

# HB0176S03 compared with HB0176

~~{Omitted text}~~ shows text that was in HB0176 but was omitted in HB0176S03

inserted text shows text that was not in HB0176 but was inserted into HB0176S03

**DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.**

1

**Trust Business Modifications**  
2026 GENERAL SESSION  
STATE OF UTAH  
**Chief Sponsor: Anthony E. Loubet**  
Senate Sponsor:



2

3 **LONG TITLE**

4 **General Description:**

5 This bill amends provisions relating to trust business.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ defines terms;
- 9 ▶ reorganizes and renumbers the sections of Title 7, Chapter 5, Trust Business;
- 10 ▶ exempts ~~{ a person acting as a trust director }~~ certain persons from the definition of trust

business;and

- 11 ▶ ~~{ prohibits a person acting as a trust director from engaging in trust business; }~~
- 12 ▶ ~~{ exempts from the definition of trust business an attorney or certified public accountant that engages in fiduciary services that are incident to the attorney's or certified public accountant's business; and }~~

- 15 ▶ makes technical changes.

12 **Money Appropriated in this Bill:**

13 None

## HB0176 compared with HB0176S03

14 **Other Special Clauses:**

15 None

16 **Utah Code Sections Affected:**

17 AMENDS:

18 **7-1-401** , as last amended by Laws of Utah 2022, Chapter 449

19 **7-1-701** , as last amended by Laws of Utah 2014, Chapter 97

20 **7-5-11** , as last amended by Laws of Utah 2025, Chapter 310

21 **7-18a-302** , as enacted by Laws of Utah 1996, Chapter 63

22 **7-22-101** , as last amended by Laws of Utah 2020, Chapter 365

23 **16-15-102** , as enacted by Laws of Utah 1995, Chapter 310

24 **31A-23a-406** , as last amended by Laws of Utah 2024, Chapter 120

25 **31A-23a-409** , as last amended by Laws of Utah 2023, Chapters 111, 194

26 **59-10-202** , as last amended by Laws of Utah 2025, First Special Session, Chapter 9

27 **75B-1-101** , as last amended by Laws of Utah 2025, Chapters 310, 338

28 **75B-3-107** , as renumbered and amended by Laws of Utah 2025, Chapter 310

29 ENACTS:

30 **7-5-102** , Utah Code Annotated 1953

31 RENUMBERS AND AMENDS:

32 **7-5-101** , (Renumbered from 7-5-1, as last amended by Laws of Utah 2025, Chapters 310, 338 and 533)

34 **7-5-103** , (Renumbered from 7-5-2, as last amended by Laws of Utah 2014, Chapter 189)

35 **7-5-104** , (Renumbered from 7-5-3, as last amended by Laws of Utah 2025, Chapter 302)

36 **7-5-105** , (Renumbered from 7-5-4, as last amended by Laws of Utah 2010, Chapter 378)

37 **7-5-106** , (Renumbered from 7-5-5, as last amended by Laws of Utah 2001, Chapter 9)

38 **7-5-107** , (Renumbered from 7-5-6, as last amended by Laws of Utah 2025, Chapter 310)

39 **7-5-108** , (Renumbered from 7-5-7, as last amended by Laws of Utah 2025, Chapter 310)

40 **7-5-109** , (Renumbered from 7-5-8, as last amended by Laws of Utah 2014, Chapter 189)

41 **7-5-110** , (Renumbered from 7-5-9, as last amended by Laws of Utah 2010, Chapter 93)

42 **7-5-111** , (Renumbered from 7-5-10, as last amended by Laws of Utah 2025, Chapter 310)

44 **7-5-112** , (Renumbered from 7-5-11, as last amended by Laws of Utah 2025, Chapter 310)

46 **7-5-113** , (Renumbered from 7-5-12, as last amended by Laws of Utah 2025, Chapter 302)

## HB0176 compared with HB0176S03

48 **7-5-114** , (Renumbered from 7-5-13, as last amended by Laws of Utah 2023, Chapter 401)

50 **7-5-115** , (Renumbered from 7-5-14, as last amended by Laws of Utah 2007, Chapter 277)

52 **7-5-116** , (Renumbered from 7-5-15, as last amended by Laws of Utah 2014, Chapter 189)

54

---

---

55 *Be it enacted by the Legislature of the state of Utah:*

56 Section 1. Section **7-1-401** is amended to read:

57 **7-1-401. Fees payable to commissioner.**

62 (1) Except for an out-of-state depository institution with a branch in Utah, a depository institution under the jurisdiction of the department shall pay an annual fee:

64 (a) computed by averaging the total assets of the depository institution shown on each quarterly report of condition for the depository institution for the calendar year immediately preceding the date on which the annual fee is due under Section 7-1-402; and

68 (b) at the following rates:

69 (i) on the first \$5,000,000 of these assets, the greater of:

70 (A) 65 cents per \$1,000; or

71 (B) \$500;

72 (ii) on the next \$10,000,000 of these assets, 35 cents per \$1,000;

73 (iii) on the next \$35,000,000 of these assets, 15 cents per \$1,000;

74 (iv) on the next \$50,000,000 of these assets, 12 cents per \$1,000;

75 (v) on the next \$200,000,000 of these assets, 10 cents per \$1,000;

76 (vi) on the next \$300,000,000 of these assets, 6 cents per \$1,000; and

77 (vii) on all amounts over \$600,000,000 of these assets, 2 cents per \$1,000.

78 (2) A financial institution with a trust department shall pay a fee determined in accordance with Subsection (7) for each examination of the trust department by a state examiner.

80 (3) Notwithstanding Subsection (1), a credit union in [its] the credit union's first year of operation shall pay a basic fee of \$25 instead of the fee required under Subsection (1).

82 (4) A trust company that is not a depository institution or a subsidiary of a depository institution holding company shall pay:

84 (a) an annual fee of \$500; and

85 (b) an additional fee determined in accordance with Subsection (7) for each examination by a state examiner.

## HB0176 compared with HB0176S03

- 87 (5) Any person or institution under the jurisdiction of the department that does not pay a fee under  
Subsections (1) through (4) shall pay:
- 89 (a) an annual fee of \$200; and
- 90 (b) an additional fee determined in accordance with Subsection (7) for each examination by a state  
examiner.
- 92 (6) A person filing an application or request under Section 7-1-503, 7-1-702, 7-1-703, 7-1-704, 7-1-713,  
[7-5-3] 7-5-104, or 7-18a-202 shall pay:
- 94 (a)
- (i) a filing fee of \$500 if on the day on which the application or request is filed the person:
- 96 (A) is a person with authority to transact business as a depository institution, a trust company,  
or any other person described in Section 7-1-501 as being subject to the jurisdiction of the  
department; and
- 99 (B) has total assets in an amount less than \$5,000,000; or
- 100 (ii) a filing fee of \$2,500 for any person not described in Subsection (6)(a)(i); and
- 101 (b) all reasonable expenses incurred in processing the application.
- 102 (7)
- (a) Per diem assessments for an examination shall be calculated at the rate of \$55 per hour:
- 104 (i) for each examiner; and
- 105 (ii) per hour worked.
- 106 (b) For an examination of a branch or office of a financial institution located outside of this state, in  
addition to the per diem assessment under this Subsection (7), the institution shall pay all reasonable  
travel, lodging, and other expenses incurred by each examiner while conducting the examination.
- 110 (8) In addition to a fee under Subsection (5), a person registering under Section 7-23-201, 7-24-201, or  
7-27-201 shall pay an original registration fee of \$300.
- 112 (9) In addition to a fee under Subsection (5), a person applying for licensure under Chapter 25, Money  
Transmitter Act, shall pay an original license fee of \$300.
- 110 Section 2. Section **7-1-701** is amended to read:
- 111 **7-1-701. Representing and transacting business as financial institution restricted --**  
**Restricted names -- Penalty.**
- 117 (1) As used in this section, "transact business" includes § :
- 118 (a) advertising;

## HB0176 compared with HB0176S03

- 119 (b) representing oneself in any manner as being engaged in transacting business;
- 120 (c) registering an assumed name under which to transact business; or
- 121 (d) using an assumed business name, sign, letterhead, business card, promotion, or other indication that  
one is transacting business.
- 123 (2) Unless authorized by the department or an agency of the federal government to do so, it is unlawful  
for a person to:
- 125 (a) transact business as a:
- 126 (i) bank;
- 127 (ii) savings and loan association;
- 128 (iii) savings bank;
- 129 (iv) industrial bank;
- 130 (v) credit union;
- 131 (vi) trust company; or
- 132 (vii) other financial or depository institution; or
- 133 (b) engage in any other activity subject to the jurisdiction of the department.
- 134 (3)
- (a) Except as provided in Subsections (3)(b) through (d), only the following may transact business  
in this state under a name that includes "bank," "banker," "banking," "banque," "banc," "banco,"  
"bancorp," "bancorporation," a derivative of these words, or another word or combination of words  
reasonably identifying the business of a bank:
- 139 (i) a national bank;
- 140 (ii) a bank authorized to do business under Chapter 3, Banks;
- 141 (iii) a bank holding company; or
- 142 (iv) an industrial bank.
- 143 (b) A person authorized to operate in this state as a credit card bank, as described in Section 7-3-3:
- 145 (i) may transact business under the name "credit card bank"; and
- 146 (ii) may not transact business under the name of "bank" unless it is immediately preceded by "credit  
card."
- 148 (c) A nonbank subsidiary of a bank holding company may transact business under a name restricted in  
Subsection (3)(a) if the name:
- 150 (i) is also part of the name of its parent holding company; or

## HB0176 compared with HB0176S03

- 151 (ii) is used for a group of subsidiaries of the parent holding company.
- 152 (d) A bona fide trade association of authorized banks recognized by the commissioner may transact its  
affairs in this state under a name restricted under Subsection (3)(a) if it does not operate and does  
not hold itself out to the public as operating a depository or financial institution.
- 156 (4)
- (a) Except as provided in Subsection (4)(b), only the following may transact business in this state under  
a name that includes "savings association," "savings and loan association," "building and loan  
association," "building association," a derivative of these words, or another word or combination of  
words reasonably identifying the business of a savings and loan association:
- 161 (i) a federal savings and loan association; or
- 162 (ii) a federal savings bank.
- 163 (b) A national bank may transact business under a name restricted in Subsection (4)(a) if the restricted  
words are part of the bank's corporate name.
- 165 (5) Only the following may transact business under the name "savings bank":
- 166 (a) a depository institution listed in Subsection (3)(a);
- 167 (b) a depository institution listed in Subsection (4)(a); or
- 168 (c) a depository institution authorized under the law of another state to operate in this state as a savings  
bank.
- 170 (6)
- (a) Only an industrial loan company authorized to do business under Chapter 8, Industrial Banks,  
to the extent permitted by Section 7-8-21, may transact business in this state under a name that  
includes "industrial loan company," "ILC," or another word, combination of words, or abbreviation  
reasonably identifying the business of an industrial loan company.
- 175 (b) Only an industrial bank authorized to do business under Chapter 8, Industrial Banks, may transact  
business in this state under a name that includes "industrial bank," "thrift," or another word,  
combination of words, or abbreviation reasonably identifying the business of an industrial bank.
- 179 (7)
- (a) Except as provided in Subsection (7)(b), only a credit union authorized to do business under the  
laws of the United States or Chapter 9, Utah Credit Union Act, may transact business in this state  
under a name that includes "credit union" or another word or combination of words reasonably  
identifying the business of a credit union.

## HB0176 compared with HB0176S03

- 184 (b) The restriction in Subsection (7)(a) does not apply to a bona fide trade association of authorized  
credit unions recognized by the commissioner, a credit union chapter, or another association  
affiliated with a bona fide trade association of authorized credit unions recognized by the  
commissioner that restricts its services primarily to credit unions.
- 189 (8)
- (a) Except as provided in Subsection (8)(b), only a person granted trust powers under Chapter 5, Trust  
Business, may transact business in this state under a name that includes "trust," "trustee," "trust  
company," or another word or combination of words reasonably identifying the business of a trust  
company.
- 193 (b) A business entity organized as a business trust, as defined in Section [~~7-5-1~~] 7-5-101, may use  
"business trust" in its name if it does not hold itself out as being a trust company.
- 196 (9) The restrictions of Subsections (3) through (8) do not apply to:
- 197 (a) the name under which an out-of-state depository institution operates a loan production office in this  
state, if the commissioner approves the name as not being reasonably likely to mislead the public;
- 200 (b) the name under which a service organization of a financial institution transacts business, if the  
commissioner approves the name as not being reasonably likely to mislead the public;
- 203 (c) the name under which a subsidiary of a depository or financial institution transacts business, if the  
commissioner approves the name as not being reasonably likely to mislead the public; or
- 206 (d) a trade association or other nonprofit organization composed of members of a particular class of  
financial institutions using words applicable to that class.
- 208 (10)
- (a) Upon written request, the commissioner may grant an exemption to this section if the commissioner  
finds that the use of an otherwise restricted name or word is not reasonably likely to cause confusion  
or lead the public to believe that the person requesting the exemption is a depository or financial  
institution or is conducting a business subject to the jurisdiction of the department.
- 213 (b) In granting an exemption under Subsection (10)(a), the commissioner may restrict or condition the  
use of the name or word or the activities of the person or business as the commissioner considers  
necessary to protect the public.
- 216 (11)
- (a) A person and a principal and officer of a business entity violating this section is guilty of a class A  
misdemeanor. Each day of violation constitutes a separate offense.

## HB0176 compared with HB0176S03

218 (b) In addition to a criminal penalty imposed under Subsection (11)(a), the commissioner may issue a  
cease and desist order against a person violating this section. The commissioner may impose a civil  
penalty of up to \$500 for each day the person fails to comply with the cease and desist order.

218 Section 3. Section **7-5-11** is amended to read:

219 **7-5-11. Self-dealing with trust property -- Own stock as trust property -- Policies for dealing  
with trust securities.**

221 (1) Except as provided in Section [~~7-5-7~~] 7-5-109, in Title 75B, Trusts, or as authorized under the  
instrument creating the relationship, a trust company may not invest funds held as an agent or  
fiduciary in stock or obligations of, or with such funds acquire property from, the trust company or  
any of its directors, officers or employees, nor shall a trust company sell property held as an agent or  
fiduciary to the company or to any of its directors, officers, or employees.

227 (2) A trust company may retain and vote stock of the trust company or of any of its affiliates received  
by it as assets of any trust account or in any other fiduciary relationship of which it is appointed  
agent or fiduciary, unless the instrument creating the relationship otherwise provides.

231 (3)

(a) Every trust company shall adopt written policies and procedures regarding decisions or  
recommendations to purchase or sell any security to facilitate compliance with federal and state  
securities laws.

234 (b) [~~-~~] These policies and procedures, in particular, shall prohibit the trust company from using material  
inside information in connection with any decision or recommendation to purchase or sell any  
security.

237 Section 4. Section **7-5-101** is renumbered and amended to read:

243

### Part 1. General Provisions

240 ~~[7-5-1]~~ **7-5-101. Definitions.**

245 [(+)] As used in this chapter:

246 [(a)] (1) "Business trust" means an entity engaged in a trade or business that is created by a declaration  
of trust that transfers property to trustees, [~~to be held and managed by them~~] that the trustees hold  
and manage for the benefit of [~~persons~~] one or more persons holding certificates representing the  
beneficial interest in the trust estate and assets.

246 (2) "Interested person" means the same as that term is defined in Section 75-1-201.

247 (3) "Personal representative" means the same as that term is defined in Section 75-1-201.

## HB0176 compared with HB0176S03

- 250 (2)(4) "Power of direction" means the same as that term is defined in Section 75B-3-102.
- 251 [(b)] (3){(5)} "Trust" means the same as that term is defined in Section 75B-1-101.
- 252 [(e)] (4){(6)}
- (a) "Trust business" means~~[-, except as provided in Subsection (1)(d),]~~ a business in which ~~[one]~~ a person acts in ~~[any]~~ an agency or a fiduciary capacity, including ~~[that of]~~ as a personal representative, an executor, an administrator, a conservator, a guardian, an assignee, a receiver, a depository, or a trustee under appointment as trustee for ~~[any]~~ a purpose permitted by law.
- 257 [(d)] (b) "Trust business" does not include{:
- 258 {(i)} {F} } the following means of holding money, assets, or other property:
- 259 {(i)} {(A)} } money ~~[held]~~ that an attorney authorized to practice law in this state holds in a client trust account~~[by an attorney authorized to practice law in this state];~~
- 261 {(ii)} {(B)} } money ~~[held]~~ that a person licensed as a principal broker in accordance with Title 61, Chapter 2f, Real Estate Licensing and Practices Act, holds in connection with the purchase or sale of real estate~~[by a person licensed as a principal broker in accordance with Title 61, Chapter 2f, Real Estate Licensing and Practices Act];~~
- 266 {(iii)} {(C)} } money or other assets ~~[held]~~ that a person the department, in accordance with Chapter 22, Regulation of Independent Escrow Agents, authorizes to act as an escrow agent or that the Insurance Department authorizes to act as an escrow agent holds in escrow~~[by a person authorized by the department in accordance with Chapter 22, Regulation of Independent Escrow Agents, or by the Insurance Department to act as an escrow agent in this state];~~
- 272 {(iv)} {(D)} } money ~~[held by a]~~ that a homeowners' association or similar organization holds to pay maintenance and other related costs for commonly owned property;
- 275 {(v)} {(E)} } money ~~[held]~~ that a person, acting solely as the agent or representative or otherwise at the sole direction of the person to which the debt or payment is owed, holds in connection with the collection of debts or payments on loans~~[by a person acting solely as the agent or representative or otherwise at the sole direction of the person to which the debt or payment is owed],~~ including money ~~[held by]~~ an escrow agent holds for payment of taxes or insurance;
- 281 {(vi)} {(F)} } money ~~[and]~~ or other assets ~~[held]~~ that a person - an individual holds in trust on an occasional or isolated basis~~[by a person who does not represent that the person is engaged in the trust business in Utah]~~ if the person - individual does not represent that the person - individual engages in the trust business in this state;

## HB0176 compared with HB0176S03

- 285 ~~{(vii)}{}~~ ~~{(G)}{}~~ money or other assets [found by a court to be held] that a court finds that a person  
holds in an implied, resulting, or constructive trust;
- 287 ~~{(viii)}{}~~ ~~{(H)}{}~~ money or other assets [held by a court appointed conservator, guardian, receiver,  
trustee, or other fiduciary] that a ~~{court appointed}~~ court-appointed conservator, guardian, receiver,  
trustee, or other fiduciary holds if the court-appointed conservator, guardian, receiver, trustee, or  
other fiduciary{;}
- 290 ~~{(A)}{}~~
- (I) [ - ] the conservator, receiver, guardian, trustee, or other fiduciary is responsible to the court in the  
same or similar manner as a personal representative under Title 75, Chapter 3, Part 5, Supervised  
Administration, or as a receiver under Rule 66, Utah Rules of Civil Procedure{;}
- 291 ~~{(B)} (II) [ {~~
- 294 ~~{(B)}{}~~ the conservator, trustee, or other fiduciary is a certified public accountant, ~~[ or {~~ has  
qualified{ } qualifies for and ~~{~~ received{ } receives a designation as a certified financial planner,  
chartered financial consultant, or certified financial analyst<sup>(5)</sup>; or
- 295 (B) [ - ] similar designation suitable to the court, that evidences the conservator's, trustee's, or other  
fiduciary's professional competence to manage financial matters demonstrates to the satisfaction  
of the court a level of competence necessary to carry out, manage, and oversee the financial and  
fiduciary duties that will reasonably be required of the court-appointed conservator, guardian,  
receiver, trustee, or other fiduciary;
- 301 (ix) money or other assets that a court-appointed trustee or personal representative holds, if the court-  
appointed trustee or personal representative:
- 303 (A) has the consent and approval of the majority of the current permissible distributees of trust income  
and principal at the time of appointment or the interested persons in the estate at the time of  
appointment; or
- 306 (B) otherwise demonstrates to the satisfaction of the court a level of competence necessary to carry out,  
manage, or oversee the financial and fiduciary duties that are reasonably required of the trustee or  
personal representative;
- 300 ~~{(ix)}~~ (I) ~~{(x)}~~ money or other assets [held by] that a credit services organization operating in  
compliance with Title 13, Chapter 21, Credit Services Organizations Act, holds;
- 303 ~~{(x)}~~ (J) ~~{(xi)}~~ money, securities, or other assets [held in] that a customer account in connection with the  
purchase or sale of securities by a regulated securities broker, dealer, or transfer agent holds; ~~[ or ]~~

## HB0176 compared with HB0176S03

- 306 [(xi)] (K){(xii)} money, assets, and other property [held] that a person holds in a business trust for the  
benefit of holders of certificates of beneficial interest if the fiduciary activities of the business trust  
are merely incidental to conducting business in the business trust form[-] ;
- 310 (ii){(xiii)} a person exercising a fiduciary or non-fiduciary power, including power of direction, while  
acting as a trust director{~~;~~~~or~~}, trust protector, trust advisor, or a similar capacity;
- 311 (iii){(xiv)} ~~{an attorney}~~ a person acting as a surrogate under Title 75A, Chapter 9, Uniform Health  
Care Decisions Act, or {certified public accountant who engages} in {fiduciary services that} a  
similar capacity; or
- 312 (A){(xv)} ~~{are incident to the attorney's or certified public accountant's traditional business activities;  
and}~~ services as a guardian, if:
- 314 (B){(A)} ~~{are not}~~ the ~~{principal purpose of}~~ guardian's ward is a protected person with an appointed  
conservator that serves with the {attorney's} guardian; or {certified public accountant's business  
activities.
- 316 ~~{(e)}(5)}~~ the responsibilities, powers, and authorities of the guardian are limited and non-financial in  
nature.
- 328 ~~{(e)}(7)}~~ "Trust company" means [an institution] a person authorized to engage in [the-]trust business  
under this chapter.[Only the following may be a trust company:]
- 318 [(i) a Utah depository institution or its wholly owned subsidiary;]
- 319 [(ii) an out-of-state depository institution authorized to engage in business as a depository institution in  
Utah or its wholly owned subsidiary;]
- 321 [(iii) a corporation, including a credit union service organization, owned entirely by one or more  
federally insured depository institutions as defined in Subsection 7-1-103(8);]
- 324 [(iv) a direct or indirect subsidiary of a depository institution holding company that also has a direct or  
indirect subsidiary authorized to engage in business as a depository institution in Utah; and]
- 327 [(v) any other corporation continuously and lawfully engaged in the trust business in this state since  
before July 1, 1981.]
- 329 (6){(8)} "Trust director" means the same as that term is defined in Section 75B-3-102.
- 330 [(2) Only a trust company may engage in the trust business in this state.]
- 331 [(3) The requirements of this chapter do not apply to:]
- 332

## HB0176 compared with HB0176S03

[~~(a) an institution authorized to engage in a trust business in another state that is engaged in trust activities in this state solely to fulfill its duties as a trustee of a trust created and administered in another state;~~]

335 [~~(b) a national bank, federal savings bank, federal savings and loan association, or federal credit union authorized to engage in business as a depository institution in Utah, or any wholly owned subsidiary of any of these, to the extent the institution is authorized by its primary federal regulator to engage in the trust business in this state; or]~~

340 [~~(c) a state agency that is otherwise authorized by statute to act as a conservator, receiver, guardian, trustee, or in any other fiduciary capacity.]~~

354 Section 5. Section 5 is enacted to read:

355 **7-5-102. Allowable trust companies -- Exceptions.**

344 (1) Only the following may be a trust company:

345 (a) a Utah depository institution or the Utah depository institution's wholly owned subsidiary;

347 (b) an out-of-state depository institution authorized to engage in business as a depository institution in this state or the out-of-state depository institution's wholly owned subsidiary;

350 (c) a corporation, including a credit union service organization, owned entirely by one or more federally insured depository institutions as defined in Subsection 7-1-103(8);

352 (d) a direct or indirect subsidiary of a depository institution holding company that also has a direct or indirect subsidiary authorized to engage in business as a depository institution in this state; and

355 (e) any other corporation continuously and lawfully engaged in the trust business in this state since before July 1, 1981.

357 (2) Only a trust company may engage in the trust business in this state.

358 (3) The requirements of this chapter do not apply to:

359 (a) an institution authorized to engage in trust business in another state that engages in trust activities in this state solely to fulfill the institution's duties as a trustee of a trust created and administered in another state;

362 (b) a national bank, federal savings bank, federal savings and loan association, or federal credit union authorized to engage in business as a depository institution in this state, or a wholly owned subsidiary of a national bank, federal savings bank, federal savings and loan association, or federal credit union authorized to engage in business as a depository institution in this state, to the extent the

## HB0176 compared with HB0176S03

institution is authorized by the institution's primary federal regulator to engage in trust business in this state; or

368 (c) a state agency that is otherwise authorized by statute to act as a conservator, receiver, guardian,  
trustee, or in any other fiduciary capacity.

382 Section 6. Section **7-5-103** is renumbered and amended to read:

384 **[7-5-2] 7-5-103. Permit required to engage in trust business -- Exceptions.**

373 (1)

(a) ~~[No]~~ Unless a trust company [shall] obtains from the commissioner a permit to engage in trust business in this state, the trust company may not accept [any] an appointment to act in [any] an agency or a fiduciary capacity by order or judgment of a court or by authority of any law of this state, including [that of] as a:

377 (i) personal representative[-] ;

378 (ii) executor[-] ;

379 (iii) administrator[-] ;

380 (iv) conservator[-] ;

381 (v) guardian[-] ;

382 (vi) assignee[-] ;

383 (vii) receiver[-] ;

384 (viii) depository[-] ; or[-]

385 (ix) ~~trustee [under order or judgment of any court or by authority of any law of this state or as trustee for any purpose permitted by law or otherwise engage in the trust business in this state, unless and until it has obtained from the commissioner a permit to act under this chapter.] .~~

389 (b) ~~This [provision] Subsection (1) does not apply to [any] a bank or other corporation authorized to engage and lawfully engaged in the trust business in this state before July 1, 1981.~~

392 (2) Nothing in this chapter prohibits:

393 (a) ~~[any] a corporation, organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or Title 16, Chapter 10a, Utah Revised Business Corporation Act, from acting as trustee of [any] an employee benefit trust established for the employees of the corporation or the employees of one or more other corporations affiliated with the corporation;~~

398 (b) ~~[any] a corporation, organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, [and owned or controlled by] and that a charitable, benevolent, eleemosynary, or religious~~

## HB0176 compared with HB0176S03

organization owns or controls, from acting as a trustee for that organization or members of that organization but not offering trust services to the general public;

403 (c) ~~[any-]~~ a corporation, organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or Title 16, Chapter 10a, Utah Revised Business Corporation Act, from holding in a fiduciary capacity the controlling shares of another corporation but not offering trust services to the general public; or

407 (d) ~~[any-]~~ a depository institution from holding in an agency or fiduciary capacity individual retirement accounts or Keogh plan accounts established under ~~[Section 401(a) or 408(a) of Title 26 of the United States Code]~~ 26 U.S.C. Sec. 401(a) or 26 U.S.C. Sec. 408(a).

423 Section 7. Section **7-5-104** is renumbered and amended to read:

425 ~~[7-5-3]~~**7-5-104. Application for authorization to engage in trust business -- Criteria for granting -- Authority of trust company.**

415 (1) A person seeking authorization to become a trust company and engage in ~~[the-]~~trust business in this state shall~~[-]~~ :

417 (a) file an application with the commissioner in the manner provided in Section 7-1-704~~[-]~~ ; and~~[-shall-]~~

419 (b) pay the fee ~~[prescribed]~~ described in Section 7-1-401.

420 (2) ~~[The commissioner shall, in-]~~ When deciding whether ~~[or not-]~~to approve ~~[the application, take into account]~~ an application described in Subsection (1), the commissioner shall consider:

423 (a) the character and condition of the applicant's assets;

424 (b) the adequacy of ~~[its]~~ the applicant's capital;

425 (c) ~~[its-]~~ the applicant's earnings record;

426 (d) the quality of ~~[its]~~ the applicant's management;

427 (e) the qualifications of ~~[any person proposed]~~ an individual the applicant proposes to be an officer in charge of the trust operations;

429 (f) the needs of the community for fiduciary services;

430 (g) the volume of business that the applicant will probably do; and

431 (h) any other relevant facts and circumstances, including the availability of legal counsel to advise and pass upon matters relating to the trust business.

433 (3) The commissioner may not apply criteria ~~[making it]~~ that makes the process to obtain approval to engage in trust business in this state more difficult for a state chartered depository institution ~~[to~~

## HB0176 compared with HB0176S03

obtain approval to engage in the trust business] than for a federally chartered depository institution of the same class.

- 437 (4) ~~[The]~~ Notwithstanding Subsection (3), the commissioner may impose [such conditions] criteria  
the commissioner considers appropriate to protect the public interest when authorizing a person  
to engage in ~~[the]~~ trust business~~[as the commissioner considers appropriate to protect the public~~  
interest].
- 441 (5) Upon receiving authorization from the commissioner to become a trust company and engage in ~~[the~~  
] trust business, the trust company ~~[is qualified to]~~ may act as fiduciary in any capacity without bond.
- 456 Section 8. Section **7-5-105** is renumbered and amended to read:  
458 ~~[7-5-4]~~ **7-5-105. Withdrawal from trust business.**
- 447 (1) ~~[—Any]~~ A trust company ~~[which]~~ that desires to withdraw from and discontinue doing ~~[a]~~ trust  
business shall furnish to the commissioner satisfactory evidence of ~~[its]~~ the trust company's  
release and discharge from all the obligations and trusts ~~[undertaken by it, and]~~ the trust company  
undertakes.
- 451 (2) ~~[after the company has furnished that evidence]~~ After the trust company provides the evidence  
required by Subsection (1) to the commissioner, the commissioner shall revoke [his certificate of  
authority] the trust company's permit to [do a] engage in trust business ~~[previously issued to that~~  
trust company, and] in this state.
- 455 (3) ~~[thereafter that]~~ After the commissioner revokes a trust company's permit in accordance with  
Subsection (2), the trust company may not[-] :
- 457 (a) ~~[be permitted to use and may not]~~ use the word "trust" in ~~[its]~~ the trust company's corporate name or  
in connection with ~~[its]~~ the trust company's business~~[-, nor]~~ ; or
- 459 (b) undertake the administration of any trust business.
- 472 Section 9. Section **7-5-106** is renumbered and amended to read:  
474 ~~[7-5-5]~~ **7-5-106. Revocation of trust authority -- Procedure-- Violations.**
- 463 (1)
- (a) The commissioner may issue and serve upon a trust company a notice of intent to revoke  
the authority of the trust company to exercise the powers granted by this chapter, if, in the  
commissioner's opinion, the trust company:
- 466 (i) is unlawfully or unsoundly exercising the powers granted under this chapter;
- 467 (ii) has unlawfully or unsoundly exercised the powers granted under this chapter;

## HB0176 compared with HB0176S03

- 468 (iii) has failed, for a period of five consecutive years, to exercise the powers granted by this chapter;  
470 (iv) fails or has failed to comply with requirements upon which [its] the trust company's permit is  
conditioned; or
- 472 (v) fails or has failed to comply with any rule of the commissioner.
- 473 (b) The notice shall:
- 474 (i) contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or  
failure to exercise powers, or failure to comply; and
- 476 (ii) fix the time and place at which the commissioner shall hold a hearing [~~will be held~~] to determine  
whether the commissioner should issue an order revoking authority to execute [~~those~~] the powers  
[~~should issue against the trust company~~] described in the notice.
- 480 (2)
- (a) If the trust company or [its] the trust company's representative does not appear at the hearing, the  
commissioner may consider the trust company to be in default, and may issue a revocation order.
- 483 (b) If default has occurred, or if upon the record made at any hearing the commissioner finds that any  
allegation specified in the notice of charges has been established, the commissioner shall issue and  
serve upon the trust company [~~an~~] a revocation order:
- 486 (i) prohibiting [it] the trust company from accepting any new or additional trust accounts; and
- 488 (ii) revoking [its] the trust company's authority to exercise any powers granted under this chapter.
- 490 (c) Any order issued under this section permits the trust company to continue to service all previously  
accepted trust accounts pending [~~their~~] the trust accounts' expeditious divestiture or termination.
- 493 (3) A revocation order [~~shall become~~] becomes effective 30 days after [~~service of the order upon~~] the  
day on which the commissioner serves the revocation order to the trust company and [~~shall~~  
~~remain~~] remains effective and enforceable, unless [~~it is stayed, modified, terminated, or set aside~~  
~~by action of the commissioner or by judicial review as provided for in Section 7-1-714.~~] the  
commissioner or a court, in accordance with Section 7-1-714, stays, modifies, terminates, or sets  
aside the revocation order.
- 511 (4) If an attorney described in Subsection 7-5-101(4)(b)(iii) violates Title 75B, Trusts, the attorney:
- 513 (a) is not subject to enforcement by the commissioner or the department; and
- 514 (b) may be subject to disciplinary action generally applicable to an attorney licensed to practice in this  
state.

516

## HB0176 compared with HB0176S03

(5) If a certified public accountant described in Subsection 7-5-101(4)(b)(iv) violates Title 75B, Trusts, the certified public accountant:

518 (a) is not subject to enforcement by the commissioner or the department; and

519 (b) may be subject to disciplinary action under Title 58, Chapter 26a, Certified Public Accountant Licensing Act.

521 (6) If the commissioner or the department receives a complaint that an attorney described in Subsection 7-5-101(4)(b)(iii) or a certified public accountant described in Subsection 7-5-101(4)(b)(iv) violates Title 75B, Trusts, the commissioner or the department shall forward the complaint to:

525 (a) if the complaint involves an attorney, the Utah State Bar; or

526 (b) if the complaint involves a certified public accountant, the Division of Professional Licensing.

528 Section 10. Section **7-5-107** is renumbered and amended to read:

530 **~~[7-5-6]~~7-5-107. Confidentiality of communications and writings concerning trust -- Actions to protect property or authorized under probate laws not precluded.**

503 (1) ~~[—Any]~~ A trust company exercising the powers and performing the duties described in this chapter shall keep ~~[inviolate all communications and writings made to or by that]~~ confidential each communication and writing the trust company makes or receives relating to the existence, condition, management or administration of ~~[any]~~ an agency or fiduciary account confided to ~~[it and]~~ the trust company.

508 (2) ~~[no]~~ A creditor or stockholder of ~~[any such]~~ a trust company ~~[shall be]~~ is not entitled to disclosure or knowledge of ~~[any such]~~ a communication or writing described in Subsection (1), [except that the ] unless the creditor or stockholder is:

511 (a) [directors,] a director of the trust company;

512 (b) a president[-] of the trust company;

513 (c) a vice president[-] of the trust company;

514 (d) a manager[-] employed by the trust company;

515 (e) a treasurer[-, and] employed by the trust company;

516 (f) a trust [officers, and any ] officer of the trust company;

517 (g) [employees] an employee of the trust company assigned to work on the trust business[-] ;

518 (h) [and the] an attorney employed by the trust company; or[-]

519 (i) an auditor employed by [it shall be entitled to knowledge of any such communication or writing and except] the trust company.

## HB0176 compared with HB0176S03

- 521 (3) ~~[that in any suit or]~~ In a proceeding relating to the existence, condition, management or  
administration of ~~[the]~~ an account described in Subsection (1), ~~[the court in which the suit is~~  
~~pending may]~~ a court may require disclosure of [any such] the communication or writing.
- 525 (4) ~~[-A]~~ Nothing in this section precludes a trust company ~~[is not, however, precluded]~~ from filing an  
action in court to protect trust account property or as authorized under Title 75B, Trusts.
- 557 Section 11. Section ~~7-5-108~~ is renumbered and amended to read:
- 559 ~~[7-5-7]~~ **7-5-108. Management and investment of trust money.**
- 531 (1) ~~[Money received or held by a trust company as agent or fiduciary, whether for investment or~~  
~~distribution, shall be invested or distributed as soon as practicable]~~ A trust company shall invest  
or distribute money the trust company receives or holds as an agent or a fiduciary, whether for  
investment or distribution, as soon as practicable as authorized under the instrument creating the  
account[-and] .
- 536 (2) A trust company may not [be held uninvested] hold the money described in Subsection (1) without  
investing the money for any longer than is reasonably necessary.
- 538 ~~[(2)]~~ (3) If the instrument creating an agency or fiduciary account ~~[contains provisions~~  
~~authorizing]~~ authorizes the trust company, [its] the trust company's officers, or [its] the trust  
company's directors to exercise[-their] discretion [in the matter of] over investments, the trust  
company, the trust company's officers, or the trust company's directors may invest money [held] the  
trust company holds in the trust account under that instrument [may be invested-] only in [those  
classes] a class of securities [which are approved by the directors of the trust company or a  
committee of directors appointed for that purpose] that the directors of the trust company, or a  
committee of directors that the directors appoint, approve.[-]
- 547 (4) If a trust company acts in ~~[any]~~ an agency or a fiduciary capacity under appointment by a court with  
jurisdiction, [it] the trust company shall make and account for the investments according to Title  
75B, Trusts, unless the underlying instrument provides otherwise.
- 550 ~~[(3)]~~ (5)
- (a) ~~[Money received or held]~~ A trust company that is also a depository institution may deposit into the  
trust company's commercial department or savings department money that the trust company holds  
or receives as an agent or a fiduciary [by any trust company which is also a depository institution,  
]whether for investment or distribution, [may be deposited in the commercial department or savings  
department of that trust company-] to the credit of [its] the trust company's trust department.[-]

## HB0176 compared with HB0176S03

- 556 (b) ~~[Whenever the money so deposited in]~~ When the money that a trust company deposits, in accordance with Subsection (5)(a), into a fiduciary or managing agency account ~~[exceed]~~ exceeds the amount of federal deposit insurance applicable to that fiduciary or managing agency account, the trust company shall deliver to the trust department or put under ~~[its]~~ the trust department's control collateral security as ~~[outlined]~~ described in ~~[Regulation 9.10 of the Comptroller of the Currency]~~ 12 C.F.R. Sec. 9.10.
- 563 (c) ~~[–However, if]~~ If the instrument ~~[creating such]~~ that creates a fiduciary or managing agency account described in Subsection (5)(b) expressly provides that a trust company may deposit money ~~[may be deposited to]~~ into the commercial or savings department of the trust company~~[, then]~~ :
- 567 (i) the trust company may deposit the money ~~[may be so deposited]~~ without setting aside collateral securities as required under this section; and~~[–]~~
- 569 (ii) ~~[the deposits]~~ in the event of insolvency, a deposit of ~~[any such]~~ the trust company shall be treated as other general deposits are treated.
- 571 (d) ~~[–]~~ A trust company that deposits trust funds ~~[in its]~~ into the trust company's commercial or savings department ~~[shall be]~~ is liable for interest on the deposits only at the rates, if any, paid by the trust company the trust company pays on deposits of like kind not made to the credit of ~~[its]~~ the trust company's trust department.
- 575 ~~[(b)]~~ (6)
- (a) ~~[Money received or held]~~ A trust company may deposit in an affiliated depository institution money that a trust company receives or holds as agent or fiduciary~~[by a trust company], whether for investment or distribution~~~~[, may be deposited in an affiliated depository institution].~~
- 579 (b) ~~[–Whenever the money so deposited in]~~ If money that a trust company deposits, in accordance with Subsection (6)(a), into a fiduciary or managing agency account ~~[exceed]~~ exceeds the amount of federal deposit insurance applicable to that account, the depository institution shall deliver to the trust company or put under ~~[its]~~ the trust company's control collateral security as ~~[outlined in Regulation 9.10 of the Comptroller of the Currency]~~ described in 12 C.F.R. Sec. 9.10.
- 585 (c) ~~[–However, if]~~ If the instrument ~~[creating]~~ that creates the fiduciary or managing agency account described in Subsection (6)(b) expressly permits the trust company to deposit money ~~[to be deposited in]~~ into the affiliated depository institution~~[, –]~~ :
- 588 (i) the trust company may deposit money ~~[may be so deposited]~~ without setting aside collateral securities ~~[as required under]~~ in accordance with this section; and~~[–]~~

## HB0176 compared with HB0176S03

- 590 (ii) ~~[deposits]~~in the event of insolvency of the depository institution, deposits the trust company makes  
shall be treated as other general deposits are treated.
- 592 (d) ~~[-]~~A trust company that deposits trust money ~~[in]~~ into an affiliated depository institution is liable for  
interest on the deposits only at the rates, if any, ~~[paid by]~~the depository institution pays on deposits  
of like kind.
- 595 ~~[(4)]~~ (7) In carrying out all aspects of ~~[its]~~ the trust company's trust business, a trust company ~~[shall~~  
~~have]~~ has all the powers, privileges, and duties as set forth in Sections 75B-2-813 and 75B-2-814  
with respect to trustees, whether ~~[or not]~~the trust company ~~[is acting]~~ acts as a trustee as defined in  
Section 75B-1-101.
- 599 ~~[(5)]~~ (8) Nothing in this section may alter, amend, or limit the powers of a trust company acting  
in a fiduciary capacity as specified in the particular instrument or order creating the fiduciary  
relationship.
- 631 Section 12. Section **7-5-109** is renumbered and amended to read:
- 633 ~~[7-5-8]~~**7-5-109. Segregation of trust assets -- Books and records required -- Examination --**  
**Trust property not subject to claims or debts against trust company.**
- 606 (1) A trust company exercising the powers to act as an agent or fiduciary under this chapter shall~~{:~~~~[-]~~  
608 ~~{(a)}~~ :
- 637 (a) segregate all assets ~~[held]~~ the trust company holds in any agency or fiduciary capacity from the  
general assets of the trust company; and~~[-shall]~~
- 610 (b) keep a separate set of books and records showing in proper detail ~~[all transactions engaged in under~~  
~~authority of]~~ each transaction in which the trust company engages in accordance with this chapter.
- 613 (2) ~~[-These books and records shall be open to inspection by the commissioner and shall be examined~~  
~~by him or by examiners appointed by him as provided in Chapter 1, General Provisions, or~~  
~~examined by other appropriate regulating agencies or both]~~ The trust company shall allow the  
commissioner, an examiner the commissioner appoints in accordance with Chapter 1, General  
Provisions, and an appropriate regulating agency to inspect books and records described in  
Subsection (1).
- 619 (3) ~~[-]~~Property ~~[held]~~ the trust company holds in an agency or fiduciary capacity ~~[by a trust company~~  
~~]is not subject to claims or debts against the trust company.~~

650 Section 13. Section **7-5-110** is renumbered and amended to read:

652

## HB0176 compared with HB0176S03

### ~~[7-5-9]~~ **7-5-110. Registration of investment in name of nominee -- Records -- Possession of investment.**

- 625 (1) As used in this section, "security" means the same as that term is defined in Section 75-1-201.  
627 ~~[(1)]~~ (2) A trust company may ~~[cause any-]~~ require that a person register and hold a security~~[, as defined~~  
in Section 75-1-201, held in its] that the trust company holds in the trust company's agency or  
fiduciary capacity ~~[to be registered and held-]~~ in the name of a nominee or nominees of the trust  
company.
- 631 (3) ~~[-]~~ The trust company ~~[shall be]~~ is liable for the acts of ~~[any such]~~ a nominee described in  
Subsection (2) with respect to any investment ~~[so registered]~~ registered in accordance with  
Subsection (2).~~[-]~~
- 634 (4) ~~[Investments-]~~ An investment other than ~~[securities]~~ a security held in the name of a nominee on  
June 30, 1981, may continue to be held in that manner.
- 636 ~~[(2)]~~ (5) ~~[The records of the]~~ For an investment described in Subsection (4), the trust company shall:  
638 (a) ~~[-]~~ at all times maintain records that show the trust company's ownership of ~~[any such]~~ an  
investment~~[,];~~ ;
- 640 (b) ~~[-which investment shall be in the]~~ maintain possession or control ~~[of the trust company]~~ over the  
investment; and
- 642 (c) ~~[-be kept-]~~ keep the investment separate and apart from the assets of the trust company.

673 Section 14. Section **7-5-111** is renumbered and amended to read:

### ~~[7-5-10]~~ **7-5-111. Lending trust funds to trust company, officer, director, or employee** ~~{as}~~ **a** **felony.**

- 648 (1) Except as provided in Subsection (2), a trust company may not lend funds that the trust company  
holds in a trust account in accordance with this chapter to:
- 650 (a) the trust company;  
651 (b) an officer of the trust company;  
652 (c) a director of the trust company; or  
653 (d) an employee of the trust company.
- 654 (2) ~~[Unless-]~~ A trust company may lend funds to a person described in Subsection (1) if:  
655 (a) ~~[expressly permitted in-]~~ the instrument creating a trust account authorizes the trust company to lend  
funds to the person;

657

## HB0176 compared with HB0176S03

(b) ~~[or by]~~ a person authorized to ~~[give that permission]~~ grant authorization to the trust company to lend funds to the person grants authorization; or

659 (c) ~~[by a court order as permitted in]~~ a court issues an order in accordance with Section 75B-2-802~~[-a trust company may not lend to itself or to any officer or director or employee of the trust company any funds held in any trust account under the powers conferred in this chapter].~~

663 ~~[(2)]~~ (3) ~~[Any-]~~ An officer, a director, or an employee [making such a loan] is guilty of a third degree felony if the officer, director, or employee:

665 (a) ~~[-]~~ makes a loan in violation of Subsection (1); or[-]

666 (b) ~~[to whom such a loan is made, is guilty of a third degree felony]~~ receives a loan that violates Subsection (1).

697 Section 15. Section **7-5-112** is renumbered and amended to read:

699 ~~[7-5-11]~~ **7-5-112. Self-dealing with trust property -- Own stock as trust property -- Policies for dealing with trust securities.**

672 (1) Except as provided in Section ~~[7-5-7]~~ 7-5-109, ~~[in]~~ Title 75B, Trusts, or as authorized under the instrument creating the relationship, a trust company may not~~[-]~~ :

674 (a) invest funds [held] the trust company holds as an agent or fiduciary in stock or obligations of[; or with such funds acquire property from,] the trust company or any of [its] the trust company's directors, officers or employees~~[-, nor shall]~~ ;

677 (b) use funds the trust company holds as an agent or fiduciary to acquire property from the trust company or any of the trust company's directors, officers, or employees; or

679 (c) ~~[a trust company-]~~ sell property [held] the trust company holds as an agent or fiduciary to the [company] trust company or to any of [its] trust company's directors, officers, or employees.

682 (2) A trust company may retain and vote stock of the trust company or of any of [its] the trust company's affiliates ~~[received by it]~~ the trust company receives as assets of any trust account or in any other fiduciary relationship ~~[of]~~ for which [it] the trust company is appointed agent or fiduciary, unless the instrument creating the relationship otherwise provides.

687 (3)

(a) ~~[Every-]~~ A trust company shall adopt written policies and procedures regarding decisions or recommendations to purchase or sell ~~[any]~~ a security [to facilitate compliance] in accordance with federal and state securities laws.~~[-]~~

690

## HB0176 compared with HB0176S03

(b) ~~[These policies and procedures, in particular,]~~ The policies and procedures described in Subsection (3)(a) shall prohibit the trust company from using material inside information in connection with any decision or recommendation to purchase or sell any security.

723 Section 16. Section **7-5-113** is renumbered and amended to read:

725 ~~[7-5-12]~~ **7-5-113. Directors' audit of trust business -- Report available to commissioner or examiners -- Examinations in lieu of audit.**

698 (1) A committee of the board of directors, ~~[exclusive of]~~ excluding any active officers of the trust department, of every trust company ~~[authorized to engage in the trust business in this state]~~ shall, at least once during a 15-month period~~[-]~~ :

701 (a)

(i) ~~[make a suitable]~~ conduct an audit of the trust business operations of the ~~[institution]~~ trust company; or

703 (ii) ~~[-] cause that auditors responsible only to the board of directors conduct a suitable audit[- to be made by auditors responsible only to the board of directors]~~ ; and~~[-]~~

705 (b) ~~[shall]~~ using the findings from the audit, ascertain whether the trust company conducts the trust business operations of the ~~[institution have been administered-]~~ trust business in accordance with law and sound fiduciary principles.

708 (2) ~~[A-]~~ Upon request, the committee of the board of directors shall make available a report of the audit described in Subsection (1), ~~[together with the action taken thereon]~~ including any action the committee of the board of directors takes as a result of the audit, ~~[shall be made available-]~~ to the commissioner, the commissioner's examiners, or the examiners of other trust company regulating agencies~~[- upon request]~~.

713 (3) ~~[An examination by the state or other trust company regulating agencies or both made during the same period may be substituted for this audit.]~~ The requirements of Subsection (1) do not apply if the state or other agency that regulates trust companies conducts an examination of the trust company during the same 15-month period.

746 Section 17. Section **7-5-114** is renumbered and amended to read:

748 ~~[7-5-13]~~ **7-5-114. Collective investment funds.**

720 (1) A ~~[person authorized to engage in the trust business in this state]~~ trust company may:

721 (a) establish collective investment funds that authorize participation by fiduciary or trust accounts of the trust company, ~~[its]~~ the trust company's affiliates, or both; and

## HB0176 compared with HB0176S03

- 723 (b) participate in collective investment funds established by an affiliate of the trust company, if:
- 725 (i) the affiliate is authorized under the laws of ~~[its]~~ the trust company's chartering authority to establish  
a collective investment fund in which ~~[its]~~ the trust company's affiliates may participate; and
- 728 (ii) the plan establishing the collective investment fund specifically authorized the participation.
- 730 (2) ~~[Funds held by a trust company may be invested]~~ A person may invest funds that a trust company  
holds collectively in a collective investment fund in accordance with the rules prescribed by the  
appropriate governmental regulatory agency or agencies, if ~~[this-]~~ the instrument, judgment, decree,  
or order creating the regulatory relationship does not specifically prohibit the investment~~[is not~~  
~~specifically prohibited under the instrument, judgment, decree, or order creating the regulatory~~  
~~relationship]~~.
- 736 (3)
- (a) Unless ordered to do so by a court, a trust company operating collective investment funds is not  
required to render a court accounting ~~[with regard to those funds]~~ for the collective investment  
funds.
- 739 (b) ~~[but the-]~~ A trust company may petition a court with jurisdiction under Title 78A, Judiciary and  
Judicial Administration, to secure approval of ~~[such-an]~~ a court accounting on ~~[such conditions as~~  
~~the court may establish]~~ conditions the court establishes.
- 743 (4) This section applies to all relationships in existence on or after May 1, 1989.
- 773 Section 18. Section **7-5-115** is renumbered and amended to read:
- 775 ~~[7-5-14]~~ **7-5-115. Mergers, consolidations, acquisitions, transfers, or reorganizations**  
**involving entities engaged in trust business -- Succession of rights and duties -- Petition for**  
**appointment of another trust company.**
- 749 (1) As used in this section:
- 750 (a) "Eligible trust company" means any of the following that is authorized under this chapter or the laws  
of the United States to engage in the trust business in this state:
- 752 (i) a trust company;
- 753 (ii) a depository institution; or
- 754 (iii) a corporation.
- 755 (b) "Reorganization" ~~[includes]~~ means:
- 756 (i) the creation by a trust company of a subsidiary corporation that is:
- 757 (A) wholly owned by that trust company; and

## HB0176 compared with HB0176S03

- 758 (B) organized solely for the purpose of conducting all or any portion of the trust business of that trust  
company; or
- 760 (ii) ~~[any]~~ a merger or other combination between a trust company and:
- 761 (A) a wholly owned trust company subsidiary of that trust company; or
- 762 (B) a wholly owned trust company subsidiary of the depository institution holding company  
~~[which]~~ that owns or controls that trust company.
- 764 (2) Notwithstanding any provision of law to the contrary, an eligible trust company may, subject to  
Sections 7-1-702, 7-1-704, and 7-1-705:
- 766 (a)
- (i) merge or consolidate with another eligible trust company;
- 767 (ii) acquire control of another eligible trust company;
- 768 (iii) acquire all or a portion of the assets and trust business of another eligible trust company;
- 770 (iv) assume all or any portion of the liabilities of another eligible trust company;
- 771 (v) transfer control to another eligible trust company;
- 772 (vi) transfer all or a portion of ~~[its]~~ the trust company's assets and trust business to another eligible trust  
company; or
- 774 (vii) transfer all or a portion of ~~[its]~~ the trust company's liabilities to another eligible trust company; or
- 776 (b) ~~[reorganize]~~ conduct a reorganization.
- 777 (3)
- (a) Subject to Subsection (3)(b), upon final approval by the commissioner of ~~[any]~~ a merger, a  
consolidation, an acquisition of control, an acquisition of assets, an assumption of liabilities, or  
a reorganization, and upon written notice of ~~[this]~~ the final approval to ~~[all persons]~~ each person  
entitled to and then receiving trust accountings from the transferring or reorganizing trust company,  
the resulting or acquiring trust company shall, without court proceedings or a court order, succeed  
to~~[-]~~ :
- 783 (i) ~~[all]~~ the transferring or reorganizing trust company's rights, privileges, duties, obligations,  
and undertakings under all trust instruments, agency and fiduciary relationships and  
arrangements~~[-]~~ ; and~~[-]~~
- 786 (ii) all other trust business the transferring or reorganizing trust company transferred and acquired  
in ~~[the manner authorized by]~~ accordance with this section.
- 788 (b)

## HB0176 compared with HB0176S03

(i) Except as provided otherwise in the relevant trust instrument, ~~[any]~~ an interested person may, not more than 30 days after ~~[receipt of]~~ the day on which the interested person receives written notice of the merger, consolidation, acquisition, transfer, or reorganization, petition ~~[any]~~ a court ~~[of competent]~~ with jurisdiction to appoint another or succeeding trust company with respect to ~~[any]~~ an agency or fiduciary relationship affecting that interested person~~[,]~~ .

794 (ii) ~~[and until]~~ Until the court appoints another or succeeding trust company~~[is so appointed]~~ in  
accordance with Subsection (3)(b)(i), the acquiring or resulting trust company ~~[is entitled to]~~ may  
act as agent or fiduciary with respect to the agency or fiduciary relationship.

827 Section 19. Section ~~7-5-116~~ is renumbered and amended to read:

829 ~~[7-5-15]~~ **7-5-116. Assets of trust company in possession of the commissioner.**

With respect to the assets of a trust company in the possession of the commissioner under Chapter 2, Possession of Depository Institution by Commissioner, notwithstanding any law to the contrary, the assets ~~[held by]~~ that the trust company holds in a fiduciary capacity as a part of ~~[its]~~ the trust company's trust business~~[, as defined in Section 7-5-1,]~~ are not subject to the claims of ~~[any]~~ a secured or unsecured creditor of the trust company.

835 Section 20. Section ~~7-18a-302~~ is amended to read:

836 **7-18a-302. Trust business.**

A foreign depository institution may not engage in the trust business, as that term is defined in Section ~~[7-5-1]~~ 7-5-101, in this state.

839 Section 21. Section ~~7-22-101~~ is amended to read:

840 **7-22-101. Definitions -- Exemptions.**

812 (1) As used in this chapter:

813 (a) "Escrow" means an agreement, express or implied, that provides for one or more parties to deliver or entrust money, a certificate of deposit, a security, a negotiable instrument, a deed, or other property or asset to another person to be held, paid, or delivered in accordance with terms and conditions prescribed in the agreement.

817 (b) "Escrow agent" means a person that provides or offers to provide escrow services to the public.

819 (c) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under 12 U.S.C. Sec. 5101 for federal licensing of mortgage loan originators.

822 (2) This chapter does not apply to:

823

## HB0176 compared with HB0176S03

- (a) a trust company authorized to engage in the trust business in Utah in accordance with Chapter 5, Trust Business;
- 825 (b) a person other than an escrow agent regulated under this chapter that is exempted from the definition of trust business in [~~Subsection 7-5-1(1)~~] Section 7-5-101;
- 827 (c) a depository institution chartered by a state or the federal government that is engaged in business as a depository institution in Utah;
- 829 (d) the Utah Board of Higher Education, the Utah Higher Education Assistance Authority, or the [~~State Treasurer~~] state treasurer; and
- 831 (e) a person licensed under Title 31A, Insurance Code.
- 861 Section 22. Section **16-15-102** is amended to read:
- 862 **16-15-102. Definition of business trust.**
- As used in this chapter:
- 835 (1) "Beneficiary" means a person holding a certificate representing a beneficial interest in the trust estate and assets.
- 837 (2) "Business trust" [~~has the same meaning as~~] means the same as that term is defined in Section [7-5-1] 7-5-101.
- 839 (3) "Division" means the Division of Corporations and Commercial Code.
- 840 (4) "Person" means an individual, general partnership, limited liability partnership, limited partnership, limited liability company, limited association, domestic or foreign trust, estate, association, or corporation.
- 872 Section 23. Section **31A-23a-406** is amended to read:
- 873 **31A-23a-406. Title insurance producer's business.**
- 845 (1) As used in this section:
- 846 (a) "Automated clearing house network" or "ACH network" means a national electronic funds transfer system regulated by the Federal Reserve and the Office of the Comptroller of the Currency.
- 849 (b) "Depository institution" means the same as that term is defined in Section 7-1-103.
- 850 (c) "Funds transfer system" means the same as that term is defined in Section 70A-4a-105.
- 852 (2) An individual title insurance producer or agency title insurance producer may do escrow involving real property transactions if all of the following exist:
- 854 (a) the individual title insurance producer or agency title insurance producer is licensed with:
- 856 (i) the title line of authority; and

## HB0176 compared with HB0176S03

- 857 (ii) the escrow subline of authority;
- 858 (b) the individual title insurance producer or agency title insurance producer is appointed by a title insurer authorized to do business in the state;
- 860 (c) except as provided in Subsection (4), the individual title insurance producer or agency title insurance producer issues one or more of the following as part of the transaction:
- 863 (i) an owner's policy offering title insurance;
- 864 (ii) a lender's policy offering title insurance; or
- 865 (iii) if the transaction does not involve a transfer of ownership, an endorsement to an owner's or a lender's policy offering title insurance;
- 867 (d) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is deposited:
- 869 (i) in a federally insured depository institution, as defined in Section 7-1-103, that:
- 870 (A) has a branch in this state, if the individual title insurance producer or agency title insurance producer depositing the money is a resident licensee; and
- 872 (B) is authorized by the depository institution's primary regulator to engage in trust business, as defined in Section ~~[7-5-1]~~ 7-5-101, in this state; and
- 874 (ii) in a trust account that is separate from all other trust account money that is not related to real estate transactions;
- 876 (e) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is the property of the one or more persons entitled to the money under the provisions of the escrow;
- 879 (f) money deposited with the individual title insurance producer or agency title insurance producer in connection with an escrow is segregated escrow by escrow in the records of the individual title insurance producer or agency title insurance producer;
- 882 (g) earnings on money held in escrow may be paid out of the trust account to any person in accordance with the conditions of the escrow;
- 884 (h) the escrow does not require the individual title insurance producer or agency title insurance producer to hold:
- 886 (i) construction money; or
- 887 (ii) money held for exchange under Section 1031, Internal Revenue Code; and
- 888

## HB0176 compared with HB0176S03

- (i) the individual title insurance producer or agency title insurance producer shall maintain a physical office in Utah staffed by a person with an escrow subline of authority who processes the escrow.
- 891 (3) Notwithstanding Subsection (2), an individual title insurance producer or agency title insurance producer may engage in the escrow business if:
- 893 (a) the escrow involves:
- 894 (i) a mobile home;
- 895 (ii) a grazing right;
- 896 (iii) a water right; or
- 897 (iv) other personal property authorized by the commissioner; and
- 898 (b) the individual title insurance producer or agency title insurance producer complies with this section except for Subsection (2)(c).
- 900 (4)
- (a) Subsection (2)(c) does not apply if the transaction is for the transfer of real property from the School and Institutional Trust Lands Administration.
- 902 (b) This subsection does not prohibit an individual title insurance producer or agency title insurance producer from issuing a policy described in Subsection (2)(c) as part of a transaction described in Subsection (4)(a).
- 905 (5) Money held in escrow:
- 906 (a) is not subject to any debts of the individual title insurance producer or agency title insurance producer;
- 908 (b) may only be used to fulfill the terms of the individual escrow under which the money is accepted; and
- 910 (c) may not be used until the conditions of the escrow are met.
- 911 (6) Assets or property other than escrow money received by an individual title insurance producer or agency title insurance producer in accordance with an escrow shall be maintained in a manner that will:
- 914 (a) reasonably preserve and protect the asset or property from loss, theft, or damages; and
- 915 (b) otherwise comply with the general duties and responsibilities of a fiduciary or bailee.
- 916 (7)
- (a) A check from the trust account described in Subsection (2)(d) may not be drawn, executed, or dated, or money otherwise disbursed unless the segregated trust account from which money is to be

## HB0176 compared with HB0176S03

disbursed contains a sufficient credit balance consisting of collected and cleared money at the time the check is drawn, executed, or dated, or money is otherwise disbursed.

- 921 (b) As used in this Subsection (7), money is considered to be "collected and cleared," and may be  
disbursed as follows:
- 923 (i) cash may be disbursed on the same day the cash is deposited;
- 924 (ii) a wire transfer may be disbursed on the same day the wire transfer is deposited;
- 925 (iii) the proceeds of one or more of the following financial instruments may be disbursed on the  
same day the financial instruments are deposited if received from a single party to the real estate  
transaction and if the aggregate of the financial instruments for the real estate transaction is less than  
\$10,000:
- 929 (A) a cashier's check, certified check, or official check that is drawn on an existing account at a  
federally insured financial institution;
- 931 (B) a check drawn on the trust account of a principal broker or associate broker licensed under Title  
61, Chapter 2f, Real Estate Licensing and Practices Act, if the individual title insurance producer  
or agency title insurance producer has reasonable and prudent grounds to believe sufficient money  
will be available from the trust account on which the check is drawn at the time of disbursement  
of proceeds from the individual title insurance producer or agency title insurance producer's trust  
account;
- 938 (C) a personal check not to exceed \$500 per closing; or
- 939 (D) a check drawn on the trust account of another individual title insurance producer or agency title  
insurance producer, if the individual title insurance producer or agency title insurance producer  
in the escrow transaction has reasonable and prudent grounds to believe that sufficient money  
will be available for withdrawal from the account upon which the check is drawn at the time of  
disbursement of money from the trust account of the individual title insurance producer or agency  
title insurance producer in the escrow transaction;
- 946 (iv) deposits made through the ACH network may be disbursed on the same day the deposit is made if:
- 948 (A) the transferred funds remain uniquely designated and traceable throughout the entire ACH network  
transfer process;
- 950 (B) except as a function of the ACH network process, the transferred funds are not subject to  
comingling or third party access during the transfer process;

952

## HB0176 compared with HB0176S03

(C) the transferred funds are deposited into the title insurance producer's trust account and are available for disbursement; and

954 (D) either the ACH network payment type or the title insurance producer's systems prevent the  
transaction from being unilaterally canceled or reversed by the consumer once the transferred funds  
are deposited to the individual title insurance producer or agency title producer; or

958 (v) deposits may be disbursed on the same day the deposit is made if the deposit is made via:

960 (A) the Federal Reserve Bank through the Federal Reserve's Fedwire funds transfer system; or

962 (B) a funds transfer system provided by an association of federally insured depository institutions.

964 (c) A check or deposit not described in Subsection (7)(b) may be disbursed:

965 (i) within the time limits provided under the Expedited Funds Availability Act, 12 U.S.C. Sec. 4001 et  
seq., as amended, and related regulations of the Federal Reserve System; or

968 (ii) upon notification from the financial institution to which the money has been deposited that final  
settlement has occurred on the deposited financial instrument.

970 (8) An individual title insurance producer or agency title insurance producer shall maintain a record of a  
receipt or disbursement of escrow money.

972 (9) An individual title insurance producer or agency title insurance producer shall comply with:

974 (a) Section 31A-23a-409;

975 (b) Title 46, Chapter 1, Notaries Public Reform Act; and

976 (c) any rules adopted by the Title and Escrow Commission, subject to Section 31A-2-404, that govern  
escrows.

978 (10) If an individual title insurance producer or agency title insurance producer conducts a search for  
real estate located in the state, the individual title insurance producer or agency title insurance  
producer shall conduct a reasonable search of the public records.

1010 Section 24. Section **31A-23a-409** is amended to read:

1011 **31A-23a-409. Trust obligation for money collected.**

983 (1)

(a) Subject to Subsection (7), a licensee is a trustee for money that is paid to, received by, or collected  
by a licensee for forwarding to insurers or to insureds.

985 (b)

(i) Except as provided in Subsection (1)(b)(ii), a licensee may not commingle trust funds with:

987 (A) the licensee's own money; or

## HB0176 compared with HB0176S03

- 988 (B) money held in any other capacity.
- 989 (ii) This Subsection (1)(b) does not apply to:
- 990 (A) amounts necessary to pay bank charges; and
- 991 (B) money paid by insureds and belonging in part to the licensee as a fee or commission.
- 993 (c) Except as provided under Subsection (4), a licensee owes to insureds and insurers the fiduciary duties of a trustee with respect to money to be forwarded to insurers or insureds through the licensee.
- 996 (d)
- (i) Unless money is sent to the appropriate payee by the close of the next business day after their receipt, the licensee shall deposit them in an account authorized under Subsection (2).
- 999 (ii) Money deposited under this Subsection (1)(d) shall remain in an account authorized under Subsection (2) until sent to the appropriate payee.
- 1001 (2) Money required to be deposited under Subsection (1) shall be deposited:
- 1002 (a) into a federally insured trust account in a depository institution, as defined in Section 7-1-103, which:
- 1004 (i) has a branch in this state, if the individual title insurance producer or agency title insurance producer depositing the money is a resident licensee;
- 1006 (ii) has federal deposit insurance; and
- 1007 (iii) is authorized by its primary regulator to engage in the trust business, as defined by Section ~~[7-5-1]~~ 7-5-101, in this state; or
- 1009 (b) into some other account, that:
- 1010 (i) the commissioner approves by rule or order; and
- 1011 (ii) provides safety comparable to an account described in Subsection (2)(a).
- 1012 (3) It is not a violation of Subsection (2)(a) if the amounts in the accounts exceed the amount of the federal insurance on the accounts.
- 1014 (4) A trust account into which money is deposited may be interest bearing. The interest accrued on the account may be paid to the licensee, so long as the licensee otherwise complies with this section and with the contract with the insurer.
- 1017 (5) A depository institution or other organization holding trust funds under this section may not offset or impound trust account funds against debts and obligations incurred by the licensee.
- 1020

## HB0176 compared with HB0176S03

(6) A licensee who, not being lawfully entitled to do so, diverts or appropriates any portion of the money held under Subsection (1) to the licensee's own use, is guilty of theft under Title 76, Chapter 6, Part 4, Theft. Sanctions under Section 31A-2-308 also apply.

1023 (7) A nonresident licensee:

1024 (a) shall comply with Subsection (1)(a) by complying with the trust account requirements of the nonresident licensee's home state; and

1026 (b) is not required to comply with the other provisions of this section.

1056 Section 25. Section **59-10-202** is amended to read:

1057 **59-10-202. Additions to and subtractions from unadjusted income of a resident or nonresident estate or trust.**

1030 (1) There shall be added to unadjusted income of a resident or nonresident estate or trust:

1031 (a) a lump sum distribution allowable as a deduction under Section 402(d)(3), Internal Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue Code, in determining adjusted gross income;

1034 (b) except as provided in Subsection (3), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:

1037 (i) issued by one or more of the following entities:

1038 (A) a state other than this state;

1039 (B) the District of Columbia;

1040 (C) a political subdivision of a state other than this state; or

1041 (D) an agency or instrumentality of an entity described in Subsections (1)(b)(i)(A) through (C); and

1043 (ii) to the extent the interest is not included in federal taxable income on the taxpayer's federal income tax return for the taxable year;

1045 (c) any portion of federal taxable income for a taxable year if that federal taxable income is derived from stock:

1047 (i) in an S corporation; and

1048 (ii) that is held by an electing small business trust;

1049 (d) the amount withdrawn under Title 53H, Chapter 10, Utah Education Savings, from the account of a resident or nonresident estate or trust that is an account owner as defined in Section 53H-10-101, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident estate or trust that is the account owner:

## HB0176 compared with HB0176S03

- 1054 (i) is not expended for:
- 1055 (A) higher education costs as defined in Section 53H-10-201; or
- 1056 (B) a payment or distribution that qualifies as an exception to the additional tax for distributions not  
used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and
- 1059 (ii) is:
- 1060 (A) subtracted by the resident or nonresident estate or trust:
- 1061 (I) that is the account owner; and
- 1062 (II) on the resident or nonresident estate's or trust's return filed under this chapter for a taxable year  
beginning on or before December 31, 2007; or
- 1064 (B) used as the basis for the resident or nonresident estate or trust that is the account owner to claim a  
tax credit under Section 59-10-1017; and
- 1066 (e) any fiduciary adjustments required by Section 59-10-210.
- 1067 (2) There shall be subtracted from unadjusted income of a resident or nonresident estate or trust:
- 1069 (a) the interest or a dividend on obligations or securities of the United States and its possessions or  
of any authority, commission, or instrumentality of the United States, to the extent that interest or  
dividend is included in gross income for federal income tax purposes for the taxable year but exempt  
from state income taxes under the laws of the United States, but the amount subtracted under this  
Subsection (2) shall be reduced by any interest on indebtedness incurred or continued to purchase  
or carry the obligations or securities described in this Subsection (2), and by any expenses incurred  
in the production of interest or dividend income described in this Subsection (2) to the extent that  
such expenses, including amortizable bond premiums, are deductible in determining federal taxable  
income;
- 1079 (b) income of an irrevocable resident trust if:
- 1080 (i) the income would not be treated as state taxable income derived from Utah sources under Section  
59-10-204 if received by a nonresident trust;
- 1082 (ii) the trust first became a resident trust on or after January 1, 2004;
- 1083 (iii) no assets of the trust were held, at any time after January 1, 2003, in another resident irrevocable  
trust created by the same settlor or the spouse of the same settlor;
- 1086 (iv) the trustee of the trust is a trust company as that term is defined in [~~Subsection 7-5-1(1)(d)] Section  
7-5-101;~~
- 1088

## HB0176 compared with HB0176S03

- (v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the settlor or any other person is treated as an owner of any portion of the trust under Subtitle A, Subchapter J, Subpart E of the Internal Revenue Code; and
- 1091 (vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on indebtedness incurred or continued to purchase or carry the assets generating the income described in this Subsection (2)(b), and by any expenses incurred in the production of income described in this Subsection (2)(b), to the extent that those expenses, including amortizable bond premiums, are deductible in determining federal taxable income;
- 1097 (c) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or nonresident estate or trust derived from a deceased Ute tribal member:
  - 1099 (i) during a time period that the Ute tribal member resided on homesteaded land diminished from the Uintah and Ouray Reservation; and
  - 1101 (ii) from a source within the Uintah and Ouray Reservation;
  - 1102 (d) any amount:
    - 1103 (i) received by a resident or nonresident estate or trust;
    - 1104 (ii) that constitutes a refund of taxes imposed by:
      - 1105 (A) a state; or
      - 1106 (B) the District of Columbia; and
      - 1107 (iii) to the extent that amount is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts for that taxable year;
  - 1110 (e) the amount of a railroad retirement benefit:
    - 1111 (i) paid:
      - 1112 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;
      - 1114 (B) to a resident or nonresident estate or trust derived from a deceased resident or nonresident individual; and
      - 1116 (C) for the taxable year; and
    - 1117 (ii) to the extent that railroad retirement benefit is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts;
  - 1119 (f) an amount:
    - 1120 (i) received by a resident or nonresident estate or trust if that amount is derived from a deceased enrolled member of an American Indian tribe; and

## HB0176 compared with HB0176S03

- 1122 (ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that  
amount in accordance with:
- 1124 (A) federal law;
- 1125 (B) a treaty; or
- 1126 (C) a final decision issued by a court of competent jurisdiction;
- 1127 (g) the amount that a qualified nongrantor charitable lead trust deducts under Section 642(c), Internal  
Revenue Code, as a charitable contribution deduction, as allowed on the qualified nongrantor  
charitable lead trust's federal income tax return for estates and trusts for the taxable year;
- 1131 (h) any fiduciary adjustments required by Section 59-10-210;
- 1132 (i) an amount received:
- 1133 (i) for the interest on a bond, note, or other obligation issued by an entity for which state statute  
provides an exemption of interest on its bonds from state individual income tax;
- 1136 (ii) by a resident or nonresident estate or trust;
- 1137 (iii) for the taxable year; and
- 1138 (iv) to the extent the amount is included in federal taxable income on the taxpayer's federal income tax  
return for the taxable year;
- 1140 (j) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31,  
2019, only:
- 1142 (i) the amount of any FDIC premium paid or incurred by the resident or nonresident estate or trust that  
is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue  
Code, on the resident's or nonresident estate's or trust's 2018 federal income tax return; plus
- 1146 (ii) the amount of any FDIC premium paid or incurred by the resident or nonresident estate or trust that  
is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue  
Code, for the taxable year; and
- 1149 (k) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or  
incurred by the resident or nonresident estate or trust that is disallowed as a deduction for federal  
income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year.
- 1153 (3) Notwithstanding Subsection (1)(b), interest from bonds, notes, and other evidences of indebtedness  
issued by an entity described in Subsections (1)(b)(i)(A) through (D) may not be added to  
unadjusted income of a resident or nonresident estate or trust if, as annually determined by the  
commission:

## HB0176 compared with HB0176S03

- 1157 (a) for an entity described in Subsection (1)(b)(i)(A) or (B), the entity and all of the political  
subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any  
part of the bonds, notes, and other evidences of indebtedness of this state; or
- 1161 (b) for an entity described in Subsection (1)(b)(i)(C) or (D), the following do not impose a tax based on  
income on any part of the bonds, notes, and other evidences of indebtedness of this state:
- 1164 (i) the entity; or
- 1165 (ii)
- (A) the state in which the entity is located; or
- 1166 (B) the District of Columbia, if the entity is located within the District of Columbia.
- 1168 (4)
- (a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:
- 1169 (i) the income is derived from a deceased Ute tribal member; and
- 1170 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of  
this Subsection (4).
- 1172 (b) The agreement described in Subsection (4)(a):
- 1173 (i) may not:
- 1174 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
- 1176 (B) provide a subtraction under this section greater than or different from the subtraction described in  
Subsection (2)(c); or
- 1178 (C) affect the power of the state to establish rates of taxation; and
- 1179 (ii) shall:
- 1180 (A) provide for the implementation of the subtraction described in Subsection (2)(c);
- 1182 (B) be in writing;
- 1183 (C) be signed by:
- 1184 (I) the governor; and
- 1185 (II) the chair of the Business Committee of the Ute tribe;
- 1186 (D) be conditioned on obtaining any approval required by federal law; and
- 1187 (E) state the effective date of the agreement.
- 1188 (c)
- (i) The governor shall report to the commission by no later than February 1 of each year regarding  
whether or not an agreement meeting the requirements of this Subsection (4) is in effect.

## HB0176 compared with HB0176S03

- 1191 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the subtraction  
permitted under Subsection (2)(c) is not allowed for taxable years beginning on or after the January  
1 following the termination of the agreement.
- 1194 (d) For purposes of Subsection (2)(c) and in accordance with Title 63G, Chapter 3, Utah Administrative  
Rulemaking Act, the commission may make rules:
- 1196 (i) for determining whether income is derived from a source within the Uintah and Ouray Reservation;  
and
- 1198 (ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined  
under Section 59-10-117.
- 1229 Section 26. Section **75B-1-101** is amended to read:
- 1230 **75B-1-101. Definitions for title.**
- As used in this title:
- 1203 (1) "Agent" means the same as that term is defined in Section 75-1-201.
- 1204 (2) "Beneficiary" means a person that:
- 1205 (a) has a present or future beneficial interest in a trust, vested or contingent; or
- 1206 (b) in a capacity other than that of trustee, holds a power of appointment over trust property.
- 1208 (3) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in  
Subsection 75B-2-405(1).
- 1210 (4) "Child" means, except as provided in Sections 75B-2-503 and 75B-2-504, the same as that term is  
defined in Section 75-1-201.
- 1212 (5) "Claims" means the same as that term is defined in Section 75-1-201.
- 1213 (6) "Conservator" means the same as that term is defined in Section 75-1-201.
- 1214 (7) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.
- 1216 (8) "Descendant" means the same as that term is defined in Section 75-1-201.
- 1217 (9) "Devise" means the same as that term is defined in Section 75-1-201.
- 1218 (10) "Distributee" means the same as that term is defined in Section 75-1-201.
- 1219 (11) "Estate" means the same as that term is defined in Section 75-1-201.
- 1220 (12) "Fiduciary" means the same as that term is defined in Section 75-1-201.
- 1221 (13) "Governing instrument" means the same as that term is defined in Section 75-1-201.
- 1222 (14) "Guardian" means the same as that term is defined in Section 75-1-201.
- 1223 (15) "Incapacitated" means the same as that term is defined in Section 75-1-201.

## HB0176 compared with HB0176S03

- 1224 (16) "Income" means the same as that term is defined in Section 75A-5-102.
- 1225 (17) "Interested person" means, except as provided in Section 75B-2-110, the same as that term is  
defined in Section 75-1-102.
- 1227 (18) "Lease" means the same as that term is defined in Section 75-1-201.
- 1228 (19) "Minor" means an individual who is younger than 18 years old.
- 1229 (20) "Mortgage" means the same as that term is defined in Section 75-1-201.
- 1230 (21) "Nongeneral power of appointment" means the same as that term is defined in Section 75A-4-102.
- 1232 (22) "Organization" means the same as that term is defined in Section 75-1-201.
- 1233 (23) "Parent" means the same as that term is defined in Section 75-1-201.
- 1234 (24) "Person" means the same as that term is defined in Section 75-1-201.
- 1235 (25) "Personal representative" means the same as that term is defined in Section 75-1-201.
- 1236 (26) "Petition" means the same as that term is defined in Section 75-1-201.
- 1237 (27) "Power of appointment" means the same as that term is defined in Section 75A-4-102.
- 1238 (28) "Principal" means the same as that term is defined in Section 75A-5-102.
- 1239 (29) "Property" means the same as that term is defined in Section 75-1-201.
- 1240 (30) "Protected person" means the same as that term is defined in Section 75-1-201.
- 1241 (31) "Record" means the same as that term is defined in Section 75-1-201.
- 1242 (32) "Security" means the same as that term is defined in Section 75-1-201.
- 1243 (33)
- (a) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust.
- 1245 (b) If more than one person creates or contributes property to a trust, each person is a settlor of the  
portion of the trust property attributable to that person's contribution except to the extent another  
person has the power to revoke or withdraw that portion.
- 1248 (34) "Sign" means the same as that term is defined in Section 75-1-201.
- 1249 (35) "State" means the same as that term is defined in Section 75-1-201.
- 1250 (36) "Successor" means a person, other than a creditor, that is entitled to property of a decedent under  
the decedent's will or Title 75, Utah Uniform Probate Code.
- 1252 (37) "Testator" means the same as that term is defined in Section 75-1-201.
- 1253 (38)
- (a) "Trust" means:
- 1254 (i) a health savings account, as defined in Section 223 of the Internal Revenue Code;

## HB0176 compared with HB0176S03

- 1255 (ii) an express trust, private or charitable, with additions thereto, wherever and however created; or  
1257 (iii) a trust created or determined by judgment or decree under which the trust is to be administered  
in the manner of an express trust.
- 1259 (b) "Trust" does not include:
- 1260 (i) a constructive trust;
- 1261 (ii) a resulting trust;
- 1262 (iii) a conservatorship;
- 1263 (iv) a personal representative;
- 1264 (v) a trust account as defined in Title 75, Chapter 6, Nonprobate Transfers;
- 1265 (vi) a custodial arrangement under Title 75A, Chapter 8, Uniform Transfers To Minors Act;
- 1267 (vii) a business trust providing for certificates to be issued to beneficiaries;
- 1268 (viii) a common trust fund;
- 1269 (ix) a voting trust;
- 1270 (x) a preneed funeral plan under Title 58, Chapter 9, Funeral Services Licensing Act;
- 1271 (xi) a security arrangement;
- 1272 (xii) a liquidation trust;
- 1273 (xiii) a trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits,  
pensions, or employee benefits of any kind; or
- 1275 (xiv) any arrangement under which a person is nominee or escrowee for another person.
- 1277 (39) "Trust company" means the same as that term is defined in Section [7-5-1] 7-5-101.
- 1278 (40) "Trustee" means an original, additional, and successor trustee, and cotrustee, whether or not  
appointed or confirmed by the court.
- 1280 (41) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust,  
including any amendments thereto.
- 1282 (42) "Ward" means the same as that term is defined in Section 75-1-201.
- 1283 (43) "Will" means the same as that term is defined in Section 75-1-201.
- 1313 Section 27. Section **75B-3-107** is amended to read:
- 1314 **75B-3-107. Limitations on trust director.**
- 1286 (1) A trust director is subject to the same rules as a trustee in a like position and under similar  
circumstances in the exercise or nonexercise of a power of direction or further power under  
Subsection 75B-3-106(2)(a) regarding:

## HB0176 compared with HB0176S03

1289 [(1)] (a) a payback provision in the terms of a trust necessary to comply with the Medicaid  
reimbursement requirements in Section 1917 of the Social Security Act, 42 U.S.C. Sec. 1396p(d)(4)  
(A), as amended, and any related regulations; and

1292 [(2)] (b) a charitable interest in the trust, including notice regarding the interest to the attorney general.

1294 (2) A trust director may not engage in trust business, as that term is defined in Section 7-5-101.

1325 Section 28. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

2-27-26 10:49 AM