

1 A bill to be entitled

2 An act relating to family trust companies; creating  
3 chapter 662, F.S.; creating s. 662.10, F.S.; providing  
4 a short title; creating s. 662.102, F.S.; providing  
5 the purpose of the act; creating s. 662.111, F.S.;  
6 defining terms; creating s. 662.112, F.S.; providing  
7 for the calculation of kinship; creating s. 662.113,  
8 F.S.; providing for the applicability of financial  
9 institutions codes; creating s. 662.114, F.S.;  
10 exempting a family trust company or foreign licensed  
11 family trust company from licensure; creating s.  
12 662.115, F.S.; providing for the applicability of the  
13 chapter to a family trust company or foreign licensed  
14 family trust company; creating s. 662.120, F.S.;  
15 specifying the maximum number of designated relatives  
16 allowed for a family trust company and a licensed  
17 family trust company; creating s. 662.121, F.S.;  
18 providing procedures for applying for a family trust  
19 company license; requiring a fee; creating s.  
20 662.1215, F.S.; providing for investigations of  
21 applicants by the Office of Financial Regulation;  
22 creating s. 662.122, F.S.; providing procedures for  
23 the registration of a family trust company or a  
24 foreign licensed family trust company; requiring a  
25 fee; creating s. 662.1225, F.S.; providing  
26 requirements for a family trust company, licensed

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

53 licensed family trust company; creating s. 662.130,  
54 F.S.; authorizing family trust companies to conduct  
55 certain activities; creating s. 662.131, F.S.;

56 prohibiting certain activities on the part of family  
57 trust companies; creating s. 662.132, F.S.; imposing  
58 certain requirements on the assets that form the  
59 minimum capital of licensed family trust companies and  
60 family trust companies; authorizing such trust  
61 companies to purchase or rent real or personal  
62 property, invest funds, and, while acting as a  
63 fiduciary, make certain purchases; imposing a  
64 restriction on that authorization; clarifying the  
65 degree of prudence required of fiduciaries;  
66 restricting the authority of a fiduciary to purchase  
67 certain bonds or securities; specifying additional  
68 authority of fiduciaries; applying the duty of loyalty  
69 to family trust companies in certain cases; creating  
70 s. 662.133, F.S.; requiring certain officers,  
71 directors, or managers of a licensed family trust  
72 company or a family trust company to make an oath,  
73 affirmation, affidavit, or acknowledgment on behalf of  
74 the company in certain circumstances; creating s.  
75 662.134, F.S.; prohibiting a family trust company from  
76 advertising to the public; creating s. 662.135, F.S.;

77 providing that a licensed family trust company is not  
78 required to post a bond to serve as a court-appointed

79 | fiduciary; creating s. 662.140, F.S.; authorizing the  
80 | office to adopt rules; creating s. 662.141, F.S.;  
81 | authorizing the office to conduct examinations and  
82 | investigations; requiring that family trust companies  
83 | be examined at least once every 18 months; authorizing  
84 | the office to accept an independent audit in lieu of  
85 | conducting an examination; requiring the office to  
86 | examine the books and records of a family trust  
87 | company or licensed family trust company; authorizing  
88 | the office to rely on a certificate of trust, trust  
89 | summary, or written statement in certain circumstances  
90 | and to adopt rules relating to records and  
91 | requirements; authorizing the office to examine the  
92 | books and records of a foreign licensed family trust  
93 | company; requiring family trust companies to pay  
94 | examination fees tied to actual costs incurred by the  
95 | office; providing a penalty for late payment and  
96 | authorizing an administrative fine if late payment is  
97 | intentional; creating s. 662.142, F.S.; providing for  
98 | license revocation; specifying acts and conduct that  
99 | constitute grounds for revocation; authorizing the  
100 | office to suspend a license pending revocation;  
101 | creating s. 662.143, F.S.; authorizing the office to  
102 | issue a cease and desist order and an emergency cease  
103 | and desist order; creating s. 662.144, F.S.;

104 | authorizing the office to collect fines for the

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

131 744.351, F.S.; exempting a family trust company from  
 132 certain bond requirements and applying those  
 133 requirements to licensed family trust companies and  
 134 foreign licensed family trust companies; providing a  
 135 contingent effective date.

136  
 137 Be It Enacted by the Legislature of the State of Florida:

138  
 139 Section 1. Chapter 662, Florida Statutes, consisting of  
 140 ss. 662.10-662.151, Florida Statutes, to be entitled Family  
 141 Trust Companies, is created.

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

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

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

148 662.102 Purpose.—The purpose of the Family Trust Company  
 149 Act is to establish requirements for licensing private trust  
 150 companies, to provide regulation of those persons who provide  
 151 fiduciary services to family members of no more than two  
 152 families and their related interests as a private family trust  
 153 company, and establish the degree of regulatory oversight  
 154 required of the Office of Financial Regulation over such  
 155 companies. Unlike trust companies formed under chapter 658,  
 156 there is no public interest to be served outside of ensuring

157 that fiduciary activities performed by a family trust company  
158 are restricted to family members and their related interests and  
159 as otherwise provided for in this chapter. Therefore, family  
160 trust companies are not financial institutions within the  
161 meaning of the financial institutions codes and licensure of  
162 these companies pursuant to chapters 658 and 660 should not be  
163 required as it would not promote the purposes of the codes as  
164 set forth in s. 655.001. Consequently, the Office of Financial  
165 Regulation is not responsible for regulating family trust  
166 companies to ensure their safety and soundness, and the  
167 responsibility of the office is limited to ensuring that  
168 fiduciary services provided by such companies are restricted to  
169 family members and related interests and not to the general  
170 public.

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

173 662.111 Definitions.—As used in this chapter, the term:

174 (1) "Applicant" means the corporation or limited liability  
175 company on whose behalf an application for a license to operate  
176 as a licensed family trust company is submitted under s.  
177 662.121.

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

183 licensed family trust company, if organized as a limited  
184 liability company.

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

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

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

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

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



209 trust company or licensed family trust company.

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

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

217 (10) "Family member" means:

218 (a) A designated relative.

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

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

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

231 (e) A family affiliate.

232 (f) A trust established by a family member if the trust is  
233 funded exclusively by one or more family members. A trust to  
234 which property has been transferred as a result of a family

235 member's exercise of a power of appointment shall be deemed  
 236 established by that family member if all qualified beneficiaries  
 237 of the appointee trust are family members.

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

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

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

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

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

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

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

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

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

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

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

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

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

279 (14) "Foreign licensed family trust company" means a  
280 family trust company that:

281 (a) Is licensed by a state in the United States other than  
282 this state.

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

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

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

290 (15) "Licensed family trust company" means a family trust  
 291 company that operates in accordance with this chapter and has  
 292 been issued a license that has not been revoked or suspended by  
 293 the office.

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

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

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

313 resolution of the board of directors or members or by the bylaws  
314 or operating agreement of the family trust company, other than  
315 in the capacity of a director, from participating in major  
316 policymaking functions of the family trust company, and the  
317 individual holding such office so excluded does not actually  
318 participate therein.

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

321 Section 5. Section 662.112, Florida Statutes, is created  
322 to read:

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

328 Section 6. Section 662.113, Florida Statutes, is created  
329 to read:

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

335 Section 7. Section 662.114, Florida Statutes, is created  
336 to read:

337 662.114 Family trust company and foreign licensed family  
338 trust company licensing not required.—A family trust company or

339 foreign licensed family trust company is not required to be a  
 340 licensed family trust company.

341 Section 8. Section 662.115, Florida Statutes, is created  
 342 to read:

343 662.115 Applicability of chapter to a family trust company  
 344 or foreign licensed family trust company.-

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

350 (2) A licensed family trust company is subject to the  
 351 provisions of this chapter that expressly refer to a licensed  
 352 family trust company or that are not expressly limited to a  
 353 family trust company that is not a licensed family trust company  
 354 or to a foreign licensed family trust company.

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

358 Section 9. Section 662.120, Florida Statutes, is created  
 359 to read:

360 662.120 Maximum number of designated relatives.-

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

363 (2) A licensed family trust company may not have more than  
 364 two designated relatives, and the designated relatives may not

365 have a common ancestor within five generations.

366 Section 10. Section 662.121, Florida Statutes, is created  
367 to read:

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

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

378 (2) A copy of the articles of incorporation or articles of  
379 organization and the bylaws or operating agreement of the  
380 proposed licensed family trust company.

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

384 (4) A statement describing in detail the services that  
385 will be provided to family members by the proposed licensed  
386 family trust company.

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

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

396 (7) The names of the designated relatives.

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

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

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

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

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



417 date of the application.

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

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

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

431 (11) Any other additional information reasonably required  
432 by the office.

433 Section 11. Section 662.1215, Florida Statutes, is created  
434 to read:

435 662.1215 Investigation of license applicants.-

436 (1) For the purpose of this section, the application is  
437 not deemed to be filed until the applicant has provided the  
438 office with all information required to be included pursuant to  
439 s. 662.121.

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

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

447 1. Been convicted of, or entered a plea of nolo contendere  
448 to, a crime involving fraud, misrepresentation, or moral  
449 turpitude;

450 2. Been convicted of, or pled nolo contendere to, a  
451 violation of the financial institutions codes, including s.  
452 655.50, chapter 896, or similar state or federal law;

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

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

462 5. Made a false statement of material fact on the  
463 application.

464 (b) That the name of the proposed company complies with s.  
465 662.123.

466 (c) That capital accounts of the proposed company conform  
467 to s. 662.124 and that fidelity bonds and errors and omissions  
468 insurance coverage required under s. 662.126 are issued and

469 effective.

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

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

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

485 (5) If the office determines the criteria in subsection  
486 (2) have not been met, the office shall serve notice of its  
487 intent to deny the application and of the applicant's  
488 opportunity to request a hearing pursuant to ss. 120.569 and  
489 120.57.

490 Section 12. Section 662.122, Florida Statutes, is created  
491 to read:

492 662.122 Registration of a family trust company or a  
493 foreign licensed family trust company.-

494 (1) A family trust company that is not applying under s.

495 662.121 to become a licensed family trust company must register  
 496 with the office before beginning operations in this state. The  
 497 registration application must:

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

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

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

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

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

510 (a) The registration application must state that its  
 511 operations will comply with ss. 662.1225, 662.131, and 662.134  
 512 and that it is currently in compliance with the family trust  
 513 company laws and regulations of its principal jurisdiction.

514 (b) The registration application must provide:

515 1. The current telephone number and street address of the  
 516 physical location of its principal place of business in its  
 517 principal jurisdiction.

518 2. The current telephone number and street address of the  
 519 physical location in this state of its principal place of  
 520 operations where its books and records pertaining to its

521 operations in this state will be maintained.

522 3. The current telephone number and street address of the  
523 physical location of any other offices located within this  
524 state.

525 4. The name and current street address in this state of  
526 its registered agent.

527 (c) The registration must include a certified copy of a  
528 certificate of good standing, or an equivalent document,  
529 authenticated by the official having custody of records in the  
530 jurisdiction where the foreign licensed family trust company is  
531 organized, along with satisfactory proof that the company is  
532 organized in a manner similar to a family trust company as  
533 defined under this chapter.

534 (3) The registration application required under this  
535 section for a family trust company and a foreign licensed family  
536 trust company must be accompanied by a registration fee of  
537 \$5,000.

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

544 (5) All fees received by the office pursuant to this  
545 section shall be deposited into the Financial Institutions'  
546 Regulatory Trust Fund pursuant to s. 655.049 for purposes of

547 administering this chapter.

548 Section 13. Section 662.1225, Florida Statutes, is created  
549 to read:

550 662.1225 Requirements for a family trust company, licensed  
551 family trust company, and foreign licensed family trust  
552 company.—

553 (1) A family trust company and a licensed family trust  
554 company shall maintain:

555 (a) A principal office physically located in this state  
556 where original or true copies of all records and accounts of the  
557 family trust company or licensed family trust company may be  
558 accessed and made readily available for examination by the  
559 office in accordance with this chapter. A family trust company  
560 or licensed family trust company may also maintain one or more  
561 branch offices within or outside of this state.

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

564 (c) All applicable state and local business licenses,  
565 charters, and permits.

566 (d) A deposit account with a state-chartered or national  
567 financial institution that has a principal or branch office in  
568 this state.

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

572 (a) An office physically located in this state where

573 original or true copies of all records and accounts of the  
574 foreign licensed family trust company pertaining to its  
575 operations in this state may be accessed and made readily  
576 available for examination by the office in accordance with this  
577 chapter.

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

580 (c) All applicable state and local business licenses,  
581 charters, and permits.

582 (d) A deposit account with a state-chartered or national  
583 financial institution that has a principal or branch office in  
584 this state.

585 Section 14. Section 662.123, Florida Statutes, is created  
586 to read:

587 662.123 Organizational documents; use of term "family  
588 trust" in name.-

589 (1) The articles of incorporation, certificate of  
590 incorporation, or articles of organization of a family trust  
591 company or licensed family trust company must contain:

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

599 s. 865.09 and that distinguishes it.

600 (b) The purpose for which the company is formed, which  
601 must clearly identify the restricted activities permissible to a  
602 family trust company or licensed family trust company under this  
603 chapter.

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

606 (d) A statement affirming that the articles of  
607 incorporation, certificate of incorporation, or articles of  
608 organization will not be amended without the prior written  
609 consent of the office.

610 (2) A proposed amendment to the articles of incorporation,  
611 articles of organization, bylaws, or operating agreement of a  
612 family trust company or licensed family trust company must be  
613 submitted to the office for review at least 30 days before it is  
614 filed or effective. An amendment is not considered filed or  
615 effective if the office issues a notice of disapproval with  
616 respect to the proposed amendment.

617 (3) The term "family trust" in the name adopted by a  
618 family trust company or licensed family trust company does not  
619 disqualify the name from being allowed under s. 605.0112, s.  
620 607.0401, or s. 608.406.

621 Section 15. Section 662.124, Florida Statutes, is created  
622 to read:

623 662.124 Minimum amount of owners' equity required.-

624 (1) A licensed family trust company that has one



625 designated relative may not be organized or operated with an  
626 owners' capital account of less than \$250,000. The minimum  
627 owners' equity shall be increased to \$350,000 if two designated  
628 relatives of the licensed family trust company are named in the  
629 application for a license or in the annual license renewal. A  
630 family trust company may not be organized or operated with  
631 owners' equity of less than \$250,000.

632 (2) The full amount of the initial minimum owners' equity  
633 of a family trust company or licensed family trust company must  
634 be composed of one or more of the asset groups described in s.  
635 662.132(1)(a), exclusive of all organization expenses.

636 Section 16. Section 662.125, Florida Statutes, is created  
637 to read:

638 662.125 Directors or managers.-

639 (1) Exclusive authority to manage a family trust company  
640 or licensed family trust company is vested in a board of  
641 directors, if a corporation, or a board of directors or  
642 managers, if a limited liability company.

643 (2) A family trust company or licensed family trust  
644 company shall have at least three directors, if a corporation,  
645 or three directors or managers, if a limited liability company.  
646 At least one director or manager of the company must be a  
647 resident of this state.

648 (3) The licensed family trust company shall notify the  
649 office of the proposed appointment of an individual to the board  
650 of directors or addition as a member, or the appointment or

651 employment of an individual as an officer or manager or member  
652 acting in a managerial capacity or equivalent position, at least  
653 60 days before such appointment or employment becomes effective,  
654 if the company:

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

656 (b) Has undergone a change in control within the preceding  
657 2 years.

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

659  
660 The notification must include the name and such biographical  
661 information as the office may reasonably require.

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

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

673 (6) The office may obtain criminal history information  
674 from the National Crime Information Center or from the  
675 Department of Law Enforcement as necessary to fulfill its  
676 responsibilities under this section.

677 Section 17. Section 662.126, Florida Statutes, is created  
678 to read:

679 662.126 Fidelity bonds; insurance.—

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

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

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

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

703       (5) A family trust company or licensed family trust  
 704 company may also procure and maintain other insurance policies  
 705 necessary or desirable in connection with the business of the  
 706 company, including, but not limited to, one or more casualty  
 707 insurance policies.

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

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

714       Section 18. Section 662.127, Florida Statutes, is created  
 715 to read:

716       662.127 Segregation of books, records, and assets;  
 717 fiduciary assets not liable.—

718       (1) Each family trust company and licensed family trust  
 719 company shall maintain its fiduciary books and records separate  
 720 and distinct from other records of the company and shall  
 721 segregate all assets held in any fiduciary capacity from other  
 722 assets of the company.

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

726       Section 19. Section 662.128, Florida Statutes, is created  
 727 to read:

728       662.128 Annual renewal.—

729 (1) Within 30 days after the end of each calendar year,  
730 family trust companies, licensed family trust companies, and  
731 foreign licensed family trust companies shall file their annual  
732 renewal application with the office.

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

736 (a) The licensed family trust company operated in full  
737 compliance with this chapter, chapter 896, and related rules.  
738 The application must include proof acceptable to the office that  
739 the company is a family trust company as defined under this  
740 chapter.

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

745 (3) The registration renewal application filed by a family  
746 trust company must include a verified statement by an officer of  
747 the company that it is a family trust company as defined under  
748 this chapter and that its operations are in compliance with ss.  
749 662.1225, 662.131, 662.134, and related rules, and include the  
750 name of its designated relative or relatives, if applicable, and  
751 the street address for its principal place of business.

752 (4) The registration renewal application filed by a  
753 foreign licensed family trust company must include a verified  
754 statement by an officer of the company that its operations are

755 in compliance with ss. 662.1225, 662.131, and 662.134 and in  
756 compliance with the family trust company laws and regulations of  
757 its principal jurisdiction. It must also provide:

758 (a) The current telephone number and street address of the  
759 physical location of its principal place of business in its  
760 principal jurisdiction.

761 (b) The current telephone number and street address of the  
762 physical location in this state of its principal place of  
763 operations where its books and records pertaining to its  
764 operations in this state are maintained.

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

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

769 (e) Documentation satisfactory to the office that the  
770 foreign licensed family trust company is in compliance with the  
771 family trust company laws and regulations of its principal  
772 jurisdiction.

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

776 (6) A fee of \$750 for a family trust company, \$1,500 for a  
777 licensed family trust company, and \$1,000 for a foreign licensed  
778 family trust company shall be submitted with the annual renewal  
779 application. All fees received by the office pursuant to this  
780 section shall be deposited into the Financial Institutions'

781 Regulatory Trust Fund pursuant to s. 655.049 for the purpose of  
 782 administering this chapter.

783 Section 20. Section 662.129, Florida Statutes, is created  
 784 to read:

785 662.129 Discontinuing business.—If a licensed family trust  
 786 company desires to discontinue business as a licensed family  
 787 trust company, it must file with the office a certified copy of  
 788 the resolution of the board of directors authorizing that  
 789 action. Upon discharge from all fiduciary duties which it has  
 790 undertaken, the company shall provide certification of such  
 791 discharge and voluntarily relinquish its license to operate as a  
 792 licensed family trust company to the office, whereupon it shall  
 793 be released from any fidelity bonds that it maintained pursuant  
 794 to s. 662.126(1).

795 Section 21. Section 662.130, Florida Statutes, is created  
 796 to read:

797 662.130 Powers of family trust companies, licensed family  
 798 trust companies, and foreign licensed family trust companies.—

799 (1) A family trust company and a licensed family trust  
 800 company may:

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

804 (b) Act as an attorney-in-fact or agent under a power of  
 805 attorney, other than a power of attorney governed by chapter  
 806 709.

807 (c) Act as an attorney in fact or agent under a power of  
808 attorney instrument, other than a power of attorney under  
809 chapter 709.

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

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

826 (f) Delegate duties and powers, including investment  
827 functions under s. 518.112, in accordance with the powers  
828 granted to a trustee under chapter 736 or other applicable law,  
829 and retain agents, attorneys, accountants, investment advisers,  
830 or other individuals or entities to advise or assist the family  
831 trust company, licensed family trust company, or foreign  
832 licensed family trust company in the exercise of its powers and



833 duties under this chapter and chapter 736. Such exercise of  
834 power may include, but is not limited to, retaining a bank trust  
835 department, or a public trust company, other than another family  
836 trust company, licensed family trust company, or foreign  
837 licensed family trust company.

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

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

845 Section 22. Section 662.131, Florida Statutes, is created  
846 to read:

847 662.131 Prohibitions.—Notwithstanding any provision of  
848 this chapter, a family trust company, licensed family trust  
849 company, or foreign licensed family trust company may not:

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

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

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

858 (4) Serve as an attorney in fact or agent, including as a

859 co-attorney in fact or co-agent, under a power of attorney  
 860 pursuant to chapter 709.

861 Section 23. Section 662.132, Florida Statutes, is created  
 862 to read:

863 662.132 Investments.—

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

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

868 (b) Have an aggregate market value of at least 100 percent  
 869 of the company's required owners' equity, as specified in s.  
 870 662.124. If the aggregate market value of 100 percent of the  
 871 company's required owners' equity is, at any time, less than the  
 872 amount required under s. 662.124, the company has 5 business  
 873 days to bring the owners' equity into compliance with s.  
 874 662.124.

875 (2) A family trust company or licensed family trust  
 876 company may purchase or rent real or personal property for use  
 877 in the conduct of the business and other activities of the  
 878 company.

879 (3) Notwithstanding any other provision of law, a family  
 880 trust company or licensed family trust company may invest funds  
 881 for its own account, other than those required or allowed under  
 882 subsection (1) or subsection (2), in any type or character of  
 883 equity securities, debt securities, or other assets.

884 (4) Notwithstanding any other law, a family trust company

885 or licensed family trust company may, while acting as a  
 886 fiduciary, purchase directly from underwriters or distributors  
 887 or in the secondary market:

888 (a) Bonds or other securities underwritten or distributed  
 889 by:

890 1. The family trust company or licensed family trust  
 891 company;

892 2. A family affiliate; or

893 3. A syndicate, including the family trust company,  
 894 licensed family trust company, or family affiliate.

895 (b) Securities of an investment company, including a  
 896 mutual fund, closed-end fund, or unit investment trust, as  
 897 defined under the federal Investment Company Act of 1940, for  
 898 which the family trust company or licensed family trust company  
 899 acts as an advisor, custodian, distributor, manager, registrar,  
 900 shareholder servicing agent, sponsor, or transfer agent.

901 (5) The authority granted in subsection (4) may be  
 902 exercised only if:

903 (a) The investment is not expressly prohibited by the  
 904 instrument, judgment, decree, or order establishing the  
 905 fiduciary relationship.

906 (b) The family trust company or licensed family trust  
 907 company procures in writing the consent of any cofiduciaries  
 908 with discretionary investment powers to the investment.

909 (c) The family trust company or licensed family trust  
 910 company discloses in writing to the person or persons to whom it

911 sends account statements its intent to exercise the authority  
912 granted in subsection (4) before the first exercise of that  
913 authority, and each such disclosure reflects:

914 1. The nature of any interest the family trust company or  
915 licensed family trust company has, or is reasonably expected to  
916 have, in the underwriting or distribution of bonds or securities  
917 purchased.

918 2. The nature and amount of any fee or other compensation  
919 received, or reasonably expected to be received, by the family  
920 trust company or licensed family trust company in connection  
921 with the transaction.

922 3. The nature of the relationship between the family trust  
923 company or licensed family trust company and an investment  
924 company described in paragraph (4) (b).

925 4. 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 for providing  
928 services to an investment company described in paragraph (4) (b).

929 (6) Subsections (4) and (5) do not affect the degree of  
930 prudence required of fiduciaries under the laws of this state.  
931 However, a purchase of bonds or securities pursuant to  
932 subsections (4) and (5) is not presumed to be affected by a  
933 conflict between the fiduciary's personal and fiduciary  
934 interests if such purchase:

935 (a) Is negotiated at a fair price.

936 (b) Is in accordance with:

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

963 complies with:

964 1. The prudent investor rule in s. 518.11, or other  
965 prudent investor or similar rule under other applicable law,  
966 unless such compliance is waived in accordance with s. 518.11 or  
967 other applicable law.

968 2. The terms of the instrument, judgment, decree, or order  
969 establishing the fiduciary relationship.

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

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

980 (b) Place a security transaction using a broker who is a  
981 family member.

982 (c) Enter into an agreement with a family member who is  
983 the settlor or a qualified beneficiary of a trust with respect  
984 to the appointment of the family trust company or licensed  
985 family trust company as a fiduciary of the trust, or with  
986 respect to the compensation of the family trust company and  
987 licensed family trust company for service as a fiduciary.

988 (d) Transact business with a family member.

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

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

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

998 (h) With or without adequate security, lend money to or  
999 borrow money from a family member or a trust, estate, or  
1000 guardianship for which the family trust company or licensed  
1001 family trust company serves as a fiduciary.

1002 (9) If not inconsistent with and subject to the terms of  
1003 subsections (4)-(8), the duty of loyalty under s. 736.0802  
1004 applies to family trust companies, licensed family trust  
1005 companies, and foreign licensed family trust companies when  
1006 serving as trustee of a trust whose administration is subject to  
1007 chapter 736.

1008 Section 24. Section 662.133, Florida Statutes, is created  
1009 to read:

1010 662.133 Oaths, affidavits, and acknowledgments.—If a  
1011 family trust company or licensed family trust company is  
1012 required to make an oath, affirmation, affidavit, or  
1013 acknowledgment regarding a fiduciary capacity in which it is  
1014 acting or is preparing to act, a director or officer or, if the

1015 company is a limited liability company, a manager or officer  
 1016 expressly authorized by the family trust company or licensed  
 1017 family trust company, shall make and, if required, subscribe to  
 1018 such oath, affirmation, affidavit, or acknowledgment on behalf  
 1019 of the company.

1020 Section 25. Section 662.134, Florida Statutes, is created  
 1021 to read:

1022 662.134 Unlawful to advertise services.—A family trust  
 1023 company, licensed family trust company, or foreign licensed  
 1024 family trust company may not advertise its services to the  
 1025 public.

1026 Section 26. Section 662.135, Florida Statutes, is created  
 1027 to read:

1028 662.135 Service as court-appointed fiduciary; bond  
 1029 requirement.—A licensed family trust company is not required to  
 1030 provide or otherwise post a bond or other surety to serve as a  
 1031 court-appointed fiduciary in a proceeding brought or conducted  
 1032 in this state.

1033 Section 27. Section 662.140, Florida Statutes, is created  
 1034 to read:

1035 662.140 Rules.—The office may adopt rules necessary to  
 1036 carry out the purposes of this chapter.

1037 Section 28. Section 662.141, Florida Statutes, is created  
 1038 to read:

1039 662.141 Examination, investigations, and fees.—The office  
 1040 may conduct an examination or investigation of a family trust



1041 company, licensed family trust company, or foreign licensed  
1042 family trust company at any time it deems necessary to determine  
1043 whether a family trust company, licensed family trust company,  
1044 foreign licensed family trust company, or family trust company-  
1045 affiliated person has violated or is about to violate any  
1046 provision of the financial institution's codes or the rules  
1047 adopted by the commission pursuant to such codes.

1048 (1) The office shall conduct an examination of a licensed  
1049 family trust company, family trust company, and foreign licensed  
1050 family trust company at least once every 18 months.

1051 (2) In lieu of an examination by the office, the office  
1052 may accept an audit of a family trust company, licensed family  
1053 trust company, or foreign licensed family trust company by a  
1054 certified public accountant licensed to practice in this state  
1055 who is independent of the company, or other person or entity  
1056 acceptable to the office. If the office accepts an audit  
1057 pursuant to this subsection, the office shall conduct the next  
1058 required examination.

1059 (3) The office shall examine the books and records of a  
1060 family trust company or licensed family trust company as  
1061 necessary to determine whether it is a family trust company or  
1062 licensed family trust company as defined in this chapter, and is  
1063 operating in compliance with ss. 662.1225, 662.126, 662.131 and  
1064 662.134, as applicable. The office may rely upon a certificate  
1065 of trust, trust summary, or written statement from the trust  
1066 company identifying the qualified beneficiaries of any trust or

1067 estate for which the family trust company serves as a fiduciary  
1068 and the qualification of the qualified beneficiaries as  
1069 permissible recipients of company services. The office may  
1070 establish by rule the records to be maintained or requirements  
1071 necessary to demonstrate conformity with this chapter as a  
1072 family trust company or licensed family trust company.

1073 (4) The office shall examine the books and records of a  
1074 foreign licensed family trust company as necessary to determine  
1075 if it is a foreign licensed trust company as defined in this  
1076 chapter and is in compliance with ss. 662.130(2), 662.131, and  
1077 662.134. In connection with an examination of the books and  
1078 records of the company, the office may rely upon the most recent  
1079 examination report or review or certification letters or similar  
1080 documentation issued by the regulatory agency to which the  
1081 foreign licensed family trust company is subject to supervision.  
1082 The office may establish by rule the records to be maintained or  
1083 requirements necessary to demonstrate conformity with this  
1084 chapter as a foreign licensed family trust company. The office's  
1085 examination of the books and records of a foreign licensed  
1086 family trust company is, to the extent practicable, limited to  
1087 books and records of the operations in this state.

1088 (5) For each examination of the books and records of a  
1089 family trust company, licensed family trust company, or foreign  
1090 licensed family trust company as authorized under this chapter,  
1091 the trust company shall, within 30 days after an examination,  
1092 pay a fee for the costs of the examination by the office. As

1093 used in this section, the term "costs" means the salary and  
1094 travel expenses of field staff which are directly attributable  
1095 to the examination of the trust company and the travel expenses  
1096 of any supervisory or support staff required as a result of  
1097 examination findings. The mailing of payment for costs incurred  
1098 must be postmarked within 30 days after the receipt of a notice  
1099 stating that such costs are due. The office may levy a late  
1100 payment of up to \$100 per day or part thereof that a payment is  
1101 overdue, unless waived for good cause. However, if the late  
1102 payment of costs is intentional, the office may levy an  
1103 administrative fine of up to \$1,000 per day for each day the  
1104 payment is overdue.

1105 (6) All fees collected under this section must be  
1106 deposited into the Financial Institutions' Regulatory Trust Fund  
1107 pursuant to s. 655.049 for the purpose of administering this  
1108 chapter.

1109 Section 29. Section 662.142, Florida Statutes, is created  
1110 to read:

1111 662.142 Revocation of license.-

1112 (1) The following acts or conduct constitute grounds for  
1113 the revocation by the office of the license of a licensed family  
1114 trust company:

1115 (a) The company is not a family trust company as defined  
1116 in this chapter;

1117 (b) A violation of s. 662.1225, s. 662.123(1)(a), s.  
1118 662.126, s. 662.128, s. 662.130, s. 662.131, s. 662.134, or s.

1119 662.144;

1120 (c) A violation of chapter 896, relating to financial  
 1121 transactions offenses, or any similar state or federal law;

1122 (d) A violation of any rule of the commission;

1123 (e) A violation of any order of the office;

1124 (f) A breach of any written agreement with the office;

1125 (g) A prohibited act or practice under s. 662.131;

1126 (h) A failure to provide information or documents to the  
 1127 office upon written request; or

1128 (i) An act of commission or omission or a practice that is  
 1129 a breach of trust or of fiduciary duty.

1130 (2) Upon a finding that a licensed family trust company  
 1131 has committed any of the acts set forth in section (1), the  
 1132 office may enter an order suspending the company's license and  
 1133 provide notice of its intention to revoke the license and of the  
 1134 opportunity for a hearing pursuant to ss. 120.569 and 120.57.

1135 The licensed family trust company shall have 90 days to wind up  
 1136 its affairs after license revocation. If after 90 days the  
 1137 company is still in operation, the office may seek an order from  
 1138 the circuit court for the annulment or dissolution of the  
 1139 company.

1140 Section 30. Section 662.143, Florida Statutes, is created  
 1141 to read:

1142 662.143 Cease and desist authority.-

1143 (1) The office may issue and serve upon a family trust  
 1144 company, licensed family trust company, or foreign licensed

1145 family trust company, or upon a family trust company-affiliated  
1146 party, a complaint stating charges if the office has reason to  
1147 believe that such company, family trust company-affiliated  
1148 party, or individual named therein is engaging in or has engaged  
1149 in conduct that:

1150 (a) Indicates that the company is not a family trust  
1151 company or foreign licensed family trust company as defined in  
1152 this chapter;

1153 (b) Is a violation of s. 662.1225, s. 662.123(1)(a), s.  
1154 662.126, s. 662.127, s. 662.128, s. 662.130, or s. 662.134;

1155 (c) Is a violation of any rule of the commission;

1156 (d) Is a violation of any order of the office;

1157 (e) Is a breach of any written agreement with the office;

1158 (f) Is a prohibited act or practice pursuant to s.  
1159 662.131;

1160 (g) Is a willful failure to provide information or  
1161 documents to the office upon written request; or

1162 (h) Is an act of commission or omission or a practice that  
1163 is a breach of trust or of fiduciary duty.

1164 (2) The complaint must contain the statement of facts and  
1165 a notice of opportunity for a hearing pursuant to ss. 120.569  
1166 and 120.57.

1167 (3) If no hearing is requested within the time allowed by  
1168 ss. 120.569 and 120.57, or if a hearing is held and the office  
1169 finds that any of the charges are true, the office may enter an  
1170 order directing the family trust company, licensed family trust

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1171 company, or foreign licensed family trust company, or family  
1172 trust company-affiliated party, or the individual named therein  
1173 to cease and desist from engaging in the conduct complained of  
1174 and to take corrective action.

1175 (4) If the family trust company, licensed family trust  
1176 company, foreign licensed family trust company, or family trust  
1177 company-affiliated party, or the individual named in such order,  
1178 fails to respond to the complaint within the time allotted in  
1179 ss. 120.569 and 120.57, such failure constitutes a default and  
1180 justifies the entry of a cease and desist order.

1181 (5) A contested or default cease and desist order is  
1182 effective when reduced to writing and served upon the family  
1183 trust company, licensed family trust company, or foreign  
1184 licensed family trust company, or family trust company-  
1185 affiliated party, or the individual named therein. An  
1186 uncontested cease and desist order is effective as agreed.

1187 (6) If the office finds that conduct described in  
1188 subsection (1) is likely to cause substantial prejudice to  
1189 members, shareholders, or beneficiaries of fiduciary accounts of  
1190 the family trust company, licensed family trust company, or  
1191 foreign licensed family trust company, or to beneficiaries of  
1192 services rendered by such company, it may issue an emergency  
1193 cease and desist order requiring the family trust company,  
1194 licensed family trust company, or foreign licensed family trust  
1195 company, family trust company-affiliated party, or individual  
1196 named therein to immediately cease and desist from engaging in

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1197 the conduct complained of and to take corrective action. The  
1198 emergency order is effective immediately upon service of a copy  
1199 of the order upon the family trust company, licensed family  
1200 trust company, or foreign licensed family trust company, or  
1201 family trust company-affiliated party and remains effective for  
1202 90 days. If the office begins nonemergency cease and desist  
1203 proceedings under subsection (1), the emergency order remains  
1204 effective until the conclusion of the proceedings under ss.  
1205 120.569 and 120.57. An emergency order entered under this  
1206 subsection is confidential and exempt from s. 119.07(1) until  
1207 the emergency order is made permanent, unless the office finds  
1208 that such confidentiality will result in substantial risk of  
1209 financial loss to the public.

1210 (7) A family trust company or foreign licensed family  
1211 trust company shall have 90 days to wind up its affairs after  
1212 entry of any order to cease and desist from operating as a  
1213 family trust company or foreign licensed family trust company.  
1214 If, after 90 days, a family trust company is still operating,  
1215 the office may seek an order from the circuit court for the  
1216 annulment or dissolution of the company. If after 90 days a  
1217 foreign licensed family trust company is still operating, the  
1218 office may seek an injunction from the circuit court restraining  
1219 the company from continuing to operate in this state.

1220 Section 31. Section 662.144, Florida Statutes, is created  
1221 to read:

1222 662.144 Failure to submit required report; fines.—If a

1223 family trust company, licensed family trust company, or foreign  
 1224 licensed family trust company fails to submit within the  
 1225 prescribed period its annual certification or any other report  
 1226 required by this chapter or any rule, the office may impose a  
 1227 fine of up to \$100 for each day that the annual certification or  
 1228 report is overdue. Failure to provide the annual certification  
 1229 within 60 days after the end of the calendar year shall  
 1230 automatically result in termination of registration of a family  
 1231 trust company or revocation of the license of a licensed family  
 1232 trust company. The trust company shall thereafter have 90 days  
 1233 to wind up its affairs.

1234 Section 32. Section 662.145, Florida Statutes, is created  
 1235 to read:

1236 662.145 Grounds for removal.-

1237 (1) The office may issue and serve upon a licensed family  
 1238 trust company or a family trust company and a family trust  
 1239 company-affiliated party a complaint stating charges if the  
 1240 office has reason to believe that the family trust company-  
 1241 affiliated party is engaging or has engaged in conduct that:

1242 (a) Demonstrates that the company is not a family trust  
 1243 company as defined in this chapter;

1244 (b) Is a prohibited act or practice under s. 662.131;

1245 (c) Is a violation of s. 662.1225, s. 662.123(1)(a), s.  
 1246 662.126, s. 662.127, s. 662.128, s. 662.130, or s. 662.134;

1247 (d) Is a violation of any other law involving fraud or  
 1248 moral turpitude which constitutes a felony;



- 1249 (e) Is a violation of chapter 896, relating to offenses  
1250 related to financial transactions, or similar state or federal  
1251 law;
- 1252 (f) Is a willful violation of a rule of the commission;  
1253 (g) Is a willful violation of an order of the office;  
1254 (h) Is a willful breach of a written agreement with the  
1255 office; or
- 1256 (i) Is an act of commission or omission or a practice that  
1257 is a breach of trust or fiduciary duty.
- 1258 (2) The complaint must contain a statement of facts and a  
1259 notice of opportunity for a hearing pursuant to ss. 120.569 and  
1260 120.57.
- 1261 (3) If no hearing is requested within the time allowed by  
1262 ss. 120.569 and 120.57, or if a hearing is held and the office  
1263 finds that any of the charges in the complaint is true, the  
1264 office may enter an order removing the family trust company-  
1265 affiliated party or restricting or prohibiting participation by  
1266 the family trust company-affiliated party in the affairs of the  
1267 family trust company, licensed family trust company, or other  
1268 state financial institution, subsidiary, or service corporation.
- 1269 (4) If the family trust company-affiliated party fails to  
1270 respond to the complaint within the time allowed in ss. 120.569  
1271 and 120.57, such failure constitutes a default and justifies the  
1272 entry of an order of removal.
- 1273 (5) A contested or default order of removal is effective  
1274 when reduced to writing and served on the family trust company

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1275 or licensed family trust company and the family trust company-  
1276 affiliated party. An uncontested order of removal is effective  
1277 as agreed.

1278 (6) The chief executive officer, or the person holding the  
1279 equivalent office, of a family trust company or licensed family  
1280 trust company shall promptly notify the office if he or she has  
1281 actual knowledge that a family trust company-affiliated party is  
1282 charged with a felony in a state or federal court.

1283 (a) If a family trust company-affiliated party is charged  
1284 with a felony in a state or federal court, or in the courts of a  
1285 foreign country with which the United States maintains  
1286 diplomatic relations which involves a violation of law relating  
1287 to fraud, currency transaction reporting, money laundering,  
1288 theft, or moral turpitude and the charge is equivalent to a  
1289 felony charge under state or federal law, the office may enter  
1290 an emergency order suspending the family trust company-  
1291 affiliated party or restricting or prohibiting participation by  
1292 such company-affiliated party in the affairs of that particular  
1293 family trust company or licensed family trust company or any  
1294 other financial institution, subsidiary, or service corporation,  
1295 upon service of the order upon the company and the family trust  
1296 company-affiliated party so charged.

1297 (b) The order must contain notice of opportunity for a  
1298 hearing pursuant to ss. 120.569 and 120.57, at which the family  
1299 trust company-affiliated party may request a postsuspension  
1300 hearing to show that continued service to or participation in

1301 the affairs of the family trust company or licensed family trust  
1302 company does not pose a threat to the interests of the company.  
1303 In accordance with applicable commission rules, the office shall  
1304 notify the family trust company-affiliated party whether the  
1305 order suspending or prohibiting the company-affiliated party  
1306 from participating in the affairs of a licensed family trust  
1307 company or family trust company, or state financial institution,  
1308 subsidiary, or service corporation will be rescinded or  
1309 otherwise modified. The emergency order remains in effect,  
1310 unless otherwise modified by the office, until the criminal  
1311 charge is disposed of. The acquittal of the family trust  
1312 company-affiliated party charged, or the final, unappealed  
1313 dismissal of all charges against such person, dissolves the  
1314 emergency order, but does not prohibit the office from  
1315 instituting proceedings under subsection (1). If the family  
1316 trust company-affiliated party charged is convicted or pleads  
1317 nolo contendere regardless of adjudication, the emergency order  
1318 becomes final.

1319 (7) A family trust company-affiliated party removed from  
1320 office pursuant to this section is not eligible for reelection  
1321 to such position or to any official position in a family trust  
1322 company, licensed family trust company, or financial institution  
1323 in this state except with the written consent of the office. A  
1324 family trust company-affiliated party who is removed,  
1325 restricted, or prohibited from participation in the affairs of a  
1326 family trust company, licensed family trust company, or state

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1327 financial institution pursuant to this section may petition the  
1328 office for modification or termination of such removal,  
1329 restriction, or prohibition.

1330 (8) The resignation, termination of employment or  
1331 participation, or separation from a family trust company or a  
1332 licensed family trust company of the family trust company-  
1333 affiliated party does not affect the jurisdiction and authority  
1334 of the office to issue a notice and proceed under this section  
1335 against the company-affiliated party if such notice is served  
1336 before the end of the 6-year period beginning on the date such  
1337 person ceases to be a family trust company-affiliated party with  
1338 respect to such company.

1339 Section 33. Section 662.146, Florida Statutes, is created  
1340 to read:

1341 662.146 Confidentiality of books and records.-

1342 (1) The books and records of a family trust company,  
1343 licensed family trust company, and foreign licensed family trust  
1344 company are confidential and shall be made available for  
1345 inspection and examination only:

1346 (a) To the office or its authorized representative;

1347 (b) To any person authorized to act for the company;

1348 (c) As compelled by a court, pursuant to a subpoena issued  
1349 pursuant to the Florida Rules of Civil Procedure, the Florida  
1350 Rules of Criminal Procedure, or the Federal Rules of Civil  
1351 Procedure or pursuant to a subpoena issued in accordance with  
1352 state or federal law. Before the production of the books and

1353 records of a family trust company, licensed family trust  
1354 company, or foreign licensed family trust company, the party  
1355 seeking production must reimburse the company for the reasonable  
1356 costs and fees incurred in compliance with the production. If  
1357 the parties disagree regarding the amount of reimbursement, the  
1358 party seeking the records may request the court having  
1359 jurisdiction to set the amount of reimbursement;

1360 (d) Pursuant to a subpoena, to any federal or state law  
1361 enforcement or prosecutorial instrumentality authorized to  
1362 investigate suspected criminal activity;

1363 (e) As authorized by the board of directors, if in  
1364 corporate form, or the managers, if in limited liability company  
1365 form; or

1366 (f) As provided in subsection (2).

1367 (2) (a) Each customer and stockholder, if a corporation, or  
1368 member, if a limited liability company, has the right to inspect  
1369 the books and records of a family trust company or licensed  
1370 family trust company as they pertain to his or her accounts or  
1371 the determination of his or her voting rights.

1372 (b) The books and records pertaining to customers,  
1373 members, and stockholders of a family trust company or licensed  
1374 family trust company shall be kept confidential by the company  
1375 and its directors, managers, officers, and employees. The books  
1376 and records of customers, members, and stockholders may not be  
1377 released except upon the express authorization of the customer  
1378 as to his or her own accounts or a stockholder or member

1379 regarding his or her voting rights. However, information may be  
1380 released, without the authorization of a customer, member, or  
1381 shareholder in a manner prescribed by the board of directors, if  
1382 a corporation, or managers, if a limited liability company, to  
1383 verify or corroborate the existence or amount of a customer's  
1384 account if that information is reasonably provided to meet the  
1385 needs of commerce and to ensure accurate credit information.  
1386 Notwithstanding this paragraph, this subsection does not  
1387 prohibit a family trust company or licensed family trust company  
1388 from disclosing financial information referenced in this  
1389 subsection as permitted under 15 U.S.C. s. 6802, as amended.

1390 (c) A person who willfully violates a provision of this  
1391 section which relates to unlawful disclosure of confidential  
1392 information commits a felony of the third degree, punishable as  
1393 provided in s. 775.082, s. 775.083, or s. 775.084.

1394 (d) This subsection does not apply to a foreign licensed  
1395 family trust company. The laws of the jurisdiction of its  
1396 principal place of business govern the rights of customers,  
1397 members, and stockholders to inspect its books and records.

1398 (3) For purposes of this section, the term "books and  
1399 records" includes, but is not limited to, an application for a  
1400 license and any documents connected with the application under  
1401 s. 662.121; the office's corresponding investigation under s.  
1402 662.1215 in granting or denying the issuance of the license; the  
1403 initial registration documents of a family trust company or  
1404 foreign licensed family trust company under s. 662.122; the

1405 annual certification made by a family trust company, licensed  
1406 family trust company, or foreign licensed family trust company  
1407 under s. 662.128; and the documentation submitted to the office  
1408 in connection with a licensed family trust company discontinuing  
1409 its business under s. 662.129.

1410 Section 34. Section 662.147, Florida Statutes, is created  
1411 to read:

1412 662.147 Records relating to the office examination;  
1413 limited restrictions on public access.-

1414 (1) A family trust company, licensed family trust company,  
1415 and foreign licensed family trust company shall keep at the  
1416 office it is required to maintain pursuant to s. 662.1225 full  
1417 and complete records of the names and residences of all the  
1418 shareholders or members of the trust company and the number of  
1419 shares or membership units held by each, as applicable, as well  
1420 as the ownership percentage of each shareholder or member, as  
1421 the case may be. The records are subject to the inspection of  
1422 all the shareholders or members of the trust company, and the  
1423 officers authorized to assess taxes under state authority,  
1424 during the normal business hours of the trust company. A current  
1425 list of shareholders or members shall be made available to the  
1426 office's examiners for their inspection and, upon the request of  
1427 the office, shall be submitted to the office.

1428 (2) The office shall retain for at least 10 years:

1429 (a) Examination reports.

1430 (b) Investigatory records.

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1431 (c) The application for a license, any documents connected  
1432 with the application, and the office's corresponding  
1433 investigation in granting or denying the issuance of the  
1434 license.

1435 (d) The initial registration documents of a family trust  
1436 company or foreign licensed family trust company.

1437 (e) The annual certification made by a family trust  
1438 company, licensed family trust company, or foreign licensed  
1439 family trust company.

1440 (f) The documentation submitted to the office in  
1441 connection with a licensed family trust company discontinuing  
1442 its business and any related information compiled by the office,  
1443 or photographic copies thereof.

1444 (3) A copy of any document on file with the office which  
1445 is certified by the office as being a true copy may be  
1446 introduced in evidence as if it were the original. The office  
1447 shall establish a schedule of fees for preparing true copies of  
1448 documents.

1449 Section 35. Section 662.150, Florida Statutes, is created  
1450 to read:

1451 662.150 Domestication of a foreign family trust company.-

1452 (1) A foreign family trust company lawfully organized and  
1453 currently in good standing with the state regulatory agency in  
1454 the jurisdiction where it is organized may become domesticated  
1455 in this state by:

1456 (a) Filing with the Department of State a certificate of



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1457 domestication and articles of incorporation in accordance with  
1458 and subject to s. 607.1801 or by filing articles of conversion  
1459 in accordance with s. 605.1045; and

1460 (b) Filing an application for a license to begin  
1461 operations as a licensed family trust company in accordance with  
1462 s. 662.121, which must first be approved by the office or by  
1463 filing the prescribed form with the office to register as a  
1464 family trust company to begin operations in accordance with s.  
1465 662.122.

1466 (2) A foreign family trust company may apply pursuant to  
1467 paragraph (1)(b) before satisfying the requirements of paragraph  
1468 (1)(a); however, upon receipt of a certificate of authority, the  
1469 company must satisfy the requirements of paragraph (1)(a) before  
1470 beginning operations.

1471 Section 36. Section 662.151, Florida Statutes, is created  
1472 to read:

1473 662.151 Registration of a foreign licensed family trust  
1474 company to operate in this state.—A foreign licensed family  
1475 trust company lawfully organized and currently in good standing  
1476 with the state regulatory agency in the jurisdiction under the  
1477 law of which it is organized may qualify to begin operations in  
1478 this state by:

1479 (1) Filing an application with the Department of State to  
1480 apply for a certificate of authority in accordance with and  
1481 subject to s. 605.0902, s. 607.1503, or s. 620.1902 or to apply  
1482 for a statement of foreign qualification in accordance with and

1483 subject to s. 620.9102 to transact business in this state.

1484 (2) Filing an initial registration to begin operations as  
 1485 a foreign licensed family trust company in accordance with and  
 1486 subject to s. 662.122 and subject to the sections of this  
 1487 chapter which specifically state that they apply to a foreign  
 1488 licensed family trust company.

1489 (3) A company in operation as of the effective date of  
 1490 this law that meets the definition of a family trust company  
 1491 shall have 60 days from the effective date of this act to apply  
 1492 for licensure as a licensed family trust company, register as a  
 1493 family trust company or foreign licensed family trust company,  
 1494 or cease doing business in this state.

1495 Section 37. Paragraph (a) of subsection (3) of section  
 1496 120.80, Florida Statutes, is amended to read:

1497 120.80 Exceptions and special requirements; agencies.—

1498 (3) OFFICE OF FINANCIAL REGULATION.—

1499 (a) Notwithstanding s. 120.60(1), in proceedings for the  
 1500 issuance, denial, renewal, or amendment of a license or approval  
 1501 of a merger pursuant to title XXXVIII:

1502 1.a. The Office of Financial Regulation of the Financial  
 1503 Services Commission shall have published in the Florida  
 1504 Administrative Register notice of the application within 21 days  
 1505 after receipt.

1506 b. Within 21 days after publication of notice, any person  
 1507 may request a hearing. Failure to request a hearing within 21  
 1508 days after notice constitutes a waiver of any right to a

1509 hearing. The Office of Financial Regulation or an applicant may  
 1510 request a hearing at any time prior to the issuance of a final  
 1511 order. Hearings shall be conducted pursuant to ss. 120.569 and  
 1512 120.57, except that the Financial Services Commission shall by  
 1513 rule provide for participation by the general public.

1514 2. Should a hearing be requested as provided by sub-  
 1515 subparagraph 1.b., the applicant or licensee shall publish at  
 1516 its own cost a notice of the hearing in a newspaper of general  
 1517 circulation in the area affected by the application. The  
 1518 Financial Services Commission may by rule specify the format and  
 1519 size of the notice.

1520 3. Notwithstanding s. 120.60(1), and except as provided in  
 1521 subparagraph 4., an every application for license for a new  
 1522 bank, new trust company, new credit union, ~~or~~ new savings and  
 1523 loan association, or new licensed family trust company must  
 1524 ~~shall~~ be approved or denied within 180 days after receipt of the  
 1525 original application or receipt of the timely requested  
 1526 additional information or correction of errors or omissions. An  
 1527 ~~Any~~ application for such a license or for acquisition of such  
 1528 control which is not approved or denied within the 180-day  
 1529 period or within 30 days after conclusion of a public hearing on  
 1530 the application, whichever is later, shall be deemed approved  
 1531 subject to the satisfactory completion of conditions required by  
 1532 statute as a prerequisite to license and approval of insurance  
 1533 of accounts for a new bank, a new savings and loan association,  
 1534 ~~or~~ a new credit union, or a new licensed family trust company by

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1535 the appropriate insurer.

1536 4. In the case of an ~~every~~ application for license to  
1537 establish a new bank, trust company, or capital stock savings  
1538 association in which a foreign national proposes to own or  
1539 control 10 percent or more of any class of voting securities,  
1540 and in the case of an ~~every~~ application by a foreign national  
1541 for approval to acquire control of a bank, trust company, or  
1542 capital stock savings association, the Office of Financial  
1543 Regulation shall request that a public hearing be conducted  
1544 pursuant to ss. 120.569 and 120.57. Notice of such hearing shall  
1545 be published by the applicant as provided in subparagraph 2. The  
1546 failure of ~~any~~ such foreign national to appear personally at the  
1547 hearing shall be grounds for denial of the application.

1548 Notwithstanding ~~the provisions of~~ s. 120.60(1) and subparagraph  
1549 3., every application involving a foreign national shall be  
1550 approved or denied within 1 year after receipt of the original  
1551 application or any timely requested additional information or  
1552 the correction of any errors or omissions, or within 30 days  
1553 after the conclusion of the public hearing on the application,  
1554 whichever is later.

1555 Section 38. Subsections (2) and (3) of section 736.0802,  
1556 Florida Statutes, are amended, and paragraph (i) is added to  
1557 subsection (5) of that section, to read:

1558 736.0802 Duty of loyalty.—

1559 (2) Subject to the rights of persons dealing with or  
1560 assisting the trustee as provided in s. 736.1016, a sale,

1561 encumbrance, or other transaction involving the investment or  
1562 management of trust property entered into by the trustee for the  
1563 trustee's own personal account or which is otherwise affected by  
1564 a conflict between the trustee's fiduciary and personal  
1565 interests is voidable by a beneficiary affected by the  
1566 transaction unless:

1567 (a) The transaction was authorized by the terms of the  
1568 trust;

1569 (b) The transaction was approved by the court;

1570 (c) The beneficiary did not commence a judicial proceeding  
1571 within the time allowed by s. 736.1008;

1572 (d) The beneficiary consented to the trustee's conduct,  
1573 ratified the transaction, or released the trustee in compliance  
1574 with s. 736.1012;

1575 (e) The transaction involves a contract entered into or  
1576 claim acquired by the trustee when that person had not become or  
1577 contemplated becoming trustee;

1578 (f) The transaction was consented to in writing by a  
1579 settlor of the trust while the trust was revocable; ~~or~~

1580 (g) The transaction is one by a corporate trustee that  
1581 involves a money market mutual fund, mutual fund, or a common  
1582 trust fund described in s. 736.0816(3); or

1583 (h) With regard to a trust that is administered by a  
1584 family trust company, licensed family trust company, or foreign  
1585 licensed family trust company operating under chapter 662, the  
1586 transaction is authorized by s. 662.132(4)-(8).

1587           (3) (a) A sale, encumbrance, or other transaction involving  
 1588 the investment or management of trust property is presumed to be  
 1589 affected by a conflict between personal and fiduciary interests  
 1590 if the sale, encumbrance, or other transaction is entered into  
 1591 by the trustee with:

1592           ~~1.(a)~~ The trustee's spouse;

1593           ~~2.(b)~~ The trustee's descendants, siblings, parents, or  
 1594 their spouses;

1595           ~~3.(c)~~ An officer, director, employee, agent, or attorney  
 1596 of the trustee; or

1597           ~~4.(d)~~ A corporation or other person or enterprise in which  
 1598 the trustee, or a person that owns a significant interest in the  
 1599 trustee, has an interest that might affect the trustee's best  
 1600 judgment.

1601           (b) This subsection does not apply to a trust being  
 1602 administered by a family trust company, licensed family trust  
 1603 company, or foreign licensed family trust company operating  
 1604 under chapter 662 if the sale, encumbrance, or other transaction  
 1605 is authorized by s. 662.132(4)-(8).

1606           (5)

1607           (i) This subsection does not apply to a trust administered  
 1608 by a family trust company, licensed family trust company, or  
 1609 foreign licensed family trust company operating under chapter  
 1610 662.

1611           Section 39. Subsection (5) of section 744.351, Florida  
 1612 Statutes, is amended to read:

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1613 744.351 Bond of guardian.—

1614 (5) Financial institutions as defined in s. 744.309(4),  
1615 other than a trust company operating under chapter 662 which is  
1616 not a licensed family trust company or foreign licensed family  
1617 trust company, and public guardians authorized by law to be  
1618 guardians are ~~shall~~ not ~~be~~ required to file bonds.

1619 Section 40. This act shall take effect October 1, 2014, if  
1620 HB 1269 or similar legislation is adopted in the same  
1621 legislative session or an extension thereof and becomes law.