

1 A bill to be entitled

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

27 family trust company, and foreign licensed family
28 trust company; creating s. 662.123, F.S.; requiring
29 organizational documents to include certain
30 provisions; authorizing the use of the term "trust";
31 creating s. 662.124, F.S.; requiring a minimum capital
32 account; creating s. 662.125, F.S.; vesting exclusive
33 authority to manage a family trust company or licensed
34 family trust company in a board of directors or
35 managers; providing for appointment of directors and
36 managers; requiring certain notice to the office in
37 specified circumstances; requiring the office to issue
38 a notice of disapproval of a proposed appointment in
39 specified circumstances; creating s. 662.126, F.S.;
40 requiring that licensed family trust companies procure
41 and maintain fidelity bonds or specified minimum
42 capital account and errors and omissions insurance;
43 authorizing a family trust company that is not
44 licensed to procure and maintain such coverage;
45 authorizing licensed and unlicensed family trust
46 companies to procure and maintain other insurance
47 policies; creating s. 662.127, F.S.; requiring certain
48 books and records to be segregated; creating s.
49 662.128, F.S.; requiring annual license and
50 registration renewal; requiring a fee; creating s.
51 662.129, F.S.; providing for the discontinuance of a
52 licensed family trust company; creating s. 662.130,

53 F.S.; authorizing family trust companies to conduct
54 certain activities; creating s. 662.131, F.S.;
55 prohibiting certain activities on the part of family
56 trust companies; creating s. 662.132, F.S.; imposing
57 certain requirements on the assets that form the
58 minimum capital of licensed family trust companies and
59 family trust companies; authorizing such trust
60 companies to purchase or rent real or personal
61 property, invest funds, and, while acting as a
62 fiduciary, make certain purchases; imposing a
63 restriction on that authorization; clarifying the
64 degree of prudence required of fiduciaries;
65 restricting the authority of a fiduciary to purchase
66 certain bonds or securities; specifying additional
67 authority of fiduciaries; applying the duty of loyalty
68 to family trust companies in certain cases; creating
69 s. 662.133, F.S.; requiring certain officers,
70 directors, or managers of a licensed family trust
71 company or a family trust company to make an oath,
72 affirmation, affidavit, or acknowledgment on behalf of
73 the company in certain circumstances; creating s.
74 662.134, F.S.; prohibiting a family trust company from
75 advertising to the public; creating s. 662.135, F.S.;
76 providing that a licensed family trust company is not
77 required to post a bond to serve as a court-appointed
78 fiduciary; creating s. 662.140, F.S.; authorizing the

79 | commission to adopt rules; creating s. 662.141, F.S.;

80 | authorizing the office to conduct examinations and

81 | investigations; requiring that family trust companies

82 | be examined at least once every 18 months; authorizing

83 | the office to accept an independent audit in lieu of

84 | conducting an examination; requiring the office to

85 | examine the books and records of a family trust

86 | company or licensed family trust company; authorizing

87 | the office to rely on a certificate of trust, trust

88 | summary, or written statement in certain

89 | circumstances; authorizing the commission to adopt

90 | rules relating to records and requirements;

91 | authorizing the office to examine the books and

92 | records of a foreign licensed family trust company;

93 | requiring family trust companies to pay examination

94 | fees tied to actual costs incurred by the office;

95 | providing a penalty for late payment and authorizing

96 | an administrative fine if late payment is intentional;

97 | creating s. 662.142, F.S.; providing for license

98 | revocation; specifying acts and conduct that

99 | constitute grounds for revocation; authorizing the

100 | office to suspend a license pending revocation;

101 | creating s. 662.143, F.S.; authorizing the office to

102 | issue a cease and desist order and an emergency cease

103 | and desist order; creating s. 662.144, F.S.;

104 | authorizing the office to collect fines for the

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

131 investment or management of trust property are not
 132 presumed to be affected by conflicts of interest;
 133 providing an exception; amending s. 744.351, F.S.;
 134 exempting a family trust company from certain bond
 135 requirements and applying those requirements to
 136 licensed family trust companies and foreign licensed
 137 family trust companies; providing appropriations and
 138 authorizing a position; providing a contingent
 139 effective date.

140

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

142

143 Section 1. Paragraph (k) of subsection (1) of section
 144 655.005, Florida Statutes, is amended to read:

145 655.005 Definitions.—

146 (1) As used in the financial institutions codes, unless
 147 the context otherwise requires, the term:

148 (k) "Financial institutions codes" means:

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

151 2. Chapter 657, relating to credit unions;

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

153 4. Chapter 660, relating to trust business;

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

155 ~~6.5.~~ Chapter 663, relating to international banking;

156 ~~7.6.~~ Chapter 665, relating to associations; and

157 ~~8.7.~~ Chapter 667, relating to savings banks.

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

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

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

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

167 662.102 Purpose.—The purpose of the Family Trust Company
168 Act is to establish requirements for licensing family trust
169 companies, to provide regulation of those persons who provide
170 fiduciary services to family members of no more than two
171 families and their related interests as a family trust company,
172 and establish the degree of regulatory oversight required of the
173 Office of Financial Regulation over such companies. Unlike trust
174 companies formed under chapter 658, there is no public interest
175 to be served outside of ensuring that fiduciary activities
176 performed by a family trust company are restricted to family
177 members and their related interests and as otherwise provided
178 for in this chapter. Therefore, family trust companies are not
179 financial institutions within the meaning of the financial
180 institutions codes and licensure of these companies pursuant to
181 chapters 658 and 660 should not be required as it would not
182 promote the purposes of the codes as set forth in s. 655.001.

183 Consequently, the Office of Financial Regulation is not
 184 responsible for regulating family trust companies to ensure
 185 their safety and soundness, and the responsibility of the office
 186 is limited to ensuring that fiduciary services provided by such
 187 companies are restricted to family members and related interests
 188 and not to the general public.

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

191 662.111 Definitions.—As used in this chapter, the term:

192 (1) "Applicant" means the corporation or limited liability
 193 company on whose behalf an application for a license to operate
 194 as a licensed family trust company is submitted under s.
 195 662.121.

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

203 (3) "Capital account" means the aggregate value of
 204 unimpaired capital stock based on the par value of the shares,
 205 plus any unimpaired surplus and undivided profits or retained
 206 earnings of a family trust company organized as a corporation;
 207 or the initial cash investment remitted for membership interests
 208 in a family trust company organized as a limited liability

209 company, plus any undivided profits or retained earnings of the
 210 limited liability company.

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

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

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

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

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

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

232 (10) "Family member" means:

233 (a) A designated relative.

234 (b) A person within the fourth degree of lineal kinship to

235 a designated relative of a family trust company, or a person
236 within the sixth degree of lineal kinship to a designated
237 relative of a licensed family trust company.

238 (c) A person within the seventh degree of collateral
239 kinship to a designated relative of a family trust company, or a
240 person within the ninth degree of collateral kinship to a
241 designated relative of a licensed family trust company.

242 (d) The spouse or former spouse of an individual
243 qualifying as a family member and an individual who is within
244 the fifth degree of lineal kinship to that spouse or former
245 spouse.

246 (e) A family affiliate.

247 (f) A trust established by a family member if the trust is
248 funded exclusively by one or more family members. A trust to
249 which property has been transferred as a result of a family
250 member's exercise of a power of appointment shall be deemed
251 established by that family member if all qualified beneficiaries
252 of the appointee trust are family members.

253 (g) A trust established by an individual who is not a
254 family member if all of the noncharitable qualified
255 beneficiaries of the trust are family members, except that a
256 trust composed exclusively of nonindividual qualified
257 beneficiaries is considered to be a family member if all of the
258 nonindividual qualified beneficiaries are charitable foundations
259 or other charitable entities as described in paragraph (j).

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

261 (i) The probate estate of an individual who is not a
 262 family member if all of the noncharitable beneficiaries of the
 263 estate are family members, except that an estate composed
 264 exclusively of nonindividual beneficiaries is considered to be a
 265 family member if all of the nonindividual beneficiaries are
 266 charitable foundations or other charitable entities as described
 267 in paragraph (j).

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

271 (11) "Family trust company" means a corporation or limited
 272 liability company that:

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

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

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

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

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

285 (a) A director, officer, manager, employee, or controlling
 286 stockholder or member of a family trust company, licensed family

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

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

294 (14) "Foreign licensed family trust company" means a
 295 family trust company that:

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

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

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

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

306 (e) Is not owned by, or a subsidiary of, a corporation,
 307 limited liability company, or other business entity that is
 308 organized in or licensed by any foreign country as defined in s.
 309 663.01(3).

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

313 the office.

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

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

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

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

341 Section 6. Section 662.112, Florida Statutes, is created
 342 to read:

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

348 Section 7. Section 662.114, Florida Statutes, is created
 349 to read:

350 662.114 Family trust company and foreign licensed family
 351 trust company licensing not required.—A family trust company or
 352 foreign licensed family trust company is not required to be a
 353 licensed family trust company.

354 Section 8. Section 662.115, Florida Statutes, is created
 355 to read:

356 662.115 Applicability of chapter to a family trust company
 357 or foreign licensed family trust company.—

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

363 (2) A licensed family trust company is subject to the
 364 provisions of this chapter that expressly refer to a licensed

365 family trust company or that are not expressly limited to a
366 family trust company that is not a licensed family trust company
367 or to a foreign licensed family trust company.

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

371 Section 9. Section 662.120, Florida Statutes, is created
372 to read:

373 662.120 Maximum number of designated relatives.-

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

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

379 Section 10. Section 662.121, Florida Statutes, is created
380 to read:

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

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

391 (2) A copy of the articles of incorporation or articles of
392 organization and the bylaws or operating agreement of the
393 proposed licensed family trust company.

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

397 (4) A statement describing in detail the services that
398 will be provided to family members by the proposed licensed
399 family trust company.

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

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

409 (7) The names of the designated relatives.

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

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

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

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

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

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

438 (d) No director, officer, manager, or member acting in a
 439 managerial capacity has had a professional license suspended or
 440 revoked within the 10 years preceding the date of the
 441 application.

442 (e) All information contained in the application is true

443 and correct to the best knowledge of the individual signing the
444 application on behalf of the proposed licensed family trust
445 company.

446 (11) Any other additional information reasonably required
447 by the office.

448 Section 11. Section 662.1215, Florida Statutes, is created
449 to read:

450 662.1215 Investigation of license applicants.-

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

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

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

462 1. Been convicted of, or entered a plea of nolo contendere
463 to, a crime involving fraud, misrepresentation, or moral
464 turpitude;

465 2. Been convicted of, or pled nolo contendere to, a
466 violation of the financial institutions codes, including s.
467 655.50, chapter 896, or similar state or federal law;

468 3. Been directors, officers, managers, or members of a

469 financial institution licensed or chartered under the financial
470 institution's codes or by the Federal Government or any other
471 state, the District of Columbia, a territory of the United
472 States, or a foreign country, whose license or charter was
473 suspended or revoked within the 10 years preceding the date of
474 the application;

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

477 5. Made a false statement of material fact on the
478 application.

479 (b) That the name of the proposed company complies with s.
480 662.123.

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

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

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

495 licensed family trust company.

496 (4) If the office determines the criteria in subsection
497 (2) have not been met, the office shall serve notice of its
498 intent to deny the application and of the applicant's
499 opportunity to request a hearing pursuant to ss. 120.569 and
500 120.57.

501 Section 12. Section 662.122, Florida Statutes, is created
502 to read:

503 662.122 Registration of a family trust company or a
504 foreign licensed family trust company.—

505 (1) A family trust company that is not applying under s.
506 662.121 to become a licensed family trust company must register
507 with the office before beginning operations in this state. The
508 registration application must:

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

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

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

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

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

521 (a) The registration application must state that its
522 operations will comply with ss. 662.1225, 662.125, 662.131, and
523 662.134 and that it is currently in compliance with the family
524 trust company laws and regulations of its principal
525 jurisdiction.

526 (b) The registration application must provide:

527 1. The current telephone number and street address of the
528 physical location of its principal place of business in its
529 principal jurisdiction.

530 2. The current telephone number and street address of the
531 physical location in this state of its principal place of
532 operations where its books and records pertaining to its
533 operations in this state will be maintained.

534 3. The current telephone number and street address of the
535 physical location of any other offices located within this
536 state.

537 4. The name and current street address in this state of
538 its registered agent.

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

546 (3) The registration application required under this

547 section for a family trust company and a foreign licensed family
 548 trust company must be accompanied by a nonrefundable
 549 registration fee of \$5,000.

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

556 (5) All fees received by the office pursuant to this
 557 section shall be deposited into the Financial Institutions'
 558 Regulatory Trust Fund pursuant to s. 655.049 for purposes of
 559 administering this chapter.

560 Section 13. Section 662.1225, Florida Statutes, is created
 561 to read:

562 662.1225 Requirements for a family trust company, licensed
 563 family trust company, and foreign licensed family trust
 564 company.—

565 (1) A family trust company and a licensed family trust
 566 company shall maintain:

567 (a) A principal office physically located in this state
 568 where original or true copies of all records and accounts of the
 569 family trust company or licensed family trust company may be
 570 accessed and made readily available for examination by the
 571 office in accordance with this chapter. A family trust company
 572 or licensed family trust company may also maintain one or more

573 branch offices within or outside of this state.

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

576 (c) All applicable state and local business licenses,
 577 charters, and permits.

578 (d) A deposit account with a state-chartered or national
 579 financial institution that has a principal or branch office in
 580 this state.

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

584 (a) An office physically located in this state where
 585 original or true copies of all records and accounts of the
 586 foreign licensed family trust company pertaining to its
 587 operations in this state may be accessed and made readily
 588 available for examination by the office in accordance with this
 589 chapter.

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

592 (c) All applicable state and local business licenses,
 593 charters, and permits.

594 (d) A deposit account with a state-chartered or national
 595 financial institution that has a principal or branch office in
 596 this state.

597 Section 14. Section 662.123, Florida Statutes, is created
 598 to read:

599 662.123 Organizational documents; use of term "family
600 trust" in name.-

601 (1) The articles of incorporation, certificate of
602 incorporation, or articles of organization of a family trust
603 company or licensed family trust company must contain:

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

615 (b) The purpose for which the company is formed, which
616 must clearly identify the restricted activities permissible to a
617 family trust company or licensed family trust company under this
618 chapter.

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

621 (d) A statement affirming that the articles of
622 incorporation, certificate of incorporation, or articles of
623 organization will not be amended without prior written notice to
624 the office.

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

632 (3) The term "family trust" in the name adopted by a
633 family trust company or licensed family trust company does not
634 disqualify the name from being allowed under s. 605.0112 or s.
635 607.0401.

636 Section 15. Section 662.124, Florida Statutes, is created
637 to read:

638 662.124 Minimum capital account required.-

639 (1) A licensed family trust company that has one
640 designated relative may not be organized or operated with an
641 owners' capital account of less than \$250,000. The minimum
642 capital account shall be increased to \$350,000 if two designated
643 relatives of the licensed family trust company are named in the
644 application for a license or in the annual license renewal. A
645 family trust company may not be organized or operated with a
646 capital account of less than \$250,000.

647 (2) The full amount of the initial capital account of a
648 family trust company or licensed family trust company must be
649 composed of one or more of the asset groups described in s.
650 662.132(1)(a), exclusive of all organization expenses.

651 Section 16. Section 662.125, Florida Statutes, is created
652 to read:

653 662.125 Directors or managers.—

654 (1) Exclusive authority to manage a family trust company
655 or licensed family trust company is vested in a board of
656 directors, if a corporation, or a board of directors or
657 managers, if a limited liability company.

658 (2) A family trust company or licensed family trust
659 company shall have at least three directors, if a corporation,
660 or three directors or managers, if a limited liability company.
661 At least one director or manager of the company must be a
662 resident of this state.

663 (3) The licensed family trust company shall notify the
664 office of the proposed appointment of an individual to the board
665 of directors or addition as a member, or the appointment or
666 employment of an individual as an officer or manager or member
667 acting in a managerial capacity or equivalent position, at least
668 60 days before such appointment or employment becomes effective,
669 if the company:

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

671 (b) Has undergone a change in control within the preceding
672 2 years.

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

674
675 The notification must include the name and such biographical
676 information as the office may reasonably require.

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

682 (5) The office shall issue a notice of disapproval if the
 683 office finds that the proposed appointment or employment of a
 684 person would otherwise cause the licensed family trust company
 685 to violate any of the requirements set forth in s.
 686 662.121(10)(b)-(d) or s. 662.1215(2)(a).

687 Section 17. Section 662.126, Florida Statutes, is created
 688 to read:

689 662.126 Fidelity bonds; insurance.-

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

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

700 (3) In lieu of the fidelity bonds required under
 701 subsection (1), a licensed family trust company may increase its
 702 capital account required under s. 662.124 by \$1 million so that

703 if it has one designated relative it is organized or operated
704 with a capital account of at least \$1.25 million, or if it has
705 two designated relatives it is organized or operated with a
706 capital account of at least \$1.35 million.

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

714 (5) A family trust company or licensed family trust
715 company may also procure and maintain other insurance policies
716 necessary or desirable in connection with the business of the
717 company, including, but not limited to, one or more casualty
718 insurance policies.

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

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

725 Section 18. Section 662.127, Florida Statutes, is created
726 to read:

727 662.127 Segregation of books, records, and assets;
728 fiduciary assets not liable.-

729 (1) Each family trust company and licensed family trust
 730 company shall maintain its fiduciary books and records separate
 731 and distinct from other records of the company and shall
 732 segregate all assets held in any fiduciary capacity from other
 733 assets of the company.

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

737 Section 19. Section 662.128, Florida Statutes, is created
 738 to read:

739 662.128 Annual renewal.—

740 (1) Within 30 days after the end of each calendar year,
 741 family trust companies, licensed family trust companies, and
 742 foreign licensed family trust companies shall file their annual
 743 renewal application with the office.

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

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

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

755 (3) The registration renewal application filed by a family
756 trust company must include a verified statement by an officer of
757 the company that it is a family trust company as defined under
758 this chapter and that its operations are in compliance with ss.
759 662.1225, 662.125, 662.131, and 662.134; chapter 896; or similar
760 state or federal law, or any related rule or regulation, and
761 include the name of its designated relative or relatives, if
762 applicable, and the street address for its principal place of
763 business.

764 (4) The registration renewal application filed by a
765 foreign licensed family trust company must include a verified
766 statement that its operations are in compliance with ss.
767 662.1225, 662.125, 662.131, and 662.134 and in compliance with
768 the family trust company laws and regulations of its principal
769 jurisdiction. It must also provide:

770 (a) The current telephone number and street address of the
771 physical location of its principal place of business in its
772 principal jurisdiction.

773 (b) The current telephone number and street address of the
774 physical location in this state of its principal place of
775 operations where its books and records pertaining to its
776 operations in this state are maintained.

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

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

781 (e) Documentation satisfactory to the office that the
782 foreign licensed family trust company is in compliance with the
783 family trust company laws and regulations of its principal
784 jurisdiction.

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

788 (6) A fee of \$750 for a family trust company, \$1,500 for a
789 licensed family trust company, and \$1,000 for a foreign licensed
790 family trust company shall be submitted with the annual renewal
791 application. All fees received by the office pursuant to this
792 section shall be deposited into the Financial Institutions'
793 Regulatory Trust Fund pursuant to s. 655.049 for the purpose of
794 administering this chapter.

795 Section 20. Section 662.129, Florida Statutes, is created
796 to read:

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

807 pursuant to s. 662.126(1).

808 Section 21. Section 662.130, Florida Statutes, is created
809 to read:

810 662.130 Powers of family trust companies, licensed family
811 trust companies, and foreign licensed family trust companies.-

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

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

817 (b) Act as an attorney-in-fact or agent under a power of
818 attorney, other than a power of attorney governed by chapter
819 709.

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

833 individuals.

834 (d) Exercise the powers of a corporation or limited
835 liability company incorporated or organized under the laws of
836 this state, or qualified to transact business as a foreign
837 corporation or limited liability company under the laws of this
838 state, which are reasonably necessary to enable it to fully
839 exercise, in accordance with commonly accepted customs and
840 usages, a power conferred under this chapter.

841 (e) Delegate duties and powers, including investment
842 functions under s. 518.112, in accordance with the powers
843 granted to a trustee under chapter 736 or other applicable law,
844 and retain agents, attorneys, accountants, investment advisers,
845 or other individuals or entities to advise or assist the family
846 trust company, licensed family trust company, or foreign
847 licensed family trust company in the exercise of its powers and
848 duties under this chapter and chapter 736. Such exercise of
849 power may include, but is not limited to, retaining a bank trust
850 department, or a public trust company, other than another family
851 trust company, licensed family trust company, or foreign
852 licensed family trust company.

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

856 (2) Except as otherwise provided in s. 662.131, a foreign
857 licensed family trust company that is in good standing in its
858 principal jurisdiction may exercise all the trust powers in this

859 state that a Florida family trust company may exercise.

860 Section 22. Section 662.131, Florida Statutes, is created
861 to read:

862 662.131 Prohibitions.—Notwithstanding any provision of
863 this chapter, a family trust company, licensed family trust
864 company, or foreign licensed family trust company may not:

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

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

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

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

876 Section 23. Section 662.132, Florida Statutes, is created
877 to read:

878 662.132 Investments.—

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

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

883 (b) Have an aggregate market value of at least 100 percent
884 of the company's required capital account, as specified in s.

885 662.124. If the aggregate market value of 100 percent of the
 886 company's capital account is, at any time, less than the amount
 887 required under s. 662.124, the company has 5 business days to
 888 bring such capital account into compliance with s. 662.124.

889 (2) A family trust company or licensed family trust
 890 company may purchase or rent real or personal property for use
 891 in the conduct of the business and other activities of the
 892 company.

893 (3) Notwithstanding any other provision of law, a family
 894 trust company or licensed family trust company may invest funds
 895 for its own account, other than those required or allowed under
 896 subsection (1) or subsection (2), in any type or character of
 897 equity securities, debt securities, or other assets.

898 (4) Notwithstanding any other law, a family trust company
 899 or licensed family trust company may, while acting as a
 900 fiduciary, purchase directly from underwriters or distributors
 901 or in the secondary market:

902 (a) Bonds or other securities underwritten or distributed
 903 by:

904 1. The family trust company or licensed family trust
 905 company;

906 2. A family affiliate; or

907 3. A syndicate, including the family trust company,
 908 licensed family trust company, or family affiliate.

909 (b) Securities of an investment company, including a
 910 mutual fund, closed-end fund, or unit investment trust, as

911 defined under the federal Investment Company Act of 1940, for
912 which the family trust company or licensed family trust company
913 acts as an advisor, custodian, distributor, manager, registrar,
914 shareholder servicing agent, sponsor, or transfer agent.

915 (5) The authority granted in subsection (4) may be
916 exercised only if:

917 (a) The investment is not expressly prohibited by the
918 instrument, judgment, decree, or order establishing the
919 fiduciary relationship.

920 (b) The family trust company or licensed family trust
921 company procures in writing the consent of any cofiduciaries
922 with discretionary investment powers to the investment.

923 (c) The family trust company or licensed family trust
924 company discloses in writing to the person or persons to whom it
925 sends account statements its intent to exercise the authority
926 granted in subsection (4) before the first exercise of that
927 authority, and each such disclosure reflects:

928 1. The nature of any interest the family trust company or
929 licensed family trust company has, or is reasonably expected to
930 have, in the underwriting or distribution of bonds or securities
931 purchased.

932 2. The nature and amount of any fee or other compensation
933 received, or reasonably expected to be received, by the family
934 trust company or licensed family trust company in connection
935 with the transaction.

936 3. The nature of the relationship between the family trust

937 company or licensed family trust company and an investment
 938 company described in paragraph (4) (b) .

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

943 (6) Subsections (4) and (5) do not affect the degree of
 944 prudence required of fiduciaries under the laws of this state.
 945 However, a purchase of bonds or securities pursuant to
 946 subsections (4) and (5) is not presumed to be affected by a
 947 conflict between the fiduciary's personal and fiduciary
 948 interests if such purchase:

949 (a) Is negotiated at a fair price.

950 (b) Is in accordance with:

951 1. The interest of the qualified beneficiaries.

952 2. The purposes of the trusts.

953 (c) Otherwise complies with:

954 1. The prudent investor rule in s. 518.11, or other
 955 prudent investor or similar rule under other applicable law,
 956 unless such compliance is waived in accordance with s. 518.11 or
 957 other applicable law.

958 2. The terms of the instrument, judgment, decree, or order
 959 establishing the fiduciary relationship.

960 (7) Notwithstanding subsections (1)-(6), a family trust
 961 company or licensed family trust company may not, while acting
 962 as a fiduciary, purchase a bond or security issued by the

963 company or an affiliate thereof unless:

964 (a) The family trust company or licensed family trust
965 company is expressly authorized to do so by:

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

967 2. A court order;

968 3. The written consent of the settlor of the trust for
969 which the family trust company or licensed family trust company
970 is serving as trustee; or

971 4. The written consent of every adult qualified
972 beneficiary of the trust who, at the time of such purchase, is
973 entitled to receive income under the trust or who would be
974 entitled to receive a distribution of principal if the trust
975 were terminated; and

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

978 1. The prudent investor rule in s. 518.11, or other
979 prudent investor or similar rule under other applicable law,
980 unless such compliance is waived in accordance with s. 518.11 or
981 other applicable law.

982 2. The terms of the instrument, judgment, decree, or order
983 establishing the fiduciary relationship.

984 (8) Except as otherwise expressly limited by this section,
985 a family trust company or licensed family trust company, while
986 acting as a fiduciary, is also authorized, without limiting any
987 powers otherwise conferred on fiduciaries by law, to do any of
988 the following, which are not presumed to be affected by a

989 conflict between the fiduciary's personal and fiduciary
 990 interests:

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

994 (b) Place a security transaction using a broker who is a
 995 family member.

996 (c) Enter into an agreement with a family member who is
 997 the settlor or a qualified beneficiary of a trust with respect
 998 to the appointment of the family trust company or licensed
 999 family trust company as a fiduciary of the trust, or with
 1000 respect to the compensation of the family trust company and
 1001 licensed family trust company for service as a fiduciary.

1002 (d) Transact business with a family member.

1003 (e) Transact business with or invest in any asset of
 1004 another trust, estate, guardianship, or conservatorship for
 1005 which the family trust company or licensed family trust company
 1006 is a fiduciary or in which a family member has an interest.

1007 (f) Deposit trust assets in a financial institution that
 1008 is owned, controlled, or operated by one or more family members.

1009 (g) Purchase, sell, hold, own, or invest in a security,
 1010 bond, real or personal property, stock, or other asset of a
 1011 family member.

1012 (h) With or without adequate security, lend money to or
 1013 borrow money from a family member or a trust, estate, or
 1014 guardianship for which the family trust company or licensed

1015 family trust company serves as a fiduciary.

1016 (9) If not inconsistent with and subject to the terms of
1017 subsections (4)-(8), the duty of loyalty under s. 736.0802
1018 applies to family trust companies, licensed family trust
1019 companies, and foreign licensed family trust companies when
1020 serving as trustee of a trust whose administration is subject to
1021 chapter 736.

1022 Section 24. Section 662.133, Florida Statutes, is created
1023 to read:

1024 662.133 Oaths, affidavits, and acknowledgments.—If a
1025 family trust company or licensed family trust company is
1026 required to make an oath, affirmation, affidavit, or
1027 acknowledgment regarding a fiduciary capacity in which it is
1028 acting or is preparing to act, a director or officer or, if the
1029 company is a limited liability company, a manager or officer
1030 expressly authorized by the family trust company or licensed
1031 family trust company, shall make and, if required, subscribe to
1032 such oath, affirmation, affidavit, or acknowledgment on behalf
1033 of the company.

1034 Section 25. Section 662.134, Florida Statutes, is created
1035 to read:

1036 662.134 Unlawful to advertise services.—A family trust
1037 company, licensed family trust company, or foreign licensed
1038 family trust company may not advertise its services to the
1039 public.

1040 Section 26. Section 662.135, Florida Statutes, is created

1041 to read:

1042 662.135 Service as court-appointed fiduciary; bond
1043 requirement.—A licensed family trust company is not required to
1044 provide or otherwise post a bond or other surety to serve as a
1045 court-appointed fiduciary in a proceeding brought or conducted
1046 in this state.

1047 Section 27. Section 662.140, Florida Statutes, is created
1048 to read:

1049 662.140 Rules.—The commission may adopt rules necessary to
1050 carry out the purposes of this chapter.

1051 Section 28. Section 662.141, Florida Statutes, is created
1052 to read:

1053 662.141 Examination, investigations, and fees.—The office
1054 may conduct an examination or investigation of a family trust
1055 company, licensed family trust company, or foreign licensed
1056 family trust company at any time it deems necessary to determine
1057 whether a family trust company, licensed family trust company,
1058 foreign licensed family trust company, or family trust company-
1059 affiliated person has violated or is about to violate any
1060 provision of the financial institution's codes or the rules
1061 adopted by the commission pursuant to such codes.

1062 (1) The office shall conduct an examination of a licensed
1063 family trust company, family trust company, and foreign licensed
1064 family trust company at least once every 18 months.

1065 (2) In lieu of an examination by the office, the office
1066 may accept an audit of a family trust company, licensed family

1067 trust company, or foreign licensed family trust company by a
1068 certified public accountant licensed to practice in this state
1069 who is independent of the company, or other person or entity
1070 acceptable to the office. If the office accepts an audit
1071 pursuant to this subsection, the office shall conduct the next
1072 required examination.

1073 (3) The office shall examine the books and records of a
1074 family trust company or licensed family trust company as
1075 necessary to determine whether it is a family trust company or
1076 licensed family trust company as defined in this chapter, and is
1077 operating in compliance with ss. 662.1225, 662.125, 662.126,
1078 662.131 and 662.134, as applicable. The office may rely upon a
1079 certificate of trust, trust summary, or written statement from
1080 the trust company identifying the qualified beneficiaries of any
1081 trust or estate for which the family trust company serves as a
1082 fiduciary and the qualification of the qualified beneficiaries
1083 as permissible recipients of company services. The commission
1084 may establish by rule the records to be maintained or
1085 requirements necessary to demonstrate conformity with this
1086 chapter as a family trust company or licensed family trust
1087 company.

1088 (4) The office shall examine the books and records of a
1089 foreign licensed family trust company as necessary to determine
1090 if it is a foreign licensed trust company as defined in this
1091 chapter and is in compliance with ss. 662.1225, 662.125,
1092 662.130(2), 662.131, and 662.134. In connection with an

1093 examination of the books and records of the company, the office
1094 may rely upon the most recent examination report or review or
1095 certification letters or similar documentation issued by the
1096 regulatory agency to which the foreign licensed family trust
1097 company is subject to supervision. The commission may establish
1098 by rule the records to be maintained or requirements necessary
1099 to demonstrate conformity with this chapter as a foreign
1100 licensed family trust company. The office's examination of the
1101 books and records of a foreign licensed family trust company is,
1102 to the extent practicable, limited to books and records of the
1103 operations in this state.

1104 (5) For each examination of the books and records of a
1105 family trust company, licensed family trust company, or foreign
1106 licensed family trust company as authorized under this chapter,
1107 the trust company shall pay a fee for the costs of the
1108 examination by the office. As used in this section, the term
1109 "costs" means the salary and travel expenses of field staff
1110 which are directly attributable to the examination of the trust
1111 company and the travel expenses of any supervisory or support
1112 staff required as a result of examination findings. The mailing
1113 of payment for costs incurred must be postmarked within 30 days
1114 after the receipt of a notice stating that such costs are due.
1115 The office may levy a late payment of up to \$100 per day or part
1116 thereof that a payment is overdue, unless waived for good cause.
1117 However, if the late payment of costs is intentional, the office
1118 may levy an administrative fine of up to \$1,000 per day for each

1119 day the payment is overdue.

1120 (6) All fees collected under this section must be
 1121 deposited into the Financial Institutions' Regulatory Trust Fund
 1122 pursuant to s. 655.049 for the purpose of administering this
 1123 chapter.

1124 Section 29. Section 662.142, Florida Statutes, is created
 1125 to read:

1126 662.142 Revocation of license.-

1127 (1) The following acts or conduct constitute grounds for
 1128 the revocation by the office of the license of a licensed family
 1129 trust company:

1130 (a) The company is not a family trust company as defined
 1131 in this chapter;

1132 (b) A violation of s. 662.1225, s. 662.123(1)(a), s.
 1133 662.125(2), s. 662.126, s. 662.127, s. 662.128, s. 662.130, s.
 1134 662.131, s. 662.134, or s. 662.144;

1135 (c) A violation of chapter 896, relating to financial
 1136 transactions offenses, or any similar state or federal law or
 1137 any related rule or regulation;

1138 (d) A violation of any rule of the commission;

1139 (e) A violation of any order of the office;

1140 (f) A breach of any written agreement with the office;

1141 (g) A prohibited act or practice under s. 662.131;

1142 (h) A failure to provide information or documents to the
 1143 office upon written request; or

1144 (i) An act of commission or omission that is judicially

1145 determined to be a breach of trust or of fiduciary duty pursuant
 1146 to a court of competent jurisdiction.

1147 (2) Upon a finding that a licensed family trust company
 1148 has committed any of the acts set forth in paragraphs (1)(a)-
 1149 (h), the office may enter an order suspending the company's
 1150 license and provide notice of its intention to revoke the
 1151 license and of the opportunity for a hearing pursuant to ss.
 1152 120.569 and 120.57. If there has been a commission or omission
 1153 under paragraph (1)(i), the office may immediately enter an
 1154 order revoking the license. The licensed family trust company
 1155 shall have 90 days to wind up its affairs after license
 1156 revocation. If after 90 days the company is still in operation,
 1157 the office may seek an order from the circuit court for the
 1158 annulment or dissolution of the company.

1159 Section 30. Section 662.143, Florida Statutes, is created
 1160 to read:

1161 662.143 Cease and desist authority.-

1162 (1) The office may issue and serve upon a family trust
 1163 company, licensed family trust company, or foreign licensed
 1164 family trust company, or upon a family trust company-affiliated
 1165 party, a complaint stating charges if the office has reason to
 1166 believe that such company, family trust company-affiliated
 1167 party, or individual named therein is engaging in or has engaged
 1168 in conduct that:

1169 (a) Indicates that the company is not a family trust
 1170 company or foreign licensed family trust company as defined in

1171 this chapter;

1172 (b) Is a violation of s. 662.1225, s. 662.123(1)(a), s.
 1173 662.125(2), s. 662.126, s. 662.127, s. 662.128, s. 662.130, or
 1174 s. 662.134;

1175 (c) Is a violation of any rule of the commission;

1176 (d) Is a violation of any order of the office;

1177 (e) Is a breach of any written agreement with the office;

1178 (f) Is a prohibited act or practice pursuant to s.
 1179 662.131;

1180 (g) Is a willful failure to provide information or
 1181 documents to the office upon written request;

1182 (h) Is an act of commission or omission or a practice that
 1183 the office has reason to believe is a breach of trust or of
 1184 fiduciary duty; or

1185 (i) Is a violation of chapter 896 or similar state or
 1186 federal law or any related rule or regulation.

1187 (2) The complaint must contain the statement of facts and
 1188 a notice of opportunity for a hearing pursuant to ss. 120.569
 1189 and 120.57.

1190 (3) If no hearing is requested within the time allowed by
 1191 ss. 120.569 and 120.57, or if a hearing is held and the office
 1192 finds that any of the charges are true, the office may enter an
 1193 order directing the family trust company, licensed family trust
 1194 company, or foreign licensed family trust company, or family
 1195 trust company-affiliated party, or the individual named therein
 1196 to cease and desist from engaging in the conduct complained of

1197 and to take corrective action.

1198 (4) If the family trust company, licensed family trust
1199 company, foreign licensed family trust company, or family trust
1200 company-affiliated party, or the individual named in such order,
1201 fails to respond to the complaint within the time allotted in
1202 ss. 120.569 and 120.57, such failure constitutes a default and
1203 justifies the entry of a cease and desist order.

1204 (5) A contested or default cease and desist order is
1205 effective when reduced to writing and served upon the family
1206 trust company, licensed family trust company, or foreign
1207 licensed family trust company, or family trust company-
1208 affiliated party, or the individual named therein. An
1209 uncontested cease and desist order is effective as agreed.

1210 (6) If the office finds that conduct described in
1211 subsection (1) is likely to cause substantial prejudice to
1212 members, shareholders, or beneficiaries of fiduciary accounts of
1213 the family trust company, licensed family trust company, or
1214 foreign licensed family trust company, or to beneficiaries of
1215 services rendered by such company, it may issue an emergency
1216 cease and desist order requiring the family trust company,
1217 licensed family trust company, or foreign licensed family trust
1218 company, family trust company-affiliated party, or individual
1219 named therein to immediately cease and desist from engaging in
1220 the conduct complained of and to take corrective action. The
1221 emergency order is effective immediately upon service of a copy
1222 of the order upon the family trust company, licensed family

1223 trust company, or foreign licensed family trust company, or
 1224 family trust company-affiliated party and remains effective for
 1225 90 days. If the office begins nonemergency cease and desist
 1226 proceedings under subsection (1), the emergency order remains
 1227 effective until the conclusion of the proceedings under ss.
 1228 120.569 and 120.57.

1229 (7) A family trust company or foreign licensed family
 1230 trust company shall have 90 days to wind up its affairs after
 1231 entry of any order to cease and desist from operating as a
 1232 family trust company or foreign licensed family trust company.
 1233 If, after 90 days, a family trust company is still operating,
 1234 the office may seek an order from the circuit court for the
 1235 annulment or dissolution of the company. If after 90 days a
 1236 foreign licensed family trust company is still operating, the
 1237 office may seek an injunction from the circuit court restraining
 1238 the company from continuing to operate in this state.

1239 Section 31. Section 662.144, Florida Statutes, is created
 1240 to read:

1241 662.144 Failure to submit required report; fines.—If a
 1242 family trust company, licensed family trust company, or foreign
 1243 licensed family trust company fails to submit within the
 1244 prescribed period its annual renewal or any other report
 1245 required by this chapter or any rule, the office may impose a
 1246 fine of up to \$100 for each day that the annual renewal or
 1247 report is overdue. Failure to provide the annual renewal within
 1248 60 days after the end of the calendar year shall automatically

1249 result in termination of registration of a family trust company
 1250 or revocation of the license of a licensed family trust company.
 1251 The trust company shall thereafter have 90 days to wind up its
 1252 affairs.

1253 Section 32. Section 662.145, Florida Statutes, is created
 1254 to read:

1255 662.145 Grounds for removal.—

1256 (1) The office may issue and serve upon a licensed family
 1257 trust company or a family trust company and a family trust
 1258 company-affiliated party a complaint stating charges if the
 1259 office has reason to believe that the family trust company-
 1260 affiliated party is engaging or has engaged in conduct that:

1261 (a) Demonstrates that the company is not a family trust
 1262 company as defined in this chapter;

1263 (b) Is a prohibited act or practice under s. 662.131;

1264 (c) Is a violation of s. 662.1225, s. 662.123(1)(a), s.
 1265 662.126, s. 662.127, s. 662.128, s. 662.130, or s. 662.134;

1266 (d) Is a violation of any other law involving fraud or
 1267 moral turpitude which constitutes a felony;

1268 (e) Is a violation of chapter 896, relating to offenses
 1269 related to financial transactions, or similar state or federal
 1270 law;

1271 (f) Is a willful violation of a rule of the commission;

1272 (g) Is a willful violation of an order of the office;

1273 (h) Is a willful breach of a written agreement with the
 1274 office; or

1275 (i) Is an act of commission or omission or a practice that
 1276 the office has reason to believe is a breach of trust or
 1277 fiduciary duty.

1278 (2) The complaint must contain a statement of facts and a
 1279 notice of opportunity for a hearing pursuant to ss. 120.569 and
 1280 120.57.

1281 (3) If no hearing is requested within the time allowed by
 1282 ss. 120.569 and 120.57, or if a hearing is held and the office
 1283 finds that any of the charges in the complaint is true, the
 1284 office may enter an order removing the family trust company-
 1285 affiliated party or restricting or prohibiting participation by
 1286 the family trust company-affiliated party in the affairs of the
 1287 family trust company, licensed family trust company, or state
 1288 financial institution, subsidiary, or service corporation.

1289 (4) If the family trust company-affiliated party fails to
 1290 respond to the complaint within the time allowed in ss. 120.569
 1291 and 120.57, such failure constitutes a default and justifies the
 1292 entry of an order of removal.

1293 (5) A contested or default order of removal is effective
 1294 when reduced to writing and served on the family trust company
 1295 or licensed family trust company and the family trust company-
 1296 affiliated party. An uncontested order of removal is effective
 1297 as agreed.

1298 (6) The chief executive officer, or the person holding the
 1299 equivalent office, of a family trust company or licensed family
 1300 trust company shall promptly notify the office if he or she has

1301 actual knowledge that a family trust company-affiliated party is
 1302 charged with a felony in a state or federal court.

1303 (a) If a family trust company-affiliated party is charged
 1304 with a felony in a state or federal court, or in the courts of a
 1305 foreign country with which the United States maintains
 1306 diplomatic relations which involves a violation of law relating
 1307 to fraud, currency transaction reporting, money laundering,
 1308 theft, or moral turpitude and the charge is equivalent to a
 1309 felony charge under state or federal law, the office may enter
 1310 an emergency order suspending the family trust company-
 1311 affiliated party or restricting or prohibiting participation by
 1312 such company-affiliated party in the affairs of that particular
 1313 family trust company or licensed family trust company or any
 1314 financial institution, subsidiary, or service corporation, upon
 1315 service of the order upon the company and the family trust
 1316 company-affiliated party so charged.

1317 (b) The order must contain notice of opportunity for a
 1318 hearing pursuant to ss. 120.569 and 120.57, at which the family
 1319 trust company-affiliated party may request a postsuspension
 1320 hearing to show that continued service to or participation in
 1321 the affairs of the family trust company or licensed family trust
 1322 company does not pose a threat to the interests of the company.
 1323 In accordance with applicable commission rules, the office shall
 1324 notify the family trust company-affiliated party whether the
 1325 order suspending or prohibiting the company-affiliated party
 1326 from participating in the affairs of a licensed family trust

1327 company or family trust company, or state financial institution,
1328 subsidiary, or service corporation will be rescinded or
1329 otherwise modified. The emergency order remains in effect,
1330 unless otherwise modified by the office, until the criminal
1331 charge is disposed of. The acquittal of the family trust
1332 company-affiliated party charged, or the final, unappealed
1333 dismissal of all charges against such person, dissolves the
1334 emergency order, but does not prohibit the office from
1335 instituting proceedings under subsection (1). If the family
1336 trust company-affiliated party charged is convicted or pleads
1337 guilty or nolo contendere, regardless of adjudication, the
1338 emergency order becomes final.

1339 (7) A family trust company-affiliated party removed from
1340 office pursuant to this section is not eligible for reelection
1341 to such position or to any official position in a family trust
1342 company, licensed family trust company, or financial institution
1343 in this state except with the written consent of the office. A
1344 family trust company-affiliated party who is removed,
1345 restricted, or prohibited from participation in the affairs of a
1346 family trust company, licensed family trust company, or state
1347 financial institution pursuant to this section may petition the
1348 office for modification or termination of such removal,
1349 restriction, or prohibition.

1350 (8) The resignation, termination of employment or
1351 participation, or separation from a family trust company or a
1352 licensed family trust company of the family trust company-

1353 affiliated party does not affect the jurisdiction and authority
1354 of the office to issue a notice and proceed under this section
1355 against the company-affiliated party if such notice is served
1356 before the end of the 6-year period beginning on the date such
1357 person ceases to be a family trust company-affiliated party with
1358 respect to such company.

1359 Section 33. Section 662.146, Florida Statutes, is created
1360 to read:

1361 662.146 Confidentiality of books and records.-

1362 (1) The books and records of a family trust company,
1363 licensed family trust company, and foreign licensed family trust
1364 company are confidential and shall be made available for
1365 inspection and examination only:

1366 (a) To the office or its authorized representative;

1367 (b) To any person authorized to act for the company;

1368 (c) As compelled by a court, pursuant to a subpoena issued
1369 pursuant to the Florida Rules of Civil Procedure, the Florida
1370 Rules of Criminal Procedure, or the Federal Rules of Civil
1371 Procedure or pursuant to a subpoena issued in accordance with
1372 state or federal law. Before the production of the books and
1373 records of a family trust company, licensed family trust
1374 company, or foreign licensed family trust company, the party
1375 seeking production must reimburse the company for the reasonable
1376 costs and fees incurred in compliance with the production. If
1377 the parties disagree regarding the amount of reimbursement, the
1378 party seeking the records may request the court having

1379 jurisdiction to set the amount of reimbursement;

1380 (d) Pursuant to a subpoena, to any federal or state law
1381 enforcement or prosecutorial instrumentality authorized to
1382 investigate suspected criminal activity;

1383 (e) As authorized by the board of directors, if in
1384 corporate form, or the managers, if in limited liability company
1385 form; or

1386 (f) As provided in subsection (2).

1387 (2) (a) Each customer and stockholder, if a corporation, or
1388 member, if a limited liability company, has the right to inspect
1389 the books and records of a family trust company or licensed
1390 family trust company as they pertain to his or her accounts or
1391 the determination of his or her voting rights.

1392 (b) The books and records pertaining to customers,
1393 members, and stockholders of a family trust company or licensed
1394 family trust company shall be kept confidential by the company
1395 and its directors, managers, officers, and employees. The books
1396 and records of customers, members, and stockholders may not be
1397 released except upon the express authorization of the customer
1398 as to his or her own accounts or a stockholder or member
1399 regarding his or her voting rights. However, information may be
1400 released, without the authorization of a customer, member, or
1401 shareholder in a manner prescribed by the board of directors, if
1402 a corporation, or managers, if a limited liability company, to
1403 verify or corroborate the existence or amount of a customer's
1404 account if that information is reasonably provided to meet the

1405 needs of commerce and to ensure accurate credit information.
1406 Notwithstanding this paragraph, this subsection does not
1407 prohibit a family trust company or licensed family trust company
1408 from disclosing financial information referenced in this
1409 subsection as permitted under 15 U.S.C. s. 6802, as amended.

1410 (c) A person who willfully violates a provision of this
1411 section which relates to unlawful disclosure of confidential
1412 information commits a felony of the third degree, punishable as
1413 provided in s. 775.082, s. 775.083, or s. 775.084.

1414 (d) This subsection does not apply to a foreign licensed
1415 family trust company. The laws of the jurisdiction of its
1416 principal place of business govern the rights of customers,
1417 members, and stockholders to inspect its books and records.

1418 (3) For purposes of this section, the term "books and
1419 records" includes, but is not limited to, an application for a
1420 license and any documents connected with the application under
1421 s. 662.121; the office's corresponding investigation under s.
1422 662.1215 in granting or denying the issuance of the license; the
1423 initial registration documents of a family trust company or
1424 foreign licensed family trust company under s. 662.122; the
1425 annual renewal made by a family trust company, licensed family
1426 trust company, or foreign licensed family trust company under s.
1427 662.128; and the documentation submitted to the office in
1428 connection with a licensed family trust company discontinuing
1429 its business under s. 662.129.

1430 Section 34. Section 662.147, Florida Statutes, is created

1431 to read:

1432 662.147 Records relating to the office examination;
1433 limited restrictions on public access.-

1434 (1) A family trust company, licensed family trust company,
1435 and foreign licensed family trust company shall keep at the
1436 office it is required to maintain pursuant to s. 662.1225 full
1437 and complete records of the names and residences of all the
1438 shareholders or members of the trust company and the number of
1439 shares or membership units held by each, as applicable, as well
1440 as the ownership percentage of each shareholder or member, as
1441 the case may be. The records are subject to the inspection of
1442 all the shareholders or members of the trust company, and the
1443 officers authorized to assess taxes under state authority,
1444 during the normal business hours of the trust company. A current
1445 list of shareholders or members shall be made available to the
1446 office's examiners for their inspection and, upon the request of
1447 the office, shall be submitted to the office.

1448 (2) The office shall retain for at least 10 years:

1449 (a) Examination reports.

1450 (b) Investigatory records.

1451 (c) The application for a license, any documents connected
1452 with the application, and the office's corresponding
1453 investigation in granting or denying the issuance of the
1454 license.

1455 (d) The initial registration documents of a family trust
1456 company or foreign licensed family trust company.

1457 (e) The annual renewal made by a family trust company,
1458 licensed family trust company, or foreign licensed family trust
1459 company.

1460 (f) The documentation submitted to the office in
1461 connection with a licensed family trust company discontinuing
1462 its business and any related information compiled by the office,
1463 or photographic copies thereof.

1464 (3) A copy of any document on file with the office which
1465 is certified by the office as being a true copy may be
1466 introduced in evidence as if it were the original. The office
1467 shall establish a schedule of fees for preparing true copies of
1468 documents.

1469 (4) Orders issued by courts or administrative law judges
1470 for the production of confidential records or information must
1471 provide for inspection in camera by the court or the
1472 administrative law judge. If the court or administrative law
1473 judge determines that the documents requested are relevant or
1474 would likely lead to the discovery of admissible evidence, the
1475 documents shall be subject to further orders by the court or the
1476 administrative law judge to protect the confidentiality thereof.
1477 An order directing the release of information shall be
1478 immediately reviewable, and a petition by the office for review
1479 of the order shall automatically stay any further proceedings in
1480 the trial court or the administrative hearing until the
1481 disposition of the petition by the reviewing court. If any other
1482 party files a petition for review, it will operate as a stay of

1483 the proceedings only upon order of the reviewing court.

1484 Section 35. Section 662.150, Florida Statutes, is created
1485 to read:

1486 662.150 Domestication of a foreign family trust company.-

1487 (1) A foreign family trust company lawfully organized and
1488 currently in good standing with the state regulatory agency in
1489 the jurisdiction where it is organized may become domesticated
1490 in this state by:

1491 (a) Filing with the Department of State a certificate of
1492 domestication and articles of incorporation in accordance with
1493 and subject to s. 607.1801 or by filing articles of conversion
1494 in accordance with s. 605.1045; and

1495 (b) Filing an application for a license to begin
1496 operations as a licensed family trust company in accordance with
1497 s. 662.121, which must first be approved by the office or by
1498 filing the prescribed form with the office to register as a
1499 family trust company to begin operations in accordance with s.
1500 662.122.

1501 (2) A foreign family trust company may apply pursuant to
1502 paragraph (1) (b) before satisfying the requirements of paragraph
1503 (1) (a); however, upon receipt of a certificate of authority, the
1504 company must satisfy the requirements of paragraph (1) (a) before
1505 beginning operations.

1506 Section 36. Section 662.151, Florida Statutes, is created
1507 to read:

1508 662.151 Registration of a foreign licensed family trust

1509 company to operate in this state.—A foreign licensed family
1510 trust company lawfully organized and currently in good standing
1511 with the state regulatory agency in the jurisdiction under the
1512 law of which it is organized may qualify to begin operations in
1513 this state by:

1514 (1) Filing an application with the Department of State to
1515 apply for a certificate of authority in accordance with and
1516 subject to s. 605.0902 or s. 607.1503.

1517 (2) Filing an initial registration to begin operations as
1518 a foreign licensed family trust company in accordance with and
1519 subject to s. 662.122 and subject to the sections of this
1520 chapter which specifically state that they apply to a foreign
1521 licensed family trust company.

1522 (3) A company in operation as of the effective date of
1523 this law that meets the definition of a family trust company
1524 shall have 90 days from the effective date of this act to apply
1525 for licensure as a licensed family trust company, register as a
1526 family trust company or foreign licensed family trust company,
1527 or cease doing business in this state.

1528 Section 37. Paragraph (a) of subsection (3) of section
1529 120.80, Florida Statutes, is amended to read:

1530 120.80 Exceptions and special requirements; agencies.—

1531 (3) OFFICE OF FINANCIAL REGULATION.—

1532 (a) Notwithstanding s. 120.60(1), in proceedings for the
1533 issuance, denial, renewal, or amendment of a license or approval
1534 of a merger pursuant to title XXXVIII:

1535 1.a. The Office of Financial Regulation of the Financial
 1536 Services Commission shall have published in the Florida
 1537 Administrative Register notice of the application within 21 days
 1538 after receipt.

1539 b. Within 21 days after publication of notice, any person
 1540 may request a hearing. Failure to request a hearing within 21
 1541 days after notice constitutes a waiver of any right to a
 1542 hearing. The Office of Financial Regulation or an applicant may
 1543 request a hearing at any time prior to the issuance of a final
 1544 order. Hearings shall be conducted pursuant to ss. 120.569 and
 1545 120.57, except that the Financial Services Commission shall by
 1546 rule provide for participation by the general public.

1547 2. Should a hearing be requested as provided by sub-
 1548 subparagraph 1.b., the applicant or licensee shall publish at
 1549 its own cost a notice of the hearing in a newspaper of general
 1550 circulation in the area affected by the application. The
 1551 Financial Services Commission may by rule specify the format and
 1552 size of the notice.

1553 3. Notwithstanding s. 120.60(1), and except as provided in
 1554 subparagraph 4., an every application for license for a new
 1555 bank, new trust company, new credit union, ~~or~~ new savings and
 1556 loan association, or new licensed family trust company must
 1557 ~~shall~~ be approved or denied within 180 days after receipt of the
 1558 original application or receipt of the timely requested
 1559 additional information or correction of errors or omissions. An
 1560 ~~Any~~ application for such a license or for acquisition of such

1561 control which is not approved or denied within the 180-day
1562 period or within 30 days after conclusion of a public hearing on
1563 the application, whichever is later, shall be deemed approved
1564 subject to the satisfactory completion of conditions required by
1565 statute as a prerequisite to license and approval of insurance
1566 of accounts for a new bank, a new savings and loan association,
1567 ~~or~~ a new credit union, or a new licensed family trust company by
1568 the appropriate insurer.

1569 4. In the case of an ~~every~~ application for license to
1570 establish a new bank, trust company, or capital stock savings
1571 association in which a foreign national proposes to own or
1572 control 10 percent or more of any class of voting securities,
1573 and in the case of an ~~every~~ application by a foreign national
1574 for approval to acquire control of a bank, trust company, or
1575 capital stock savings association, the Office of Financial
1576 Regulation shall request that a public hearing be conducted
1577 pursuant to ss. 120.569 and 120.57. Notice of such hearing shall
1578 be published by the applicant as provided in subparagraph 2. The
1579 failure of ~~any~~ such foreign national to appear personally at the
1580 hearing shall be grounds for denial of the application.

1581 Notwithstanding ~~the provisions of~~ s. 120.60(1) and subparagraph
1582 3., every application involving a foreign national shall be
1583 approved or denied within 1 year after receipt of the original
1584 application or any timely requested additional information or
1585 the correction of any errors or omissions, or within 30 days
1586 after the conclusion of the public hearing on the application,

1587 | whichever is later.

1588 | Section 38. Subsections (2) and (3) of section 736.0802,
 1589 | Florida Statutes, are amended, and paragraph (i) is added to
 1590 | subsection (5) of that section, to read:

1591 | 736.0802 Duty of loyalty.—

1592 | (2) Subject to the rights of persons dealing with or
 1593 | assisting the trustee as provided in s. 736.1016, a sale,
 1594 | encumbrance, or other transaction involving the investment or
 1595 | management of trust property entered into by the trustee for the
 1596 | trustee's own personal account or which is otherwise affected by
 1597 | a conflict between the trustee's fiduciary and personal
 1598 | interests is voidable by a beneficiary affected by the
 1599 | transaction unless:

1600 | (a) The transaction was authorized by the terms of the
 1601 | trust;

1602 | (b) The transaction was approved by the court;

1603 | (c) The beneficiary did not commence a judicial proceeding
 1604 | within the time allowed by s. 736.1008;

1605 | (d) The beneficiary consented to the trustee's conduct,
 1606 | ratified the transaction, or released the trustee in compliance
 1607 | with s. 736.1012;

1608 | (e) The transaction involves a contract entered into or
 1609 | claim acquired by the trustee when that person had not become or
 1610 | contemplated becoming trustee;

1611 | (f) The transaction was consented to in writing by a
 1612 | settlor of the trust while the trust was revocable; ~~or~~

1613 (g) The transaction is one by a corporate trustee that
 1614 involves a money market mutual fund, mutual fund, or a common
 1615 trust fund described in s. 736.0816(3); or

1616 (h) With regard to a trust that is administered by a
 1617 family trust company, licensed family trust company, or foreign
 1618 licensed family trust company operating under chapter 662, the
 1619 transaction is authorized by s. 662.132(4)-(8).

1620 (3) (a) A sale, encumbrance, or other transaction involving
 1621 the investment or management of trust property is presumed to be
 1622 affected by a conflict between personal and fiduciary interests
 1623 if the sale, encumbrance, or other transaction is entered into
 1624 by the trustee with:

1625 1. (a) The trustee's spouse;

1626 2. (b) The trustee's descendants, siblings, parents, or
 1627 their spouses;

1628 3. (c) An officer, director, employee, agent, or attorney
 1629 of the trustee; or

1630 4. (d) A corporation or other person or enterprise in which
 1631 the trustee, or a person that owns a significant interest in the
 1632 trustee, has an interest that might affect the trustee's best
 1633 judgment.

1634 (b) This subsection does not apply to a trust being
 1635 administered by a family trust company, licensed family trust
 1636 company, or foreign licensed family trust company operating
 1637 under chapter 662 if the sale, encumbrance, or other transaction
 1638 is authorized by s. 662.132(4)-(8).

1639 (5)
 1640 (i) This subsection does not apply to a trust administered
 1641 by a family trust company, licensed family trust company, or
 1642 foreign licensed family trust company operating under chapter
 1643 662.

1644 Section 39. Subsection (5) of section 744.351, Florida
 1645 Statutes, is amended to read:

1646 744.351 Bond of guardian.—

1647 (5) Financial institutions as defined in s. 744.309(4),
 1648 other than a trust company operating under chapter 662 which is
 1649 not a licensed family trust company or foreign licensed family
 1650 trust company, and public guardians authorized by law to be
 1651 guardians are ~~shall~~ not ~~be~~ required to file bonds.

1652 Section 40. For the 2014-2015 fiscal year, the sums of
 1653 \$72,069 in recurring funds and \$3,773 in nonrecurring funds from
 1654 the Financial Institutions' Regulatory Trust Fund are
 1655 appropriated to the Office of Financial Regulation, and one
 1656 full-time equivalent position with associated salary rate of
 1657 46,381 is authorized, for the purpose of implementing the
 1658 regulatory provisions of this act.

1659 Section 41. This act shall take effect October 1, 2014, if
 1660 HB 1269 or similar legislation is adopted in the same
 1661 legislative session or an extension thereof and becomes law.