

Tab 1	SB 76 by Hukill; (Identical to H 0219) Tax-exempt Income						
216386	A	S	RCS	BI, Hukill	Delete L.33:	10/06 10:35 AM	

Tab 2	SB 80 by Richter; (Similar to H 0017) Family Trust Companies						
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

BANKING AND INSURANCE
Senator Benacquisto, Chair
Senator Richter, Vice Chair

MEETING DATE: Tuesday, October 6, 2015
TIME: 10:00 a.m.—12:00 noon
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Benacquisto, Chair; Senator Richter, Vice Chair; Senators Clemens, Detert, Hukill, Lee, Margolis, Montford, Negron, Simmons, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 76 Hukill (Identical H 219)	Tax-exempt Income; Increasing the amount of income that is exempt from the corporate income tax; increasing the amount of income that is exempt from the franchise tax imposed on banks and savings associations, etc. BI 10/06/2015 Fav/CS FT AP	Fav/CS Yeas 7 Nays 2
2	SB 80 Richter (Similar H 17)	Family Trust Companies; Revising the purposes of the Family Trust Company Act; specifying the applicability of other chapters of the financial institutions codes to family trust companies; revising the requirements for investigations of license applicants by the Office of Financial Regulation; revising the authority of specified family trust companies while acting as fiduciaries to purchase certain bonds and securities, etc. BI 10/06/2015 Favorable JU FP	Favorable Yeas 9 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/SB 76

INTRODUCER: Banking and Insurance Committee and Senator Hukill

SUBJECT: Tax-exempt Income

DATE: October 6, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Fav/CS
2.			FT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 76 increases the amount of income that is exempt from the Florida corporate income tax from \$50,000 to \$75,000. The first \$50,000 of a corporation's income that is subject to the tax is exempt from the corporate income tax under current law.

II. Present Situation:

Florida began imposing an income tax of 5 percent on corporations in 1972.¹ In 1984, the tax rate was increased to 5.5 percent.² The tax is imposed on a taxpayer's "net income."³ Net income is determined using the following process:

1. **Begin with Federal Taxable Income.** As the starting point for determining how much tax is owed in Florida, taxpayers use their federal taxable income.
2. **Make Certain Statutory Adjustments.** These adjustments are known as "additions and subtractions,"⁴ and they relate to various items that Florida treats differently than the federal government. The income remaining after these adjustments is known as "adjusted federal income."

¹ See ch. 71-984, Laws of Fla.

² The Florida Constitution requires a 3/5 vote of the membership of each house of the Legislature to impose a tax in excess of 5 percent. See FLA. CONST. art. VII, s. 5. The tax is imposed on "C" corporations and financial institutions (excluding credit unions). In limited circumstances, taxpayer may be subject to an alternative 3.3 percent tax rate.

³ See s. 220.12, F.S.

⁴ See generally s. 220.13, F.S.

3. **Apportion and Allocate.** Multistate taxpayers must determine what portion of their adjusted federal income is taxable in Florida – a process generally referred to as “apportionment.” The taxpayer first determines what portion of its income is from business operations and what portion of its income is from non-business activities.⁵ Its business income is then “apportioned”⁶ among the states where it conducts business and its non-business income “allocated” to the state where the transactions or activities that gave rise to the non-business income occurred.⁷

Florida generally uses a three-factor apportionment formula to determine the amount of a multistate corporation’s taxable income that is subject to tax in Florida. The formula compares the taxpayer’s total payroll, sales, and property in all states with the taxpayer’s payroll, sales, and property in Florida. The result of this calculation is a fraction. Then, a multistate taxpayer’s business income is apportioned to Florida based on that fraction.

4. **Subtract the Exemption.** Lastly, Florida grants an exemption for the first \$50,000 of income that would otherwise be taxable in Florida. Accordingly, after apportionment and allocation are applied to determine a taxpayer’s income that is taxable in Florida, the taxpayer subtracts \$50,000 before applying the tax rate. The amount of income remaining after subtraction of the \$50,000 exemption is known as “net income” and is the amount subject to the Florida corporate income tax.

III. Effect of Proposed Changes:

The bill increases the amount of income that is exempt from the Florida corporate income tax from \$50,000 to \$75,000 for taxable years beginning on or after January 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce their ability to raise revenue, or reduce the percentage of a state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁵ Non-business income is certain income that does not arise from transactions and activities in the regular course of business. See s. 220.03(1)(r), F.S.

⁶ See generally s. 220.15, F.S.

⁷ See generally s. 220.16, F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Indeterminate at this time.

B. Private Sector Impact:

This bill will result in a tax reduction for certain corporate income taxpayers.

C. Government Sector Impact:

Indeterminate at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 220.14 and 220.63.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on October 6, 2015:

The amendment provides that the act applies to taxable years beginning on or after January 1, 2017, rather than January 1, 2016.

B. Amendments:

None.



216386

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
10/06/2015	.	
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	.	
	.	

The Committee on Banking and Insurance (Hukill) recommended the following:

Senate Amendment

Delete line 33
and insert:
or after January 1, 2017.

By Senator Hukill

8-00053-16

201676__

1 A bill to be entitled
 2 An act relating to tax-exempt income; amending s.
 3 220.14, F.S.; increasing the amount of income that is
 4 exempt from the corporate income tax; amending s.
 5 220.63, F.S.; increasing the amount of income that is
 6 exempt from the franchise tax imposed on banks and
 7 savings associations; providing applicability;
 8 providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Subsection (1) of section 220.14, Florida
 13 Statutes, is amended to read:
 14 220.14 Exemption.—
 15 (1) In computing a taxpayer's liability for tax under this
 16 code, \$75,000 ~~there shall be exempt from the tax \$50,000~~ of net
 17 income as defined in s. 220.12 is exempt from the tax or such
 18 lesser amount as will, without increasing the taxpayer's federal
 19 income tax liability, provide the state with an amount under
 20 this code which is equal to the maximum federal income tax
 21 credit ~~that which~~ may be available from time to time under
 22 federal law.
 23 Section 2. Subsection (3) of section 220.63, Florida
 24 Statutes, is amended to read:
 25 220.63 Franchise tax imposed on banks and savings
 26 associations.—
 27 (3) For purposes of this part, the franchise tax base is
 28 ~~shall be~~ adjusted federal income, as defined in s. 220.13,
 29 apportioned to this state, plus nonbusiness income allocated to

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-00053-16

201676__

30 this state pursuant to s. 220.16, less the deduction allowed in
 31 subsection (5) and less \$75,000 ~~\$50,000~~.
 32 Section 3. This act applies to taxable years beginning on
 33 or after January 1, 2016.
 34 Section 4. This act shall take effect January 1, 2017.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE
APPEARANCE RECORD

Waive

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/16

Meeting Date

76

Bill Number (if applicable)

Topic Tax Exemption

Amendment Barcode (if applicable)

Name Melissa Ramba

Job Title Director of Government Affairs

Address 227 S Adams St.

Phone 850-570-0269

Street

Tallahassee Fl.

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

Bd I 110 10am

THE FLORIDA SENATE

APPEARANCE RECORD

Waive

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10-6-15

Meeting Date

SB 76

Bill Number (if applicable)

Topic Tax-Exempt Income

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior VP

Address 516 N. Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

October 6, 2015
Meeting Date

SB 76
Bill Number (if applicable)

Topic Tax-exempt income

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S. Bronough
Street

Phone _____

Tallahassee FL 32301
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 80

INTRODUCER: Senator Richter

SUBJECT: Family Trust Companies

DATE: October 6, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Billmeier	Knudson	BI	Favorable
2.	_____	_____	JU	_____
3.	_____	_____	FP	_____

I. Summary:

SB 80 amends the Florida Family Trust Company Act. Chapter 662, F.S., was created in 2014 to allow families to form and operate private or family trust companies that provide trust services similar to those that can be provided by an individual trustee or a financial institution. Family trust companies are owned exclusively by family members and may not provide fiduciary services to the public. These private, family trust companies are generally formed to manage the wealth of high net-worth families in lieu of traditional individual or institutional trustee arrangements for a variety of personal, investment, regulatory, and tax reasons.

Chapter 662, F.S., authorized the creation of three types of family trust companies: licensed family trust companies, foreign family trust companies, and unlicensed family trust companies. This bill amends ch. 662, F.S., to:

- 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.
- 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;
- 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;
- Require amendments to certificates of formation or certificates of organization to be submitted to the OFR at least 30 days before it is filed or effective;
- 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;

- Create a mechanism for automatic reinstatement of lapsed licenses and registrations by payment of appropriate fees and any fines imposed by the OFR;
- Provide that the office 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 office;
- Remove the requirement that the office conduct examinations of unlicensed family trust companies;
- Require that a court determine there has been a breach of fiduciary duty or trust before the Office of Financial Regulation (“OFR” or “the office”) may enter a cease and desist order;
- 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;
- 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
- 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.

II. Present Situation:

The Family Trust Company

A family trust company provides trust services to a related group of people and cannot provide services to the general public. This includes serving as a trustee of trusts held for the benefit of the family members, as well as providing other fiduciary, investment advisory, wealth management, and administrative services to the family. A family might wish to form a family trust company in order to keep family matters more private than they would be if turned over to an independent trustee, to gain liability protection, to establish its own trust fee structure, and to obtain tax advantages. Traditional trust companies require regulatory oversight, licensing of investment personnel, public disclosure and capitalization requirements considered by practitioners to be overbroad and intrusive for the family trust.

In 2014, the Legislature authorized the creation of family trust companies in Florida.¹ The legislation took effect on October 1, 2015.² At least 14 other states currently have statutes governing the organization and operation of family trust companies.

Types of Family Trust Companies

Chapter 662, F.S., creates three types of family trust companies: family trust companies, licensed family trust companies, and foreign licensed family trust companies.³ A “family trust company” is a corporation or limited liability company (LLC) that is exclusively owned by one or more family members, is organized or qualified to do business in Florida, acts or proposes to act as a

¹ Ch. 2014-97, Laws of Fla.

² *Id.*

³ Chapter 662, F.S., was created by ch. 2014-97, Laws of Fla.

fiduciary to serve one or more family members, and does not serve as a fiduciary for a person, entity, trust, or estate that is not a family member, except that it may serve as a fiduciary for up to 35 individuals who are not family members if the individuals are current or former employees of the family trust company or one or more trusts, companies, or other entities that are family members.⁴

A “licensed family trust company” means a family trust company that operates in accordance with this chapter and has been issued a license that has not been revoked or suspended by the OFR.⁵

A “foreign licensed family trust company” means a family trust company that is licensed by a state other than Florida, has its principal place of business in a jurisdiction in the United States other than Florida, is operated in accordance with family or private trust company laws of a jurisdiction other than Florida, and is subject to statutory or regulatory mandated supervision by the jurisdiction in which the principal place of business is located.⁶

Powers of a Family Trust Company

Section 662.130, F.S., provides that a family trust company and a licensed family trust company may:

- Act as a sole or co-personal representative, executor, or curator for probate estates being administered in a state or jurisdiction other than Florida.
- Act as an attorney-in-fact or agent under a power of attorney, other than a power of attorney governed by ch. 709, F.S.
- Act within or outside of Florida as sole fiduciary or co-fiduciary and possess, purchase, sell, invest, reinvest, safe-keep, or otherwise manage or administer the real or personal property of eligible individuals and members.
- Exercise the powers of a corporation or LLC incorporated or organized under Florida law, or qualified to transact business as a foreign corporation or LLC under Florida law, which are reasonably necessary to enable it to fully exercise, in accordance with commonly accepted customs and usages, a power conferred by the Florida Family Trust Company Act.
- Delegate duties and powers, including investment functions under s. 518.112, F.S., in accordance with the powers granted to a trustee under ch. 736, F.S., or other applicable law, and retain agents, attorneys, accountants, investment advisers, or other individuals or entities to advise or assist the family trust company, licensed family trust company, or foreign licensed family trust company in the exercise of its powers and duties.
- Perform all acts necessary for exercising these powers.

Capital Requirements

Section 662.124, F.S., provides minimum capital requirements. A family trust company or a licensed family trust company may not be organized with an owners’ capital account of less than \$250,000.

⁴ See s. 662.111(12), F.S.

⁵ See s. 662.111(16), F.S.

⁶ See s. 662.111(15), F.S.

Licensed Family Trust Companies

Section 662.121, F.S., requires a company wishing to be licensed as a licensed family trust company to file an application with the OFR. When a company files an application for licensure as a licensed family trust company, s. 662.1215, F.S., requires the OFR to conduct an investigation to confirm that persons who will serve as directors or officers of the corporation or, if the applicant is a LLC, managers or members acting in a managerial capacity, have not:

- Been convicted of, or entered a plea of nolo contendere to, a crime involving fraud, misrepresentation, or moral turpitude.
- Been convicted of, or pled nolo contendere to, a violation of the financial institutions codes or similar state or federal laws.
- Been directors or executive officers of a financial institution licensed or chartered under the financial institutions codes or by the Federal Government or any other state, the District of Columbia, a territory of the United States, or a foreign country, whose license or charter was suspended or revoked within the 10 years preceding the date of the application.
- Had a professional license suspended or revoked within 10 years preceding the application.
- Made a false statement of material fact on the application.

The OFR must also confirm that the name of the proposed company complies with naming requirements, that capital accounts of the proposed company conform to relevant law, that the fidelity bonds and errors and omissions insurance coverage required are issued and effective, and that the articles of incorporation or articles of organization conform to applicable law. If the OFR determines the application does not meet statutory criteria, it must issue a notice of intent to deny the application and offer the applicant an opportunity for an administrative hearing.⁷

Management of Family Trust Companies

Section 662.125, F.S., provides that exclusive authority to manage a licensed family trust company is vested in a board of directors, if a corporation, or a board of directors or managers, if a limited liability company. A licensed family trust company must have at least three directors or managers and at least one director or manager of the company must be a resident of this state.

Renewal of Licensure or Registration

Section 662.128, F.S., requires family trust companies, licensed family trust companies, and foreign licensed family trust companies to file renewal applications with the OFR within 30 days after the end of each calendar year.

Examinations and Investigations by the OFR

Section 662.141, F.S., provides that the office may conduct an examination or investigation of a family trust company, licensed family trust company, or foreign licensed family trust company at any time it deems necessary to determine whether a family trust company, licensed family trust company, or foreign licensed family trust company has violated or is about to violate any provision of ch. 662, F.S., any relevant administrative rules, or any applicable provision of the

⁷ See s. 662.1215(4), F.S.

financial institution codes. Section 662.141(1), F.S., requires the office to conduct an examination of a licensed family trust company, family trust company, and foreign licensed family trust company at least once every 18 months. The office may accept an audit in lieu of conducting an entire examination in certain circumstances.⁸

There is concern among practitioners that the current regulatory scheme in ch. 662, F.S., does not allow licensed family trust companies to qualify for the “bank exemption” with the federal Securities and Exchange Commission.⁹ If these companies do not qualify for the “bank exemption,” they will be required to register as investment advisers with the federal regulator.¹⁰

Cease and Desist Authority

Section 662.143, F.S., gives the OFR the power to order a family trust company, licensed family trust company, or foreign licensed family trust company to cease and desist from engaging in specified activities or practices. If the OFR believes there could be a violation, it must give the entity notice of the violation and an opportunity for an administrative hearing.¹¹ One of the specific practices that the OFR can take action against is if it has reason to believe that a family trust company, licensed family trust company, or foreign licensed family trust company is engaging in or has engaged in an act of commission or omission or a practice that is a breach of trust or of fiduciary duty.

III. Effect of Proposed Changes:

Section 1 of this bill amends the legislative findings to clarify that the OFR is responsible for the regulation, supervision, and examinations of licensed family trust companies but that the office’s role is limited to ensuring that services provided by unlicensed or foreign family trust companies are provided to family members and not to the general public.

Changes to Licensed Family Trust Companies

Section 5 of the bill amends s. 662.1215, F.S., to include within the OFR initial licensure investigation of an applicant seeking to be recognized as a licensed family trust company, verification that the management of a licensed family trust company complies with s. 662.125, F.S. Section 662.125, F.S., requires a family trust company or licensed family trust company to have at least three directors or managers and requires that at least one of those directors or managers be a Florida resident.

Section 11 of this bill amends s. 662.141, F.S., to provide that the office 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 office.

⁸ See s. 662.141(2), F.S.

⁹ See Real Property, Probate, and Trust Law Section of the Florida Bar White Paper on Proposed Changes to the Florida Family Trust Company Act (on file with Committee on Banking and Insurance Committee staff).

¹⁰ *Id.*

¹¹ See s. 662.143(2), F.S.

Section 12 of this bill amends s. 662.142, F.S., to clarify that a licensed family trust company is entitled to an administrative hearing pursuant to ch. 120, F.S., to contest a license revocation.

Changes to Unlicensed Family Trust Companies

Section 6 of this bill provides that a family trust company registration application must state that its operations will comply with s. 662.123(1), F.S., (relating to requirements in organizational documents) and s. 662.124, F.S., (relating to minimum capital requirements).

Section 11 of this bill removes the requirement that the office conduct examinations of unlicensed family trust companies. The OFR may conduct examinations of such entities at any time it deems necessary to verify compliance with s. 662.131, F.S., (prohibited actions) or s. 662.134, F.S., (unlawful advertising).

Other Provisions of the Bill

Section 2 makes a technical change to the definition of “officer.”

Section 3 provides that the financial institutions codes do not apply to family trust companies, licensed family trust companies, or foreign family trust companies unless specifically made applicable by ch. 662, F.S., in order to make ch. 662, F.S., a stand-alone statute for family trust companies. It further provides that this does not limit the office’s power to investigate any entity to determine compliance with ch. 662, F.S., or applicable provisions of the financial institutions codes.

Section 4 of this bill provides that the designated relatives in licensed family trust company may not have a common ancestor within three generations instead of the current five generations.

Section 6 of this bill requires 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.

Section 7 of this bill requires a foreign licensed family trust company to be in compliance with the laws of its principal jurisdiction in order to operate in Florida. The bill requires 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. The application or registration must be filed by December 30, 2016.

Section 8 of this bill requires amendments to certificates of formation or certificates of organization to be submitted to the OFR at least 30 days before they are filed or effective. It removes the requirement that proposed amendments to bylaws or articles of organization be submitted to this OFR.

Section 9 of the bill allows 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. Current law allows 30 days. This bill also requires a family trust company

registration renewal application to certify compliance with capital requirements and statutes relating to organizational documents.

Section 10 of the bill removes references to the term “affiliate” and replaces it with “parent” or “subsidiary company” in s. 662.132, F.S., to prevent confusion with the term “family affiliate” defined in s. 662.111, F.S. It also provides that a family trust company or licensed family trust company may purchase bonds and securities directly from broker-dealers when acting as a fiduciary.

Section 11 of the bill grants rulemaking authority to the Financial Services Commission to establish the requirements necessary to demonstrate conformity with ch. 662, F.S.

Section 13 of this bill allows the OFR to serve a complaint against a family trust company, licensed family trust company, or foreign licensed family trust company if a court has determined that there has been a breach of trust or fiduciary duty.

Section 14 of this bill provides a mechanism to reinstate the license or registration of a family trust company, licensed family trust company, or foreign licensed family trust company that was terminated for failure to timely file an annual renewal. The bill provides that a family trust company may have its license or registration automatically reinstated by submitting the renewal application, renewal fee, late fee, and any fine imposed by the OFR.

Sections 15 and 16 of this bill make technical changes.

Section 17 of this bill repeals s. 662.151(3), F.S. The bill transfers this provision of law to s. 662.1225, F.S.

Section 18 of this bill provides the bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill's proponents expect that as a result of this legislation, high net worth families who are not located in Florida may selected Florida as the jurisdiction to establish family trust companies.¹²

C. Government Sector Impact:

The OFR anticipates that the revenues from the late fees created by the bill will be \$1,500 to \$3,000 annually after the first year.¹³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 662.102, 662.111, 662.120, 662.1215, 662.122, 662.1225, 662.123, 662.128, 662.132, 662.141, 662.142, 662.143, 662.144, 662.145, 662.150, and 662.151

This bill creates section 662.113 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹² See Real Property, Probate, and Trust Law Section of the Florida Bar White Paper on Proposed Changes to the Florida Family Trust Company Act (on file with the Committee on Banking and Insurance Committee staff).

¹³ See SB 80 2016 Legislative Bill Analysis Office of Financial Regulation.

By Senator Richter

23-00058-16

201680__

1 A bill to be entitled
 2 An act relating to family trust companies; amending s.
 3 662.102, F.S.; revising the purposes of the Family
 4 Trust Company Act; providing legislative findings;
 5 amending s. 662.111, F.S.; redefining the term
 6 "officer"; creating s. 662.113, F.S.; specifying the
 7 applicability of other chapters of the financial
 8 institutions codes to family trust companies;
 9 providing that the section does not limit the
 10 authority of the Office of Financial Regulation to
 11 investigate any entity to ensure that it is not in
 12 violation of ch. 662, F.S., or applicable provisions
 13 of the financial institutions codes; amending s.
 14 662.120, F.S.; revising the ancestry requirements for
 15 designated relatives of a licensed family trust
 16 company; amending s. 662.1215, F.S.; revising the
 17 requirements for investigations of license applicants
 18 by the Office of Financial Regulation; amending s.
 19 662.122, F.S.; revising the requirements for
 20 registration of a family trust company and a foreign
 21 licensed family trust company; amending s. 662.1225,
 22 F.S.; requiring a foreign licensed family trust
 23 company to be in compliance with the family trust laws
 24 and regulations in its principal jurisdiction;
 25 specifying the date upon which family trust companies
 26 must be registered or licensed or, if not registered
 27 or licensed, cease doing business in this state;
 28 amending s. 662.123, F.S.; revising the types of
 29 amendments to organizational documents which must have

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

23-00058-16

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30 prior approval by the office; amending s. 662.128,
 31 F.S.; extending the deadline for the filing of, and
 32 revising the requirements for, specified license and
 33 registration renewal applications; amending s.
 34 662.132, F.S.; revising the authority of specified
 35 family trust companies while acting as fiduciaries to
 36 purchase certain bonds and securities; revising the
 37 prohibition against the purchase of certain bonds or
 38 securities by specified family trust companies;
 39 amending s. 662.141, F.S.; revising the purposes for
 40 which the office may examine or investigate a family
 41 trust company that is not licensed and a foreign
 42 licensed family trust company; providing that the
 43 office may rely upon specified documentation that
 44 identifies the qualifications of beneficiaries as
 45 permissible recipients of family trust company
 46 services; deleting the requirement that the office
 47 examine a family trust company that is not licensed
 48 and a foreign licensed family trust company; deleting
 49 a provision that authorizes the office to accept an
 50 audit by a certified public accountant in lieu of an
 51 examination by the office; authorizing the Financial
 52 Services Commission to adopt rules establishing
 53 specified requirements for family trust companies;
 54 amending s. 662.142, F.S.; revising the circumstances
 55 under which the office may enter an order revoking the
 56 license of a licensed family trust company; deleting a
 57 provision that authorizes the office to immediately
 58 revoke the license of a licensed family trust company

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59 under certain circumstances; amending s. 662.143,
 60 F.S.; revising the acts that may result in the entry
 61 of a cease and desist order against specified family
 62 trust companies and affiliated parties; amending s.
 63 662.144, F.S.; authorizing a family trust company to
 64 have its terminated registration or revoked license
 65 reinstated under certain circumstances; revising the
 66 timeframe for a family trust company to wind up its
 67 affairs under certain circumstances; requiring the
 68 deposit of certain fees and fines in the Financial
 69 Institutions' Regulatory Trust Fund; amending s.
 70 662.145, F.S.; revising the office's authority to
 71 suspend a family trust company-affiliated party who is
 72 charged with a specified felony or to restrict or
 73 prohibit the participation of such party in certain
 74 financial institutions; amending s. 662.150, F.S.;
 75 making a technical change; amending s. 662.151, F.S.;
 76 conforming a provision to changes made by the act;
 77 providing an effective date.

78
 79 Be It Enacted by the Legislature of the State of Florida:

80
 81 Section 1. Section 662.102, Florida Statutes, is amended to
 82 read:

83 662.102 ~~Purposes; findings Purpose.~~ Purpose.—The ~~purposes purpose~~ of
 84 the Family Trust Company Act ~~are is~~ are to establish requirements
 85 for licensing family trust companies, to ~~regulate provide~~
 86 ~~regulation of those~~ persons who provide fiduciary services to
 87 family members of no more than two families and their related

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88 interests as a family trust company, and to establish the degree
 89 of regulatory oversight required of the Office of Financial
 90 Regulation over such companies. ~~The Unlike trust companies~~
 91 ~~formed under chapter 658, there is no public interest to be~~
 92 ~~served by this chapter is to ensure outside of ensuring~~ that
 93 fiduciary activities performed by a family trust company are
 94 restricted to family members and their related interests and as
 95 otherwise provided ~~for~~ in this chapter. Therefore, the
 96 Legislature finds that:

97 (1) A family trust company is ~~companies are~~ not a financial
 98 institution ~~institutions~~ within the meaning of the financial
 99 institutions codes, ~~and~~ Licensure of such a company ~~these~~
 100 ~~companies~~ pursuant to chapters 658 and 660 is ~~should not be~~
 101 required as it would not promote the purposes of the codes
 102 specified as set forth in s. 655.001.

103 (2) A family trust company may elect to be a licensed
 104 family trust company under this chapter if the company desires
 105 to be subject to the regulatory oversight of the office, as
 106 provided in this chapter, notwithstanding that the company
 107 restricts its services to family members.

108 (3) With respect to:

109 (a) A licensed ~~Consequently, the office of Financial~~
 110 ~~Regulation is not responsible for regulating~~ family trust
 111 company, the office is responsible for regulating, supervising,
 112 and examining the company as provided under this chapter.

113 (b) A family trust company that does not elect to be
 114 licensed and a foreign licensed family trust company, companies
 115 ~~to ensure their safety and soundness, and the responsibility of~~
 116 the office's role ~~office~~ is limited to ensuring that fiduciary

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117 services provided by the company ~~such companies~~ are restricted
 118 to family members and authorized related interests and not to
 119 the general public. The office is not responsible for examining
 120 a family trust company or a foreign licensed family trust
 121 company regarding the safety or soundness of its operations.

122 Section 2. Subsection (19) of section 662.111, Florida
 123 Statutes, is amended to read:

124 662.111 Definitions.—As used in this chapter, the term:

125 (19) "Officer" of a family trust company means an
 126 individual, regardless of whether the individual has an official
 127 title or receives a salary or other compensation, who may
 128 participate in the major policymaking functions of a family
 129 trust company, other than as a director. The term does not
 130 include an individual who may have an official title and
 131 exercise discretion in the performance of duties and functions,
 132 but who does not participate in determining the major policies
 133 of the family trust company and whose decisions are limited by
 134 policy standards established by other officers, regardless of
 135 whether the policy standards have been adopted by the board of
 136 directors. The chair of the board of directors, the president,
 137 the chief officer, the chief financial officer, the senior trust
 138 officer, and all executive vice presidents of a family trust
 139 company, and all managers if organized as a limited liability
 140 company, are presumed to be ~~executive~~ officers unless such
 141 officer is excluded, by resolution of the board of directors or
 142 members or by the bylaws or operating agreement of the family
 143 trust company, other than in the capacity of a director, from
 144 participating in major policymaking functions of the family
 145 trust company, and such excluded officer does not actually

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146 participate therein.

147 Section 3. Section 662.113, Florida Statutes, is created to
 148 read:

149 662.113 Applicability of other chapters of the financial
 150 institutions codes.—If a family trust company, licensed family
 151 trust company, or foreign licensed family trust company limits
 152 its activities to the activities authorized under this chapter,
 153 the provisions of other chapters of the financial institutions
 154 codes do not apply to the trust company unless otherwise
 155 expressly provided in this chapter. This section does not limit
 156 the office's authority to investigate any entity to ensure that
 157 it is not in violation of this chapter or applicable provisions
 158 of the financial institutions codes.

159 Section 4. Subsection (2) of section 662.120, Florida
 160 Statutes, is amended to read:

161 662.120 Maximum number of designated relatives.—

162 (2) A licensed family trust company may ~~not~~ have up to more
 163 ~~than~~ two designated relatives, ~~and~~ The designated relatives may
 164 not have a common ancestor within three ~~five~~ generations.

165 Section 5. Paragraph (e) is added to subsection (2) of
 166 section 662.1215, Florida Statutes, to read:

167 662.1215 Investigation of license applicants.—

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

171 (e) That the management structure of the proposed company
 172 complies with s. 662.125.

173 Section 6. Paragraph (b) of subsection (1) and paragraphs
 174 (a) and (c) of subsection (2) of section 662.122, Florida

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175 Statutes, are amended to read:

176 662.122 Registration of a family trust company or a foreign
177 licensed family trust company.-

178 (1) A family trust company that is not applying under s.
179 662.121 to become a licensed family trust company must register
180 with the office before beginning operations in this state. The
181 registration application must:

182 (b) State that the family trust company is a family trust
183 company as defined under this chapter and that its operations
184 will comply with ss. 662.1225, 662.123(1), 662.124, 662.125,
185 662.127, 662.131, and 662.134.

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

188 (a) The registration application must state that its
189 operations will comply with ss. 662.1225, 662.125, 662.127,
190 662.131, and 662.134 and that it is currently in compliance with
191 the family trust company laws and regulations of its principal
192 jurisdiction.

193 (c) The registration must include a certified copy of a
194 certificate of good standing, or an equivalent document,
195 authenticated by the official having custody of records in the
196 jurisdiction where the foreign licensed family trust company is
197 organized, along with satisfactory proof, as determined by the
198 office, that the company is organized in a manner similar to a
199 family trust company as defined under this chapter and is in
200 compliance with the family trust company laws and regulations of
201 its principal jurisdiction.

202 Section 7. Subsection (2) of section 662.1225, Florida
203 Statutes, is amended, and subsection (3) is added to that

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204 section, to read:

205 662.1225 Requirements for a family trust company, licensed
206 family trust company, or foreign licensed family trust company.-

207 (2) In order to operate in this state, a foreign licensed
208 family trust company must be in good standing in its principal
209 jurisdiction, must be in compliance with the family trust
210 company laws and regulations of its principal jurisdiction, and
211 must maintain:

212 (a) An office physically located in this state where
213 original or true copies of all records and accounts of the
214 foreign licensed family trust company pertaining to its
215 operations in this state may be accessed and made readily
216 available for examination by the office in accordance with this
217 chapter.

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

220 (c) All applicable state and local business licenses,
221 charters, and permits.

222 (d) A deposit account with a state-chartered or national
223 financial institution that has a principal or branch office in
224 this state.

225 (3) A company in operation as of October 1, 2016, which
226 meets the definition of a family trust company, must, on or
227 before December 30, 2016, apply for licensure as a licensed
228 family trust company, register as a family trust company or
229 foreign licensed family trust company, or cease doing business
230 in this state.

231 Section 8. Subsection (2) of section 662.123, Florida
232 Statutes, is amended to read:

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232 662.123 Organizational documents; use of term "family
233 trust" in name.-

234 (2) A proposed amendment to the articles of incorporation,
235 articles of organization, certificate of formation, or
236 certificate of organization, bylaws, or articles of organization
237 of a limited liability company, family trust company, or
238 licensed family trust company must be submitted to the office
239 for review at least 30 days before it is filed or effective. An
240 amendment is not considered filed or effective if the office
241 issues a notice of disapproval with respect to the proposed
242 amendment.

243 Section 9. Subsections (1) through (4) of section 662.128,
244 Florida Statutes, are amended to read:

245 662.128 Annual renewal.-

246 (1) Within 45 ~~30~~ days after the end of each calendar year,
247 a family trust company companies, licensed family trust company
248 companies, or and foreign licensed family trust company
249 companies shall file its their annual renewal application with
250 the office.

251 (2) The license renewal application filed by a licensed
252 family trust company must include a verified statement by an
253 authorized representative of the trust company that:

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

259 (b) Describes any material changes to its operations,
260 principal place of business, directors, officers, managers,
261

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262 members acting in a managerial capacity, and designated
263 relatives since the end of the preceding calendar year.

264 (3) The registration renewal application filed by a family
265 trust company must include:

266 (a) A verified statement by an authorized representative
267 officer of the trust company that it is a family trust company
268 as defined under this chapter and that its operations are in
269 compliance with ss. 662.1225, 662.123(1), 662.124, 662.125,
270 662.127, 662.131, and 662.134, ~~+~~ chapter 896, ~~+~~ or similar state
271 or federal law, or any related rule or regulation.

272 (b) ~~and include~~ The name of the company's its designated
273 relative or relatives, if applicable, and the street address for
274 its principal place of business.

275 (4) The registration renewal application filed by a foreign
276 licensed family trust company must include a verified statement
277 by an authorized representative of the trust company that its
278 operations are in compliance with ss. 662.1225, 662.125,
279 662.131, and 662.134 and in compliance with the family trust
280 company laws and regulations of its principal jurisdiction. It
281 must also provide:

282 (a) The current telephone number and street address of the
283 physical location of its principal place of business in its
284 principal jurisdiction.

285 (b) The current telephone number and street address of the
286 physical location in this state of its principal place of
287 operations where its books and records pertaining to its
288 operations in this state are maintained.

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

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

293 (e) Documentation satisfactory to the office that the
294 foreign licensed family trust company is in compliance with the
295 family trust company laws and regulations of its principal
296 jurisdiction.

297 Section 10. Subsections (4) and (7) of section 662.132,
298 Florida Statutes, are amended to read:

299 662.132 Investments.—

300 (4) Notwithstanding any other law, a family trust company
301 or licensed family trust company may, while acting as a
302 fiduciary, purchase directly from underwriters or broker-dealers
303 ~~distributors~~ or in the secondary market:

304 (a) Bonds or other securities underwritten or brokered
305 ~~distributed~~ by:

306 1. The family trust company or licensed family trust
307 company;

308 2. A family affiliate; or

309 3. A syndicate, including the family trust company,
310 licensed family trust company, or family affiliate.

311 (b) Securities of an investment company, including a mutual
312 fund, closed-end fund, or unit investment trust, as defined
313 under the federal Investment Company Act of 1940, for which the
314 family trust company or licensed family trust company acts as an
315 advisor, custodian, distributor, manager, registrar, shareholder
316 servicing agent, sponsor, or transfer agent.

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

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320 company or its parent, or a subsidiary company ~~an affiliate~~
321 thereof or its parent, unless:

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

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

325 2. A court order;

326 3. The written consent of the settlor of the trust for
327 which the family trust company or licensed family trust company
328 is serving as trustee; or

329 4. The written consent of every adult qualified beneficiary
330 of the trust who, at the time of such purchase, is entitled to
331 receive income under the trust or who would be entitled to
332 receive a distribution of principal if the trust were
333 terminated; and

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

336 1. The prudent investor rule in s. 518.11, or other prudent
337 investor or similar rule under other applicable law, unless ~~such~~
338 compliance is waived in accordance with s. 518.11 or other
339 applicable law.

340 2. The terms of the instrument, judgment, decree, or order
341 establishing the fiduciary relationship.

342 Section 11. Section 662.141, Florida Statutes, is amended
343 to read:

344 662.141 Examination, investigations, and fees.—The office
345 may conduct an examination or investigation of a ~~family trust~~
346 ~~company~~, licensed family trust company, ~~or foreign licensed~~
347 ~~family trust company~~ at any time it deems necessary to determine
348 whether the a family trust company, licensed family trust

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349 company, ~~foreign licensed family trust company~~, or licensed
 350 family trust company-affiliated party thereof ~~person~~ has
 351 violated or is about to violate any provision of this chapter,
 352 ~~or rules adopted by the commission pursuant to this chapter, or~~
 353 any applicable provision of the financial institutions
 354 ~~institution~~ codes, or any rule ~~rules~~ adopted by the commission
 355 pursuant to this chapter or the such codes. The office may
 356 conduct an examination or investigation of a family trust
 357 company or foreign licensed family trust company at any time it
 358 deems necessary to determine whether the family trust company or
 359 foreign licensed family trust company has engaged in any act
 360 prohibited under s. 662.131 or s. 662.134 and, if a family trust
 361 company or a foreign licensed family trust company has engaged
 362 in such act, to determine whether any applicable provision of
 363 the financial institutions codes has been violated.

364 (1) The office may rely upon a certificate of trust, trust
 365 summary, or written statement from the trust company which
 366 identifies the qualified beneficiaries of any trust or estate
 367 for which a family trust company, licensed family trust company,
 368 or foreign licensed family trust company serves as a fiduciary
 369 and the qualifications of such beneficiaries as permissible
 370 recipients of company services.

371 (2) The office shall conduct an examination of a licensed
 372 family trust company, ~~family trust company, or foreign licensed~~
 373 family trust company at least once every 36 ~~18~~ months.

374 ~~(2) In lieu of an examination by the office, the office may~~
 375 ~~accept an audit of a family trust company, licensed family trust~~
 376 ~~company, or foreign licensed family trust company by a certified~~
 377 ~~public accountant licensed to practice in this state who is~~

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378 ~~independent of the company, or other person or entity acceptable~~
 379 ~~to the office. If the office accepts an audit pursuant to this~~
 380 ~~subsection, the office shall conduct the next required~~
 381 ~~examination.~~

382 ~~(3)~~ The office shall examine the books and records of a
 383 ~~family trust company or~~ licensed family trust company as
 384 necessary to determine whether it is a ~~family trust company or~~
 385 licensed family trust company as defined in this chapter, and is
 386 operating in compliance with this chapter ss. ~~662.1225, 662.125,~~
 387 662.126, 662.131, and 662.134, as applicable. ~~The office may~~
 388 ~~rely upon a certificate of trust, trust summary, or written~~
 389 ~~statement from the trust company identifying the qualified~~
 390 ~~beneficiaries of any trust or estate for which the family trust~~
 391 ~~company serves as a fiduciary and the qualification of the~~
 392 ~~qualified beneficiaries as permissible recipients of company~~
 393 ~~services. The commission may establish by rule the records to be~~
 394 ~~maintained or requirements necessary to demonstrate conformity~~
 395 ~~with this chapter as a family trust company or licensed family~~
 396 ~~trust company.~~

397 (3)(4) The office shall examine the books and records of a
 398 foreign licensed family trust company as necessary to determine
 399 if it is a foreign licensed trust company as defined in this
 400 chapter and is in compliance with ss. 662.1225, 662.125,
 401 662.130(2), 662.131, and 662.134. In connection with an
 402 examination of the books and records of the company, the office
 403 may rely upon the most recent examination report or review or
 404 certification letters or similar documentation issued by the
 405 regulatory agency to which the foreign licensed family trust
 406 company is subject to supervision. ~~The commission may establish~~

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407 ~~by rule the records to be maintained or requirements necessary~~
 408 ~~to demonstrate conformity with this chapter as a foreign~~
 409 ~~licensed family trust company.~~ The office's examination of the
 410 books and records of a foreign licensed family trust company is,
 411 to the extent practicable, limited to books and records of the
 412 operations in this state.

413 ~~(4)(5)~~ For each examination of the books and records of a
 414 family trust company, licensed family trust company, or foreign
 415 licensed family trust company as authorized under this chapter,
 416 the trust company shall pay a fee for the costs of the
 417 examination by the office. As used in this section, the term
 418 "costs" means the salary and travel expenses of field staff
 419 which are directly attributable to the examination of the trust
 420 company and the travel expenses of any supervisory ~~and~~ ~~or~~
 421 support staff required as a result of examination findings. The
 422 mailing of payment for costs incurred must be postmarked within
 423 30 days after the receipt of a notice stating that ~~the such~~
 424 costs are due. The office may levy a late payment of up to \$100
 425 per day or part thereof that a payment is overdue, unless waived
 426 for good cause. However, if the late payment of costs is
 427 intentional, the office may levy an administrative fine of up to
 428 \$1,000 per day for each day the payment is overdue.

429 ~~(5)(6)~~ All fees collected under this section must be
 430 deposited into the Financial Institutions' Regulatory Trust Fund
 431 pursuant to s. 655.049 for the purpose of administering this
 432 chapter.

433 (6) The commission may establish by rule the records to be
 434 maintained or requirements necessary to demonstrate conformity
 435 with this chapter as a family trust company, licensed family

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436 trust company, or foreign licensed family trust company.

437 Section 12. Section 662.142, Florida Statutes, is amended
 438 to read:

439 662.142 Revocation of license.—

440 (1) Any of the following acts ~~constitute or conduct~~
 441 ~~constitutes~~ grounds for the revocation by the office of the
 442 license of a licensed family trust company:

443 (a) The company is not a family trust company as defined in
 444 this chapter. ~~+~~

445 (b) A violation of s. 662.1225, s. 662.123(1)(a), s.
 446 662.125(2), s. 662.126, s. 662.127, s. 662.128, s. 662.130, s.
 447 662.131, s. 662.134, or s. 662.144. ~~+~~

448 (c) A violation of chapter 896, relating to financial
 449 transactions offenses, or a any similar state or federal law or
 450 ~~any~~ related rule or regulation. ~~+~~

451 (d) A violation of any rule of the commission. ~~+~~

452 (e) A violation of any order of the office. ~~+~~

453 (f) A breach of any written agreement with the office. ~~+~~

454 (g) A prohibited act or practice under s. 662.131. ~~+~~

455 (h) A failure to provide information or documents to the
 456 office upon written request. ~~+~~ ~~or~~

457 (i) An act of commission or omission that is judicially
 458 determined to be a breach of trust or ~~of~~ fiduciary duty ~~pursuant~~
 459 ~~to a court of competent jurisdiction.~~

460 (2) If the office finds ~~Upon a finding~~ that a licensed
 461 family trust company has committed any of the acts specified ~~set~~
 462 ~~forth in subsection (1) paragraphs (1)(a)–(h),~~ the office may
 463 enter an order suspending the company's license and provide
 464 notice of its intention to revoke the license and of the

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465 opportunity for a hearing pursuant to ss. 120.569 and 120.57.

466 (3) If a hearing is not timely requested pursuant to ss.
 467 120.569 and 120.57 or if a hearing is held and it has been
 468 determined that the licensed family trust company has committed
 469 any of the acts specified in subsection (1) there has been a
 470 commission or omission under paragraph (1)(i), the office may
 471 immediately enter an order revoking the company's license. A The
 472 licensed family trust company has ~~shall have~~ 90 days to wind up
 473 its affairs after license revocation. If after 90 days the
 474 company is still in operation, the office may seek an order from
 475 the circuit court for the annulment or dissolution of the
 476 company.

477 Section 13. Subsection (1) of section 662.143, Florida
 478 Statutes, is amended to read:

479 662.143 Cease and desist authority.—

480 (1) The office may issue and serve upon a family trust
 481 company, licensed family trust company, ~~or~~ foreign licensed
 482 family trust company, or ~~upon a~~ family trust company-affiliated
 483 party, a complaint stating charges if the office has reason to
 484 believe that such company, family trust company-affiliated
 485 party, or individual named therein is engaging in or has engaged
 486 in any of the following acts ~~conduct that~~:

487 ~~(a) Indicates that~~ The company is not a family trust
 488 company or foreign licensed family trust company as defined in
 489 this chapter. ~~+~~

490 (b) ~~Is~~ A violation of s. 662.1225, s. 662.123(1)(a), s.
 491 662.125(2), s. 662.126, s. 662.127, s. 662.128, s. 662.130, or
 492 s. 662.134. ~~+~~

493 (c) ~~Is~~ A violation of any rule of the commission. ~~+~~

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494 (d) ~~Is~~ A violation of any order of the office. ~~+~~

495 (e) ~~Is~~ A breach of any written agreement with the office. ~~+~~

496 (f) ~~Is~~ A prohibited act or practice pursuant to s.

497 662.131. ~~+~~

498 (g) ~~Is~~ A willful failure to provide information or
 499 documents to the office upon written request. ~~+~~

500 (h) ~~Is~~ An act of commission or omission that is judicially
 501 determined by ~~or~~ a court of competent jurisdiction ~~practice that~~
 502 ~~the office has reason to be believe is~~ a breach of trust or ~~of~~
 503 fiduciary duty. ~~+~~ ~~or~~

504 (i) ~~Is~~ A violation of chapter 896 or similar state or
 505 federal law or any related rule or regulation.

506 Section 14. Section 662.144, Florida Statutes, is amended
 507 to read:

508 662.144 Failure to submit required report; fines.—If a
 509 family trust company, licensed family trust company, or foreign
 510 licensed family trust company fails to submit within the
 511 prescribed period its annual renewal or any other report
 512 required by this chapter or any rule, the office may impose a
 513 fine of up to \$100 for each day that the annual renewal or
 514 report is overdue. Failure to provide the annual renewal within
 515 60 days after the end of the calendar year shall automatically
 516 result in termination of the registration of a family trust
 517 company or foreign licensed family trust company or revocation
 518 of the license of a licensed family trust company. A family
 519 trust company may have its registration or license automatically
 520 reinstated by submitting to the office, on or before August 31
 521 of the calendar year in which the renewal application is due,
 522 the company's annual renewal application and fee required under

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523 s. 662.128, a \$500 late fee, and the amount of any fine imposed
 524 by the office under this section. A family ~~The~~ trust company
 525 that fails to renew or reinstate its registration or license
 526 must ~~shall thereafter have 90 days to~~ wind up its affairs on or
 527 before November 30 of the calendar year in which such failure
 528 occurs. Fees and fines collected under this section shall be
 529 deposited into the Financial Institutions' Regulatory Trust Fund
 530 pursuant to s. 655.049 for the purpose of administering this
 531 chapter.

532 Section 15. Paragraph (a) of subsection (6) of section
 533 662.145, Florida Statutes, is amended to read:

534 662.145 Grounds for removal.—

535 (6) The chief executive officer, or the person holding the
 536 equivalent office, of a family trust company or licensed family
 537 trust company shall promptly notify the office if he or she has
 538 actual knowledge that a family trust company-affiliated party is
 539 charged with a felony in a state or federal court.

540 (a) If a family trust company-affiliated party is charged
 541 with a felony in a state or federal court, or is charged with an
 542 offense in a court ~~the courts~~ of a foreign country with which
 543 the United States maintains diplomatic relations which involves
 544 a violation of law relating to fraud, currency transaction
 545 reporting, money laundering, theft, or moral turpitude and the
 546 charge is equivalent to a felony charge under state or federal
 547 law, the office may enter an emergency order suspending the
 548 family trust company-affiliated party or restricting or
 549 prohibiting participation by such ~~company-affiliated~~ party in
 550 the affairs of that particular family trust company or licensed
 551 family trust company or any state financial institution,

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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552 subsidiary, or service corporation, upon service of the order
 553 upon the company and ~~the~~ family trust company-affiliated party
 554 ~~is~~ charged.

555 Section 16. Paragraph (b) of subsection (1) of section
 556 662.150, Florida Statutes, is amended to read:

557 662.150 Domestication of a foreign family trust company.—

558 (1) A foreign family trust company lawfully organized and
 559 currently in good standing with the state regulatory agency in
 560 the jurisdiction where it is organized may become domesticated
 561 in this state by:

562 (b) Filing an application for a license to begin operations
 563 as a licensed family trust company in accordance with s.

564 662.121, which must first be approved by the office, or by
 565 filing the prescribed form with the office to register as a
 566 family trust company to begin operations in accordance with s.
 567 662.122.

568 Section 17. Subsection (3) of section 662.151, Florida
 569 Statutes, is amended to read:

570 662.151 Registration of a foreign licensed family trust
 571 company to operate in this state.—A foreign licensed family
 572 trust company lawfully organized and currently in good standing
 573 with the state regulatory agency in the jurisdiction under the
 574 law of which it is organized may qualify to begin operations in
 575 this state by:

576 ~~(3) A company in operation as of the effective date of this~~
 577 ~~act that meets the definition of a family trust company shall~~
 578 ~~have 90 days from the effective date of this act to apply for~~
 579 ~~licensure as a licensed family trust company, register as a~~
 580 ~~family trust company or foreign licensed family trust company,~~

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581 ~~or cease doing business in this state.~~

582 Section 18. This act shall take effect upon becoming law.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/6/15

Meeting Date

SB 80

Bill Number (if applicable)

Topic Family Trust Companies

Amendment Barcode (if applicable)

Name Meredith Hinshelwood

Job Title Deputy Director of Governmental Relations

Address 200 East Gaines Street

Phone 850-410-9544

Street

Tallahassee

FL

32399

Email Meredith.Hinshelwood@flofr.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Office of Financial Regulation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

Waive

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10-6-15

Meeting Date

80

Bill Number (if applicable)

Topic Family Trust Cos

Amendment Barcode (if applicable)

Name Peter Dunbar

Job Title _____

Address 215 S. Monroe suite 815

Phone 999-4100

Street

Tallahassee 32301

City

State

Zip

Email pdunbar@deanwead.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Real Property, Probate & Trust Law Section - Fla. Bar

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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CourtSmart Tag Report

Room: EL 110
Caption: Senate Banking and Insurance Committee

Type:
Judge:

Started: 10/6/2015 9:58:22 AM
Ends: 10/6/2015 10:12:32 AM **Length:** 00:14:11

9:58:21 AM Meeting called to order
9:58:25 AM Roll call.
9:58:47 AM Quorum present.
9:59:05 AM Chairman Benacquisto recognizes Senator Hukill to present SB 76.
9:59:23 AM Senator Hukill presents SB 76.
10:00:30 AM Senator Clemens recognized.
10:01:09 AM James Knudson recognized.
10:01:25 AM Senator Clemens for follow up.
10:01:34 AM Senator Hukill responds.
10:02:18 AM Senator Clemens for follow up.
10:02:30 AM Chairman Benacquisto for clarification.
10:02:49 AM Senator Hukill recognized to present amendment barcode 216386.
10:03:17 AM Amendment adopted.
10:03:21 AM Back on the bil as amended.
10:03:25 AM Speaker cards read into record.
10:03:42 AM Senator Clemens for debate.
10:05:00 AM Senator Clemens speaks to his concerns and reservations regarding the bill.
10:05:24 AM Senator Detert in debate.
10:07:08 AM Senator Montford recognized in debate.
10:08:36 AM Senator Hukill to close on SB 76.
10:09:27 AM Roll call on CS/SB 76.
10:09:41 AM Bill reported favorably.
10:10:02 AM Senator Richter recognized to present SB 80.
10:11:28 AM Chairman Benacquisto reads appearance cards into the record.
10:11:39 AM No debate. Senator Richter waives close.
10:11:48 AM Roll call on SB 80.
10:11:54 AM Bill reported favorably.
10:12:08 AM Meeting adjourned.