

Anthony E. Loubet proposes the following substitute bill:

**Trust Business Modifications**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Anthony E. Loubet**

Senate Sponsor:

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to trust business.

**Highlighted Provisions:**

This bill:

- defines terms;
- reorganizes and renumbers the sections of Title 7, Chapter 5, Trust Business;
- exempts individuals from the definition of trust business;
- enacts provisions relating to the compensation of a settlor's attorney and an attorney-related person; and
- makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 7-1-401**, as last amended by Laws of Utah 2022, Chapter 449
- 7-1-701**, as last amended by Laws of Utah 2014, Chapter 97
- 7-5-11**, as last amended by Laws of Utah 2025, Chapter 310
- 7-18a-302**, as enacted by Laws of Utah 1996, Chapter 63
- 7-22-101**, as last amended by Laws of Utah 2020, Chapter 365
- 16-15-102**, as enacted by Laws of Utah 1995, Chapter 310
- 31A-23a-406**, as last amended by Laws of Utah 2024, Chapter 120
- 31A-23a-409**, as last amended by Laws of Utah 2023, Chapters 111, 194
- 59-10-202**, as last amended by Laws of Utah 2025, First Special Session, Chapter 9

29           **75B-1-101**, as last amended by Laws of Utah 2025, Chapters 310, 338  
30           **75B-3-107**, as renumbered and amended by Laws of Utah 2025, Chapter 310

31 ENACTS:

32           **7-5-102**, Utah Code Annotated 1953

33           **7-5-117**, Utah Code Annotated 1953

34 RENUMBERS AND AMENDS:

35           **7-5-101**, (Renumbered from 7-5-1, as last amended by Laws of Utah 2025, Chapters  
36           310, 338 and 533)

37           **7-5-103**, (Renumbered from 7-5-2, as last amended by Laws of Utah 2014, Chapter 189)

38           **7-5-104**, (Renumbered from 7-5-3, as last amended by Laws of Utah 2025, Chapter 302)

39           **7-5-105**, (Renumbered from 7-5-4, as last amended by Laws of Utah 2010, Chapter 378)

40           **7-5-106**, (Renumbered from 7-5-5, as last amended by Laws of Utah 2001, Chapter 9)

41           **7-5-107**, (Renumbered from 7-5-6, as last amended by Laws of Utah 2025, Chapter 310)

42           **7-5-108**, (Renumbered from 7-5-7, as last amended by Laws of Utah 2025, Chapter 310)

43           **7-5-109**, (Renumbered from 7-5-8, as last amended by Laws of Utah 2014, Chapter 189)

44           **7-5-110**, (Renumbered from 7-5-9, as last amended by Laws of Utah 2010, Chapter 93)

45           **7-5-111**, (Renumbered from 7-5-10, as last amended by Laws of Utah 2025, Chapter  
46           310)

47           **7-5-112**, (Renumbered from 7-5-11, as last amended by Laws of Utah 2025, Chapter  
48           310)

49           **7-5-113**, (Renumbered from 7-5-12, as last amended by Laws of Utah 2025, Chapter  
50           302)

51           **7-5-114**, (Renumbered from 7-5-13, as last amended by Laws of Utah 2023, Chapter  
52           401)

53           **7-5-115**, (Renumbered from 7-5-14, as last amended by Laws of Utah 2007, Chapter  
54           277)

55           **7-5-116**, (Renumbered from 7-5-15, as last amended by Laws of Utah 2014, Chapter  
56           189)

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

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

60           **7-1-401 . Fees payable to commissioner.**

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

- 63 (a) computed by averaging the total assets of the depository institution shown on each  
64 quarterly report of condition for the depository institution for the calendar year  
65 immediately preceding the date on which the annual fee is due under Section 7-1-402;  
66 and
- 67 (b) at the following rates:
- 68 (i) on the first \$5,000,000 of these assets, the greater of:
- 69 (A) 65 cents per \$1,000; or  
70 (B) \$500;
- 71 (ii) on the next \$10,000,000 of these assets, 35 cents per \$1,000;  
72 (iii) on the next \$35,000,000 of these assets, 15 cents per \$1,000;  
73 (iv) on the next \$50,000,000 of these assets, 12 cents per \$1,000;  
74 (v) on the next \$200,000,000 of these assets, 10 cents per \$1,000;  
75 (vi) on the next \$300,000,000 of these assets, 6 cents per \$1,000; and  
76 (vii) on all amounts over \$600,000,000 of these assets, 2 cents per \$1,000.
- 77 (2) A financial institution with a trust department shall pay a fee determined in accordance  
78 with Subsection (7) for each examination of the trust department by a state examiner.
- 79 (3) Notwithstanding Subsection (1), a credit union in [its] the credit union's first year of  
80 operation shall pay a basic fee of \$25 instead of the fee required under Subsection (1).
- 81 (4) A trust company that is not a depository institution or a subsidiary of a depository  
82 institution holding company shall pay:
- 83 (a) an annual fee of \$500; and  
84 (b) an additional fee determined in accordance with Subsection (7) for each examination  
85 by a state examiner.
- 86 (5) Any person or institution under the jurisdiction of the department that does not pay a fee  
87 under Subsections (1) through (4) shall pay:
- 88 (a) an annual fee of \$200; and  
89 (b) an additional fee determined in accordance with Subsection (7) for each examination  
90 by a state examiner.
- 91 (6) A person filing an application or request under Section 7-1-503, 7-1-702, 7-1-703,  
92 7-1-704, 7-1-713, [~~7-5-3~~] 7-5-104, or 7-18a-202 shall pay:
- 93 (a)(i) a filing fee of \$500 if on the day on which the application or request is filed the  
94 person:
- 95 (A) is a person with authority to transact business as a depository institution, a  
96 trust company, or any other person described in Section 7-1-501 as being

- 97 subject to the jurisdiction of the department; and
- 98 (B) has total assets in an amount less than \$5,000,000; or
- 99 (ii) a filing fee of \$2,500 for any person not described in Subsection (6)(a)(i); and
- 100 (b) all reasonable expenses incurred in processing the application.
- 101 (7)(a) Per diem assessments for an examination shall be calculated at the rate of \$55 per
- 102 hour:
- 103 (i) for each examiner; and
- 104 (ii) per hour worked.
- 105 (b) For an examination of a branch or office of a financial institution located outside of
- 106 this state, in addition to the per diem assessment under this Subsection (7), the
- 107 institution shall pay all reasonable travel, lodging, and other expenses incurred by
- 108 each examiner while conducting the examination.
- 109 (8) In addition to a fee under Subsection (5), a person registering under Section 7-23-201,
- 110 7-24-201, or 7-27-201 shall pay an original registration fee of \$300.
- 111 (9) In addition to a fee under Subsection (5), a person applying for licensure under Chapter
- 112 25, Money Transmitter Act, shall pay an original license fee of \$300.
- 113 Section 2. Section **7-1-701** is amended to read:
- 114 **7-1-701 . Representing and transacting business as financial institution restricted**
- 115 **-- Restricted names -- Penalty.**
- 116 (1) As used in this section, "transact business" includes[?]:
- 117 (a) advertising;
- 118 (b) representing oneself in any manner as being engaged in transacting business;
- 119 (c) registering an assumed name under which to transact business; or
- 120 (d) using an assumed business name, sign, letterhead, business card, promotion, or other
- 121 indication that one is transacting business.
- 122 (2) Unless authorized by the department or an agency of the federal government to do so, it
- 123 is unlawful for a person to:
- 124 (a) transact business as a:
- 125 (i) bank;
- 126 (ii) savings and loan association;
- 127 (iii) savings bank;
- 128 (iv) industrial bank;
- 129 (v) credit union;
- 130 (vi) trust company; or

- 131 (vii) other financial or depository institution; or
- 132 (b) engage in any other activity subject to the jurisdiction of the department.
- 133 (3)(a) Except as provided in Subsections (3)(b) through (d), only the following may
- 134 transact business in this state under a name that includes "bank," "banker," "banking,"
- 135 "banque," "banc," "banco," "bancorp," "bancorporation," a derivative of these words,
- 136 or another word or combination of words reasonably identifying the business of a
- 137 bank:
- 138 (i) a national bank;
- 139 (ii) a bank authorized to do business under Chapter 3, Banks;
- 140 (iii) a bank holding company; or
- 141 (iv) an industrial bank.
- 142 (b) A person authorized to operate in this state as a credit card bank, as described in
- 143 Section 7-3-3:
- 144 (i) may transact business under the name "credit card bank"; and
- 145 (ii) may not transact business under the name of "bank" unless it is immediately
- 146 preceded by "credit card."
- 147 (c) A nonbank subsidiary of a bank holding company may transact business under a
- 148 name restricted in Subsection (3)(a) if the name:
- 149 (i) is also part of the name of its parent holding company; or
- 150 (ii) is used for a group of subsidiaries of the parent holding company.
- 151 (d) A bona fide trade association of authorized banks recognized by the commissioner
- 152 may transact its affairs in this state under a name restricted under Subsection (3)(a) if
- 153 it does not operate and does not hold itself out to the public as operating a depository
- 154 or financial institution.
- 155 (4)(a) Except as provided in Subsection (4)(b), only the following may transact business
- 156 in this state under a name that includes "savings association," "savings and loan
- 157 association," "building and loan association," "building association," a derivative of
- 158 these words, or another word or combination of words reasonably identifying the
- 159 business of a savings and loan association:
- 160 (i) a federal savings and loan association; or
- 161 (ii) a federal savings bank.
- 162 (b) A national bank may transact business under a name restricted in Subsection (4)(a) if
- 163 the restricted words are part of the bank's corporate name.
- 164 (5) Only the following may transact business under the name "savings bank":

- 165 (a) a depository institution listed in Subsection (3)(a);  
166 (b) a depository institution listed in Subsection (4)(a); or  
167 (c) a depository institution authorized under the law of another state to operate in this  
168 state as a savings bank.
- 169 (6)(a) Only an industrial loan company authorized to do business under Chapter 8,  
170 Industrial Banks, to the extent permitted by Section 7-8-21, may transact business in  
171 this state under a name that includes "industrial loan company," "ILC," or another  
172 word, combination of words, or abbreviation reasonably identifying the business of  
173 an industrial loan company.
- 174 (b) Only an industrial bank authorized to do business under Chapter 8, Industrial Banks,  
175 may transact business in this state under a name that includes "industrial bank,"  
176 "thrift," or another word, combination of words, or abbreviation reasonably  
177 identifying the business of an industrial bank.
- 178 (7)(a) Except as provided in Subsection (7)(b), only a credit union authorized to do  
179 business under the laws of the United States or Chapter 9, Utah Credit Union Act,  
180 may transact business in this state under a name that includes "credit union" or  
181 another word or combination of words reasonably identifying the business of a credit  
182 union.
- 183 (b) The restriction in Subsection (7)(a) does not apply to a bona fide trade association of  
184 authorized credit unions recognized by the commissioner, a credit union chapter, or  
185 another association affiliated with a bona fide trade association of authorized credit  
186 unions recognized by the commissioner that restricts its services primarily to credit  
187 unions.
- 188 (8)(a) Except as provided in Subsection (8)(b), only a person granted trust powers under  
189 Chapter 5, Trust Business, may transact business in this state under a name that  
190 includes "trust," "trustee," "trust company," or another word or combination of words  
191 reasonably identifying the business of a trust company.
- 192 (b) A business entity organized as a business trust, as defined in Section ~~[7-5-1]~~ 7-5-101,  
193 may use "business trust" in its name if it does not hold itself out as being a trust  
194 company.
- 195 (9) The restrictions of Subsections (3) through (8) do not apply to:
- 196 (a) the name under which an out-of-state depository institution operates a loan  
197 production office in this state, if the commissioner approves the name as not being  
198 reasonably likely to mislead the public;

- 199 (b) the name under which a service organization of a financial institution transacts  
 200 business, if the commissioner approves the name as not being reasonably likely to  
 201 mislead the public;
- 202 (c) the name under which a subsidiary of a depository or financial institution transacts  
 203 business, if the commissioner approves the name as not being reasonably likely to  
 204 mislead the public; or
- 205 (d) a trade association or other nonprofit organization composed of members of a  
 206 particular class of financial institutions using words applicable to that class.
- 207 (10)(a) Upon written request, the commissioner may grant an exemption to this section  
 208 if the commissioner finds that the use of an otherwise restricted name or word is not  
 209 reasonably likely to cause confusion or lead the public to believe that the person  
 210 requesting the exemption is a depository or financial institution or is conducting a  
 211 business subject to the jurisdiction of the department.
- 212 (b) In granting an exemption under Subsection (10)(a), the commissioner may restrict or  
 213 condition the use of the name or word or the activities of the person or business as the  
 214 commissioner considers necessary to protect the public.
- 215 (11)(a) A person and a principal and officer of a business entity violating this section is  
 216 guilty of a class A misdemeanor. Each day of violation constitutes a separate offense.
- 217 (b) In addition to a criminal penalty imposed under Subsection (11)(a), the  
 218 commissioner may issue a cease and desist order against a person violating this  
 219 section. The commissioner may impose a civil penalty of up to \$500 for each day the  
 220 person fails to comply with the cease and desist order.

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

222 **7-5-11 . Self-dealing with trust property -- Own stock as trust property -- Policies**  
 223 **for dealing with trust securities.**

- 224 (1) Except as provided in Section [~~7-5-7~~] 7-5-109, in Title 75B, Trusts, or as authorized  
 225 under the instrument creating the relationship, a trust company may not invest funds  
 226 held as an agent or fiduciary in stock or obligations of, or with such funds acquire  
 227 property from, the trust company or any of its directors, officers or employees, nor shall  
 228 a trust company sell property held as an agent or fiduciary to the company or to any of  
 229 its directors, officers, or employees.
- 230 (2) A trust company may retain and vote stock of the trust company or of any of its  
 231 affiliates received by it as assets of any trust account or in any other fiduciary  
 232 relationship of which it is appointed agent or fiduciary, unless the instrument creating

233 the relationship otherwise provides.

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

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

240 Section 4. Section **7-5-101**, which is renumbered from Section 7-5-1 is renumbered  
241 and amended to read:

242 **Part 1. General Provisions**

243 **~~[7-5-1]~~ 7-5-101 . Definitions.**

244 ~~[(1)]~~ As used in this chapter:

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

249 (2) "Compensation of an appointee" means:

250 (a) compensation in accordance with the terms of the trust; or

251 (b) if the terms of the trust do not specify compensation for the appointee, the appointee  
252 compensation that a court determines is reasonable under the circumstances by  
253 weighing the following factors:

254 (i) the terms of the trust instrument;

255 (ii) the value of assets held in the trust;

256 (iii) the nature, number, and complexity of the trust assets;

257 (iv) the income produced by the appointee;

258 (v) the time and responsibilities required to administer the trust;

259 (vi) the expertise required of the appointee;

260 (vii) any management or sale that the appointee conducts of real property or  
261 closely-held business interests;

262 (viii) any compensation promised or agreed to in writing in advance of the services  
263 rendered by the appointee;

264 (ix) any involvement of the appointee in litigation or other disputes; and

265 (x) any other factor the court deems relevant to the appointee's compensation.

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

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

268 (5) "Power of direction" means the same as that term is defined in Section 75B-3-102.

269 ~~(b)~~ (6) "Trust" means the same as that term is defined in Section 75B-1-101.

270 ~~(e)~~ (7)(a) "Trust business" means~~[-except as provided in Subsection (1)(d);]~~ a business  
 271 in which ~~[one]~~ a person acts in ~~[any]~~ an agency or a fiduciary capacity, including ~~[that~~  
 272 ~~of]~~ as a personal representative, an executor, an administrator, a conservator, a  
 273 guardian, an assignee, a receiver, a depository, or a trustee under appointment as  
 274 trustee for ~~[any]~~ a purpose permitted by law.

275 ~~(d)~~ (b) "Trust business" does not include the following means of holding money, assets,  
 276 or other property:

277 (i) money ~~[held]~~ that an attorney authorized to practice law in this state holds in a  
 278 client trust account~~[-by an attorney authorized to practice law in this state];~~

279 (ii) money ~~[held]~~ that a person licensed as a principal broker in accordance with Title  
 280 61, Chapter 2f, Real Estate Licensing and Practices Act, holds in connection with  
 281 the purchase or sale of real estate~~[-by a person licensed as a principal broker in~~  
 282 accordance with Title 61, Chapter 2f, Real Estate Licensing and Practices Act];

283 (iii) money or other assets ~~[held]~~ that a person the department, in accordance with  
 284 Chapter 22, Regulation of Independent Escrow Agents, authorizes to act as an  
 285 escrow agent or that the Insurance Department authorizes to act as an escrow  
 286 agent holds in escrow~~[-by a person authorized by the department in accordance~~  
 287 with Chapter 22, Regulation of Independent Escrow Agents, or by the Insurance  
 288 Department to act as an escrow agent in this state];

289 (iv) money ~~[held by a]~~ that a homeowners' association or similar organization holds to  
 290 pay maintenance and other related costs for commonly owned property;

291 (v) money ~~[held]~~ that a person, acting solely as the agent or representative or  
 292 otherwise at the sole direction of the person to which the debt or payment is owed,  
 293 holds in connection with the collection of debts or payments on loans~~[-by a person~~  
 294 acting solely as the agent or representative or otherwise at the sole direction of the  
 295 person to which the debt or payment is owed], including money ~~[held by]~~ an  
 296 escrow agent holds for payment of taxes or insurance;

297 (vi) money ~~[and]~~ or other assets ~~[held]~~ that a person holds in trust on an occasional or  
 298 isolated basis~~[-by a person who does not represent that the person is engaged in~~  
 299 the trust business in Utah] if the person does not represent that the person engages  
 300 in the trust business in this state;

- 301 (vii) money or other assets [found by a court to be held] that a court finds that a  
 302 person holds in an implied, resulting, or constructive trust;
- 303 (viii) money or other assets [held by a court appointed conservator, guardian,  
 304 receiver, trustee, or other fiduciary] that a court-appointed conservator, guardian,  
 305 receiver, trustee, or other fiduciary holds if the court-appointed conservator,  
 306 guardian, receiver, trustee, or other fiduciary:
- 307 (A)(I) [the conservator, receiver, guardian, trustee, or other fiduciary] is  
 308 responsible to the court in the same or similar manner as a personal  
 309 representative under Title 75, Chapter 3, Part 5, Supervised Administration,  
 310 or as a receiver under Rule 66, Utah Rules of Civil Procedure; and  
 311 ~~(B)~~ (II) [the conservator, trustee, or other fiduciary] is a certified public  
 312 accountant, [or has qualified for and received a designation as] a certified  
 313 financial planner, chartered financial consultant, or certified financial  
 314 analyst[;] ;  
 315 or
- 315 (B) ~~[similar designation suitable to the court, that evidences the conservator's,~~  
 316 ~~trustee's, or other fiduciary's professional competence to manage financial~~  
 317 ~~matters] demonstrates to the satisfaction of the court a level of competence~~  
 318 ~~necessary to carry out, manage, and oversee the financial and fiduciary duties~~  
 319 ~~that will reasonably be required of the court-appointed conservator, guardian,~~  
 320 ~~receiver, trustee, or other fiduciary;~~
- 321 (ix) money or other assets that a court-appointed trustee or personal representative  
 322 holds, if the court-appointed trustee or personal representative:
- 323 (A) has the consent and approval of the majority of the current permissible  
 324 distributees of trust income and principal at the time of appointment or the  
 325 interested persons in the estate at the time of appointment; or
- 326 (B) otherwise demonstrates to the satisfaction of the court a level of competence  
 327 necessary to carry out, manage, or oversee the financial and fiduciary duties  
 328 that are reasonably required of the trustee or personal representative;
- 329 ~~(ix)~~ (x) money or other assets [held by] that a credit services organization operating  
 330 in compliance with Title 13, Chapter 21, Credit Services Organizations Act, holds;
- 331 ~~(ix)~~ (xi) money, securities, or other assets [held in] that a customer account in  
 332 connection with the purchase or sale of securities by a regulated securities broker,  
 333 dealer, or transfer agent holds;[or]

- 334 ~~[(xi)]~~ (xii) money, assets, and other property ~~[held]~~ that a person holds in a business  
 335 trust for the benefit of holders of certificates of beneficial interest if the fiduciary  
 336 activities of the business trust are merely incidental to conducting business in the  
 337 business trust form~~[-]~~ ;
- 338 (xiii) a person exercising a fiduciary or non-fiduciary power, including power of  
 339 direction, while acting as a trust director, trust protector, trust advisor, or a similar  
 340 capacity;
- 341 (xiv) professional or fiduciary services that an attorney admitted to practice law in  
 342 this state provides, if the attorney:
- 343 (A) renders the professional and fiduciary services in accordance with the ethical  
 344 and professional standards required of an attorney authorized to practice law in  
 345 this state;
- 346 (B) does not advertise that the attorney engages in an activity described in  
 347 Subsection (7)(a);
- 348 (C) receives compensation of an appointee; and
- 349 (D) complies with Section 7-5-117;
- 350 (xv) professional or fiduciary services that a certified public accountant licensed  
 351 under Title 58, Chapter 26a, Certified Public Accountant Licensing Act, provides  
 352 if the certified public accountant:
- 353 (A) renders the services in accordance with Title 58, Chapter 26a, Certified Public  
 354 Accountant Licensing Act;
- 355 (B) does not advertise that the certified public accountant engages in an activity  
 356 described in Subsection (7)(a); and
- 357 (C) receives compensation of an appointee;
- 358 (xvi) a person acting as a surrogate under Title 75A, Chapter 9, Uniform Health Care  
 359 Decisions Act, or in a similar capacity; or
- 360 (xvii) services as a guardian, if:
- 361 (A) the guardian's ward is a protected person with an appointed conservator that  
 362 serves with the guardian; or
- 363 (B) the responsibilities, powers, and authorities of the guardian are limited and  
 364 non-financial in nature.
- 365 ~~[(e)]~~ (8) "Trust company" means ~~[an institution]~~ a person authorized to engage in ~~[the-]~~trust  
 366 business under this chapter.~~[-Only the following may be a trust company:]~~
- 367 ~~[(i)]~~ a Utah depository institution or its wholly owned subsidiary;

- 368           ~~[(ii) an out-of-state depository institution authorized to engage in business as a~~  
 369           ~~depository institution in Utah or its wholly owned subsidiary;]~~  
 370           ~~[(iii) a corporation, including a credit union service organization, owned entirely by~~  
 371           ~~one or more federally insured depository institutions as defined in Subsection~~  
 372           ~~7-1-103(8);]~~  
 373           ~~[(iv) a direct or indirect subsidiary of a depository institution holding company that~~  
 374           ~~also has a direct or indirect subsidiary authorized to engage in business as a~~  
 375           ~~depository institution in Utah; and]~~  
 376           ~~[(v) any other corporation continuously and lawfully engaged in the trust business in~~  
 377           ~~this state since before July 1, 1981.]~~

378           (9) "Trust director" means the same as that term is defined in Section 75B-3-102.

379           ~~[(2) Only a trust company may engage in the trust business in this state.]~~

380           ~~[(3) The requirements of this chapter do not apply to:]~~

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

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

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

391           Section 5. Section **7-5-102** is enacted to read:

392           **7-5-102 . Allowable trust companies -- Exceptions.**

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

- 394           (a) a Utah depository institution or the Utah depository institution's wholly owned  
 395           subsidiary;  
 396           (b) an out-of-state depository institution authorized to engage in business as a depository  
 397           institution in this state or the out-of-state depository institution's wholly owned  
 398           subsidiary;  
 399           (c) a corporation, including a credit union service organization, owned entirely by one or  
 400           more federally insured depository institutions as defined in Subsection 7-1-103(8);  
 401           (d) a direct or indirect subsidiary of a depository institution holding company that also

- 402 has a direct or indirect subsidiary authorized to engage in business as a depository  
 403 institution in this state; and
- 404 (e) any other corporation continuously and lawfully engaged in the trust business in this  
 405 state since before July 1, 1981.
- 406 (2) Only a trust company may engage in the trust business in this state.
- 407 (3) The requirements of this chapter do not apply to:
- 408 (a) an institution authorized to engage in trust business in another state that engages in  
 409 trust activities in this state solely to fulfill the institution's duties as a trustee of a trust  
 410 created and administered in another state;
- 411 (b) a national bank, federal savings bank, federal savings and loan association, or federal  
 412 credit union authorized to engage in business as a depository institution in this state,  
 413 or a wholly owned subsidiary of a national bank, federal savings bank, federal  
 414 savings and loan association, or federal credit union authorized to engage in business  
 415 as a depository institution in this state, to the extent the institution is authorized by  
 416 the institution's primary federal regulator to engage in trust business in this state; or
- 417 (c) a state agency that is otherwise authorized by statute to act as a conservator, receiver,  
 418 guardian, trustee, or in any other fiduciary capacity.

419 Section 6. Section **7-5-103**, which is renumbered from Section 7-5-2 is renumbered  
 420 and amended to read:

421 **[7-5-2] 7-5-103 . Permit required to engage in trust business -- Exceptions.**

- 422 (1)(a) ~~[No]~~ Unless a trust company [shall] obtains from the commissioner a permit to  
 423 engage in trust business in this state, the trust company may not accept [any] an  
 424 appointment to act in [any] an agency or a fiduciary capacity by order or judgment of  
 425 a court or by authority of any law of this state, including [that of] as a:
- 426 (i) personal representative[-] ;
- 427 (ii) executor[-] ;
- 428 (iii) administrator[-] ;
- 429 (iv) conservator[-] ;
- 430 (v) guardian[-] ;
- 431 (vi) assignee[-] ;
- 432 (vii) receiver[-] ;
- 433 (viii) depository[-] ; or[-]
- 434 (ix) trustee[-under order or judgment of any court or by authority of any law of this  
 435 state or as trustee for any purpose permitted by law or otherwise engage in the

436 trust business in this state, unless and until it has obtained from the commissioner  
437 a permit to act under this chapter.] .

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

441 (2) Nothing in this chapter prohibits:

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

447 (b) ~~[any]~~ a corporation, organized under Title 16, Chapter 6a, Utah Revised Nonprofit  
448 Corporation Act, ~~[-and owned or controlled by]~~ and that a charitable, benevolent,  
449 eleemosynary, or religious organization owns or controls, from acting as a trustee for  
450 that organization or members of that organization but not offering trust services to the  
451 general public;

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

456 (d) ~~[any]~~ a depository institution from holding in an agency or fiduciary capacity  
457 individual retirement accounts or Keogh plan accounts established under ~~[Section~~  
458 ~~401(a) or 408(a) of Title 26 of the United States Code]~~ 26 U.S.C. Sec. 401(a) or 26  
459 U.S.C. Sec. 408(a).

460 Section 7. Section **7-5-104**, which is renumbered from Section 7-5-3 is renumbered  
461 and amended to read:

462 **[7-5-3] 7-5-104 . Application for authorization to engage in trust business --**  
463 **Criteria for granting -- Authority of trust company.**

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

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

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

469 (2) ~~[The commissioner shall, in]~~ When deciding whether ~~[or not]~~ to approve ~~[the~~

- 470 application, take into account] an application described in Subsection (1), the  
 471 commissioner shall consider:
- 472 (a) the character and condition of the applicant's assets;
  - 473 (b) the adequacy of [its] the applicant's capital;
  - 474 (c) [~~its~~] the applicant's earnings record;
  - 475 (d) the quality of [its] the applicant's management;
  - 476 (e) the qualifications of [~~any person proposed~~] an individual the applicant proposes to be  
 477 an officer in charge of the trust operations;
  - 478 (f) the needs of the community for fiduciary services;
  - 479 (g) the volume of business that the applicant will probably do; and
  - 480 (h) any other relevant facts and circumstances, including the availability of legal counsel  
 481 to advise and pass upon matters relating to the trust business.
- 482 (3) The commissioner may not apply criteria [~~making it~~] that makes the process to obtain  
 483 approval to engage in trust business in this state more difficult for a state chartered  
 484 depository institution [~~to obtain approval to engage in the trust business~~] than for a  
 485 federally chartered depository institution of the same class.
- 486 (4) [~~The~~] Notwithstanding Subsection (3), the commissioner may impose [~~such conditions~~]  
 487 criteria the commissioner considers appropriate to protect the public interest when  
 488 authorizing a person to engage in [~~the~~] trust business [~~as the commissioner considers~~  
 489 appropriate to protect the public interest].
- 490 (5) Upon receiving authorization from the commissioner to become a trust company and  
 491 engage in [~~the~~] trust business, the trust company [~~is qualified to~~] may act as fiduciary in  
 492 any capacity without bond.

493 Section 8. Section **7-5-105**, which is renumbered from Section 7-5-4 is renumbered  
 494 and amended to read:

495 **[7-5-4] 7-5-105 . Withdrawal from trust business.**

- 496 (1) [ ~~Any~~] A trust company [~~which~~] that desires to withdraw from and discontinue doing [  
 497 a] trust business shall furnish to the commissioner satisfactory evidence of [its] the trust  
 498 company's release and discharge from all the obligations and trusts [~~undertaken by it,~~  
 499 and] the trust company undertakes.
- 500 (2) [~~after the company has furnished that evidence~~] After the trust company provides the  
 501 evidence required by Subsection (1) to the commissioner, the commissioner shall revoke [  
 502 his certificate of authority] the trust company's permit to [do a] engage in trust business [  
 503 previously issued to that trust company, and] in this state.

504 (3) ~~[thereafter that]~~ After the commissioner revokes a trust company's permit in accordance  
 505 with Subsection (2), the trust company may not[-] :

506 (a) ~~[be permitted to use and may not]~~ use the word "trust" in ~~[its]~~ the trust company's  
 507 corporate name or in connection with ~~[its]~~ the trust company's business~~[-nor]~~ ; or

508 (b) undertake the administration of any trust business.

509 Section 9. Section **7-5-106**, which is renumbered from Section 7-5-5 is renumbered  
 510 and amended to read:

511 **[7-5-5] 7-5-106 . Revocation of trust authority -- Procedure -- Violations.**

512 (1)(a) The commissioner may issue and serve upon a trust company a notice of intent to  
 513 revoke the authority of the trust company to exercise the powers granted by this  
 514 chapter, if, in the commissioner's opinion, the trust company:

515 (i) is unlawfully or unsoundly exercising the powers granted under this chapter;

516 (ii) has unlawfully or unsoundly exercised the powers granted under this chapter;

517 (iii) has failed, for a period of five consecutive years, to exercise the powers granted  
 518 by this chapter;

519 (iv) fails or has failed to comply with requirements upon which ~~[its]~~ the trust  
 520 company's permit is conditioned; or

521 (v) fails or has failed to comply with any rule of the commissioner.

522 (b) The notice shall:

523 (i) contain a statement of the facts constituting the alleged unlawful or unsound  
 524 exercise of powers, or failure to exercise powers, or failure to comply; and

525 (ii) fix the time and place at which the commissioner shall hold a hearing ~~[will be~~  
 526 ~~held]~~ to determine whether the commissioner should issue an order revoking  
 527 authority to execute ~~[those]~~ the powers ~~[should issue against the trust company]~~  
 528 described in the notice.

529 (2)(a) If the trust company or ~~[its]~~ the trust company's representative does not appear at  
 530 the hearing, the commissioner may consider the trust company to be in default, and  
 531 may issue a revocation order.

532 (b) If default has occurred, or if upon the record made at any hearing the commissioner  
 533 finds that any allegation specified in the notice of charges has been established, the  
 534 commissioner shall issue and serve upon the trust company ~~[an]~~ a revocation order:

535 (i) prohibiting ~~[it]~~ the trust company from accepting any new or additional trust  
 536 accounts; and

537 (ii) revoking ~~[its]~~ the trust company's authority to exercise any powers granted under

538 this chapter.

539 (c) Any order issued under this section permits the trust company to continue to service  
540 all previously accepted trust accounts pending ~~[their]~~ the trust accounts' expeditious  
541 divestiture or termination.

542 (3) A revocation order ~~[shall become]~~ becomes effective 30 days after ~~[service of the order~~  
543 ~~upon]~~ the day on which the commissioner serves the revocation order to the trust  
544 company and ~~[shall remain]~~ remains effective and enforceable, unless ~~[it is stayed,~~  
545 ~~modified, terminated, or set aside by action of the commissioner or by judicial review as~~  
546 ~~provided for in Section 7-1-714.]~~ the commissioner or a court, in accordance with  
547 Section 7-1-714, stays, modifies, terminates, or sets aside the revocation order.

548 (4) If an attorney described in Subsection 7-5-101(4)(b)(iii) violates Title 75B, Trusts, the  
549 attorney:

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

551 (b) may be subject to disciplinary action generally applicable to an attorney licensed to  
552 practice in this state.

553 (5) If a certified public accountant described in Subsection 7-5-101(4)(b)(iv) violates Title  
554 75B, Trusts, the certified public accountant:

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

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

558 (6) If the commissioner or the department receives a complaint that an attorney described in  
559 Subsection 7-5-101(4)(b)(iii) or a certified public accountant described in Subsection  
560 7-5-101(4)(b)(iv) violates Title 75B, Trusts, the commissioner or the department shall  
561 forward the complaint to:

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

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

565 Section 10. Section **7-5-107**, which is renumbered from Section 7-5-6 is renumbered  
566 and amended to read:

567 **[7-5-6] 7-5-107 . Confidentiality of communications and writings concerning**  
568 **trust -- Actions to protect property or authorized under probate laws not precluded.**

569 (1) ~~[ Any]~~ A trust company exercising the powers and performing the duties described in  
570 this chapter shall keep ~~[inviolate all communications and writings made to or by that]~~  
571 confidential each communication and writing the trust company makes or receives

572 relating to the existence, condition, management or administration of ~~[any]~~ an agency or  
 573 fiduciary account confided to ~~[it and]~~ the trust company.

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

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

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

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

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

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

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

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

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

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

587 (3) ~~[that in any suit or]~~ In a proceeding relating to the existence, condition, management or  
 588 administration of [the] an account described in Subsection (1), [the court in which the  
 589 suit is pending may] a court may require disclosure of [any such] the communication or  
 590 writing.

591 (4) ~~[-A]~~ Nothing in this section precludes a trust company [is not, however, precluded] from  
 592 filing an action in court to protect trust account property or as authorized under Title  
 593 75B, Trusts.

594 Section 11. Section **7-5-108**, which is renumbered from Section 7-5-7 is renumbered  
 595 and amended to read:

596 **[7-5-7] 7-5-108 . Management and investment of trust money.**

597 (1) ~~[Money received or held by a trust company as agent or fiduciary, whether for~~  
 598 ~~investment or distribution, shall be invested or distributed as soon as practicable]~~ A trust  
 599 company shall invest or distribute money the trust company receives or holds as an  
 600 agent or a fiduciary, whether for investment or distribution, as soon as practicable as  
 601 authorized under the instrument creating the account[-and] .

602 (2) A trust company may not [be held uninvested] hold the money described in Subsection  
 603 (1) without investing the money for any longer than is reasonably necessary.

604 ~~[(2)]~~ (3) If the instrument creating an agency or fiduciary account [contains provisions  
 605 authorizing] authorizes the trust company, [its] the trust company's officers, or [its] the

606 trust company's directors to exercise~~[their]~~ discretion ~~[in the matter of]~~ over investments,  
 607 the trust company, the trust company's officers, or the trust company's directors may  
 608 invest money ~~[held]~~ the trust company holds in the trust account under that instrument [   
 609 ~~may be invested~~ ]only in ~~[those classes]~~ a class of securities ~~[which are approved by the~~  
 610 ~~directors of the trust company or a committee of directors appointed for that purpose]~~  
 611 that the directors of the trust company, or a committee of directors that the directors  
 612 appoint, approve.~~[-]~~

613 (4) If a trust company acts in ~~[any]~~ an agency or a fiduciary capacity under appointment by a  
 614 court with jurisdiction, ~~[it]~~ the trust company shall make and account for the investments  
 615 according to Title 75B, Trusts, unless the underlying instrument provides otherwise.

616 ~~[(3)]~~ (5)(a) ~~[Money received or held]~~ A trust company that is also a depository institution  
 617 may deposit into the trust company's commercial department or savings department  
 618 money that the trust company holds or receives as an agent or a fiduciary ~~[by any~~  
 619 ~~trust company which is also a depository institution,~~ ]whether for investment or  
 620 distribution, ~~[may be deposited in the commercial department or savings department~~  
 621 ~~of that trust company]~~to the credit of ~~[its]~~ the trust company's trust department.~~[-]~~

622 (b) ~~[Whenever the money so deposited in]~~ When the money that a trust company  
 623 deposits, in accordance with Subsection (5)(a), into a fiduciary or managing agency  
 624 account ~~[exceed]~~ exceeds the amount of federal deposit insurance applicable to that  
 625 fiduciary or managing agency account, the trust company shall deliver to the trust  
 626 department or put under ~~[its]~~ the trust department's control collateral security as [  
 627 outlined] described in ~~[Regulation 9.10 of the Comptroller of the Currency]~~ 12 C.F.R.  
 628 Sec. 9.10.

629 (c) ~~[-However, if]~~ If the instrument ~~[creating such]~~ that creates a fiduciary or managing  
 630 agency account described in Subsection (5)(b) expressly provides that a trust  
 631 company may deposit money ~~[may be deposited to]~~ into the commercial or savings  
 632 department of the trust company~~[-then]~~ :

633 (i) the trust company may deposit the money ~~[may be so deposited]~~without setting  
 634 aside collateral securities as required under this section; and~~[-]~~

635 (ii) ~~[the deposits]~~in the event of insolvency, a deposit of ~~[any such]~~ the trust company  
 636 shall be treated as other general deposits are treated.

637 (d) ~~[-]~~A trust company that deposits trust funds ~~[in its]~~ into the trust company's  
 638 commercial or savings department ~~[shall be]~~ is liable for interest on the deposits only  
 639 at the rates, if any, ~~[paid by the trust company]~~ the trust company pays on deposits of

- 640 like kind not made to the credit of [its] the trust company's trust department.
- 641 ~~[(b)]~~ (6)(a) ~~[Money received or held]~~ A trust company may deposit in an affiliated
- 642 depository institution money that a trust company receives or holds as agent or
- 643 fiduciary ~~[by a trust company]~~, whether for investment or distribution ~~[, may be~~
- 644 ~~deposited in an affiliated depository institution]~~.
- 645 (b) ~~[-Whenever the money so deposited in]~~ If money that a trust company deposits, in
- 646 accordance with Subsection (6)(a), into a fiduciary or managing agency account [
- 647 exceed] exceeds the amount of federal deposit insurance applicable to that account,
- 648 the depository institution shall deliver to the trust company or put under [its] the trust
- 649 company's control collateral security as ~~[outlined in Regulation 9.10 of the~~
- 650 Comptroller of the Currency] described in 12 C.F.R. Sec. 9.10.
- 651 (c) ~~[-However, if]~~ If the instrument [creating] that creates the fiduciary or managing
- 652 agency account described in Subsection (6)(b) expressly permits the trust company to
- 653 deposit money [to be deposited in] into the affiliated depository institution[-] :
- 654 (i) the trust company may deposit money [may be so deposited-] without setting aside
- 655 collateral securities [as required under] in accordance with this section; and[-]
- 656 (ii) ~~[deposits-]~~ in the event of insolvency of the depository institution, deposits the
- 657 trust company makes shall be treated as other general deposits are treated.
- 658 (d) ~~[-]~~ A trust company that deposits trust money [in] into an affiliated depository
- 659 institution is liable for interest on the deposits only at the rates, if any, [paid by-] the
- 660 depository institution pays on deposits of like kind.
- 661 ~~[(4)]~~ (7) In carrying out all aspects of [its] the trust company's trust business, a trust company [
- 662 ~~shall have]~~ has all the powers, privileges, and duties as set forth in Sections 75B-2-813
- 663 and 75B-2-814 with respect to trustees, whether ~~[or not-]~~ the trust company ~~[is acting]~~ acts
- 664 as a trustee as defined in Section 75B-1-101.
- 665 ~~[(5)]~~ (8) Nothing in this section may alter, amend, or limit the powers of a trust company
- 666 acting in a fiduciary capacity as specified in the particular instrument or order creating
- 667 the fiduciary relationship.
- 668 Section 12. Section **7-5-109**, which is renumbered from Section 7-5-8 is renumbered
- 669 and amended to read:
- 670 **[7-5-8] 7-5-109 . Segregation of trust assets -- Books and records required --**
- 671 **Examination -- Trust property not subject to claims or debts against trust company.**
- 672 (1) A trust company exercising the powers to act as an agent or fiduciary under this
- 673 chapter shall[-] :

- 674 (a) segregate all assets ~~[held]~~ the trust company holds in any agency or fiduciary capacity  
 675 from the general assets of the trust company; and~~[-shall-]~~
- 676 (b) keep a separate set of books and records showing in proper detail ~~[all transactions~~  
 677 ~~engaged in under authority of]~~ each transaction in which the trust company engages in  
 678 accordance with this chapter.
- 679 (2) ~~[-These books and records shall be open to inspection by the commissioner and shall be~~  
 680 ~~examined by him or by examiners appointed by him as provided in Chapter 1, General~~  
 681 ~~Provisions, or examined by other appropriate regulating agencies or both]~~ The trust  
 682 company shall allow the commissioner, an examiner the commissioner appoints in  
 683 accordance with Chapter 1, General Provisions, and an appropriate regulating agency to  
 684 inspect books and records described in Subsection (1).
- 685 (3) ~~[-]Property [held]~~ the trust company holds in an agency or fiduciary capacity ~~[by a trust~~  
 686 ~~company-]~~ is not subject to claims or debts against the trust company.

687 Section 13. Section **7-5-110**, which is renumbered from Section 7-5-9 is renumbered  
 688 and amended to read:

689 **[7-5-9] 7-5-110 . Registration of investment in name of nominee -- Records --**  
 690 **Possession of investment.**

- 691 (1) As used in this section, "security" means the same as that term is defined in Section  
 692 75-1-201.
- 693 ~~[(4)]~~ (2) A trust company may ~~[cause any-]~~ require that a person register and hold a security;  
 694 as defined in Section 75-1-201, held in its] that the trust company holds in the trust  
 695 company's agency or fiduciary capacity ~~[to be registered and held-]~~ in the name of a  
 696 nominee or nominees of the trust company.
- 697 (3) ~~[-]~~ The trust company ~~[shall be]~~ is liable for the acts of ~~[any such]~~ a nominee described in  
 698 Subsection (2) with respect to any investment [so registered] registered in accordance  
 699 with Subsection (2).~~[-]~~
- 700 (4) ~~[Investments-]~~ An investment other than [securities] a security held in the name of a  
 701 nominee on June 30, 1981, may continue to be held in that manner.
- 702 ~~[(2)]~~ (5) ~~[The records of the]~~ For an investment described in Subsection (4), the trust  
 703 company shall:
- 704 (a) ~~[-]~~ at all times maintain records that show the trust company's ownership of [any such]  
 705 an investment;  
 706 (b) ~~[-which investment shall be in the]~~ maintain possession or control ~~[of the trust~~  
 707 ~~company]~~ over the investment; and

708 (c) ~~[be kept]~~ keep the investment separate and apart from the assets of the trust  
 709 company.

710 Section 14. Section **7-5-111**, which is renumbered from Section 7-5-10 is renumbered  
 711 and amended to read:

712 ~~[7-5-10]~~ **7-5-111 . Lending trust funds to trust company, officer, director, or**  
 713 **employee a felony.**

714 (1) Except as provided in Subsection (2), a trust company may not lend funds that the trust  
 715 company holds in a trust account in accordance with this chapter to:

716 (a) the trust company;

717 (b) an officer of the trust company;

718 (c) a director of the trust company; or

719 (d) an employee of the trust company.

720 (2) ~~[Unless]~~ A trust company may lend funds to a person described in Subsection (1) if:

721 (a) ~~[expressly permitted in]~~ the instrument creating a trust account authorizes the trust  
 722 company to lend funds to the person;

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

725 (c) ~~[by a court order as permitted in]~~ a court issues an order in accordance with Section  
 726 75B-2-802~~[, a trust company may not lend to itself or to any officer or director or~~  
 727 employee of the trust company any funds held in any trust account under the powers  
 728 conferred in this chapter].

729 ~~[(2)]~~ (3) ~~[Any]~~ An officer, a director, or an employee ~~[making such a loan]~~ is guilty of a third  
 730 degree felony if the officer, director, or employee:

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

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

734 Section 15. Section **7-5-112**, which is renumbered from Section 7-5-11 is renumbered  
 735 and amended to read:

736 ~~[7-5-11]~~ **7-5-112 . Self-dealing with trust property -- Own stock as trust property**  
 737 **-- Policies for dealing with trust securities.**

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

740 (a) invest funds ~~[held]~~ the trust company holds as an agent or fiduciary in stock or

741 obligations of~~[-, or with such funds acquire property from,]~~ the trust company or any

742 of [its] the trust company's directors, officers or employees~~[-, nor shall]~~ ;  
 743 (b) use funds the trust company holds as an agent or fiduciary to acquire property from  
 744 the trust company or any of the trust company's directors, officers, or employees; or  
 745 (c) ~~[-a trust company -]~~sell property ~~[held]~~ the trust company holds as an agent or  
 746 fiduciary to the ~~[company]~~ trust company or to any of [its] trust company's directors,  
 747 officers, or employees.

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

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

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

760 Section 16. Section **7-5-113**, which is renumbered from Section 7-5-12 is renumbered  
 761 and amended to read:

762 **[7-5-12] 7-5-113 . Directors' audit of trust business -- Report available to**  
 763 **commissioner or examiners -- Examinations in lieu of audit.**

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

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

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

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

774 (2) ~~[-A-]~~ Upon request, the committee of the board of directors shall make available a report  
 775 of the audit described in Subsection (1), ~~[together with the action taken thereon]~~

776 including any action the committee of the board of directors takes as a result of the audit, [  
777 shall be made available]to the commissioner, the commissioner's examiners, or the  
778 examiners of other trust company regulating agencies[~~upon request~~].

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

783 Section 17. Section **7-5-114**, which is renumbered from Section 7-5-13 is renumbered  
784 and amended to read:

785 **[7-5-13] 7-5-114 . Collective investment funds.**

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

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

789 (b) participate in collective investment funds established by an affiliate of the trust  
790 company, if:

791 (i) the affiliate is authorized under the laws of [~~its~~] the trust company's chartering  
792 authority to establish a collective investment fund in which [~~its~~] the trust company's  
793 affiliates may participate; and

794 (ii) the plan establishing the collective investment fund specifically authorized the  
795 participation.

796 (2) [~~Funds held by a trust company may be invested~~] A person may invest funds that a trust  
797 company holds collectively in a collective investment fund in accordance with the rules  
798 prescribed by the appropriate governmental regulatory agency or agencies, if [~~this~~] the  
799 instrument, judgment, decree, or order creating the regulatory relationship does not  
800 specifically prohibit the investment[~~is not specifically prohibited under the instrument,~~  
801 ~~judgment, decree, or order creating the regulatory relationship~~].

802 (3)(a) Unless ordered to do so by a court, a trust company operating collective  
803 investment funds is not required to render a court accounting [~~with regard to those~~  
804 ~~funds~~] for the collective investment funds.

805 (b) [~~but the~~] A trust company may petition a court with jurisdiction under Title 78A,  
806 Judiciary and Judicial Administration, to secure approval of [~~such an~~] a court  
807 accounting on [~~such conditions as the court may establish~~] conditions the court  
808 establishes.

809 (4) This section applies to all relationships in existence on or after May 1, 1989.

810 Section 18. Section **7-5-115**, which is renumbered from Section 7-5-14 is renumbered  
811 and amended to read:

812 **[7-5-14] 7-5-115 . Mergers, consolidations, acquisitions, transfers, or**  
813 **reorganizations involving entities engaged in trust business -- Succession of rights and**  
814 **duties -- Petition for appointment of another trust company.**

815 (1) As used in this section:

816 (a) "Eligible trust company" means any of the following that is authorized under this  
817 chapter or the laws of the United States to engage in the trust business in this state:

818 (i) a trust company;

819 (ii) a depository institution; or

820 (iii) a corporation.

821 (b) "Reorganization" [~~includes~~] means:

822 (i) the creation by a trust company of a subsidiary corporation that is:

823 (A) wholly owned by that trust company; and

824 (B) organized solely for the purpose of conducting all or any portion of the trust  
825 business of that trust company; or

826 (ii) [~~any~~] a merger or other combination between a trust company and:

827 (A) a wholly owned trust company subsidiary of that trust company; or

828 (B) a wholly owned trust company subsidiary of the depository institution holding  
829 company [~~which~~] that owns or controls that trust company.

830 (2) Notwithstanding any provision of law to the contrary, an eligible trust company may,  
831 subject to Sections 7-1-702, 7-1-704, and 7-1-705:

832 (a)(i) merge or consolidate with another eligible trust company;

833 (ii) acquire control of another eligible trust company;

834 (iii) acquire all or a portion of the assets and trust business of another eligible trust  
835 company;

836 (iv) assume all or any portion of the liabilities of another eligible trust company;

837 (v) transfer control to another eligible trust company;

838 (vi) transfer all or a portion of [~~its~~] the trust company's assets and trust business to  
839 another eligible trust company; or

840 (vii) transfer all or a portion of [~~its~~] the trust company's liabilities to another eligible  
841 trust company; or

842 (b) [~~reorganize~~] conduct a reorganization.

843 (3)(a) Subject to Subsection (3)(b), upon final approval by the commissioner of [~~any~~] a

844 merger, a consolidation, an acquisition of control, an acquisition of assets, an  
 845 assumption of liabilities, or a reorganization, and upon written notice of [this] the final  
 846 approval to [all persons] each person entitled to and then receiving trust accountings  
 847 from the transferring or reorganizing trust company, the resulting or acquiring trust  
 848 company shall, without court proceedings or a court order, succeed to[-] :

849 (i) [all] the transferring or reorganizing trust company's rights, privileges, duties,  
 850 obligations, and undertakings under all trust instruments, agency and fiduciary  
 851 relationships and arrangements[-] ; and[-]

852 (ii) all other trust business the transferring or reorganizing trust company transferred  
 853 and acquired in [the manner authorized by] accordance with this section.

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

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

864 Section 19. Section **7-5-116**, which is renumbered from Section 7-5-15 is renumbered  
 865 and amended to read:

866 **[7-5-15] 7-5-116 . Assets of trust company in possession of the commissioner.**

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

872 Section 20. Section **7-5-117** is enacted to read:

873 **7-5-117 . Compensation requirements for settlor's attorney and attorney-related**  
 874 **person.**

875 (1) As used in this section:

876 (a) "Appointee" means a trustee, a trust director, a trust protector, or other person who,  
 877 by appointment, performs an official role or responsibility in a trust activity.

- 878 (b) "Attorney" means an attorney described in Subsection 7-5-101(7)(b)(xiv).
- 879 (c) "Attorney-related person" means:
- 880 (i) a law firm or other entity to which the settlor's attorney maintains an active
- 881 affiliation at the time of the execution of the trust, an amendment to the trust, or
- 882 any other modification to the trust;
- 883 (ii) an individual employed by the law firm or other entity described in Subsection
- 884 (1)(c)(i);
- 885 (iii) a spouse or cohabitant of the settlor's attorney;
- 886 (iv) a child, parent, grandparent, or sibling of the settlor's attorney, a spouse of the
- 887 settlor's attorney, or a cohabitant of the settlor's attorney; and
- 888 (v) a spouse of an individual described in Subsections (1)(c)(ii) and (iv).
- 889 (d) "Settlor's attorney" means an attorney licensed to practice law in this state or another
- 890 state who advised, drafted, supervised, or participated in any way in the planning,
- 891 execution, or implementation of the trust, an amendment to the trust, or a
- 892 modification to the trust.
- 893 (e) "Trust activity" means activity in which a person acts in an agency or a fiduciary
- 894 capacity, including as a personal representative, an executor, an administrator, a
- 895 conservator, a guardian, an assignee, a receiver, a depository, or a trustee under
- 896 appointment as trustee for a purpose permitted by law.
- 897 (2) A settlor's attorney or an attorney-related person may receive compensation for
- 898 engaging in a trust activity as an appointee if:
- 899 (a) the settlor is an attorney-related person; and
- 900 (b) the settlor provides the settlor's attorney with an acknowledgment similar in
- 901 substance to the acknowledgment described in Subsection (3) contemporaneously
- 902 with:
- 903 (i) the execution of the trust instrument in which the settlor's attorney or an
- 904 attorney-related person is appointed to a compensated role or responsibility with
- 905 respect to administration of the trust; or
- 906 (ii) the appointment of the settlor's attorney or an attorney-related person to a
- 907 compensated role or responsibility with respect to administration of the trust.
- 908 (3) If a settlor designates the settlor's attorney or an attorney-related person as an appointee
- 909 with compensation arising from the appointee's role or responsibility with respect to the
- 910 trust, the settlor shall provide the settlor's attorney with an acknowledgment separate
- 911 from the trust instrument that states that the settlor:

- 912 (a) designates the settlor's attorney or attorney-related person to the appointed role or  
 913 responsibility; and
- 914 (b) understands that:
- 915 (i) except for a person specifically disqualified within the trust instrument, any person  
 916 is eligible to be appointed as a trustee, trust director, trust protector, or similar  
 917 appointee, regardless of the person's state of residence, including a family  
 918 member, friend, or corporate fiduciary;
- 919 (ii) a person, including an attorney, who serves as an appointee with respect to the  
 920 trust is entitled to receive reasonable compensation for serving in that capacity;  
 921 and
- 922 (iii) compensation payable to settlor's attorney or to an attorney-related person is in  
 923 addition to any attorney fees payable to the settlor's attorney and law firm for legal  
 924 services rendered to the trustee, trust director, trust protector, or other appointee  
 925 engaging in a trust activity.
- 926 (4) Failure to obtain the settlor's acknowledgment under Subsection (3) does not:
- 927 (a) disqualify the settlor's attorney or an attorney-related person from serving as an  
 928 appointee; or
- 929 (b) affect the validity of the trust instrument.
- 930 (5) This section applies to all appointments made in accordance with a trust instrument:
- 931 (a) that a resident of this state executes on or after May 6, 2026; or
- 932 (b) amended or modified by a resident of this state on or after May 6, 2026, if the trust  
 933 instrument designates the settlor's attorney or an attorney-related person as an  
 934 appointee.
- 935 (6) Nothing in this section prevents an attorney from charging a fee for a service that is not  
 936 a trust activity.

937 Section 21. Section **7-18a-302** is amended to read:

938 **7-18a-302 . Trust business.**

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

941 Section 22. Section **7-22-101** is amended to read:

942 **7-22-101 . Definitions -- Exemptions.**

943 (1) As used in this chapter:

- 944 (a) "Escrow" means an agreement, express or implied, that provides for one or more  
 945 parties to deliver or entrust money, a certificate of deposit, a security, a negotiable

946 instrument, a deed, or other property or asset to another person to be held, paid, or  
 947 delivered in accordance with terms and conditions prescribed in the agreement.

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

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

953 (2) This chapter does not apply to:

954 (a) a trust company authorized to engage in the trust business in Utah in accordance with  
 955 Chapter 5, Trust Business;

956 (b) a person other than an escrow agent regulated under this chapter that is exempted  
 957 from the definition of trust business in [~~Subsection 7-5-1(1)~~] Section 7-5-101;

958 (c) a depository institution chartered by a state or the federal government that is engaged  
 959 in business as a depository institution in Utah;

960 (d) the Utah Board of Higher Education, the Utah Higher Education Assistance  
 961 Authority, or the [~~State Treasurer~~] state treasurer; and

962 (e) a person licensed under Title 31A, Insurance Code.

963 Section 23. Section **16-15-102** is amended to read:

964 **16-15-102 . Definition of business trust.**

965 As used in this chapter:

966 (1) "Beneficiary" means a person holding a certificate representing a beneficial interest in  
 967 the trust estate and assets.

968 (2) "Business trust" [~~has the same meaning as~~] means the same as that term is defined in  
 969 Section [~~7-5-1~~] 7-5-101.

970 (3) "Division" means the Division of Corporations and Commercial Code.

971 (4) "Person" means an individual, general partnership, limited liability partnership, limited  
 972 partnership, limited liability company, limited association, domestic or foreign trust,  
 973 estate, association, or corporation.

974 Section 24. Section **31A-23a-406** is amended to read:

975 **31A-23a-406 . Title insurance producer's business.**

976 (1) As used in this section:

977 (a) "Automated clearing house network" or "ACH network" means a national electronic  
 978 funds transfer system regulated by the Federal Reserve and the Office of the  
 979 Comptroller of the Currency.

- 980 (b) "Depository institution" means the same as that term is defined in Section 7-1-103.
- 981 (c) "Funds transfer system" means the same as that term is defined in Section
- 982 70A-4a-105.
- 983 (2) An individual title insurance producer or agency title insurance producer may do escrow
- 984 involving real property transactions if all of the following exist:
- 985 (a) the individual title insurance producer or agency title insurance producer is licensed
- 986 with:
- 987 (i) the title line of authority; and
- 988 (ii) the escrow subline of authority;
- 989 (b) the individual title insurance producer or agency title insurance producer is appointed
- 990 by a title insurer authorized to do business in the state;
- 991 (c) except as provided in Subsection (4), the individual title insurance producer or
- 992 agency title insurance producer issues one or more of the following as part of the
- 993 transaction:
- 994 (i) an owner's policy offering title insurance;
- 995 (ii) a lender's policy offering title insurance; or
- 996 (iii) if the transaction does not involve a transfer of ownership, an endorsement to an
- 997 owner's or a lender's policy offering title insurance;
- 998 (d) money deposited with the individual title insurance producer or agency title
- 999 insurance producer in connection with any escrow is deposited:
- 1000 (i) in a federally insured depository institution, as defined in Section 7-1-103, that:
- 1001 (A) has a branch in this state, if the individual title insurance producer or agency
- 1002 title insurance producer depositing the money is a resident licensee; and
- 1003 (B) is authorized by the depository institution's primary regulator to engage in
- 1004 trust business, as defined in Section [~~7-5-1~~] 7-5-101, in this state; and
- 1005 (ii) in a trust account that is separate from all other trust account money that is not
- 1006 related to real estate transactions;
- 1007 (e) money deposited with the individual title insurance producer or agency title
- 1008 insurance producer in connection with any escrow is the property of the one or more
- 1009 persons entitled to the money under the provisions of the escrow;
- 1010 (f) money deposited with the individual title insurance producer or agency title insurance
- 1011 producer in connection with an escrow is segregated escrow by escrow in the records
- 1012 of the individual title insurance producer or agency title insurance producer;
- 1013 (g) earnings on money held in escrow may be paid out of the trust account to any person

- 1014 in accordance with the conditions of the escrow;
- 1015 (h) the escrow does not require the individual title insurance producer or agency title  
1016 insurance producer to hold:
- 1017 (i) construction money; or
- 1018 (ii) money held for exchange under Section 1031, Internal Revenue Code; and
- 1019 (i) the individual title insurance producer or agency title insurance producer shall  
1020 maintain a physical office in Utah staffed by a person with an escrow subline of  
1021 authority who processes the escrow.
- 1022 (3) Notwithstanding Subsection (2), an individual title insurance producer or agency title  
1023 insurance producer may engage in the escrow business if:
- 1024 (a) the escrow involves:
- 1025 (i) a mobile home;
- 1026 (ii) a grazing right;
- 1027 (iii) a water right; or
- 1028 (iv) other personal property authorized by the commissioner; and
- 1029 (b) the individual title insurance producer or agency title insurance producer complies  
1030 with this section except for Subsection (2)(c).
- 1031 (4)(a) Subsection (2)(c) does not apply if the transaction is for the transfer of real  
1032 property from the School and Institutional Trust Lands Administration.
- 1033 (b) This subsection does not prohibit an individual title insurance producer or agency  
1034 title insurance producer from issuing a policy described in Subsection (2)(c) as part  
1035 of a transaction described in Subsection (4)(a).
- 1036 (5) Money held in escrow:
- 1037 (a) is not subject to any debts of the individual title insurance producer or agency title  
1038 insurance producer;
- 1039 (b) may only be used to fulfill the terms of the individual escrow under which the money  
1040 is accepted; and
- 1041 (c) may not be used until the conditions of the escrow are met.
- 1042 (6) Assets or property other than escrow money received by an individual title insurance  
1043 producer or agency title insurance producer in accordance with an escrow shall be  
1044 maintained in a manner that will:
- 1045 (a) reasonably preserve and protect the asset or property from loss, theft, or damages; and  
1046 (b) otherwise comply with the general duties and responsibilities of a fiduciary or bailee.
- 1047 (7)(a) A check from the trust account described in Subsection (2)(d) may not be drawn,

1048 executed, or dated, or money otherwise disbursed unless the segregated trust account  
1049 from which money is to be disbursed contains a sufficient credit balance consisting of  
1050 collected and cleared money at the time the check is drawn, executed, or dated, or  
1051 money is otherwise disbursed.

1052 (b) As used in this Subsection (7), money is considered to be "collected and cleared,"  
1053 and may be disbursed as follows:

1054 (i) cash may be disbursed on the same day the cash is deposited;

1055 (ii) a wire transfer may be disbursed on the same day the wire transfer is deposited;

1056 (iii) the proceeds of one or more of the following financial instruments may be  
1057 disbursed on the same day the financial instruments are deposited if received from  
1058 a single party to the real estate transaction and if the aggregate of the financial  
1059 instruments for the real estate transaction is less than \$10,000:

1060 (A) a cashier's check, certified check, or official check that is drawn on an existing  
1061 account at a federally insured financial institution;

1062 (B) a check drawn on the trust account of a principal broker or associate broker  
1063 licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if  
1064 the individual title insurance producer or agency title insurance producer has  
1065 reasonable and prudent grounds to believe sufficient money will be available  
1066 from the trust account on which the check is drawn at the time of disbursement  
1067 of proceeds from the individual title insurance producer or agency title  
1068 insurance producer's trust account;

1069 (C) a personal check not to exceed \$500 per closing; or

1070 (D) a check drawn on the trust account of another individual title insurance  
1071 producer or agency title insurance producer, if the individual title insurance  
1072 producer or agency title insurance producer in the escrow transaction has  
1073 reasonable and prudent grounds to believe that sufficient money will be  
1074 available for withdrawal from the account upon which the check is drawn at  
1075 the time of disbursement of money from the trust account of the individual title  
1076 insurance producer or agency title insurance producer in the escrow transaction;

1077 (iv) deposits made through the ACH network may be disbursed on the same day the  
1078 deposit is made if:

1079 (A) the transferred funds remain uniquely designated and traceable throughout the  
1080 entire ACH network transfer process;

1081 (B) except as a function of the ACH network process, the transferred funds are not

- 1082 subject to comingling or third party access during the transfer process;
- 1083 (C) the transferred funds are deposited into the title insurance producer's trust
- 1084 account and are available for disbursement; and
- 1085 (D) either the ACH network payment type or the title insurance producer's
- 1086 systems prevent the transaction from being unilaterally canceled or reversed by
- 1087 the consumer once the transferred funds are deposited to the individual title
- 1088 insurance producer or agency title producer; or
- 1089 (v) deposits may be disbursed on the same day the deposit is made if the deposit is
- 1090 made via:
- 1091 (A) the Federal Reserve Bank through the Federal Reserve's Fedwire funds
- 1092 transfer system; or
- 1093 (B) a funds transfer system provided by an association of federally insured
- 1094 depository institutions.
- 1095 (c) A check or deposit not described in Subsection (7)(b) may be disbursed:
- 1096 (i) within the time limits provided under the Expedited Funds Availability Act, 12
- 1097 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal
- 1098 Reserve System; or
- 1099 (ii) upon notification from the financial institution to which the money has been
- 1100 deposited that final settlement has occurred on the deposited financial instrument.
- 1101 (8) An individual title insurance producer or agency title insurance producer shall maintain
- 1102 a record of a receipt or disbursement of escrow money.
- 1103 (9) An individual title insurance producer or agency title insurance producer shall comply
- 1104 with:
- 1105 (a) Section 31A-23a-409;
- 1106 (b) Title 46, Chapter 1, Notaries Public Reform Act; and
- 1107 (c) any rules adopted by the Title and Escrow Commission, subject to Section 31A-2-404,
- 1108 that govern escrows.
- 1109 (10) If an individual title insurance producer or agency title insurance producer conducts a
- 1110 search for real estate located in the state, the individual title insurance producer or
- 1111 agency title insurance producer shall conduct a reasonable search of the public records.
- 1112 Section 25. Section **31A-23a-409** is amended to read:
- 1113 **31A-23a-409 . Trust obligation for money collected.**
- 1114 (1)(a) Subject to Subsection (7), a licensee is a trustee for money that is paid to, received
- 1115 by, or collected by a licensee for forwarding to insurers or to insureds.

- 1116 (b)(i) Except as provided in Subsection (1)(b)(ii), a licensee may not commingle trust  
1117 funds with:
- 1118 (A) the licensee's own money; or  
1119 (B) money held in any other capacity.
- 1120 (ii) This Subsection (1)(b) does not apply to:
- 1121 (A) amounts necessary to pay bank charges; and  
1122 (B) money paid by insureds and belonging in part to the licensee as a fee or  
1123 commission.
- 1124 (c) Except as provided under Subsection (4), a licensee owes to insureds and insurers the  
1125 fiduciary duties of a trustee with respect to money to be forwarded to insurers or  
1126 insureds through the licensee.
- 1127 (d)(i) Unless money is sent to the appropriate payee by the close of the next business  
1128 day after their receipt, the licensee shall deposit them in an account authorized  
1129 under Subsection (2).
- 1130 (ii) Money deposited under this Subsection (1)(d) shall remain in an account  
1131 authorized under Subsection (2) until sent to the appropriate payee.
- 1132 (2) Money required to be deposited under Subsection (1) shall be deposited:
- 1133 (a) into a federally insured trust account in a depository institution, as defined in Section  
1134 7-1-103, which:
- 1135 (i) has a branch in this state, if the individual title insurance producer or agency title  
1136 insurance producer depositing the money is a resident licensee;
- 1137 (ii) has federal deposit insurance; and
- 1138 (iii) is authorized by its primary regulator to engage in the trust business, as defined  
1139 by Section ~~[7-5-1]~~ 7-5-101, in this state; or
- 1140 (b) into some other account, that:
- 1141 (i) the commissioner approves by rule or order; and  
1142 (ii) provides safety comparable to an account described in Subsection (2)(a).
- 1143 (3) It is not a violation of Subsection (2)(a) if the amounts in the accounts exceed the  
1144 amount of the federal insurance on the accounts.
- 1145 (4) A trust account into which money is deposited may be interest bearing. The interest  
1146 accrued on the account may be paid to the licensee, so long as the licensee otherwise  
1147 complies with this section and with the contract with the insurer.
- 1148 (5) A depository institution or other organization holding trust funds under this section may  
1149 not offset or impound trust account funds against debts and obligations incurred by the

1150 licensee.

1151 (6) A licensee who, not being lawfully entitled to do so, diverts or appropriates any portion  
1152 of the money held under Subsection (1) to the licensee's own use, is guilty of theft under  
1153 Title 76, Chapter 6, Part 4, Theft. Sanctions under Section 31A-2-308 also apply.

1154 (7) A nonresident licensee:

1155 (a) shall comply with Subsection (1)(a) by complying with the trust account  
1156 requirements of the nonresident licensee's home state; and

1157 (b) is not required to comply with the other provisions of this section.

1158 Section 26. Section **59-10-202** is amended to read:

1159 **59-10-202 . Additions to and subtractions from unadjusted income of a resident**  
1160 **or nonresident estate or trust.**

1161 (1) There shall be added to unadjusted income of a resident or nonresident estate or trust:

1162 (a) a lump sum distribution allowable as a deduction under Section 402(d)(3), Internal  
1163 Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue  
1164 Code, in determining adjusted gross income;

1165 (b) except as provided in Subsection (3), for bonds, notes, and other evidences of  
1166 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and  
1167 other evidences of indebtedness:

1168 (i) issued by one or more of the following entities:

1169 (A) a state other than this state;

1170 (B) the District of Columbia;

1171 (C) a political subdivision of a state other than this state; or

1172 (D) an agency or instrumentality of an entity described in Subsections (1)(b)(i)(A)  
1173 through (C); and

1174 (ii) to the extent the interest is not included in federal taxable income on the  
1175 taxpayer's federal income tax return for the taxable year;

1176 (c) any portion of federal taxable income for a taxable year if that federal taxable income  
1177 is derived from stock:

1178 (i) in an S corporation; and

1179 (ii) that is held by an electing small business trust;

1180 (d) the amount withdrawn under Title 53H, Chapter 10, Utah Education Savings, from

1181 the account of a resident or nonresident estate or trust that is an account owner as

1182 defined in Section 53H-10-101, for the taxable year for which the amount is

1183 withdrawn, if that amount withdrawn from the account of the resident or nonresident

- 1184 estate or trust that is the account owner:
- 1185 (i) is not expended for:
- 1186 (A) higher education costs as defined in Section 53H-10-201; or
- 1187 (B) a payment or distribution that qualifies as an exception to the additional tax
- 1188 for distributions not used for educational expenses provided in Sections 529(c)
- 1189 and 530(d), Internal Revenue Code; and
- 1190 (ii) is:
- 1191 (A) subtracted by the resident or nonresident estate or trust:
- 1192 (I) that is the account owner; and
- 1193 (II) on the resident or nonresident estate's or trust's return filed under this
- 1194 chapter for a taxable year beginning on or before December 31, 2007; or
- 1195 (B) used as the basis for the resident or nonresident estate or trust that is the
- 1196 account owner to claim a tax credit under Section 59-10-1017; and
- 1197 (e) any fiduciary adjustments required by Section 59-10-210.
- 1198 (2) There shall be subtracted from unadjusted income of a resident or nonresident estate or
- 1199 trust:
- 1200 (a) the interest or a dividend on obligations or securities of the United States and its
- 1201 possessions or of any authority, commission, or instrumentality of the United States,
- 1202 to the extent that interest or dividend is included in gross income for federal income
- 1203 tax purposes for the taxable year but exempt from state income taxes under the laws
- 1204 of the United States, but the amount subtracted under this Subsection (2) shall be
- 1205 reduced by any interest on indebtedness incurred or continued to purchase or carry
- 1206 the obligations or securities described in this Subsection (2), and by any expenses
- 1207 incurred in the production of interest or dividend income described in this Subsection
- 1208 (2) to the extent that such expenses, including amortizable bond premiums, are
- 1209 deductible in determining federal taxable income;
- 1210 (b) income of an irrevocable resident trust if:
- 1211 (i) the income would not be treated as state taxable income derived from Utah
- 1212 sources under Section 59-10-204 if received by a nonresident trust;
- 1213 (ii) the trust first became a resident trust on or after January 1, 2004;
- 1214 (iii) no assets of the trust were held, at any time after January 1, 2003, in another
- 1215 resident irrevocable trust created by the same settlor or the spouse of the same
- 1216 settlor;
- 1217 (iv) the trustee of the trust is a trust company as that term is defined in [Subsection

- 1218 7-5-1(1)(d)] Section 7-5-101;
- 1219 (v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the  
1220 settlor or any other person is treated as an owner of any portion of the trust under  
1221 Subtitle A, Subchapter J, Subpart E of the Internal Revenue Code; and
- 1222 (vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on  
1223 indebtedness incurred or continued to purchase or carry the assets generating the  
1224 income described in this Subsection (2)(b), and by any expenses incurred in the  
1225 production of income described in this Subsection (2)(b), to the extent that those  
1226 expenses, including amortizable bond premiums, are deductible in determining  
1227 federal taxable income;
- 1228 (c) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or  
1229 nonresident estate or trust derived from a deceased Ute tribal member:
- 1230 (i) during a time period that the Ute tribal member resided on homesteaded land  
1231 diminished from the Uintah and Ouray Reservation; and
- 1232 (ii) from a source within the Uintah and Ouray Reservation;
- 1233 (d) any amount:
- 1234 (i) received by a resident or nonresident estate or trust;
- 1235 (ii) that constitutes a refund of taxes imposed by:
- 1236 (A) a state; or
- 1237 (B) the District of Columbia; and
- 1238 (iii) to the extent that amount is included in total income on that resident or  
1239 nonresident estate's or trust's federal tax return for estates and trusts for that  
1240 taxable year;
- 1241 (e) the amount of a railroad retirement benefit:
- 1242 (i) paid:
- 1243 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231  
1244 et seq.;
- 1245 (B) to a resident or nonresident estate or trust derived from a deceased resident or  
1246 nonresident individual; and
- 1247 (C) for the taxable year; and
- 1248 (ii) to the extent that railroad retirement benefit is included in total income on that  
1249 resident or nonresident estate's or trust's federal tax return for estates and trusts;
- 1250 (f) an amount:
- 1251 (i) received by a resident or nonresident estate or trust if that amount is derived from

- 1252 a deceased enrolled member of an American Indian tribe; and
- 1253 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
- 1254 part on that amount in accordance with:
- 1255 (A) federal law;
- 1256 (B) a treaty; or
- 1257 (C) a final decision issued by a court of competent jurisdiction;
- 1258 (g) the amount that a qualified nongrantor charitable lead trust deducts under Section
- 1259 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on
- 1260 the qualified nongrantor charitable lead trust's federal income tax return for estates
- 1261 and trusts for the taxable year;
- 1262 (h) any fiduciary adjustments required by Section 59-10-210;
- 1263 (i) an amount received:
- 1264 (i) for the interest on a bond, note, or other obligation issued by an entity for which
- 1265 state statute provides an exemption of interest on its bonds from state individual
- 1266 income tax;
- 1267 (ii) by a resident or nonresident estate or trust;
- 1268 (iii) for the taxable year; and
- 1269 (iv) to the extent the amount is included in federal taxable income on the taxpayer's
- 1270 federal income tax return for the taxable year;
- 1271 (j) for a taxable year beginning on or after January 1, 2019, but beginning on or before
- 1272 December 31, 2019, only:
- 1273 (i) the amount of any FDIC premium paid or incurred by the resident or nonresident
- 1274 estate or trust that is disallowed as a deduction for federal income tax purposes
- 1275 under Section 162(r), Internal Revenue Code, on the resident's or nonresident
- 1276 estate's or trust's 2018 federal income tax return; plus
- 1277 (ii) the amount of any FDIC premium paid or incurred by the resident or nonresident
- 1278 estate or trust that is disallowed as a deduction for federal income tax purposes
- 1279 under Section 162(r), Internal Revenue Code, for the taxable year; and
- 1280 (k) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC
- 1281 premium paid or incurred by the resident or nonresident estate or trust that is
- 1282 disallowed as a deduction for federal income tax purposes under Section 162(r),
- 1283 Internal Revenue Code, for the taxable year.
- 1284 (3) Notwithstanding Subsection (1)(b), interest from bonds, notes, and other evidences of
- 1285 indebtedness issued by an entity described in Subsections (1)(b)(i)(A) through (D) may

- 1286 not be added to unadjusted income of a resident or nonresident estate or trust if, as  
1287 annually determined by the commission:
- 1288 (a) for an entity described in Subsection (1)(b)(i)(A) or (B), the entity and all of the  
1289 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax  
1290 based on income on any part of the bonds, notes, and other evidences of indebtedness  
1291 of this state; or
- 1292 (b) for an entity described in Subsection (1)(b)(i)(C) or (D), the following do not impose  
1293 a tax based on income on any part of the bonds, notes, and other evidences of  
1294 indebtedness of this state:
- 1295 (i) the entity; or
- 1296 (ii)(A) the state in which the entity is located; or
- 1297 (B) the District of Columbia, if the entity is located within the District of  
1298 Columbia.
- 1299 (4)(a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:
- 1300 (i) the income is derived from a deceased Ute tribal member; and
- 1301 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the  
1302 requirements of this Subsection (4).
- 1303 (b) The agreement described in Subsection (4)(a):
- 1304 (i) may not:
- 1305 (A) authorize the state to impose a tax in addition to a tax imposed under this  
1306 chapter;
- 1307 (B) provide a subtraction under this section greater than or different from the  
1308 subtraction described in Subsection (2)(c); or
- 1309 (C) affect the power of the state to establish rates of taxation; and
- 1310 (ii) shall:
- 1311 (A) provide for the implementation of the subtraction described in Subsection  
1312 (2)(c);
- 1313 (B) be in writing;
- 1314 (C) be signed by:
- 1315 (I) the governor; and
- 1316 (II) the chair of the Business Committee of the Ute tribe;
- 1317 (D) be conditioned on obtaining any approval required by federal law; and
- 1318 (E) state the effective date of the agreement.
- 1319 (c)(i) The governor shall report to the commission by no later than February 1 of each

- 1320 year regarding whether or not an agreement meeting the requirements of this  
1321 Subsection (4) is in effect.
- 1322 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the  
1323 subtraction permitted under Subsection (2)(c) is not allowed for taxable years  
1324 beginning on or after the January 1 following the termination of the agreement.
- 1325 (d) For purposes of Subsection (2)(c) and in accordance with Title 63G, Chapter 3, Utah  
1326 Administrative Rulemaking Act, the commission may make rules:
- 1327 (i) for determining whether income is derived from a source within the Uintah and  
1328 Ouray Reservation; and
- 1329 (ii) that are substantially similar to how adjusted gross income derived from Utah  
1330 sources is determined under Section 59-10-117.

1331 Section 27. Section **75B-1-101** is amended to read:

1332 **75B-1-101 . Definitions for title.**

1333 As used in this title:

- 1334 (1) "Agent" means the same as that term is defined in Section 75-1-201.
- 1335 (2) "Beneficiary" means a person that:
- 1336 (a) has a present or future beneficial interest in a trust, vested or contingent; or  
1337 (b) in a capacity other than that of trustee, holds a power of appointment over trust  
1338 property.
- 1339 (3) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose  
1340 described in Subsection 75B-2-405(1).
- 1341 (4) "Child" means, except as provided in Sections 75B-2-503 and 75B-2-504, the same as  
1342 that term is defined in Section 75-1-201.
- 1343 (5) "Claims" means the same as that term is defined in Section 75-1-201.
- 1344 (6) "Conservator" means the same as that term is defined in Section 75-1-201.
- 1345 (7) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial  
1346 Administration.
- 1347 (8) "Descendant" means the same as that term is defined in Section 75-1-201.
- 1348 (9) "Devise" means the same as that term is defined in Section 75-1-201.
- 1349 (10) "Distributee" means the same as that term is defined in Section 75-1-201.
- 1350 (11) "Estate" means the same as that term is defined in Section 75-1-201.
- 1351 (12) "Fiduciary" means the same as that term is defined in Section 75-1-201.
- 1352 (13) "Governing instrument" means the same as that term is defined in Section 75-1-201.
- 1353 (14) "Guardian" means the same as that term is defined in Section 75-1-201.

- 1354 (15) "Incapacitated" means the same as that term is defined in Section 75-1-201.
- 1355 (16) "Income" means the same as that term is defined in Section 75A-5-102.
- 1356 (17) "Interested person" means, except as provided in Section 75B-2-110, the same as that  
1357 term is defined in Section 75-1-102.
- 1358 (18) "Lease" means the same as that term is defined in Section 75-1-201.
- 1359 (19) "Minor" means an individual who is younger than 18 years old.
- 1360 (20) "Mortgage" means the same as that term is defined in Section 75-1-201.
- 1361 (21) "Nongeneral power of appointment" means the same as that term is defined in Section  
1362 75A-4-102.
- 1363 (22) "Organization" means the same as that term is defined in Section 75-1-201.
- 1364 (23) "Parent" means the same as that term is defined in Section 75-1-201.
- 1365 (24) "Person" means the same as that term is defined in Section 75-1-201.
- 1366 (25) "Personal representative" means the same as that term is defined in Section 75-1-201.
- 1367 (26) "Petition" means the same as that term is defined in Section 75-1-201.
- 1368 (27) "Power of appointment" means the same as that term is defined in Section 75A-4-102.
- 1369 (28) "Principal" means the same as that term is defined in Section 75A-5-102.
- 1370 (29) "Property" means the same as that term is defined in Section 75-1-201.
- 1371 (30) "Protected person" means the same as that term is defined in Section 75-1-201.
- 1372 (31) "Record" means the same as that term is defined in Section 75-1-201.
- 1373 (32) "Security" means the same as that term is defined in Section 75-1-201.
- 1374 (33)(a) "Settlor" means a person, including a testator, who creates, or contributes  
1375 property to, a trust.
- 1376 (b) If more than one person creates or contributes property to a trust, each person is a  
1377 settlor of the portion of the trust property attributable to that person's contribution  
1378 except to the extent another person has the power to revoke or withdraw that portion.
- 1379 (34) "Sign" means the same as that term is defined in Section 75-1-201.
- 1380 (35) "State" means the same as that term is defined in Section 75-1-201.
- 1381 (36) "Successor" means a person, other than a creditor, that is entitled to property of a  
1382 decedent under the decedent's will or Title 75, Utah Uniform Probate Code.
- 1383 (37) "Testator" means the same as that term is defined in Section 75-1-201.
- 1384 (38)(a) "Trust" means:
- 1385 (i) a health savings account, as defined in Section 223 of the Internal Revenue Code;
- 1386 (ii) an express trust, private or charitable, with additions thereto, wherever and  
1387 however created; or

1388 (iii) a trust created or determined by judgment or decree under which the trust is to be  
 1389 administered in the manner of an express trust.

1390 (b) "Trust" does not include:

1391 (i) a constructive trust;

1392 (ii) a resulting trust;

1393 (iii) a conservatorship;

1394 (iv) a personal representative;

1395 (v) a trust account as defined in Title 75, Chapter 6, Nonprobate Transfers;

1396 (vi) a custodial arrangement under Title 75A, Chapter 8, Uniform Transfers To  
 1397 Minors Act;

1398 (vii) a business trust providing for certificates to be issued to beneficiaries;

1399 (viii) a common trust fund;

1400 (ix) a voting trust;

1401 (x) a preneed funeral plan under Title 58, Chapter 9, Funeral Services Licensing Act;

1402 (xi) a security arrangement;

1403 (xii) a liquidation trust;

1404 (xiii) a trust for the primary purpose of paying debts, dividends, interest, salaries,  
 1405 wages, profits, pensions, or employee benefits of any kind; or

1406 (xiv) any arrangement under which a person is nominee or escrowee for another  
 1407 person.

1408 (39) "Trust company" means the same as that term is defined in Section ~~[7-5-1]~~ 7-5-101.

1409 (40) "Trustee" means an original, additional, and successor trustee, and cotrustee, whether  
 1410 or not appointed or confirmed by the court.

1411 (41) "Trust instrument" means an instrument executed by the settlor that contains terms of  
 1412 the trust, including any amendments thereto.

1413 (42) "Ward" means the same as that term is defined in Section 75-1-201.

1414 (43) "Will" means the same as that term is defined in Section 75-1-201.

1415 Section 28. Section **75B-3-107** is amended to read:

1416 **75B-3-107 . Limitations on trust director.**

1417 (1) A trust director is subject to the same rules as a trustee in a like position and under  
 1418 similar circumstances in the exercise or nonexercise of a power of direction or further  
 1419 power under Subsection 75B-3-106(2)(a) regarding:

1420 ~~[(1)]~~ (a) a payback provision in the terms of a trust necessary to comply with the

1421 Medicaid reimbursement requirements in Section 1917 of the Social Security Act, 42

1422 U.S.C. Sec. 1396p(d)(4)(A), as amended, and any related regulations; and  
1423 ~~[(2)]~~ (b) a charitable interest in the trust, including notice regarding the interest to the  
1424 attorney general.  
1425 (2) A trust director may not engage in trust business, as that term is defined in Section  
1426 7-5-101.  
1427 Section 29. **Effective Date.**  
1428 This bill takes effect on May 6, 2026.