

20141238e1

1 A bill to be entitled
2 An act relating to family trust companies; amending s.
3 655.005, F.S.; revising the definition of the term
4 "financial institutions codes"; creating chapter 662,
5 F.S.; creating s. 662.10, F.S.; providing a short
6 title; creating s. 662.102, F.S.; providing the
7 purpose of the act; creating s. 662.111, F.S.;
8 defining terms; creating s. 662.112, F.S.; providing
9 for the calculation of kinship; creating s. 662.114,
10 F.S.; exempting a family trust company or foreign
11 licensed family trust company from licensure; creating
12 s. 662.115, F.S.; providing for the applicability of
13 the chapter to a family trust company or foreign
14 licensed family trust company; creating s. 662.120,
15 F.S.; specifying the maximum number of designated
16 relatives allowed for a family trust company and a
17 licensed family trust company; creating s. 662.121,
18 F.S.; providing procedures for applying for a family
19 trust company license; requiring a fee; creating s.
20 662.1215, F.S.; providing for investigations of
21 applicants by the Office of Financial Regulation;
22 creating s. 662.122, F.S.; providing procedures for
23 the registration of a family trust company or a
24 foreign licensed family trust company; requiring a
25 fee; creating s. 662.1225, F.S.; providing
26 requirements for a family trust company, licensed
27 family trust company, and foreign licensed family
28 trust company; creating s. 662.123, F.S.; requiring
29 organizational documents to include certain

20141238e1

30 provisions; authorizing the use of the term "trust";
31 creating s. 662.124, F.S.; requiring a minimum capital
32 account; creating s. 662.125, F.S.; vesting exclusive
33 authority to manage a family trust company or licensed
34 family trust company in a board of directors or
35 managers; providing for appointment of directors and
36 managers; requiring certain notice to the office in
37 specified circumstances; requiring the office to issue
38 a notice of disapproval of a proposed appointment in
39 specified circumstances; creating s. 662.126, F.S.;
40 requiring that licensed family trust companies procure
41 and maintain fidelity bonds or specified minimum
42 capital account and errors and omissions insurance;
43 authorizing a family trust company that is not
44 licensed to procure and maintain such coverage;
45 authorizing licensed and unlicensed family trust
46 companies to procure and maintain other insurance
47 policies; creating s. 662.127, F.S.; requiring certain
48 books and records to be segregated; creating s.
49 662.128, F.S.; requiring annual license and
50 registration renewal; requiring a fee; creating s.
51 662.129, F.S.; providing for the discontinuance of a
52 licensed family trust company; creating s. 662.130,
53 F.S.; authorizing family trust companies to conduct
54 certain activities; creating s. 662.131, F.S.;
55 prohibiting certain activities on the part of family
56 trust companies; creating s. 662.132, F.S.; imposing
57 certain requirements on the assets that form the
58 minimum capital of licensed family trust companies and

20141238e1

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

20141238e1

88 summary, or written statement in certain
89 circumstances; authorizing the commission to adopt
90 rules relating to records and requirements;
91 authorizing the office to examine the books and
92 records of a foreign licensed family trust company;
93 requiring family trust companies to pay examination
94 fees tied to actual costs incurred by the office;
95 providing a penalty for late payment and authorizing
96 an administrative fine if late payment is intentional;
97 creating s. 662.142, F.S.; providing for license
98 revocation; specifying acts and conduct that
99 constitute grounds for revocation; authorizing the
100 office to suspend a license pending revocation;
101 creating s. 662.143, F.S.; authorizing the office to
102 issue a cease and desist order and an emergency cease
103 and desist order; creating s. 662.144, F.S.;
104 authorizing the office to collect fines for the
105 failure to submit required reports; creating s.
106 662.145, F.S.; providing grounds for the removal of an
107 officer, director, manager, employee, or agent of a
108 licensed family trust company or a family trust
109 company; creating s. 662.146, F.S.; providing for the
110 confidentiality of certain company books and records;
111 creating s. 662.147, F.S.; providing requirements for
112 books and records of family trust companies; requiring
113 the office to retain certain records for a specified
114 time; allowing the introduction of certain copies into
115 evidence; requiring the office to establish a schedule
116 of fees for such copies; providing requirements for

20141238e1

117 orders issued by courts or administrative law judges
118 for the production of confidential records or
119 information; creating s. 662.150, F.S.; providing for
120 the domestication of a foreign family trust company;
121 creating s. 662.151, F.S.; providing for the
122 registration of a foreign licensed family trust
123 company; amending s. 120.80, F.S.; adding licensed
124 family trust companies to the entities regulated by
125 the office that are exempted from licensing timeframes
126 under ch. 120, F.S.; amending s. 736.0802, F.S.;
127 providing circumstances under which certain trust
128 transactions are not voidable by a beneficiary
129 affected by a transaction; providing circumstances
130 under which certain transactions involving the
131 investment or management of trust property are not
132 presumed to be affected by conflicts of interest;
133 providing an exception; amending s. 744.351, F.S.;
134 exempting a family trust company from certain bond
135 requirements and applying those requirements to
136 licensed family trust companies and foreign licensed
137 family trust companies; providing a contingent
138 effective date.

139
140 Be It Enacted by the Legislature of the State of Florida:

141
142 Section 1. Paragraph (k) of subsection (1) of section
143 655.005, Florida Statutes, is amended to read:

144 655.005 Definitions.—

145 (1) As used in the financial institutions codes, unless the

20141238e1

146 context otherwise requires, the term:

147 (k) "Financial institutions codes" means:

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

150 2. Chapter 657, relating to credit unions;

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

152 4. Chapter 660, relating to trust business;

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

154 ~~6.5.~~ Chapter 663, relating to international banking;

155 ~~7.6.~~ Chapter 665, relating to associations; and

156 ~~8.7.~~ Chapter 667, relating to savings banks.

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

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

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

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

166 662.102 Purpose.—The purpose of the Family Trust Company
167 Act is to establish requirements for licensing family trust
168 companies, to provide regulation of those persons who provide
169 fiduciary services to family members of no more than two
170 families and their related interests as a family trust company,
171 and to establish the degree of regulatory oversight required of
172 the Office of Financial Regulation over such companies. Unlike
173 trust companies formed under chapter 658, there is no public
174 interest to be served outside of ensuring that fiduciary

20141238e1

175 activities performed by a family trust company are restricted to
176 family members and their related interests and as otherwise
177 provided for in this chapter. Therefore, family trust companies
178 are not financial institutions within the meaning of the
179 financial institutions codes, and licensure of these companies
180 pursuant to chapters 658 and 660 should not be required as it
181 would not promote the purposes of the codes as set forth in s.
182 655.001. Consequently, the Office of Financial Regulation is not
183 responsible for regulating family trust companies to ensure
184 their safety and soundness, and the responsibility of the office
185 is limited to ensuring that fiduciary services provided by such
186 companies are restricted to family members and related interests
187 and not to the general public.

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

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

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

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

202 (3) "Capital account" means the aggregate value of
203 unimpaired capital stock based on the par value of the shares,

20141238e1

204 plus any unimpaired surplus and undivided profits or retained
205 earnings of a family trust company organized as a corporation;
206 or the initial cash investment remitted for membership interests
207 in a family trust company organized as a limited liability
208 company, plus any undivided profits or retained earnings of the
209 limited liability company.

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

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

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

219 (7) "Commission" means the Financial Services Commission.

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

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

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

232 (11) "Family member" means:

20141238e1

- 233 (a) A designated relative.
- 234 (b) A person within the fourth degree of lineal kinship to
235 a designated relative of a family trust company, or a person
236 within the sixth degree of lineal kinship to a designated
237 relative of a licensed family trust company.
- 238 (c) A person within the seventh degree of collateral
239 kinship to a designated relative of a family trust company, or a
240 person within the ninth degree of collateral kinship to a
241 designated relative of a licensed family trust company.
- 242 (d) The spouse or former spouse of an individual qualifying
243 as a family member and an individual who is within the fifth
244 degree of lineal kinship to that spouse or former spouse.
- 245 (e) A family affiliate.
- 246 (f) A trust established by a family member if the trust is
247 funded exclusively by one or more family members. A trust to
248 which property has been transferred as a result of a family
249 member's exercise of a power of appointment shall be deemed
250 established by that family member if all qualified beneficiaries
251 of the appointee trust are family members.
- 252 (g) A trust established by an individual who is not a
253 family member if all of the noncharitable qualified
254 beneficiaries of the trust are family members, except that a
255 trust composed exclusively of nonindividual qualified
256 beneficiaries is considered to be a family member if all of the
257 nonindividual qualified beneficiaries are charitable foundations
258 or other charitable entities as described in paragraph (j).
- 259 (h) The probate estate of a family member.
- 260 (i) The probate estate of an individual who is not a family
261 member if all of the noncharitable beneficiaries of the estate

20141238e1

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

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

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

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

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

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

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

282 (13) "Family trust company-affiliated party" means:

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

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

290 (14) "Financial institutions codes" has the same meaning as

20141238e1

291 provided in s. 655.005(1).

292 (15) "Foreign licensed family trust company" means a family
293 trust company that:

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

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

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

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

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

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

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

314 (18) "Office" means the Office of Financial Regulation.

315 (19) "Officer" of a family trust company means an
316 individual, regardless of whether the individual has an official
317 title or receives a salary or other compensation, who may
318 participate in the major policymaking functions of a family
319 trust company, other than as a director. The term does not

20141238e1

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

337 (20) "Qualified beneficiary" has the same meaning as
338 provided in s. 736.0103.

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

341 662.112 Degrees of kinship.—Degrees of kinship shall be
342 calculated by adding the number of steps from a designated
343 relative through each person to the family member, directly in
344 the case of lineal kinship, or through the common ancestor in
345 the case of collateral kinship.

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

348 662.114 Family trust company and foreign licensed family

20141238e1

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

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

354 662.115 Applicability of chapter to a family trust company
355 or foreign licensed family trust company.—

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

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

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

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

371 662.120 Maximum number of designated relatives.—

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

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

377 Section 10. Section 662.121, Florida Statutes, is created

20141238e1

378 to read:

379 662.121 Application for licensed family trust company;
380 fees.—An applicant seeking to operate as a licensed family trust
381 company must file an application with the office on forms
382 prescribed by the office, accompanied by a nonrefundable \$10,000
383 application fee to be deposited into the Financial Institutions'
384 Regulatory Trust Fund pursuant to s. 655.049 for the purpose of
385 administering this chapter. The application must contain or be
386 accompanied by:

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

388 (2) A copy of the articles of incorporation or articles of
389 organization and the bylaws or operating agreement of the
390 proposed licensed family trust company.

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

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

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

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

406 (7) The names of the designated relatives.

20141238e1

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

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

414 (10) A statement signed by the applicant, or by the
415 individual signing on behalf of the proposed licensed family
416 trust company, under penalty of perjury, affirming that the
417 following statements are true:

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

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

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

435 (d) No director, officer, manager, or member acting in a

20141238e1

436 managerial capacity has had a professional license suspended or
437 revoked within the 10 years preceding the date of the
438 application.

439 (e) All information contained in the application is true
440 and correct to the best knowledge of the individual signing the
441 application on behalf of the proposed licensed family trust
442 company.

443 (11) Any other additional information reasonably required
444 by the office.

445 Section 11. Section 662.1215, Florida Statutes, is created
446 to read:

447 662.1215 Investigation of license applicants.—

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

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

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

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

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

20141238e1

465 3. Been directors, officers, managers, or members of a
466 financial institution licensed or chartered under the financial
467 institutions codes or by the Federal Government or any other
468 state, the District of Columbia, a territory of the United
469 States, or a foreign country, whose license or charter was
470 suspended or revoked within the 10 years preceding the date of
471 the application;

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

474 5. Made a false statement of material fact on the
475 application.

476 (b) That the name of the proposed company complies with s.
477 662.123.

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

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

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

493 (4) If the office determines the criteria in subsection (2)

20141238e1

494 have not been met, the office shall serve notice of its intent
495 to deny the application and of the applicant's opportunity to
496 request a hearing pursuant to ss. 120.569 and 120.57.

497 Section 12. Section 662.122, Florida Statutes, is created
498 to read:

499 662.122 Registration of a family trust company or a foreign
500 licensed family trust company.—

501 (1) A family trust company that is not applying under s.
502 662.121 to become a licensed family trust company must register
503 with the office before beginning operations in this state. The
504 registration application must:

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

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

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

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

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

516 (a) The registration application must state that its
517 operations will comply with ss. 662.1225, 662.125, 662.131, and
518 662.134 and that it is currently in compliance with the family
519 trust company laws and regulations of its principal
520 jurisdiction.

521 (b) The registration application must provide:

522 1. The current telephone number and street address of the

20141238e1

523 physical location of its principal place of business in its
524 principal jurisdiction.

525 2. The current telephone number and street address of the
526 physical location in this state of its principal place of
527 operations where its books and records pertaining to its
528 operations in this state will be maintained.

529 3. The current telephone number and street address of the
530 physical location of any other offices located within this
531 state.

532 4. The name and current street address in this state of its
533 registered agent.

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

541 (3) The registration application required under this
542 section for a family trust company and a foreign licensed family
543 trust company must be accompanied by a nonrefundable
544 registration fee of \$5,000.

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

551 (5) All fees received by the office pursuant to this

20141238e1

552 section shall be deposited into the Financial Institutions'
553 Regulatory Trust Fund pursuant to s. 655.049 for purposes of
554 administering this chapter.

555 Section 13. Section 662.1225, Florida Statutes, is created
556 to read:

557 662.1225 Requirements for a family trust company, licensed
558 family trust company, and foreign licensed family trust
559 company.-

560 (1) A family trust company and a licensed family trust
561 company shall maintain:

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

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

571 (c) All applicable state and local business licenses,
572 charters, and permits.

573 (d) A deposit account with a state-chartered or national
574 financial institution that has a principal or branch office in
575 this state.

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

579 (a) An office physically located in this state where
580 original or true copies of all records and accounts of the

20141238e1

581 foreign licensed family trust company pertaining to its
582 operations in this state may be accessed and made readily
583 available for examination by the office in accordance with this
584 chapter.

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

587 (c) All applicable state and local business licenses,
588 charters, and permits.

589 (d) A deposit account with a state-chartered or national
590 financial institution that has a principal or branch office in
591 this state.

592 Section 14. Section 662.123, Florida Statutes, is created
593 to read:

594 662.123 Organizational documents; use of term "family
595 trust" in name.—

596 (1) The articles of incorporation, certificate of
597 incorporation, or articles of organization of a family trust
598 company or licensed family trust company must contain:

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

20141238e1

610 (b) The purpose for which the company is formed, which must
611 clearly identify the restricted activities permissible to a
612 family trust company or licensed family trust company under this
613 chapter.

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

616 (d) A statement affirming that the articles of
617 incorporation, certificate of incorporation, or articles of
618 organization will not be amended without prior written notice to
619 the office.

620 (2) A proposed amendment to the articles of incorporation,
621 articles of organization, bylaws, or articles of organization of
622 a limited liability company, family trust company, or licensed
623 family trust company must be submitted to the office for review
624 at least 30 days before it is filed or effective. An amendment
625 is not considered filed or effective if the office issues a
626 notice of disapproval with respect to the proposed amendment.

627 (3) The term "family trust" in the name adopted by a family
628 trust company or licensed family trust company does not
629 disqualify the name from being allowed under s. 605.0112 or s.
630 607.0401.

631 Section 15. Section 662.124, Florida Statutes, is created
632 to read:

633 662.124 Minimum capital account required.-

634 (1) A licensed family trust company that has one designated
635 relative may not be organized or operated with an owners'
636 capital account of less than \$250,000. The minimum capital
637 account shall be increased to \$350,000 if two designated
638 relatives of the licensed family trust company are named in the

20141238e1

639 application for a license or in the annual license renewal. A
640 family trust company may not be organized or operated with a
641 capital account of less than \$250,000.

642 (2) The full amount of the initial capital account of a
643 family trust company or licensed family trust company must be
644 composed of one or more of the asset groups described in s.
645 662.132(1) (a), exclusive of all organization expenses.

646 Section 16. Section 662.125, Florida Statutes, is created
647 to read:

648 662.125 Directors or managers.—

649 (1) Exclusive authority to manage a family trust company or
650 licensed family trust company is vested in a board of directors,
651 if a corporation, or a board of directors or managers, if a
652 limited liability company.

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

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

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

666 (b) Has undergone a change in control within the preceding
667 2 years.

20141238e1

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

669
670 The notification must include the name and such biographical
671 information as the office may reasonably require.

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

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

682 Section 17. Section 662.126, Florida Statutes, is created
683 to read:

684 662.126 Fidelity bonds; insurance.-

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

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

695 (3) In lieu of the fidelity bonds required under subsection
696 (1), a licensed family trust company may increase its capital

20141238e1

697 account required under s. 662.124 by \$1 million so that if it
698 has one designated relative, it is organized or operated with a
699 capital account of at least \$1.25 million, or if it has two
700 designated relatives, it is organized or operated with a capital
701 account of at least \$1.35 million.

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

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

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

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

720 Section 18. Section 662.127, Florida Statutes, is created
721 to read:

722 662.127 Segregation of books, records, and assets;
723 fiduciary assets not liable.-

724 (1) Each family trust company and licensed family trust
725 company shall maintain its fiduciary books and records separate

20141238e1

726 and distinct from other records of the company and shall
727 segregate all assets held in any fiduciary capacity from other
728 assets of the company.

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

732 Section 19. Section 662.128, Florida Statutes, is created
733 to read:

734 662.128 Annual renewal.—

735 (1) Within 30 days after the end of each calendar year,
736 family trust companies, licensed family trust companies, and
737 foreign licensed family trust companies shall file their annual
738 renewal application with the office.

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

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

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

750 (3) The registration renewal application filed by a family
751 trust company must include a verified statement by an officer of
752 the company that it is a family trust company as defined under
753 this chapter and that its operations are in compliance with ss.
754 662.1225, 662.125, 662.131, and 662.134; chapter 896; or similar

20141238e1

755 state or federal law, or any related rule or regulation, and
756 include the name of its designated relative or relatives, if
757 applicable, and the street address for its principal place of
758 business.

759 (4) The registration renewal application filed by a foreign
760 licensed family trust company must include a verified statement
761 that its operations are in compliance with ss. 662.1225,
762 662.125, 662.131, and 662.134 and in compliance with the family
763 trust company laws and regulations of its principal
764 jurisdiction. It must also provide:

765 (a) The current telephone number and street address of the
766 physical location of its principal place of business in its
767 principal jurisdiction.

768 (b) The current telephone number and street address of the
769 physical location in this state of its principal place of
770 operations where its books and records pertaining to its
771 operations in this state are maintained.

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

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

776 (e) Documentation satisfactory to the office that the
777 foreign licensed family trust company is in compliance with the
778 family trust company laws and regulations of its principal
779 jurisdiction.

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

783 (6) A fee of \$750 for a family trust company, \$1,500 for a

20141238e1

784 licensed family trust company, and \$1,000 for a foreign licensed
785 family trust company shall be submitted with the annual renewal
786 application. All fees received by the office pursuant to this
787 section shall be deposited into the Financial Institutions'
788 Regulatory Trust Fund pursuant to s. 655.049 for the purpose of
789 administering this chapter.

790 Section 20. Section 662.129, Florida Statutes, is created
791 to read:

792 662.129 Discontinuing business.—If a licensed family trust
793 company desires to discontinue business as a licensed family
794 trust company, it must file with the office a certified copy of
795 the resolution of the board of directors, or members if a
796 limited liability company, authorizing that action. Upon
797 discharge from all fiduciary duties which it has undertaken, the
798 licensed family trust company shall provide certification of
799 such discharge and voluntarily relinquish its license to operate
800 as a licensed family trust company to the office, whereupon it
801 shall be released from any fidelity bonds that it maintained
802 pursuant to s. 662.126(1).

803 Section 21. Section 662.130, Florida Statutes, is created
804 to read:

805 662.130 Powers of family trust companies, licensed family
806 trust companies, and foreign licensed family trust companies.—

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

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

812 (b) Act as an attorney in fact or agent under a power of

20141238e1

813 attorney, other than a power of attorney governed by chapter
814 709.

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

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

835 (e) Delegate duties and powers, including investment
836 functions under s. 518.112, in accordance with the powers
837 granted to a trustee under chapter 736 or other applicable law,
838 and retain agents, attorneys, accountants, investment advisers,
839 or other individuals or entities to advise or assist the family
840 trust company, licensed family trust company, or foreign
841 licensed family trust company in the exercise of its powers and

20141238e1

842 duties under this chapter and chapter 736. Such exercise of
843 power may include, but is not limited to, retaining a bank trust
844 department, or a public trust company, other than another family
845 trust company, licensed family trust company, or foreign
846 licensed family trust company.

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

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

854 Section 22. Section 662.131, Florida Statutes, is created
855 to read:

856 662.131 Prohibitions.—Notwithstanding any provision of this
857 chapter, a family trust company, licensed family trust company,
858 or foreign licensed family trust company may not:

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

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

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

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

870 Section 23. Section 662.132, Florida Statutes, is created

20141238e1

871 to read:

872 662.132 Investments.—

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

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

877 (b) Have an aggregate market value of at least 100 percent
878 of the company's required capital account, as specified in s.
879 662.124. If the aggregate market value of 100 percent of the
880 company's capital account is, at any time, less than the amount
881 required under s. 662.124, the company has 5 business days to
882 bring such capital account into compliance with s. 662.124.

883 (2) A family trust company or licensed family trust company
884 may purchase or rent real or personal property for use in the
885 conduct of the business and other activities of the company.

886 (3) Notwithstanding any other provision of law, a family
887 trust company or licensed family trust company may invest funds
888 for its own account, other than those required or allowed under
889 subsection (1) or subsection (2), in any type or character of
890 equity securities, debt securities, or other assets.

891 (4) Notwithstanding any other law, a family trust company
892 or licensed family trust company may, while acting as a
893 fiduciary, purchase directly from underwriters or distributors
894 or in the secondary market:

895 (a) Bonds or other securities underwritten or distributed
896 by:

897 1. The family trust company or licensed family trust
898 company;

899 2. A family affiliate; or

20141238e1

900 3. A syndicate, including the family trust company,
901 licensed family trust company, or family affiliate.

902 (b) Securities of an investment company, including a mutual
903 fund, closed-end fund, or unit investment trust, as defined
904 under the federal Investment Company Act of 1940, for which the
905 family trust company or licensed family trust company acts as an
906 advisor, custodian, distributor, manager, registrar, shareholder
907 servicing agent, sponsor, or transfer agent.

908 (5) The authority granted in subsection (4) may be
909 exercised only if:

910 (a) The investment is not expressly prohibited by the
911 instrument, judgment, decree, or order establishing the
912 fiduciary relationship.

913 (b) The family trust company or licensed family trust
914 company procures in writing the consent of any cofiduciaries
915 with discretionary investment powers to the investment.

916 (c) The family trust company or licensed family trust
917 company discloses in writing to the person or persons to whom it
918 sends account statements its intent to exercise the authority
919 granted in subsection (4) before the first exercise of that
920 authority, and each such disclosure reflects:

921 1. The nature of any interest the family trust company or
922 licensed family trust company has, or is reasonably expected to
923 have, in the underwriting or distribution of bonds or securities
924 purchased.

925 2. The nature and amount of any fee or other compensation
926 received, or reasonably expected to be received, by the family
927 trust company or licensed family trust company in connection
928 with the transaction.

20141238e1

929 3. The nature of the relationship between the family trust
930 company or licensed family trust company and an investment
931 company described in paragraph (4) (b) .

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

936 (6) Subsections (4) and (5) do not affect the degree of
937 prudence required of fiduciaries under the laws of this state.
938 However, a purchase of bonds or securities pursuant to
939 subsections (4) and (5) is not presumed to be affected by a
940 conflict between the fiduciary's personal and fiduciary
941 interests if such purchase:

942 (a) Is negotiated at a fair price.

943 (b) Is in accordance with:

944 1. The interest of the qualified beneficiaries.

945 2. The purposes of the trusts.

946 (c) Otherwise complies with:

947 1. The prudent investor rule in s. 518.11, or other prudent
948 investor or similar rule under other applicable law, unless such
949 compliance is waived in accordance with s. 518.11 or other
950 applicable law.

951 2. The terms of the instrument, judgment, decree, or order
952 establishing the fiduciary relationship.

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

957 (a) The family trust company or licensed family trust

20141238e1

958 company is expressly authorized to do so by:

959 1. The terms of the instrument creating the trust;

960 2. A court order;

961 3. The written consent of the settlor of the trust for
962 which the family trust company or licensed family trust company
963 is serving as trustee; or

964 4. The written consent of every adult qualified beneficiary
965 of the trust who, at the time of such purchase, is entitled to
966 receive income under the trust or who would be entitled to
967 receive a distribution of principal if the trust were
968 terminated; and

969 (b) The purchase of the security is at a fair price and
970 complies with:

971 1. The prudent investor rule in s. 518.11, or other prudent
972 investor or similar rule under other applicable law, unless such
973 compliance is waived in accordance with s. 518.11 or other
974 applicable law.

975 2. The terms of the instrument, judgment, decree, or order
976 establishing the fiduciary relationship.

977 (8) Except as otherwise expressly limited by this section,
978 a family trust company or licensed family trust company, while
979 acting as a fiduciary, is also authorized, without limiting any
980 powers otherwise conferred on fiduciaries by law, to do any of
981 the following, which are not presumed to be affected by a
982 conflict between the fiduciary's personal and fiduciary
983 interests:

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

20141238e1

987 (b) Place a security transaction using a broker who is a
988 family member.

989 (c) Enter into an agreement with a family member who is the
990 settlor or a qualified beneficiary of a trust with respect to
991 the appointment of the family trust company or licensed family
992 trust company as a fiduciary of the trust, or with respect to
993 the compensation of the family trust company and licensed family
994 trust company for service as a fiduciary.

995 (d) Transact business with a family member.

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

1000 (f) Deposit trust assets in a financial institution that is
1001 owned, controlled, or operated by one or more family members.

1002 (g) Purchase, sell, hold, own, or invest in a security,
1003 bond, real or personal property, stock, or other asset of a
1004 family member.

1005 (h) With or without adequate security, lend money to or
1006 borrow money from a family member or a trust, estate, or
1007 guardianship for which the family trust company or licensed
1008 family trust company serves as a fiduciary.

1009 (9) If not inconsistent with and subject to the terms of
1010 subsections (4)-(8), the duty of loyalty under s. 736.0802
1011 applies to family trust companies, licensed family trust
1012 companies, and foreign licensed family trust companies when
1013 serving as trustee of a trust whose administration is subject to
1014 chapter 736.

1015 Section 24. Section 662.133, Florida Statutes, is created

20141238e1

1016 to read:

1017 662.133 Oaths, affidavits, and acknowledgments.-If a family
1018 trust company or licensed family trust company is required to
1019 make an oath, affirmation, affidavit, or acknowledgment
1020 regarding a fiduciary capacity in which it is acting or is
1021 preparing to act, a director or officer or, if the company is a
1022 limited liability company, a manager or officer expressly
1023 authorized by the family trust company or licensed family trust
1024 company, shall make and, if required, subscribe to such oath,
1025 affirmation, affidavit, or acknowledgment on behalf of the
1026 company.

1027 Section 25. Section 662.134, Florida Statutes, is created
1028 to read:

1029 662.134 Unlawful to advertise services.-A family trust
1030 company, licensed family trust company, or foreign licensed
1031 family trust company may not advertise its services to the
1032 public.

1033 Section 26. Section 662.135, Florida Statutes, is created
1034 to read:

1035 662.135 Service as court-appointed fiduciary; bond
1036 requirement.-A licensed family trust company is not required to
1037 provide or otherwise post a bond or other surety to serve as a
1038 court-appointed fiduciary in a proceeding brought or conducted
1039 in this state.

1040 Section 27. Section 662.140, Florida Statutes, is created
1041 to read:

1042 662.140 Rules.-The commission may adopt rules necessary to
1043 carry out the purposes of this chapter.

1044 Section 28. Section 662.141, Florida Statutes, is created

20141238e1

1045 to read:

1046 662.141 Examination, investigations, and fees.—The office
1047 may conduct an examination or investigation of a family trust
1048 company, licensed family trust company, or foreign licensed
1049 family trust company at any time it deems necessary to determine
1050 whether a family trust company, licensed family trust company,
1051 foreign licensed family trust company, or family trust company-
1052 affiliated person has violated or is about to violate any
1053 provision of this chapter or rules adopted by the commission
1054 pursuant to this chapter, or any applicable provision of the
1055 financial institution codes or rules adopted by the commission
1056 pursuant to such codes.

1057 (1) The office shall conduct an examination of a licensed
1058 family trust company, family trust company, and foreign licensed
1059 family trust company at least once every 18 months.

1060 (2) In lieu of an examination by the office, the office may
1061 accept an audit of a family trust company, licensed family trust
1062 company, or foreign licensed family trust company by a certified
1063 public accountant licensed to practice in this state who is
1064 independent of the company, or other person or entity acceptable
1065 to the office. If the office accepts an audit pursuant to this
1066 subsection, the office shall conduct the next required
1067 examination.

1068 (3) The office shall examine the books and records of a
1069 family trust company or licensed family trust company as
1070 necessary to determine whether it is a family trust company or
1071 licensed family trust company as defined in this chapter, and is
1072 operating in compliance with ss. 662.1225, 662.125, 662.126,
1073 662.131, and 662.134, as applicable. The office may rely upon a

20141238e1

1074 certificate of trust, trust summary, or written statement from
1075 the trust company identifying the qualified beneficiaries of any
1076 trust or estate for which the family trust company serves as a
1077 fiduciary and the qualification of the qualified beneficiaries
1078 as permissible recipients of company services. The commission
1079 may establish by rule the records to be maintained or
1080 requirements necessary to demonstrate conformity with this
1081 chapter as a family trust company or licensed family trust
1082 company.

1083 (4) The office shall examine the books and records of a
1084 foreign licensed family trust company as necessary to determine
1085 if it is a foreign licensed trust company as defined in this
1086 chapter and is in compliance with ss. 662.1225, 662.125,
1087 662.130(2), 662.131, and 662.134. In connection with an
1088 examination of the books and records of the company, the office
1089 may rely upon the most recent examination report or review or
1090 certification letters or similar documentation issued by the
1091 regulatory agency to which the foreign licensed family trust
1092 company is subject to supervision. The commission may establish
1093 by rule the records to be maintained or requirements necessary
1094 to demonstrate conformity with this chapter as a foreign
1095 licensed family trust company. The office's examination of the
1096 books and records of a foreign licensed family trust company is,
1097 to the extent practicable, limited to books and records of the
1098 operations in this state.

1099 (5) For each examination of the books and records of a
1100 family trust company, licensed family trust company, or foreign
1101 licensed family trust company as authorized under this chapter,
1102 the trust company shall pay a fee for the costs of the

20141238e1

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

1115 (6) All fees collected under this section must be deposited
1116 into the Financial Institutions' Regulatory Trust Fund pursuant
1117 to s. 655.049 for the purpose of administering this chapter.

1118 Section 29. Section 662.142, Florida Statutes, is created
1119 to read:

1120 662.142 Revocation of license.—

1121 (1) The following acts or conduct constitutes grounds for
1122 the revocation by the office of the license of a licensed family
1123 trust company:

1124 (a) The company is not a family trust company as defined in
1125 this chapter;

1126 (b) A violation of s. 662.1225, s. 662.123(1)(a), s.
1127 662.125(2), s. 662.126, s. 662.127, s. 662.128, s. 662.130, s.
1128 662.131, s. 662.134, or s. 662.144;

1129 (c) A violation of chapter 896, relating to financial
1130 transactions offenses, or any similar state or federal law or
1131 any related rule or regulation;

20141238e1

1132 (d) A violation of any rule of the commission;
1133 (e) A violation of any order of the office;
1134 (f) A breach of any written agreement with the office;
1135 (g) A prohibited act or practice under s. 662.131;
1136 (h) A failure to provide information or documents to the
1137 office upon written request; or
1138 (i) An act of commission or omission that is judicially
1139 determined to be a breach of trust or of fiduciary duty pursuant
1140 to a court of competent jurisdiction.

1141 (2) Upon a finding that a licensed family trust company has
1142 committed any of the acts set forth in paragraphs (1) (a)-(h),
1143 the office may enter an order suspending the company's license
1144 and provide notice of its intention to revoke the license and of
1145 the opportunity for a hearing pursuant to ss. 120.569 and
1146 120.57. If there has been a commission or omission under
1147 paragraph (1) (i), the office may immediately enter an order
1148 revoking the license. The licensed family trust company shall
1149 have 90 days to wind up its affairs after license revocation. If
1150 after 90 days the company is still in operation, the office may
1151 seek an order from the circuit court for the annulment or
1152 dissolution of the company.

1153 Section 30. Section 662.143, Florida Statutes, is created
1154 to read:

1155 662.143 Cease and desist authority.-

1156 (1) The office may issue and serve upon a family trust
1157 company, licensed family trust company, or foreign licensed
1158 family trust company, or upon a family trust company-affiliated
1159 party, a complaint stating charges if the office has reason to
1160 believe that such company, family trust company-affiliated

20141238e1

1161 party, or individual named therein is engaging in or has engaged
1162 in conduct that:

1163 (a) Indicates that the company is not a family trust
1164 company or foreign licensed family trust company as defined in
1165 this chapter;

1166 (b) Is a violation of s. 662.1225, s. 662.123(1) (a), s.
1167 662.125(2), s. 662.126, s. 662.127, s. 662.128, s. 662.130, or
1168 s. 662.134;

1169 (c) Is a violation of any rule of the commission;

1170 (d) Is a violation of any order of the office;

1171 (e) Is a breach of any written agreement with the office;

1172 (f) Is a prohibited act or practice pursuant to s. 662.131;

1173 (g) Is a willful failure to provide information or

1174 documents to the office upon written request;

1175 (h) Is an act of commission or omission or a practice that
1176 the office has reason to believe is a breach of trust or of
1177 fiduciary duty; or

1178 (i) Is a violation of chapter 896 or similar state or
1179 federal law or any related rule or regulation.

1180 (2) The complaint must contain the statement of facts and a
1181 notice of opportunity for a hearing pursuant to ss. 120.569 and
1182 120.57.

1183 (3) If no hearing is requested within the time allowed by
1184 ss. 120.569 and 120.57, or if a hearing is held and the office
1185 finds that any of the charges are true, the office may enter an
1186 order directing the family trust company, licensed family trust
1187 company, or foreign licensed family trust company, or family
1188 trust company-affiliated party, or the individual named therein
1189 to cease and desist from engaging in the conduct complained of

20141238e1

1190 and to take corrective action.

1191 (4) If the family trust company, licensed family trust
1192 company, foreign licensed family trust company, or family trust
1193 company-affiliated party, or the individual named in such order,
1194 fails to respond to the complaint within the time allotted in
1195 ss. 120.569 and 120.57, such failure constitutes a default and
1196 justifies the entry of a cease and desist order.

1197 (5) A contested or default cease and desist order is
1198 effective when reduced to writing and served upon the family
1199 trust company, licensed family trust company, or foreign
1200 licensed family trust company, or family trust company-
1201 affiliated party, or the individual named therein. An
1202 uncontested cease and desist order is effective as agreed.

1203 (6) If the office finds that conduct described in
1204 subsection (1) is likely to cause substantial prejudice to
1205 members, shareholders, or beneficiaries of fiduciary accounts of
1206 the family trust company, licensed family trust company, or
1207 foreign licensed family trust company, or to beneficiaries of
1208 services rendered by such company, it may issue an emergency
1209 cease and desist order requiring the family trust company,
1210 licensed family trust company, or foreign licensed family trust
1211 company, family trust company-affiliated party, or individual
1212 named therein to immediately cease and desist from engaging in
1213 the conduct complained of and to take corrective action. The
1214 emergency order is effective immediately upon service of a copy
1215 of the order upon the family trust company, licensed family
1216 trust company, or foreign licensed family trust company, or
1217 family trust company-affiliated party and remains effective for
1218 90 days. If the office begins nonemergency cease and desist

20141238e1

1219 proceedings under subsection (1), the emergency order remains
1220 effective until the conclusion of the proceedings under ss.
1221 120.569 and 120.57.

1222 (7) A family trust company or foreign licensed family trust
1223 company shall have 90 days to wind up its affairs after entry of
1224 any order to cease and desist from operating as a family trust
1225 company or foreign licensed family trust company. If, after 90
1226 days, a family trust company is still operating, the office may
1227 seek an order from the circuit court for the annulment or
1228 dissolution of the company. If, after 90 days, a foreign
1229 licensed family trust company is still operating, the office may
1230 seek an injunction from the circuit court restraining the
1231 company from continuing to operate in this state.

1232 Section 31. Section 662.144, Florida Statutes, is created
1233 to read:

1234 662.144 Failure to submit required report; fines.—If a
1235 family trust company, licensed family trust company, or foreign
1236 licensed family trust company fails to submit within the
1237 prescribed period its annual renewal or any other report
1238 required by this chapter or any rule, the office may impose a
1239 fine of up to \$100 for each day that the annual renewal or
1240 report is overdue. Failure to provide the annual renewal within
1241 60 days after the end of the calendar year shall automatically
1242 result in termination of registration of a family trust company
1243 or revocation of the license of a licensed family trust company.
1244 The trust company shall thereafter have 90 days to wind up its
1245 affairs.

1246 Section 32. Section 662.145, Florida Statutes, is created
1247 to read:

20141238e1

1248 662.145 Grounds for removal.-

1249 (1) The office may issue and serve upon a licensed family
1250 trust company or a family trust company and a family trust
1251 company-affiliated party a complaint stating charges if the
1252 office has reason to believe that the family trust company-
1253 affiliated party is engaging or has engaged in conduct that:

1254 (a) Demonstrates that the company is not a family trust
1255 company as defined in this chapter;

1256 (b) Is a prohibited act or practice under s. 662.131;

1257 (c) Is a violation of s. 662.1225, s. 662.123(1) (a), s.
1258 662.126, s. 662.127, s. 662.128, s. 662.130, or s. 662.134;

1259 (d) Is a violation of any other law involving fraud or
1260 moral turpitude which constitutes a felony;

1261 (e) Is a violation of chapter 896, relating to offenses
1262 related to financial transactions, or similar state or federal
1263 law;

1264 (f) Is a willful violation of a rule of the commission;

1265 (g) Is a willful violation of an order of the office;

1266 (h) Is a willful breach of a written agreement with the
1267 office; or

1268 (i) Is an act of commission or omission or a practice that
1269 the office has reason to believe is a breach of trust or
1270 fiduciary duty.

1271 (2) The complaint must contain a statement of facts and a
1272 notice of opportunity for a hearing pursuant to ss. 120.569 and
1273 120.57.

1274 (3) If no hearing is requested within the time allowed by
1275 ss. 120.569 and 120.57, or if a hearing is held and the office
1276 finds that any of the charges in the complaint is true, the

20141238e1

1277 office may enter an order removing the family trust company-
1278 affiliated party or restricting or prohibiting participation by
1279 the family trust company-affiliated party in the affairs of the
1280 family trust company, licensed family trust company, or state
1281 financial institution, subsidiary, or service corporation.

1282 (4) If the family trust company-affiliated party fails to
1283 respond to the complaint within the time allowed in ss. 120.569
1284 and 120.57, such failure constitutes a default and justifies the
1285 entry of an order of removal.

1286 (5) A contested or default order of removal is effective
1287 when reduced to writing and served on the family trust company
1288 or licensed family trust company and the family trust company-
1289 affiliated party. An uncontested order of removal is effective
1290 as agreed.

1291 (6) The chief executive officer, or the person holding the
1292 equivalent office, of a family trust company or licensed family
1293 trust company shall promptly notify the office if he or she has
1294 actual knowledge that a family trust company-affiliated party is
1295 charged with a felony in a state or federal court.

1296 (a) If a family trust company-affiliated party is charged
1297 with a felony in a state or federal court, or in the courts of a
1298 foreign country with which the United States maintains
1299 diplomatic relations which involves a violation of law relating
1300 to fraud, currency transaction reporting, money laundering,
1301 theft, or moral turpitude and the charge is equivalent to a
1302 felony charge under state or federal law, the office may enter
1303 an emergency order suspending the family trust company-
1304 affiliated party or restricting or prohibiting participation by
1305 such company-affiliated party in the affairs of that particular

20141238e1

1306 family trust company or licensed family trust company or any
1307 financial institution, subsidiary, or service corporation, upon
1308 service of the order upon the company and the family trust
1309 company-affiliated party so charged.

1310 (b) The order must contain notice of opportunity for a
1311 hearing pursuant to ss. 120.569 and 120.57, at which the family
1312 trust company-affiliated party may request a postsuspension
1313 hearing to show that continued service to or participation in
1314 the affairs of the family trust company or licensed family trust
1315 company does not pose a threat to the interests of the company.
1316 In accordance with applicable commission rules, the office shall
1317 notify the family trust company-affiliated party whether the
1318 order suspending or prohibiting the company-affiliated party
1319 from participating in the affairs of a licensed family trust
1320 company or family trust company, or state financial institution,
1321 subsidiary, or service corporation will be rescinded or
1322 otherwise modified. The emergency order remains in effect,
1323 unless otherwise modified by the office, until the criminal
1324 charge is disposed of. The acquittal of the family trust
1325 company-affiliated party charged, or the final, unappealed
1326 dismissal of all charges against such person, dissolves the
1327 emergency order, but does not prohibit the office from
1328 instituting proceedings under subsection (1). If the family
1329 trust company-affiliated party charged is convicted or pleads
1330 guilty or nolo contendere, regardless of adjudication, the
1331 emergency order becomes final.

1332 (7) A family trust company-affiliated party removed from
1333 office pursuant to this section is not eligible for reelection
1334 to such position or to any official position in a family trust

20141238e1

1335 company, licensed family trust company, or financial institution
1336 in this state except with the written consent of the office. A
1337 family trust company-affiliated party who is removed,
1338 restricted, or prohibited from participation in the affairs of a
1339 family trust company, licensed family trust company, or state
1340 financial institution pursuant to this section may petition the
1341 office for modification or termination of such removal,
1342 restriction, or prohibition.

1343 (8) The resignation, termination of employment or
1344 participation, or separation from a family trust company or a
1345 licensed family trust company of the family trust company-
1346 affiliated party does not affect the jurisdiction and authority
1347 of the office to issue a notice and proceed under this section
1348 against the company-affiliated party if such notice is served
1349 before the end of the 6-year period beginning on the date such
1350 person ceases to be a family trust company-affiliated party with
1351 respect to such company.

1352 Section 33. Section 662.146, Florida Statutes, is created
1353 to read:

1354 662.146 Confidentiality of books and records.—

1355 (1) The books and records of a family trust company,
1356 licensed family trust company, and foreign licensed family trust
1357 company are confidential and shall be made available for
1358 inspection and examination only:

1359 (a) To the office or its authorized representative;

1360 (b) To any person authorized to act for the company;

1361 (c) As compelled by a court, pursuant to a subpoena issued
1362 pursuant to the Florida Rules of Civil Procedure, the Florida
1363 Rules of Criminal Procedure, or the Federal Rules of Civil

20141238e1

1364 Procedure or pursuant to a subpoena issued in accordance with
1365 state or federal law. Before the production of the books and
1366 records of a family trust company, licensed family trust
1367 company, or foreign licensed family trust company, the party
1368 seeking production must reimburse the company for the reasonable
1369 costs and fees incurred in compliance with the production. If
1370 the parties disagree regarding the amount of reimbursement, the
1371 party seeking the records may request the court having
1372 jurisdiction to set the amount of reimbursement;

1373 (d) Pursuant to a subpoena, to any federal or state law
1374 enforcement or prosecutorial instrumentality authorized to
1375 investigate suspected criminal activity;

1376 (e) As authorized by the board of directors, if in
1377 corporate form, or the managers, if in limited liability company
1378 form; or

1379 (f) As provided in subsection (2).

1380 (2) (a) Each customer and stockholder, if a corporation, or
1381 member, if a limited liability company, has the right to inspect
1382 the books and records of a family trust company or licensed
1383 family trust company as they pertain to his or her accounts or
1384 the determination of his or her voting rights.

1385 (b) The books and records pertaining to customers, members,
1386 and stockholders of a family trust company or licensed family
1387 trust company shall be kept confidential by the company and its
1388 directors, managers, officers, and employees. The books and
1389 records of customers, members, and stockholders may not be
1390 released except upon the express authorization of the customer
1391 as to his or her own accounts or a stockholder or member
1392 regarding his or her voting rights. However, information may be

20141238e1

1393 released, without the authorization of a customer, member, or
1394 shareholder in a manner prescribed by the board of directors, if
1395 a corporation, or managers, if a limited liability company, to
1396 verify or corroborate the existence or amount of a customer's
1397 account if that information is reasonably provided to meet the
1398 needs of commerce and to ensure accurate credit information.
1399 Notwithstanding this paragraph, this subsection does not
1400 prohibit a family trust company or licensed family trust company
1401 from disclosing financial information referenced in this
1402 subsection as permitted under 15 U.S.C. s. 6802, as amended.

1403 (c) A person who willfully violates a provision of this
1404 section which relates to unlawful disclosure of confidential
1405 information commits a felony of the third degree, punishable as
1406 provided in s. 775.082, s. 775.083, or s. 775.084.

1407 (d) This subsection does not apply to a foreign licensed
1408 family trust company. The laws of the jurisdiction of its
1409 principal place of business govern the rights of customers,
1410 members, and stockholders to inspect its books and records.

1411 (3) For purposes of this section, the term "books and
1412 records" includes, but is not limited to, an application for a
1413 license and any documents connected with the application under
1414 s. 662.121; the office's corresponding investigation under s.
1415 662.1215 in granting or denying the issuance of the license; the
1416 initial registration documents of a family trust company or
1417 foreign licensed family trust company under s. 662.122; the
1418 annual renewal made by a family trust company, licensed family
1419 trust company, or foreign licensed family trust company under s.
1420 662.128; and the documentation submitted to the office in
1421 connection with a licensed family trust company discontinuing

20141238e1

1422 its business under s. 662.129.

1423 Section 34. Section 662.147, Florida Statutes, is created
1424 to read:

1425 662.147 Records relating to the office examination; limited
1426 restrictions on public access.—

1427 (1) A family trust company, licensed family trust company,
1428 and foreign licensed family trust company shall keep at the
1429 office it is required to maintain pursuant to s. 662.1225 full
1430 and complete records of the names and residences of all the
1431 shareholders or members of the trust company and the number of
1432 shares or membership units held by each, as applicable, as well
1433 as the ownership percentage of each shareholder or member, as
1434 the case may be. The records are subject to the inspection of
1435 all the shareholders or members of the trust company, and the
1436 officers authorized to assess taxes under state authority,
1437 during the normal business hours of the trust company. A current
1438 list of shareholders or members shall be made available to the
1439 office's examiners for their inspection and, upon the request of
1440 the office, shall be submitted to the office.

1441 (2) The office shall retain for at least 10 years:

1442 (a) Examination reports.

1443 (b) Investigatory records.

1444 (c) The application for a license, any documents connected
1445 with the application, and the office's corresponding
1446 investigation in granting or denying the issuance of the
1447 license.

1448 (d) The initial registration documents of a family trust
1449 company or foreign licensed family trust company.

1450 (e) The annual renewal made by a family trust company,

20141238e1

1451 licensed family trust company, or foreign licensed family trust
1452 company.

1453 (f) The documentation submitted to the office in connection
1454 with a licensed family trust company discontinuing its business
1455 and any related information compiled by the office, or
1456 photographic copies thereof.

1457 (3) A copy of any document on file with the office which is
1458 certified by the office as being a true copy may be introduced
1459 in evidence as if it were the original. The office shall
1460 establish a schedule of fees for preparing true copies of
1461 documents.

1462 (4) Orders issued by courts or administrative law judges
1463 for the production of confidential records or information must
1464 provide for inspection in camera by the court or the
1465 administrative law judge. If the court or administrative law
1466 judge determines that the documents requested are relevant or
1467 would likely lead to the discovery of admissible evidence, the
1468 documents shall be subject to further orders by the court or the
1469 administrative law judge to protect the confidentiality thereof.
1470 An order directing the release of information shall be
1471 immediately reviewable, and a petition by the office for review
1472 of the order shall automatically stay any further proceedings in
1473 the trial court or the administrative hearing until the
1474 disposition of the petition by the reviewing court. If any other
1475 party files a petition for review, it will operate as a stay of
1476 the proceedings only upon order of the reviewing court.

1477 Section 35. Section 662.150, Florida Statutes, is created
1478 to read:

1479 662.150 Domestication of a foreign family trust company.-

20141238e1

1480 (1) A foreign family trust company lawfully organized and
1481 currently in good standing with the state regulatory agency in
1482 the jurisdiction where it is organized may become domesticated
1483 in this state by:

1484 (a) Filing with the Department of State a certificate of
1485 domestication and articles of incorporation in accordance with
1486 and subject to s. 607.1801 or by filing articles of conversion
1487 in accordance with s. 605.1045; and

1488 (b) Filing an application for a license to begin operations
1489 as a licensed family trust company in accordance with s.
1490 662.121, which must first be approved by the office or by filing
1491 the prescribed form with the office to register as a family
1492 trust company to begin operations in accordance with s. 662.122.

1493 (2) A foreign family trust company may apply pursuant to
1494 paragraph (1) (b) before satisfying the requirements of paragraph
1495 (1) (a); however, upon receipt of a certificate of authority, the
1496 company must satisfy the requirements of paragraph (1) (a) before
1497 beginning operations.

1498 Section 36. Section 662.151, Florida Statutes, is created
1499 to read:

1500 662.151 Registration of a foreign licensed family trust
1501 company to operate in this state.—A foreign licensed family
1502 trust company lawfully organized and currently in good standing
1503 with the state regulatory agency in the jurisdiction under the
1504 law of which it is organized may qualify to begin operations in
1505 this state by:

1506 (1) Filing an application with the Department of State to
1507 apply for a certificate of authority in accordance with and
1508 subject to s. 605.0902 or s. 607.1503.

20141238e1

1509 (2) Filing an initial registration to begin operations as a
1510 foreign licensed family trust company in accordance with and
1511 subject to s. 662.122 and subject to the sections of this
1512 chapter which specifically state that they apply to a foreign
1513 licensed family trust company.

1514 (3) A company in operation as of the effective date of this
1515 act that meets the definition of a family trust company shall
1516 have 90 days from the effective date of this act to apply for
1517 licensure as a licensed family trust company, register as a
1518 family trust company or foreign licensed family trust company,
1519 or cease doing business in this state.

1520 Section 37. Paragraph (a) of subsection (3) of section
1521 120.80, Florida Statutes, is amended to read:

1522 120.80 Exceptions and special requirements; agencies.—

1523 (3) OFFICE OF FINANCIAL REGULATION.—

1524 (a) Notwithstanding s. 120.60(1), in proceedings for the
1525 issuance, denial, renewal, or amendment of a license or approval
1526 of a merger pursuant to title XXXVIII:

1527 1.a. The Office of Financial Regulation of the Financial
1528 Services Commission shall have published in the Florida
1529 Administrative Register notice of the application within 21 days
1530 after receipt.

1531 b. Within 21 days after publication of notice, any person
1532 may request a hearing. Failure to request a hearing within 21
1533 days after notice constitutes a waiver of any right to a
1534 hearing. The Office of Financial Regulation or an applicant may
1535 request a hearing at any time prior to the issuance of a final
1536 order. Hearings shall be conducted pursuant to ss. 120.569 and
1537 120.57, except that the Financial Services Commission shall by

20141238e1

1538 rule provide for participation by the general public.

1539 2. Should a hearing be requested as provided by sub-
1540 subparagraph 1.b., the applicant or licensee shall publish at
1541 its own cost a notice of the hearing in a newspaper of general
1542 circulation in the area affected by the application. The
1543 Financial Services Commission may by rule specify the format and
1544 size of the notice.

1545 3. Notwithstanding s. 120.60(1), and except as provided in
1546 subparagraph 4., an every application for license for a new
1547 bank, new trust company, new credit union, ~~or~~ new savings and
1548 loan association, or new licensed family trust company must
1549 ~~shall~~ be approved or denied within 180 days after receipt of the
1550 original application or receipt of the timely requested
1551 additional information or correction of errors or omissions. An
1552 ~~Any~~ application for such a license or for acquisition of such
1553 control which is not approved or denied within the 180-day
1554 period or within 30 days after conclusion of a public hearing on
1555 the application, whichever is later, shall be deemed approved
1556 subject to the satisfactory completion of conditions required by
1557 statute as a prerequisite to license and approval of insurance
1558 of accounts for a new bank, a new savings and loan association,
1559 ~~or~~ a new credit union, or a new licensed family trust company by
1560 the appropriate insurer.

1561 4. In the case of an every application for license to
1562 establish a new bank, trust company, or capital stock savings
1563 association in which a foreign national proposes to own or
1564 control 10 percent or more of any class of voting securities,
1565 and in the case of an every application by a foreign national
1566 for approval to acquire control of a bank, trust company, or

20141238e1

1567 capital stock savings association, the Office of Financial
1568 Regulation shall request that a public hearing be conducted
1569 pursuant to ss. 120.569 and 120.57. Notice of such hearing shall
1570 be published by the applicant as provided in subparagraph 2. The
1571 failure of ~~any~~ such foreign national to appear personally at the
1572 hearing shall be grounds for denial of the application.
1573 Notwithstanding ~~the provisions of~~ s. 120.60(1) and subparagraph
1574 3., every application involving a foreign national shall be
1575 approved or denied within 1 year after receipt of the original
1576 application or any timely requested additional information or
1577 the correction of any errors or omissions, or within 30 days
1578 after the conclusion of the public hearing on the application,
1579 whichever is later.

1580 Section 38. Subsections (2) and (3) of section 736.0802,
1581 Florida Statutes, are amended, and paragraph (i) is added to
1582 subsection (5) of that section, to read:

1583 736.0802 Duty of loyalty.—

1584 (2) Subject to the rights of persons dealing with or
1585 assisting the trustee as provided in s. 736.1016, a sale,
1586 encumbrance, or other transaction involving the investment or
1587 management of trust property entered into by the trustee for the
1588 trustee's own personal account or which is otherwise affected by
1589 a conflict between the trustee's fiduciary and personal
1590 interests is voidable by a beneficiary affected by the
1591 transaction unless:

1592 (a) The transaction was authorized by the terms of the
1593 trust;

1594 (b) The transaction was approved by the court;

1595 (c) The beneficiary did not commence a judicial proceeding

20141238e1

1596 within the time allowed by s. 736.1008;

1597 (d) The beneficiary consented to the trustee's conduct,
1598 ratified the transaction, or released the trustee in compliance
1599 with s. 736.1012;

1600 (e) The transaction involves a contract entered into or
1601 claim acquired by the trustee when that person had not become or
1602 contemplated becoming trustee;

1603 (f) The transaction was consented to in writing by a
1604 settlor of the trust while the trust was revocable; ~~or~~

1605 (g) The transaction is one by a corporate trustee that
1606 involves a money market mutual fund, mutual fund, or a common
1607 trust fund described in s. 736.0816(3); or

1608 (h) With regard to a trust that is administered by a family
1609 trust company, licensed family trust company, or foreign
1610 licensed family trust company operating under chapter 662, the
1611 transaction is authorized by s. 662.132(4)-(8).

1612 (3) (a) A sale, encumbrance, or other transaction involving
1613 the investment or management of trust property is presumed to be
1614 affected by a conflict between personal and fiduciary interests
1615 if the sale, encumbrance, or other transaction is entered into
1616 by the trustee with:

1617 1. ~~(a)~~ The trustee's spouse;

1618 2. ~~(b)~~ The trustee's descendants, siblings, parents, or
1619 their spouses;

1620 3. ~~(c)~~ An officer, director, employee, agent, or attorney of
1621 the trustee; or

1622 4. ~~(d)~~ A corporation or other person or enterprise in which
1623 the trustee, or a person that owns a significant interest in the
1624 trustee, has an interest that might affect the trustee's best

20141238e1

1625 judgment.

1626 (b) This subsection does not apply to a trust being
1627 administered by a family trust company, licensed family trust
1628 company, or foreign licensed family trust company operating
1629 under chapter 662 if the sale, encumbrance, or other transaction
1630 is authorized by s. 662.132(4)-(8).

1631 (5)

1632 (i) This subsection does not apply to a trust administered
1633 by a family trust company, licensed family trust company, or
1634 foreign licensed family trust company operating under chapter
1635 662.

1636 Section 39. Subsection (5) of section 744.351, Florida
1637 Statutes, is amended to read:

1638 744.351 Bond of guardian.—

1639 (5) Financial institutions as defined in s. 744.309(4),
1640 other than a trust company operating under chapter 662 which is
1641 not a licensed family trust company or foreign licensed family
1642 trust company, and public guardians authorized by law to be
1643 guardians are ~~shall~~ not ~~be~~ required to file bonds.

1644 Section 40. This act shall take effect October 1, 2015, if
1645 SB 1320 or similar legislation is adopted in the same
1646 legislative session or an extension thereof and becomes law.