

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 1725, Page 13, Section 362.245, Line 29,
2 by inserting after all of said section and line the following:

3
4 "362.1010. Sections 362.1010 to [~~362.1115~~] 362.1117 shall be known and may be cited as
5 the "Missouri Family Trust Company Act".

6 362.1015. For purposes of sections 362.1010 to [~~362.1115~~] 362.1117, the following terms
7 mean:

8 (1) "Authorized representative", if a family trust company is organized as a corporation,
9 then an officer or director of the family trust company or, if a family trust company is organized as a
10 limited liability company, then a manager, officer, or member of the family trust company;

11 (2) "Collateral kinship", a relationship that is not lineal but stems from a common ancestor;

12 (3) "Controlling stockholder or member", an individual who owns or has the ability or
13 power to directly or indirectly vote ten percent or more of the outstanding shares, membership
14 interest, or membership units of the family trust company;

15 (4) "Designated relative", a common ancestor of a family, either living or deceased, who is
16 so designated in a family trust company's initial registration application and any annual registration
17 report;

18 (5) "Director", the director of the Missouri division of finance;

19 (6) "Director's designee", an attorney-at-law or a certified public accountant designated by
20 the director under subsection 1 of section 362.1085;

21 (7) "Engage in trust company business with the general public", any sales, solicitations,
22 arrangements, agreements, or transactions to provide trust or other business services, whether for a
23 fee, commission, or any other type of remuneration, with any person who is not a family member or
24 any sole proprietorship, partnership, limited liability company, joint venture, association,
25 corporation, trust, estate, business trust, or other company that is not one hundred percent owned by
26 one or more family members;

27 [~~(6)~~] (8) "Family affiliate", a company or other entity wholly and exclusively owned by,
28 directly or indirectly, and operated for the sole benefit of:

29 (a) One or more family members; or

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1 (b) Charitable foundations, charitable trusts, or other charitable entities if such foundation,
2 trust, or entity is funded exclusively by one or more family members;

3 ~~[(7)]~~ (9) "Family member":

4 (a) A designated relative;

5 (b) Any person within the tenth degree of lineal kinship of a designated relative;

6 (c) Any person within the ninth degree of collateral kinship to a designated relative;

7 (d) The spouse of any person who qualifies under paragraphs (a) through (c) of this
8 subdivision;

9 (e) Any former spouse of any person who qualifies under paragraphs (a) through (c) of this
10 subdivision;

11 (f) The probate estate of any person who qualified as a family member under paragraphs (a)
12 through (e) of this subdivision;

13 (g) A family affiliate;

14 (h) An irrevocable trust funded exclusively by one or more family members of which all
15 permissible distributees, as defined under subdivision (16) of section 456.1-103, qualify under
16 paragraphs (a) through (g) of this subdivision or are charitable foundations, charitable trusts, or
17 other charitable entities;

18 (i) An irrevocable trust of which one or more family members are the only permissible
19 distributees; or

20 (j) A revocable trust of which one or more family members are the sole settlors.

21
22 For purposes of this subdivision, a legally adopted person shall be treated as a natural child of the
23 adoptive parents; a stepchild shall be treated as a natural child of the family member who is or was
24 the stepparent of that child; and a foster child or an individual who was a minor when a family
25 member became his or her legal guardian shall be treated as a natural child of the family member
26 appointed as foster parent or guardian. Degrees of kinship are calculated by adding the number of
27 steps from the designated relative through each person to the family member either directly in case
28 of lineal kinship or through the common ancestor in the case of collateral kinship;

29 ~~[(8)]~~ (10) "Family trust company", a corporation or limited liability company organized or
30 qualified to do business in this state that is wholly owned and exclusively controlled by, directly or
31 indirectly, one or more family members, excluding any former spouse of a family member; that
32 operates for the exclusive benefit of a family member regardless of whether compensation is
33 received or anticipated; and that does not engage in trust company business with the general public
34 or otherwise hold itself out as a trustee for hire by advertisement, solicitation, or other means. The
35 term "family trust company" shall include foreign family trust companies unless context indicates
36 otherwise;

37 ~~[(9)]~~ (11) "Family trust company affiliated party":

38 (a) A director, officer, manager, employee, or controlling stockholder or member of a family
39 trust company; or

1 (b) A stockholder, member, or any other person as determined by the ~~[secretary]~~ director
2 who participates in the affairs of a family trust company;

3 ~~[(10)]~~ (12) "Foreign family trust company", a family trust company that:

4 (a) Is licensed by the District of Columbia or a state in the United States other than this
5 state;

6 (b) Has its principal place of business in the District of Columbia or a state in the United
7 States other than this state;

8 (c) Is operated in accordance with family or private trust company laws of the District of
9 Columbia or of the state in which it is licensed;

10 (d) Is subject to statutory or regulatory mandated oversight by the District of Columbia or
11 state in which the principal place of business is located; and

12 (e) Is not owned by or a subsidiary of a corporation, limited liability company, or other
13 business entity that is organized in or licensed by any foreign country;

14 ~~[(11)]~~ (13) "Lineal kinship", a relationship in the direct line of ascent or descent from a
15 designated relative;

16 ~~[(12)]~~ (14) "Officer", an individual, regardless of whether the individual has an official title
17 or receives a salary or other compensation, who may participate in the major policy-making
18 functions of a family trust company other than as a director. The term shall not include an
19 individual who may have an official title and exercises discretion in the performance of duties and
20 functions but who does not participate in determining the major policies of the family trust company
21 and whose decisions are limited by policy standards established by other officers, regardless of
22 whether the policy standards have been adopted by the board of directors. The chair of the board of
23 directors, the president, the chief executive officer, the chief financial officer, the senior trust officer,
24 all executive vice presidents of a family trust company, and all managers if organized as a limited
25 liability company are presumed to be officers unless such officer is excluded, other than in the
26 capacity of a director, by resolution of the board of directors or members or by the bylaws or
27 operating agreement of the family trust company from participating in major policy-making
28 functions of the family trust company, and such excluded officer does not actually participate
29 therein;

30 ~~[(13)]~~ (15) "Organizational instrument", the articles of incorporation for a corporation or the
31 articles of organization for a limited liability company, as they may be amended or supplemented
32 from time to time;

33 ~~[(14)]~~ (16) "Principal place of business", the physical location where officers of a family
34 trust company direct, control, and coordinate the trust company's activities;

35 ~~[(15)]~~ (17) "Principal place of operations", the physical location in this state where a foreign
36 family trust company stores and maintains its books and records pertaining to operations in this
37 state;

38 ~~[(16)]~~ (18) "Qualified beneficiary", the same meaning as defined under subdivision (21) of
39 section 456.1-103;

1 ~~[(17)]~~ (19) "Registered agent", a business or individual designated by a family trust
2 company to receive service of process on behalf of the family trust company;

3 ~~[(18)]~~ (20) "Reports of examinations, operations, or conditions", records submitted to the
4 ~~[secretary]~~ director or prepared by the ~~[secretary]~~ director as part of the ~~[secretary's]~~ director's duties
5 performed under sections 362.1010 to 362.1117;

6 ~~[(19)"Secretary", the secretary of state for the state of Missouri;~~
7 ~~(20)"Secretary's designee", an attorney at law or a certified public accountant designated by~~
8 ~~the secretary under subsection 1 of section 362.1085;]~~

9 (21) "Working papers", the records of the procedures followed, tests performed, information
10 obtained, and conclusions reached in an investigation under sections 362.1010 to 362.1117. The
11 term shall also include books and records.

12 362.1030. 1. There is hereby established in the state treasury the "Family Trust Company
13 Fund", which shall consist of all fees collected by the ~~[secretary]~~ director from family trust
14 companies registering as provided in this section. The state treasurer shall be custodian of the fund.
15 In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The
16 fund shall be a dedicated fund, and moneys in the fund shall be used solely to support the
17 ~~[secretary's]~~ director's role and fulfillment of duties under sections 362.1010 to 362.1117.
18 Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund
19 at the end of the biennium that exceed twenty thousand dollars shall revert to the credit of the
20 general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as
21 other funds are invested. Any interest and moneys earned on such investments shall be credited to
22 the fund.

23 2. A family trust company that is not a foreign family trust company shall not conduct
24 business in this state unless such family trust company:

25 (1) ~~[Files its organizational instrument with the secretary]~~ Files with the director, an initial
26 registration application in a format prescribed by the director, a one-time original filing fee of five
27 thousand dollars, the proposed organizational instruments to be filed with the secretary of state, and
28 all required filing fees; and

29 (2) ~~[Pays a one-time original filing fee of five thousand dollars to the secretary]~~ Receives
30 from the director an order approving the application, instruction as to who shall file the order, the
31 proposed organizational instruments and all required filing fees with the secretary of state~~;~~ and

32 (3) ~~Registers by filing with the secretary an initial registration application in a format~~
33 ~~prescribed by the secretary].~~

34
35 A family trust company that is not a foreign family trust company that is, as of August 28, 2024, a
36 registered family trust company in good standing with the secretary of state shall be deemed to have
37 complied with the requirements of subsection 2 of section 362.1030.

38 3. A foreign family trust company shall not conduct business in this state unless such
39 foreign family trust company:

1 (1) ~~[Pays a one-time original filing fee of five thousand dollars to the secretary]~~ Files with
 2 the director, an initial registration application in a format prescribed by the director, a one-time
 3 original filing fee of five thousand dollars, the proposed application for a certificate of authority if a
 4 corporation or application for registration if a limited liability company to be filed with the secretary
 5 of state, and all required filing fees; and

6 (2) ~~[Registers by filing with the secretary an initial registration application in a format~~
 7 ~~prescribed by the secretary]~~ Receives from the director an order approving the application,
 8 instruction as to who shall file the order, the proposed application for a certificate of authority if a
 9 corporation, or application for registration if a limited liability company, to be filed with the
 10 secretary of state and all required filing fees]; and

11 (3) ~~If such foreign family trust company is a corporation, files an application for a certificate~~
 12 ~~of authority or, if such foreign family trust company is a limited liability company, files an~~
 13 ~~application for registration].~~

14
 15 A foreign family trust company that is, as of August 28, 2024, a registered family trust company in
 16 good standing with the secretary of state shall be deemed to have complied with the requirements of
 17 subsection 3 of section 362.1030.

18 4. The ~~[secretary]~~ director shall deposit all family trust company filing fees into the family
 19 trust company fund established under subsection 1 of this section.

20 5. A foreign family trust company application shall be submitted on a form prescribed by
 21 the ~~[secretary]~~ director and be signed, under penalty of perjury, by an authorized representative. At
 22 a minimum, the application shall include:

23 (1) A statement attesting that the foreign family trust company:

24 (a) Will comply with the provisions of sections 362.1010 to 362.1117; and

25 (b) Is in compliance with the family trust company laws and regulations of the jurisdiction
 26 of its incorporation or organization;

27 (2) The current telephone number and street address of:

28 (a) The foreign family trust company's principal place of business in the jurisdiction of its
 29 incorporation or organization;

30 (b) The foreign family trust company's principal place of operations; and

31 (c) Any other offices located within this state;

32 (3) The name and current street address in this state of its registered agent;

33 (4) A certified copy of a certificate of good standing, or an equivalent document,
 34 authenticated by the official having custody of records in the jurisdiction where the foreign family
 35 trust company is incorporated or organized;

36 (5) Satisfactory proof, as determined by the ~~[secretary]~~ director, that the foreign family trust
 37 company is organized in a manner similar to a Missouri family trust company and is in compliance
 38 with the family trust company laws and regulations of the jurisdiction in which the foreign family
 39 trust company was incorporated or organized; and

1 (6) Any other information reasonably [~~and customarily~~] required by the [~~secretary of foreign~~
2 ~~corporations or foreign limited liability companies seeking to qualify to conduct business in this~~
3 ~~state~~] director.

4 362.1035. 1. No family trust company shall be organized or operated with a capital account
5 of less than two hundred fifty thousand dollars. The full amount of the initial capital account of a
6 family trust company shall consist of one or more asset groups described under subsection 1 of
7 section 362.1070, exclusive of all organization expenses.

8 2. A family trust company shall maintain:

9 (1) A physical office in this state where original or true copies, including electronic copies,
10 of all material business records and accounts of the family trust company may be accessed and are
11 readily available for examination by the [~~secretary~~] director. A family trust company may also
12 maintain one or more branch offices within or outside of this state;

13 (2) A registered agent who maintains an office in this state;

14 (3) All applicable state and local business licenses, charters, and permits; and

15 (4) A deposit account with a state-chartered or national financial institution that has a
16 principal or branch office in this state.

17 3. In addition to the requirements of subsection 2 of this section, a foreign family trust
18 company shall also:

19 (1) Be in good standing in the jurisdiction in which it is incorporated or organized; and

20 (2) Stay in compliance with the family trust company laws and regulations of such
21 jurisdiction.

22 362.1040. 1. One or more persons may subscribe to an organizational instrument in writing
23 for the purpose of forming a family trust company, subject to the conditions prescribed by law.

24 2. The organizational instrument of a family trust company shall set forth all of the
25 information required under chapter 347 or 351, as applicable, and the following:

26 (1) The name of the company, which shall distinguish the company from any other
27 nonfamily trust company or family trust company formed or engaging in business in this state. If
28 the word "trust" is included in the name, it shall be immediately preceded by the word "family" so as
29 to distinguish the entity from a nonfamily trust company operating under this chapter. This
30 subdivision shall not apply to a foreign family trust company using a fictitious name that is
31 registered and maintained in this state pursuant to the requirements administered by the secretary of
32 state and that distinguishes the foreign family trust company from a nonfamily trust company
33 authorized to operate under this chapter;

34 (2) A statement that the purpose for which the company is formed is to engage in any and
35 all activities permitted under sections 362.1010 to 362.1117; and

36 (3) A statement affirming that the family trust company shall not engage in trust company
37 business with the general public.

38 3. The term "trust company" in the name adopted by a family trust company shall not be
39 deemed to violate section 362.425.

1 362.1055. 1. A family trust company shall file an annual registration report with, and shall
2 pay an annual filing fee of one thousand dollars to, the ~~[secretary]~~ director.

3 2. The annual registration report filed by a family trust company that is not a foreign family
4 trust company shall include:

5 (1) A statement by an authorized representative verifying that the family trust company is in
6 compliance with the provisions of sections 362.1010 to 362.1117 and with applicable federal laws
7 including, but not limited to, anti-money laundering and customer-identification rules or regulations;

8 (2) The name of the company's designated relative and the street address for its principal
9 place of business; and

10 (3) Any other information reasonably ~~[and customarily]~~ required by the ~~[secretary of
11 general business corporations in connection with filing their annual registration reports]~~ director.

12 3. The annual registration report filed by a foreign family trust company shall include:

13 (1) A statement by an authorized representative verifying that the foreign family trust
14 company is in compliance with the provisions of sections 362.1010 to 362.1117, with the family
15 trust company laws and regulations of the jurisdiction in which it was incorporated or organized,
16 and with applicable federal laws including, but not limited to, anti-money laundering and customer-
17 identification rules or regulations;

18 (2) The current telephone number and street address of the foreign family trust company's
19 principal place of business in the jurisdiction in which it was incorporated or organized;

20 (3) The current telephone number and street address of the foreign family trust company's
21 principal place of operations;

22 (4) The current telephone number and address of the physical location of any other offices
23 located in this state;

24 (5) The name and current street address in this state of the trust company's registered agent;

25 (6) Documentation, to the satisfaction of the ~~[secretary]~~ director, showing that the foreign
26 family trust company is in compliance with the family trust company laws and regulations of the
27 jurisdiction in which it was incorporated or organized; and

28 (7) Any other information reasonably ~~[and customarily]~~ required by the ~~[secretary of
29 general business corporations in connection with filing their annual registration reports]~~ director.

30 4. An annual registration report shall be submitted on a form prescribed by the ~~[secretary]~~
31 director and signed under penalty of perjury by an authorized representative.

32 362.1060. 1. A family trust company may, but only for family members:

33 (1) Act as a sole or copersonal representative, executor, or administrator for a probate estate
34 within or outside this state;

35 (2) Act as an attorney-in-fact or agent under a power of attorney;

36 (3) Except as provided under section 362.1065, act within or outside this state as a sole
37 fiduciary or cofiduciary, including acting as a trustee, advisory agent, assignee, assignee for the
38 benefit of creditors, authenticating agent, bailee, bond or indenture trustee, conservator, conversion
39 agent, custodian, escrow agent, fiscal or paying agent, financial advisor, guardian, investment

1 advisor or manager, managing agent, purchase agent, receiver, registrar, safekeeping or subscription
2 agent, transfer agent for entities other than public companies, warrant agent, or other similar
3 capacity generally performed by a corporate trustee. In so acting, the family trust company may
4 possess, purchase, sell, invest, reinvest, safekeep, or otherwise manage or administer the real or
5 personal property of family members;

6 (4) Exercise the powers of a corporation or limited liability company incorporated or
7 organized under the laws of this state, or qualified to transact business as a foreign corporation or
8 limited liability company under the laws of this state that are reasonably necessary to enable the
9 trust company to fully exercise a power conferred under sections 362.1010 to 362.1117 in
10 accordance with commonly accepted customs and usages;

11 (5) Delegate duties and powers, including investment and management functions under
12 section 469.909, in accordance with the powers granted to a trustee under chapter 456 or other
13 applicable law and retain agents, attorneys, accountants, investment advisors, or other individuals or
14 entities to advise or assist the family trust company in the exercise of its powers and duties under
15 sections 362.1010 to 362.1117 and chapter 456. Such exercise of power may include, but is not
16 limited to, retaining a bank trust department or a public trust company other than another family
17 trust company; and

18 (6) Perform all acts necessary to exercise the powers enumerated in this section or
19 authorized under sections 362.1010 to 362.1117 and other applicable laws of this state.

20 2. A foreign family trust company that has complied with section 362.1030 and is in good
21 standing in the jurisdiction in which it is incorporated or organized may exercise all the trust powers
22 in this state that a Missouri family trust company may exercise.

23 362.1085. 1. The [secretary] director may designate an attorney-at-law or a certified public
24 accountant to examine or investigate, or assist in the examination of, a family trust company.

25 2. The [secretary] director or the [secretary's] director's designee may examine or investigate
26 a family trust company at any time the [secretary] director deems necessary to determine if the
27 family trust company engaged in an act prohibited under section 362.1065 or 362.1080 and, if a
28 family trust company engaged in such act, to determine whether any other applicable law was
29 violated.

30 3. The [secretary] director or the [secretary's] director's designee may examine the books
31 and records of a foreign family trust company at any time the [secretary] director deems necessary
32 to determine if such foreign family trust company is in compliance with sections 362.1010 to
33 362.1117. In connection with an examination of the books and records of the trust company, the
34 [secretary] director or the [secretary's] director's designee may rely upon the most recent
35 examination report, review, certification letters, or similar documentation issued by the agency
36 supervising the foreign family trust company in the jurisdiction in which the foreign family trust
37 company is incorporated or organized. The examination by the [secretary] director or the
38 [secretary's] director's designee of the books and records of a foreign family trust company shall be,
39 to the extent practicable, limited to books and records of operations in this state.

1 4. For each examination or investigation of a family trust company under this section, the
2 family trust company shall pay the costs of the examination or investigation. As used in this
3 subsection, the term "costs" means the salary of and travel expenses incurred by any individual that
4 are directly attributable to the examination or investigation of the family trust company. The
5 mailing of payment for costs incurred shall be postmarked within thirty days after the receipt of a
6 notice that states the costs are due. The [secretary] director may levy a late payment of up to one
7 hundred dollars per day for each day that a payment is overdue unless waived for good cause.
8 However, if the late payment of costs is intentional, the [secretary] director may levy an
9 administrative fine of up to one thousand dollars per day for each day the payment is overdue.

10 5. The [secretary] director may establish by rule the requirements and records necessary to
11 demonstrate conformity with sections 362.1010 to 362.1117 by a family trust company.

12 362.1090. 1. The [secretary] director or the [secretary's] director's designee may issue and
13 serve upon a family trust company or family trust company affiliated party a notice of charges if the
14 [secretary] director or the [secretary's] director's designee has reason to believe that such company,
15 family trust company affiliated party, or individual named therein is engaging in or has engaged in
16 any of the following acts:

17 (1) The family trust company fails to satisfy the requirements of a family trust company or
18 foreign family trust company under sections 362.1010 to 362.1117;

19 (2) A violation of section 362.1035, 362.1040, 362.1050, 362.1055, 362.1060, or 362.1080;

20 (3) A violation of any rule of the [secretary] director;

21 (4) A violation of any order of the [secretary] director;

22 (5) A breach of any written agreement with the [secretary] director;

23 (6) A prohibited act or practice under section 362.1065;

24 (7) A willful failure to provide information or documents to the [secretary] director upon
25 written request;

26 (8) An act of commission or omission that is judicially determined by a court of competent
27 jurisdiction to be a breach of trust or fiduciary duty; or

28 (9) A violation of state or federal law related to anti-money laundering, customer
29 identification, or any related rule or regulation.

30 2. The notice of charges shall contain a statement of facts and notice of opportunity for a
31 hearing.

32 3. If no hearing is requested within thirty days after the date of service of the notice of
33 charges or if a hearing is held and the [secretary] director or [secretary's] director's designee finds
34 that any of the charges are true, the [secretary] director or [secretary's] director's designee may enter
35 an order directing the family trust company, family trust company affiliated party, or the individual
36 named in the notice of charges to cease and desist such conduct and to take corrective action.

37 4. A contested or default cease and desist order is effective when reduced to writing and
38 served upon the family trust company, family trust company affiliated party, or the individual named
39 therein. An uncontested cease and desist order is effective as agreed.

1 5. If the [secretary] director or the [secretary's] director's designee finds that conduct
 2 described under subsection 1 of this section is likely to cause substantial prejudice to members,
 3 shareholders, beneficiaries of fiduciary accounts of the family trust company, or beneficiaries of
 4 services rendered by the family trust company, the [secretary] director or the [secretary's] director's
 5 designee may issue an emergency cease and desist order requiring the family trust company, family
 6 trust company affiliated party, or individual named therein to immediately cease and desist from
 7 engaging in the conduct stated and to take corrective action. The emergency order is effective
 8 immediately upon service of a copy of the order upon the family trust company or family trust
 9 company affiliated party and shall remain effective for ninety days. If the [secretary] director or the
 10 [secretary's] director's designee begins nonemergency cease and desist proceedings under subsection
 11 1 of this section, the emergency order shall remain effective until the conclusion of the proceedings
 12 under this section.

13 6. A family trust company shall have ninety days to wind up its affairs after entry of any
 14 order to cease and desist from operating as a family trust company. If a family trust company that is
 15 not a foreign family trust company is still operating after ninety days, the [secretary] director or the
 16 [secretary's] director's designee may seek an order from a circuit court for the annulment or
 17 dissolution of the company. If a foreign family trust company is still operating after ninety days, the
 18 [secretary] director or the [secretary's] director's designee may seek an injunction from a circuit
 19 court restraining the company from continuing to operate in this state.

20 362.1095. If a family trust company fails to submit within the prescribed period its annual
 21 registration report or any other report required by sections 362.1010 to 362.1117 or rule, the
 22 [secretary] director may impose a fine of up to one hundred dollars for each day that the annual
 23 registration report or other report is overdue. Failure to provide the annual registration report within
 24 sixty days after the end of the calendar year shall automatically result in termination of the
 25 registration of a family trust company. A family trust company may have its registration
 26 automatically reinstated by submitting to the [secretary] director, on or before August thirty-first of
 27 the calendar year in which the annual registration report is due, the company's annual registration
 28 report, a five hundred dollar late fee, and the amount of any fine imposed by the [secretary] director
 29 under this section. A family trust company that fails to renew or reinstate its registration shall wind
 30 up its affairs on or before November thirtieth of the calendar year in which such failure occurs.

31 362.1100. 1. The [secretary] director or the [secretary's] director's designee may issue and
 32 serve upon a family trust company and a family trust company affiliated party a notice of charges if
 33 the [secretary] director or the [secretary's] director's designee has reason to believe that the family
 34 trust company affiliated party is engaging or has engaged in conduct that:

- 35 (1) Demonstrates that the family trust company does not satisfy the requirements of a family
 36 trust company or of a foreign family trust company under sections 362.1010 to 362.1117;
 37 (2) Is a prohibited act or practice under section 362.1065;
 38 (3) Violates section 362.1035, 362.1040, 362.1050, 362.1055, 362.1060, or 362.1080;
 39 (4) Violates any other law involving fraud or moral turpitude that constitutes a felony;

1 (5) Violates a state or federal law related to anti-money laundering, customer identification,
2 or any related rule or regulation;

3 (6) Is a willful violation of a rule of the [secretary] director;

4 (7) Is a willful violation of an order of the [secretary] director;

5 (8) Is a willful breach of a written agreement with the [secretary] director; or

6 (9) Is an act of commission or omission or a practice that the [secretary] director or the
7 [secretary's] director's designee has reason to believe is a breach of trust or fiduciary duty.

8 2. The notice of charges shall contain a statement of facts and notice of opportunity for a
9 hearing.

10 3. If no hearing is requested within thirty days after the date of service of the notice of
11 charges or if a hearing is held and the [secretary] director or [secretary's] director's designee finds
12 that any of the charges in the notice of charges are true, the [secretary] director or [secretary's]
13 director's designee may enter an order that removes the family trust company affiliated party from
14 the family trust company or that restricts or prohibits the family trust company affiliated party from
15 participating in the affairs of the family trust company.

16 4. A contested or default order of removal is effective when reduced to writing and served
17 upon the family trust company and the family trust company affiliated party. An uncontested order
18 of removal is effective as agreed.

19 5. (1) The chief executive officer of a family trust company or the person holding the
20 equivalent office shall promptly notify the [secretary] director if such person has actual knowledge
21 that a family trust company affiliated party is charged with a felony in a state or federal court.

22 (2) If a family trust company affiliated party is charged with a felony in a state or federal
23 court or, in a court of a foreign country with which the United States maintains diplomatic relations,
24 is charged with an offense that involves a violation of law relating to fraud, currency transaction
25 reporting, money laundering, theft, or moral turpitude and such offense is equivalent to a felony
26 charge under state or federal law, then the [secretary] director or the [secretary's] director's designee
27 may enter an emergency order that suspends the family trust company affiliated party or that
28 restricts or prohibits participation by such party in the affairs of the family trust company effective
29 upon service of the order on the company and such family trust company affiliated party.

30 (3) The order shall contain notice of opportunity for a hearing, at which the family trust
31 company affiliated party may request a postsuspension hearing to show that continued service to or
32 participation in the affairs of the family trust company does not pose a threat to the interests of the
33 family trust company. In accordance with applicable rules, the [secretary] director or [secretary's]
34 director's designee shall notify the family trust company affiliated party whether the order
35 suspending or prohibiting the family trust company affiliated party from participating in the affairs
36 of the family trust company will be rescinded or otherwise modified. The emergency order shall
37 remain in effect, unless otherwise modified by the [secretary] director or [secretary's] director's
38 designee, until the criminal charge is disposed. The emergency order shall dissolve upon the final,
39 unappealed dismissal of all charges against or the acquittal of the family trust company affiliated

1 party. Such occurrences shall not prohibit the [secretary] director or the [secretary's] director's
2 designee from instituting proceedings under subsection 1 of this section. If the family trust
3 company affiliated party charged is convicted or pleads guilty or nolo contendere, regardless of
4 adjudication, the emergency order shall become final.

5 6. No family trust company affiliated party removed from office under this section shall be
6 eligible for reinstatement to such office or to any other official position in a family trust company or
7 financial institution in this state except with the written consent of the [secretary] director. A family
8 trust company affiliated party who is removed, restricted, or prohibited from participation in the
9 affairs of a family trust company under this section may petition the [secretary] director for
10 modification or termination of such removal, restriction, or prohibition.

11 7. The resignation, termination of employment or participation, or separation from a family
12 trust company of the family trust company affiliated party shall not affect the jurisdiction and
13 authority of the [secretary] director or the [secretary's] director's designee to issue a notice and
14 proceed under this section against the family trust company affiliated party if such notice is served
15 within six years of the date such person ceased to be a family trust company affiliated party.

16 362.1105. 1. The books and records of a family trust company are confidential and shall be
17 made available for inspection and examination only:

18 (1) To the [secretary] director or the [secretary's] director's authorized representative;

19 (2) To any person authorized to act for the family trust company;

20 (3) As compelled by a court, pursuant to a subpoena issued in accordance with state or
21 federal law. Before the production of the books and records, the party seeking production shall
22 agree to reimburse the company for the reasonable costs and fees incurred in compliance with the
23 production. If the parties disagree on the amount of reimbursement, the party seeking the records
24 may request the court that issued the subpoena to set the amount of reimbursement;

25 (4) Pursuant to a subpoena held by any federal or state law enforcement or prosecutorial
26 instrumentality authorized to investigate suspected criminal activity;

27 (5) As authorized by, if a corporation, the board of directors or, if a limited liability
28 company, the managers; or

29 (6) As provided under subsection 2 of this section.

30 2. (1) If a corporation, each customer and stockholder, or if a limited liability company,
31 each member has the right to inspect the books and records of a family trust company as they
32 pertain to such person's accounts or the determination of such person's voting rights.

33 (2) The books and records pertaining to customers, members, and stockholders of a family
34 trust company shall be kept confidential by the company and its directors, managers, officers, and
35 employees. The books and records of customers, members, and stockholders shall not be released
36 except upon the express authorization of the customer as to his or her own accounts or a stockholder
37 or member regarding his or her voting rights. However, information may be released without the
38 authorization of a customer, member, or shareholder in a manner prescribed by the board of
39 directors of a corporation or managers of a limited liability company for the purposes of verifying or

1 corroborating the existence or amount of a customer's account if such information is reasonably
2 provided to meet the needs of commerce and to ensure accurate credit information.

3 Notwithstanding this subdivision, this subsection shall not prohibit a family trust company from
4 disclosing financial information as permitted under 15 U.S.C. Section 6802, as amended.

5 (3) The willful unlawful disclosure of confidential information in violation of this section
6 shall be a class E felony.

7 (4) This subsection shall not apply to a foreign family trust company. The laws of the
8 jurisdiction in which a foreign family trust company was incorporated or organized govern the rights
9 of its customers, members, and stockholders to inspect its books and records.

10 3. For purposes of this section, the term "books and records" shall include, but is not limited
11 to, the initial registration documents of a family trust company under section 362.1030 and the
12 annual registration report made by a family trust company under section 362.1055.

13 362.1110. 1. A family trust company shall keep at its principal place of business or
14 principal place of operations:

15 (1) Full and complete records of the names and residences of all its shareholders or
16 members;

17 (2) The number of shares or membership units held by each, as applicable; and

18 (3) The ownership percentage of each shareholder or member.

19
20 The records are subject to inspection by all shareholders or members of the family trust company
21 and the [secretary] director or the [secretary's] director's authorized representative during the normal
22 business hours of the family trust company. A current list of shareholders or members shall be made
23 available to the [secretary] director or the [secretary's] director's authorized representative for their
24 inspection and, upon the request of the [secretary] director, shall be submitted to the [secretary]
25 director.

26 2. The [secretary] director shall retain for at least ten years:

27 (1) Examination reports;

28 (2) Investigatory records;

29 (3) The organizational instrument of a family trust company; and

30 (4) The annual registration reports filed by a family trust company.

31 3. A copy of any document on file with the [secretary] director that is certified by the
32 [secretary] director as a true copy may be introduced in evidence as if it were the original. The
33 [secretary] director shall establish a schedule of fees for preparing true copies of documents.

34 4. Orders issued by courts or administrative law judges for the production of confidential
35 records or information shall provide for inspection in camera by the court or the administrative law
36 judge. If the court or administrative law judge determines that the documents requested are relevant
37 or would likely lead to the discovery of admissible evidence, the documents shall be subject to
38 further orders by the court or the administrative law judge to protect the confidentiality thereof. An
39 order directing the release of information shall be immediately reviewable, and a petition by the

1 [secretary] director for review of the order shall automatically stay any further proceedings in a trial
2 court or administrative hearing until the disposition of the petition by the reviewing court. If any
3 other party files a petition for review, such filing shall stay proceedings only upon an order of the
4 reviewing court.

5 362.1115. 1. The following information held by the [secretary] director is confidential and
6 exempt from chapter 610:

7 (1) Any personal identifying information appearing in records relating to a registration or an
8 annual certification of a family trust company;

9 (2) Any personal identifying information appearing in records relating to an examination of
10 a family trust company;

11 (3) Any personal identifying information appearing in reports of examinations, operations,
12 or conditions of a family trust company, including working papers;

13 (4) Any portion of a list of names of the shareholders or members of a family trust
14 company;

15 (5) Information received by the [secretary] director from a person from another state or
16 nation or the federal government that is otherwise confidential or exempt under the laws of such
17 state or nation or under federal law; and

18 (6) An emergency cease and desist order issued under section 362.1090 until the emergency
19 order is made permanent, unless the [secretary] director finds that such confidentiality will result in
20 substantial risk of financial loss to the public.

21 2. Information made confidential and exempt under subsection 1 of this section may be
22 disclosed by the [secretary] director to:

23 (1) The authorized representative or representatives of the family trust company under
24 examination. The authorized representative or representatives shall be identified in a resolution or
25 by written consent of the board of directors if a corporation or the managers if a limited liability
26 company;

27 (2) A fidelity insurance company upon written consent of the family trust company's board
28 of directors if a corporation or its managers if a limited liability company;

29 (3) An independent auditor upon written consent of the family trust company's board of
30 directors if a corporation or its managers if a limited liability company;

31 (4) A liquidator, receiver, or conservator if appointed. However, any portion of the
32 information that discloses the identity of a bondholder, customer, family member, member, or
33 stockholder shall be redacted by the [secretary] director before releasing such information;

34 (5) Any other state, federal, or foreign agency responsible for the regulation or supervision
35 of family trust companies;

36 (6) A law enforcement agency in the furtherance of such agency's official duties and
37 responsibilities;

38 (7) The appropriate law enforcement or prosecutorial agency for the purpose of reporting
39 any suspected criminal activity; or

1 (8) Comply with a legislative subpoena. A legislative body or committee that receives
 2 records or information pursuant to such subpoena shall maintain the confidential status of such
 3 records or information. However, in a case involving the investigation of charges against a public
 4 official subject to impeachment or removal, records or information may be disclosed to the extent
 5 necessary as determined by the legislative body or committee.

6 3. This section shall not prevent or restrict the publication of:

7 (1) A report required by federal law; or

8 (2) The name of the family trust company and the address of its registered agent.

9 4. The willful disclosure of information made confidential and exempt by this section is a
 10 class E felony.

11 362.1116. The ~~[secretary]~~ director may issue forms and orders and, after notice and
 12 comment, may adopt and amend rules necessary or appropriate to carry out the provisions of
 13 sections 362.1010 to 362.1117 and may repeal rules and forms.

14 362.1117. 1. Except as otherwise provided in sections 362.1010 to 362.1117, any interested
 15 person aggrieved by any order of the ~~[secretary]~~ director or ~~[secretary's]~~ director's designee under
 16 any provision of sections 362.1010 to 362.1117 shall be entitled to a hearing before the ~~[secretary]~~
 17 director or the ~~[secretary's]~~ director's authorized representative in accordance with the provisions of
 18 chapter 536. A cease and desist order issued by the ~~[secretary]~~ director or ~~[secretary's]~~ director's
 19 designee is subject to judicial review in accordance with the provisions of chapter 536 in the circuit
 20 court of Cole County.

21 2. A rule adopted under sections 362.1010 to 362.1117 is subject to judicial review in
 22 accordance with the provisions of chapter 536 in the circuit court of Cole County." ; and

23
 24 Further amend said bill, Page 26, Section 469.415, Line 2, by deleting "subdivision ~~[(4)]~~ (6)" and
 25 inserting in lieu thereof the following:

26
 27 "~~subdivision (4)]~~ subsection 6"; and

28
 29 Further amend said bill, page, and section, Line 13, by inserting immediately after "~~portion~~" the
 30 following:

31
 32 "share"; and

33
 34 Further amend said bill, Page 42, Section 469.447, Line 10, by deleting the word "and" and inserting
 35 in lieu thereof the following:

36
 37 "or"; and

38
 39 Further amend said bill by amending the title, enacting clause, and intersectional references
 40 accordingly.