investor rule in s. 518.11, or other prudent  
959 investor or similar rule under other applicable law, unless such  
960 compliance is waived in accordance with s. 518.11 or other  
961 applicable law.

962       2. The terms of the instrument, judgment, decree, or order  
963 establishing the fiduciary relationship.

964       (8) Except as otherwise expressly limited by this section,  
965 a family trust company or licensed family trust company, while  
966 acting as a fiduciary, is also authorized, without limiting any  
967 powers otherwise conferred on fiduciaries by law, to do any of  
968 the following, which are not presumed to be affected by a  
969 conflict between the fiduciary's personal and fiduciary  
970 interests:

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

974       (b) Place a security transaction using a broker who is a  
975 family member.

976       (c) Enter into an agreement with a family member who is the  
977 settlor or a qualified beneficiary of a trust with respect to  
978 the appointment of the family trust company or licensed family  
979 trust company as a fiduciary of the trust, or with respect to  
980 the compensation of the family trust company and licensed family  
981 trust company for service as a fiduciary.

982       (d) Transact business with a family member.

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

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

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

992 (h) With or without adequate security, lend money to or  
993 borrow money from a family member or a trust, estate, or  
994 guardianship for which the family trust company or licensed  
995 family trust company serves as a fiduciary.

996 (9) If not inconsistent with and subject to the terms of  
997 subsections (4)-(8), the duty of loyalty under s. 736.0802  
998 applies to family trust companies, licensed family trust  
999 companies, and foreign licensed family trust companies when  
1000 serving as trustee of a trust whose administration is subject to  
1001 chapter 736.

1002 Section 24. Section 662.133, Florida Statutes, is created  
1003 to read:

1004 662.133 Oaths, affidavits, and acknowledgments.—If a family  
1005 trust company or licensed family trust company is required to  
1006 make an oath, affirmation, affidavit, or acknowledgment  
1007 regarding a fiduciary capacity in which it is acting or is  
1008 preparing to act, a director or officer or, if the company is a  
1009 limited liability company, a manager or officer expressly  
1010 authorized by the family trust company or licensed family trust  
1011 company, shall make and, if required, subscribe to such oath,  
1012 affirmation, affidavit, or acknowledgment on behalf of the  
1013 company.

1014 Section 25. Section 662.134, Florida Statutes, is created  
1015 to read:

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1016       662.134 Unlawful to advertise services.—A family trust  
1017 company, licensed family trust company, or foreign licensed  
1018 family trust company may not advertise its services to the  
1019 public.

1020       Section 26. Section 662.135, Florida Statutes, is created  
1021 to read:

1022       662.135 Service as court-appointed fiduciary; bond  
1023 requirement.—A licensed family trust company is not required to  
1024 provide or otherwise post a bond or other surety to serve as a  
1025 court-appointed fiduciary in a proceeding brought or conducted  
1026 in this state.

1027       Section 27. Section 662.140, Florida Statutes, is created  
1028 to read:

1029       662.140 Rules.—The office may adopt rules necessary to  
1030 carry out the purposes of this chapter.

1031       Section 28. Section 662.141, Florida Statutes, is created  
1032 to read:

1033       662.141 Examination, investigations, and fees.—The office  
1034 may conduct an examination or investigation of a family trust  
1035 company, licensed family trust company, or foreign licensed  
1036 family trust company at any time it deems necessary to determine  
1037 whether a family trust company, licensed family trust company,  
1038 foreign licensed family trust company, or family trust company-  
1039 affiliated person has violated or is about to violate any  
1040 provision of the financial institution's codes or the rules  
1041 adopted by the commission pursuant to such codes.

1042       (1) The office shall conduct an examination of a licensed  
1043 family trust company, family trust company, and foreign licensed  
1044 family trust company at least once every 18 months.

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1045       (2) In lieu of an examination by the office, the office may  
1046 accept an audit of a family trust company, licensed family trust  
1047 company, or foreign licensed family trust company by a certified  
1048 public accountant licensed to practice in this state who is  
1049 independent of the company, or other person or entity acceptable  
1050 to the office. If the office accepts an audit pursuant to this  
1051 subsection, the office shall conduct the next required  
1052 examination.

1053       (3) The office shall examine the books and records of a  
1054 family trust company or licensed family trust company as  
1055 necessary to determine whether it is a family trust company or  
1056 licensed family trust company as defined in this chapter, and is  
1057 operating in compliance with ss. 662.1225, 662.126, 662.131 and  
1058 662.134, as applicable. The office may rely upon a certificate  
1059 of trust, trust summary, or written statement from the trust  
1060 company identifying the qualified beneficiaries of any trust or  
1061 estate for which the family trust company serves as a fiduciary  
1062 and the qualification of the qualified beneficiaries as  
1063 permissible recipients of company services. The office may  
1064 establish by rule the records to be maintained or requirements  
1065 necessary to demonstrate conformity with this chapter as a  
1066 family trust company or licensed family trust company.

1067       (4) The office shall examine the books and records of a  
1068 foreign licensed family trust company as necessary to determine  
1069 if it is a foreign licensed trust company as defined in this  
1070 chapter and is in compliance with ss. 662.130(2), 662.131, and  
1071 662.134. In connection with an examination of the books and  
1072 records of the company, the office may rely upon the most recent  
1073 examination report or review or certification letters or similar

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1074 documentation issued by the regulatory agency to which the  
1075 foreign licensed family trust company is subject to supervision.  
1076 The office may establish by rule the records to be maintained or  
1077 requirements necessary to demonstrate conformity with this  
1078 chapter as a foreign licensed family trust company. The office's  
1079 examination of the books and records of a foreign licensed  
1080 family trust company is, to the extent practicable, limited to  
1081 books and records of the operations in this state.

1082 (5) For each examination of the books and records of a  
1083 family trust company, licensed family trust company, or foreign  
1084 licensed family trust company as authorized under this chapter,  
1085 the trust company shall, within 30 days after an examination,  
1086 pay a fee for the costs of the examination by the office. As  
1087 used in this section, the term "costs" means the salary and  
1088 travel expenses of field staff which are directly attributable  
1089 to the examination of the trust company and the travel expenses  
1090 of any supervisory or support staff required as a result of  
1091 examination findings. The mailing of payment for costs incurred  
1092 must be postmarked within 30 days after the receipt of a notice  
1093 stating that such costs are due. The office may levy a late  
1094 payment of up to \$100 per day or part thereof that a payment is  
1095 overdue, unless waived for good cause. However, if the late  
1096 payment of costs is intentional, the office may levy an  
1097 administrative fine of up to \$1,000 per day for each day the  
1098 payment is overdue.

1099 (6) All fees collected under this section must be deposited  
1100 into the Financial Institutions' Regulatory Trust Fund pursuant  
1101 to s. 655.049 for the purpose of administering this chapter.

1102 Section 29. Section 662.142, Florida Statutes, is created

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1103 to read:

1104 662.142 Revocation of license.-

1105 (1) The following acts or conduct constitute grounds for  
1106 the revocation by the office of the license of a licensed family  
1107 trust company:

1108 (a) The company is not a family trust company as defined in  
1109 this chapter;

1110 (b) A violation of s. 662.1225, s. 662.123(1)(a), s.  
1111 662.126, s. 662.128, s. 662.130, s. 662.131, s. 662.134, or s.  
1112 662.144;

1113 (c) A violation of chapter 896, relating to financial  
1114 transactions offenses, or any similar state or federal law;

1115 (d) A violation of any rule of the commission;

1116 (e) A violation of any order of the office;

1117 (f) A breach of any written agreement with the office;

1118 (g) A prohibited act or practice under s. 662.131;

1119 (h) A failure to provide information or documents to the  
1120 office upon written request; or

1121 (i) An act of commission or omission or a practice that is  
1122 a breach of trust or of fiduciary duty.

1123 (2) Upon a finding that a licensed family trust company has  
1124 committed any of the acts set forth in section (1), the office  
1125 may enter an order suspending the company's license and provide  
1126 notice of its intention to revoke the license and of the  
1127 opportunity for a hearing pursuant to ss. 120.569 and 120.57.  
1128 The licensed family trust company shall have 90 days to wind up  
1129 its affairs after license revocation. If after 90 days the  
1130 company is still in operation, the office may seek an order from  
1131 the circuit court for the annulment or dissolution of the

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1132 company.

1133 Section 30. Section 662.143, Florida Statutes, is created  
1134 to read:

1135 662.143 Cease and desist authority.-

1136 (1) The office may issue and serve upon a family trust  
1137 company, licensed family trust company, or foreign licensed  
1138 family trust company, or upon a family trust company-affiliated  
1139 party, a complaint stating charges if the office has reason to  
1140 believe that such company, family trust company-affiliated  
1141 party, or individual named therein is engaging in or has engaged  
1142 in conduct that:

1143 (a) Indicates that the company is not a family trust  
1144 company or foreign licensed family trust company as defined in  
1145 this chapter;

1146 (b) Is a violation of s. 662.1225, s. 662.123(1)(a), s.  
1147 662.126, s. 662.127, s. 662.128, s. 662.130, or s. 662.134;

1148 (c) Is a violation of any rule of the commission;

1149 (d) Is a violation of any order of the office;

1150 (e) Is a breach of any written agreement with the office;

1151 (f) Is a prohibited act or practice pursuant to s. 662.131;

1152 (g) Is a willful failure to provide information or  
1153 documents to the office upon written request; or

1154 (h) Is an act of commission or omission or a practice that  
1155 is a breach of trust or of fiduciary duty.

1156 (2) The complaint must contain the statement of facts and a  
1157 notice of opportunity for a hearing pursuant to ss. 120.569 and  
1158 120.57.

1159 (3) If no hearing is requested within the time allowed by  
1160 ss. 120.569 and 120.57, or if a hearing is held and the office



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1161 finds that any of the charges are true, the office may enter an  
1162 order directing the family trust company, licensed family trust  
1163 company, or foreign licensed family trust company, or family  
1164 trust company-affiliated party, or the individual named therein  
1165 to cease and desist from engaging in the conduct complained of  
1166 and to take corrective action.

1167 (4) If the family trust company, licensed family trust  
1168 company, foreign licensed family trust company, or family trust  
1169 company-affiliated party, or the individual named in such order,  
1170 fails to respond to the complaint within the time allotted in  
1171 ss. 120.569 and 120.57, such failure constitutes a default and  
1172 justifies the entry of a cease and desist order.

1173 (5) A contested or default cease and desist order is  
1174 effective when reduced to writing and served upon the family  
1175 trust company, licensed family trust company, or foreign  
1176 licensed family trust company, or family trust company-  
1177 affiliated party, or the individual named therein. An  
1178 uncontested cease and desist order is effective as agreed.

1179 (6) If the office finds that conduct described in  
1180 subsection (1) is likely to cause substantial prejudice to  
1181 members, shareholders, or beneficiaries of fiduciary accounts of  
1182 the family trust company, licensed family trust company, or  
1183 foreign licensed family trust company, or to beneficiaries of  
1184 services rendered by such company, it may issue an emergency  
1185 cease and desist order requiring the family trust company,  
1186 licensed family trust company, or foreign licensed family trust  
1187 company, family trust company-affiliated party, or individual  
1188 named therein to immediately cease and desist from engaging in  
1189 the conduct complained of and to take corrective action. The

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1190 emergency order is effective immediately upon service of a copy  
1191 of the order upon the family trust company, licensed family  
1192 trust company, or foreign licensed family trust company, or  
1193 family trust company-affiliated party and remains effective for  
1194 90 days. If the office begins nonemergency cease and desist  
1195 proceedings under subsection (1), the emergency order remains  
1196 effective until the conclusion of the proceedings under ss.  
1197 120.569 and 120.57. An emergency order entered under this  
1198 subsection is confidential and exempt from s. 119.07(1) until  
1199 the emergency order is made permanent, unless the office finds  
1200 that such confidentiality will result in substantial risk of  
1201 financial loss to the public.

1202 (7) A family trust company or foreign licensed family trust  
1203 company shall have 90 days to wind up its affairs after entry of  
1204 any order to cease and desist from operating as a family trust  
1205 company or foreign licensed family trust company. If, after 90  
1206 days, a family trust company is still operating, the office may  
1207 seek an order from the circuit court for the annulment or  
1208 dissolution of the company. If after 90 days a foreign licensed  
1209 family trust company is still operating, the office may seek an  
1210 injunction from the circuit court restraining the company from  
1211 continuing to operate in this state.

1212 Section 31. Section 662.144, Florida Statutes, is created  
1213 to read:

1214 662.144 Failure to submit required report; fines.—If a  
1215 family trust company, licensed family trust company, or foreign  
1216 licensed family trust company fails to submit within the  
1217 prescribed period its annual certification or any other report  
1218 required by this chapter or any rule, the office may impose a

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1219 fine of up to \$100 for each day that the annual certification or  
1220 report is overdue. Failure to provide the annual certification  
1221 within 60 days after the end of the calendar year shall  
1222 automatically result in termination of registration of a family  
1223 trust company or revocation of the license of a licensed family  
1224 trust company. The trust company shall thereafter have 90 days  
1225 to wind up its affairs.

1226 Section 32. Section 662.145, Florida Statutes, is created  
1227 to read:

1228 662.145 Grounds for removal.—

1229 (1) The office may issue and serve upon a licensed family  
1230 trust company or a family trust company and a family trust  
1231 company-affiliated party a complaint stating charges if the  
1232 office has reason to believe that the family trust company-  
1233 affiliated party is engaging or has engaged in conduct that:

1234 (a) Demonstrates that the company is not a family trust  
1235 company as defined in this chapter;

1236 (b) Is a prohibited act or practice under s. 662.131;

1237 (c) Is a violation of s. 662.1225, s. 662.123(1)(a), s.  
1238 662.126, s. 662.127, s. 662.128, s. 662.130, or s. 662.134;

1239 (d) Is a violation of any other law involving fraud or  
1240 moral turpitude which constitutes a felony;

1241 (e) Is a violation of chapter 896, relating to offenses  
1242 related to financial transactions, or similar state or federal  
1243 law;

1244 (f) Is a willful violation of a rule of the commission;

1245 (g) Is a willful violation of an order of the office;

1246 (h) Is a willful breach of a written agreement with the  
1247 office; or

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1248 (i) Is an act of commission or omission or a practice that  
1249 is a breach of trust or fiduciary duty.

1250 (2) The complaint must contain a statement of facts and a  
1251 notice of opportunity for a hearing pursuant to ss. 120.569 and  
1252 120.57.

1253 (3) If no hearing is requested within the time allowed by  
1254 ss. 120.569 and 120.57, or if a hearing is held and the office  
1255 finds that any of the charges in the complaint is true, the  
1256 office may enter an order removing the family trust company-  
1257 affiliated party or restricting or prohibiting participation by  
1258 the family trust company-affiliated party in the affairs of the  
1259 family trust company, licensed family trust company, or other  
1260 state financial institution, subsidiary, or service corporation.

1261 (4) If the family trust company-affiliated party fails to  
1262 respond to the complaint within the time allowed in ss. 120.569  
1263 and 120.57, such failure constitutes a default and justifies the  
1264 entry of an order of removal.

1265 (5) A contested or default order of removal is effective  
1266 when reduced to writing and served on the family trust company  
1267 or licensed family trust company and the family trust company-  
1268 affiliated party. An uncontested order of removal is effective  
1269 as agreed.

1270 (6) The chief executive officer, or the person holding the  
1271 equivalent office, of a family trust company or licensed family  
1272 trust company shall promptly notify the office if he or she has  
1273 actual knowledge that a family trust company-affiliated party is  
1274 charged with a felony in a state or federal court.

1275 (a) If a family trust company-affiliated party is charged  
1276 with a felony in a state or federal court, or in the courts of a

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1277 foreign country with which the United States maintains  
1278 diplomatic relations which involves a violation of law relating  
1279 to fraud, currency transaction reporting, money laundering,  
1280 theft, or moral turpitude and the charge is equivalent to a  
1281 felony charge under state or federal law, the office may enter  
1282 an emergency order suspending the family trust company-  
1283 affiliated party or restricting or prohibiting participation by  
1284 such company-affiliated party in the affairs of that particular  
1285 family trust company or licensed family trust company or any  
1286 other financial institution, subsidiary, or service corporation,  
1287 upon service of the order upon the company and the family trust  
1288 company-affiliated party so charged.

1289 (b) The order must contain notice of opportunity for a  
1290 hearing pursuant to ss. 120.569 and 120.57, at which the family  
1291 trust company-affiliated party may request a postsuspension  
1292 hearing to show that continued service to or participation in  
1293 the affairs of the family trust company or licensed family trust  
1294 company does not pose a threat to the interests of the company.  
1295 In accordance with applicable commission rules, the office shall  
1296 notify the family trust company-affiliated party whether the  
1297 order suspending or prohibiting the company-affiliated party  
1298 from participating in the affairs of a licensed family trust  
1299 company or family trust company, or state financial institution,  
1300 subsidiary, or service corporation will be rescinded or  
1301 otherwise modified. The emergency order remains in effect,  
1302 unless otherwise modified by the office, until the criminal  
1303 charge is disposed of. The acquittal of the family trust  
1304 company-affiliated party charged, or the final, unappealed  
1305 dismissal of all charges against such person, dissolves the

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1306 emergency order, but does not prohibit the office from  
1307 instituting proceedings under subsection (1). If the family  
1308 trust company-affiliated party charged is convicted or pleads  
1309 nolo contendere regardless of adjudication, the emergency order  
1310 becomes final.

1311 (7) A family trust company-affiliated party removed from  
1312 office pursuant to this section is not eligible for reelection  
1313 to such position or to any official position in a family trust  
1314 company, licensed family trust company, or financial institution  
1315 in this state except with the written consent of the office. A  
1316 family trust company-affiliated party who is removed,  
1317 restricted, or prohibited from participation in the affairs of a  
1318 family trust company, licensed family trust company, or state  
1319 financial institution pursuant to this section may petition the  
1320 office for modification or termination of such removal,  
1321 restriction, or prohibition.

1322 (8) The resignation, termination of employment or  
1323 participation, or separation from a family trust company or a  
1324 licensed family trust company of the family trust company-  
1325 affiliated party does not affect the jurisdiction and authority  
1326 of the office to issue a notice and proceed under this section  
1327 against the company-affiliated party if such notice is served  
1328 before the end of the 6-year period beginning on the date such  
1329 person ceases to be a family trust company-affiliated party with  
1330 respect to such company.

1331 Section 33. Section 662.146, Florida Statutes, is created  
1332 to read:

1333 662.146 Confidentiality of books and records.—

1334 (1) The books and records of a family trust company,

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1335 licensed family trust company, and foreign licensed family trust  
1336 company are confidential and shall be made available for  
1337 inspection and examination only:

1338 (a) To the office or its authorized representative;

1339 (b) To any person authorized to act for the company;

1340 (c) As compelled by a court, pursuant to a subpoena issued  
1341 pursuant to the Florida Rules of Civil Procedure, the Florida  
1342 Rules of Criminal Procedure, or the Federal Rules of Civil  
1343 Procedure or pursuant to a subpoena issued in accordance with  
1344 state or federal law. Before the production of the books and  
1345 records of a family trust company, licensed family trust  
1346 company, or foreign licensed family trust company, the party  
1347 seeking production must reimburse the company for the reasonable  
1348 costs and fees incurred in compliance with the production. If  
1349 the parties disagree regarding the amount of reimbursement, the  
1350 party seeking the records may request the court having  
1351 jurisdiction to set the amount of reimbursement;

1352 (d) Pursuant to a subpoena, to any federal or state law  
1353 enforcement or prosecutorial instrumentality authorized to  
1354 investigate suspected criminal activity;

1355 (e) As authorized by the board of directors, if in  
1356 corporate form, or the managers, if in limited liability company  
1357 form; or

1358 (f) As provided in subsection (2).

1359 (2) (a) Each customer and stockholder, if a corporation, or  
1360 member, if a limited liability company, has the right to inspect  
1361 the books and records of a family trust company or licensed  
1362 family trust company as they pertain to his or her accounts or  
1363 the determination of his or her voting rights.

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1364       (b) The books and records pertaining to customers, members,  
1365 and stockholders of a family trust company or licensed family  
1366 trust company shall be kept confidential by the company and its  
1367 directors, managers, officers, and employees. The books and  
1368 records of customers, members, and stockholders may not be  
1369 released except upon the express authorization of the customer  
1370 as to his or her own accounts or a stockholder or member  
1371 regarding his or her voting rights. However, information may be  
1372 released, without the authorization of a customer, member, or  
1373 shareholder in a manner prescribed by the board of directors, if  
1374 a corporation, or managers, if a limited liability company, to  
1375 verify or corroborate the existence or amount of a customer's  
1376 account if that information is reasonably provided to meet the  
1377 needs of commerce and to ensure accurate credit information.  
1378 Notwithstanding this paragraph, this subsection does not  
1379 prohibit a family trust company or licensed family trust company  
1380 from disclosing financial information referenced in this  
1381 subsection as permitted under 15 U.S.C. s. 6802, as amended.

1382       (c) A person who willfully violates a provision of this  
1383 section which relates to unlawful disclosure of confidential  
1384 information commits a felony of the third degree, punishable as  
1385 provided in s. 775.082, s. 775.083, or s. 775.084.

1386       (d) This subsection does not apply to a foreign licensed  
1387 family trust company. The laws of the jurisdiction of its  
1388 principal place of business govern the rights of customers,  
1389 members, and stockholders to inspect its books and records.

1390       (3) For purposes of this section, the term "books and  
1391 records" includes, but is not limited to, an application for a  
1392 license and any documents connected with the application under



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1393 s. 662.121; the office's corresponding investigation under s.  
1394 662.1215 in granting or denying the issuance of the license; the  
1395 initial registration documents of a family trust company or  
1396 foreign licensed family trust company under s. 662.122; the  
1397 annual certification made by a family trust company, licensed  
1398 family trust company, or foreign licensed family trust company  
1399 under s. 662.128; and the documentation submitted to the office  
1400 in connection with a licensed family trust company discontinuing  
1401 its business under s. 662.129.

1402 Section 34. Section 662.147, Florida Statutes, is created  
1403 to read:

1404 662.147 Records relating to the office examination; limited  
1405 restrictions on public access.—

1406 (1) A family trust company, licensed family trust company,  
1407 and foreign licensed family trust company shall keep at the  
1408 office it is required to maintain pursuant to s. 662.1225 full  
1409 and complete records of the names and residences of all the  
1410 shareholders or members of the trust company and the number of  
1411 shares or membership units held by each, as applicable, as well  
1412 as the ownership percentage of each shareholder or member, as  
1413 the case may be. The records are subject to the inspection of  
1414 all the shareholders or members of the trust company, and the  
1415 officers authorized to assess taxes under state authority,  
1416 during the normal business hours of the trust company. A current  
1417 list of shareholders or members shall be made available to the  
1418 office's examiners for their inspection and, upon the request of  
1419 the office, shall be submitted to the office.

1420 (2) The office shall retain for at least 10 years:

1421 (a) Examination reports.

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1422       (b) Investigatory records.  
 1423       (c) The application for a license, any documents connected  
 1424 with the application, and the office's corresponding  
 1425 investigation in granting or denying the issuance of the  
 1426 license.  
 1427       (d) The initial registration documents of a family trust  
 1428 company or foreign licensed family trust company.  
 1429       (e) The annual certification made by a family trust  
 1430 company, licensed family trust company, or foreign licensed  
 1431 family trust company.  
 1432       (f) The documentation submitted to the office in connection  
 1433 with a licensed family trust company discontinuing its business  
 1434 and any related information compiled by the office, or  
 1435 photographic copies thereof.  
 1436       (3) A copy of any document on file with the office which is  
 1437 certified by the office as being a true copy may be introduced  
 1438 in evidence as if it were the original. The office shall  
 1439 establish a schedule of fees for preparing true copies of  
 1440 documents.  
 1441       Section 35. Section 662.150, Florida Statutes, is created  
 1442 to read:  
 1443       662.150 Domestication of a foreign family trust company.-  
 1444       (1) A foreign family trust company lawfully organized and  
 1445 currently in good standing with the state regulatory agency in  
 1446 the jurisdiction where it is organized may become domesticated  
 1447 in this state by:  
 1448       (a) Filing with the Department of State a certificate of  
 1449 domestication and articles of incorporation in accordance with  
 1450 and subject to s. 607.1801 or by filing articles of conversion

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1451 in accordance with s. 605.1045; and

1452 (b) Filing an application for a license to begin operations  
1453 as a licensed family trust company in accordance with s.  
1454 662.121, which must first be approved by the office or by filing  
1455 the prescribed form with the office to register as a family  
1456 trust company to begin operations in accordance with s. 662.122.

1457 (2) A foreign family trust company may apply pursuant to  
1458 paragraph (1)(b) before satisfying the requirements of paragraph  
1459 (1)(a); however, upon receipt of a certificate of authority, the  
1460 company must satisfy the requirements of paragraph (1)(a) before  
1461 beginning operations.

1462 Section 36. Section 662.151, Florida Statutes, is created  
1463 to read:

1464 662.151 Registration of a foreign licensed family trust  
1465 company to operate in this state.—A foreign licensed family  
1466 trust company lawfully organized and currently in good standing  
1467 with the state regulatory agency in the jurisdiction under the  
1468 law of which it is organized may qualify to begin operations in  
1469 this state by:

1470 (1) Filing an application with the Department of State to  
1471 apply for a certificate of authority in accordance with and  
1472 subject to s. 605.0902, s. 607.1503, or s. 620.1902 or to apply  
1473 for a statement of foreign qualification in accordance with and  
1474 subject to s. 620.9102 to transact business in this state.

1475 (2) Filing an initial registration to begin operations as a  
1476 foreign licensed family trust company in accordance with and  
1477 subject to s. 662.122 and subject to the sections of this  
1478 chapter which specifically state that they apply to a foreign  
1479 licensed family trust company.

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1480       (3) A company in operation as of the effective date of this  
1481 law that meets the definition of a family trust company shall  
1482 have 60 days from the effective date of this act to apply for  
1483 licensure as a licensed family trust company, register as a  
1484 family trust company or foreign licensed family trust company,  
1485 or cease doing business in this state.

1486       Section 37. Paragraph (a) of subsection (3) of section  
1487 120.80, Florida Statutes, is amended to read:

1488       120.80 Exceptions and special requirements; agencies.-

1489       (3) OFFICE OF FINANCIAL REGULATION.-

1490       (a) Notwithstanding s. 120.60(1), in proceedings for the  
1491 issuance, denial, renewal, or amendment of a license or approval  
1492 of a merger pursuant to title XXXVIII:

1493       1.a. The Office of Financial Regulation of the Financial  
1494 Services Commission shall have published in the Florida  
1495 Administrative Register notice of the application within 21 days  
1496 after receipt.

1497       b. Within 21 days after publication of notice, any person  
1498 may request a hearing. Failure to request a hearing within 21  
1499 days after notice constitutes a waiver of any right to a  
1500 hearing. The Office of Financial Regulation or an applicant may  
1501 request a hearing at any time prior to the issuance of a final  
1502 order. Hearings shall be conducted pursuant to ss. 120.569 and  
1503 120.57, except that the Financial Services Commission shall by  
1504 rule provide for participation by the general public.

1505       2. Should a hearing be requested as provided by sub-  
1506 subparagraph 1.b., the applicant or licensee shall publish at  
1507 its own cost a notice of the hearing in a newspaper of general  
1508 circulation in the area affected by the application. The

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1509 Financial Services Commission may by rule specify the format and  
1510 size of the notice.

1511 3. Notwithstanding s. 120.60(1), and except as provided in  
1512 subparagraph 4., an every application for license for a new  
1513 bank, new trust company, new credit union, ~~or~~ new savings and  
1514 loan association, or new licensed family trust company must  
1515 ~~shall~~ be approved or denied within 180 days after receipt of the  
1516 original application or receipt of the timely requested  
1517 additional information or correction of errors or omissions. An  
1518 ~~Any~~ application for such a license or for acquisition of such  
1519 control which is not approved or denied within the 180-day  
1520 period or within 30 days after conclusion of a public hearing on  
1521 the application, whichever is later, shall be deemed approved  
1522 subject to the satisfactory completion of conditions required by  
1523 statute as a prerequisite to license and approval of insurance  
1524 of accounts for a new bank, a new savings and loan association,  
1525 ~~or~~ a new credit union, or a new licensed family trust company by  
1526 the appropriate insurer.

1527 4. In the case of an every application for license to  
1528 establish a new bank, trust company, or capital stock savings  
1529 association in which a foreign national proposes to own or  
1530 control 10 percent or more of any class of voting securities,  
1531 and in the case of an every application by a foreign national  
1532 for approval to acquire control of a bank, trust company, or  
1533 capital stock savings association, the Office of Financial  
1534 Regulation shall request that a public hearing be conducted  
1535 pursuant to ss. 120.569 and 120.57. Notice of such hearing shall  
1536 be published by the applicant as provided in subparagraph 2. The  
1537 failure of ~~any~~ such foreign national to appear personally at the

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1538 hearing shall be grounds for denial of the application.  
1539 Notwithstanding ~~the provisions of~~ s. 120.60(1) and subparagraph  
1540 3., every application involving a foreign national shall be  
1541 approved or denied within 1 year after receipt of the original  
1542 application or any timely requested additional information or  
1543 the correction of any errors or omissions, or within 30 days  
1544 after the conclusion of the public hearing on the application,  
1545 whichever is later.

1546 Section 38. Subsections (2) and (3) of section 736.0802,  
1547 Florida Statutes, are amended, and paragraph (i) is added to  
1548 subsection (5) of that section, to read:

1549 736.0802 Duty of loyalty.—

1550 (2) Subject to the rights of persons dealing with or  
1551 assisting the trustee as provided in s. 736.1016, a sale,  
1552 encumbrance, or other transaction involving the investment or  
1553 management of trust property entered into by the trustee for the  
1554 trustee's own personal account or which is otherwise affected by  
1555 a conflict between the trustee's fiduciary and personal  
1556 interests is voidable by a beneficiary affected by the  
1557 transaction unless:

1558 (a) The transaction was authorized by the terms of the  
1559 trust;

1560 (b) The transaction was approved by the court;

1561 (c) The beneficiary did not commence a judicial proceeding  
1562 within the time allowed by s. 736.1008;

1563 (d) The beneficiary consented to the trustee's conduct,  
1564 ratified the transaction, or released the trustee in compliance  
1565 with s. 736.1012;

1566 (e) The transaction involves a contract entered into or

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1567 claim acquired by the trustee when that person had not become or  
1568 contemplated becoming trustee;

1569 (f) The transaction was consented to in writing by a  
1570 settlor of the trust while the trust was revocable; ~~or~~

1571 (g) The transaction is one by a corporate trustee that  
1572 involves a money market mutual fund, mutual fund, or a common  
1573 trust fund described in s. 736.0816(3); or

1574 (h) With regard to a trust that is administered by a family  
1575 trust company, licensed family trust company, or foreign  
1576 licensed family trust company operating under chapter 662, the  
1577 transaction is authorized by s. 662.132(4)-(8).

1578 (3) (a) A sale, encumbrance, or other transaction involving  
1579 the investment or management of trust property is presumed to be  
1580 affected by a conflict between personal and fiduciary interests  
1581 if the sale, encumbrance, or other transaction is entered into  
1582 by the trustee with:

1583 1. ~~(a)~~ The trustee's spouse;

1584 2. ~~(b)~~ The trustee's descendants, siblings, parents, or  
1585 their spouses;

1586 3. ~~(c)~~ An officer, director, employee, agent, or attorney of  
1587 the trustee; or

1588 4. ~~(d)~~ A corporation or other person or enterprise in which  
1589 the trustee, or a person that owns a significant interest in the  
1590 trustee, has an interest that might affect the trustee's best  
1591 judgment.

1592 (b) This subsection does not apply to a trust being  
1593 administered by a family trust company, licensed family trust  
1594 company, or foreign licensed family trust company operating  
1595 under chapter 662 if the sale, encumbrance, or other transaction

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1596 is authorized by s. 662.132(4)-(8).

1597 (5)

1598 (i) This subsection does not apply to a trust administered  
1599 by a family trust company, licensed family trust company, or  
1600 foreign licensed family trust company operating under chapter  
1601 662.

1602 Section 39. Subsection (5) of section 744.351, Florida  
1603 Statutes, is amended to read:

1604 744.351 Bond of guardian.—

1605 (5) Financial institutions as defined in s. 744.309(4),  
1606 other than a trust company operating under chapter 662 which is  
1607 not a licensed family trust company or foreign licensed family  
1608 trust company, and public guardians authorized by law to be  
1609 guardians are ~~shall~~ not ~~be~~ required to file bonds.

1610 Section 40. This act shall take effect on October 1, 2014,  
1611 if SB \_\_\_\_\_ or similar legislation is adopted in the same  
1612 legislative session or an extension thereof and becomes law.