

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Banking and Insurance

SB 80 — Family Trust Companies

by Senators Richter and Soto

The bill (Chapter 2016-35, L.O.F.) amends the Florida Family Trust Company Act. This bill amends ch. 662, F.S., to:

- o Require all family trust companies in operation on October 1, 2016, to either apply for licensure as a licensed family trust company, register as a family trust company, register as a foreign licensed family trust company, or cease doing business in this state by December 30, 2016.
- o Provide that a family trust company registration application must state that trust operations will comply with statutory provisions relating to requirements in organizational documents and relating to minimum capital requirements;
- o Require that a registration application for a foreign licensed family trust company must provide proof that the company is in compliance with the family trust company laws and regulations of its principal jurisdiction;
- o Require amendments to certificates of formation or certificates of organization to be submitted to the Office of Financial Regulation (OFR) at least 30 days before it is filed or effective;
- o Allow family trust companies, licensed family trust companies, and foreign licensed family trust companies to file annual renewal applications within 45 days of the end of each calendar year;
- o Create a mechanism for automatic reinstatement of lapsed licenses and registrations by payment of appropriate fees and any fines imposed by the OFR;
- o Provide that the OFR must conduct an examination of a licensed family trust company every 36 months instead of the current 18 months. The bill does not allow an audit to substitute for an examination conducted by the OFR;
- o Remove the requirement that the OFR conduct examinations of unlicensed family trust companies;
- o Require that a court determine there has been a breach of fiduciary duty or trust before the OFR may enter a cease and desist order;
- o Require the management of a licensed family trust company to have at least three directors or managers and require that at least one of those directors or managers be a Florida resident;
- o Provide that the designated relatives in a licensed family trust company may not have a common ancestor within three generations instead of the current five generations; and
- o Make legislative findings that clarify that the OFR is responsible for the regulation, supervision, and examinations of licensed family trust companies but that for unlicensed or foreign family trust companies the role of the OFR is limited to ensuring that services provided by such companies are provided only to family members and not to the general public.

These provisions became law upon approval by the Governor on March 10, 2016.

Vote: Senate 34-0; House 116-0