

SENATE BILL NO. 465—COMMITTEE ON COMMERCE AND LABOR

MARCH 17, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions governing trust companies. (BDR 55-1495)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to financial institutions; authorizing banks to maintain trust offices in various locations under certain circumstances; authorizing the commissioner of financial institutions to collect fees for trust offices; clarifying the circumstances under which a foreign trust company or bank may be appointed to act as fiduciary in this state; amending the requirements for the articles of incorporation and organization of a trust company; amending certain requirements of an application for a license as a trust company; providing for the qualifications of the directors and officers of a trust company; revising the investment powers of a trust company; authorizing the commissioner of financial institutions to impose administrative penalties for violations of certain provisions governing trust companies; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 658.096 is hereby amended to read as follows:
2 658.096 1. The commissioner shall charge and collect the following
3 fees in connection with his official duties:
4 (a) For licensing of state banks:
5 (1) A fee of \$200 for each parent bank, payable on June 30 of each
6 year.
7 (2) A fee of \$100 for each branch bank ~~H~~ ***or trust office***, payable on
8 June 30 of each year.
9 The fees must accompany the application for renewal of the license. A
10 penalty of 10 percent of the fee must be charged for each month or part of a
11 month that the fees are not paid after June 30 of each year.

(b) For applications for new branch banks ~~or~~ **or trust offices**, a nonrefundable fee of \$200 for the application and survey, to be paid by the applicant at the time of making the application. The applicant ~~shall~~ **must** also pay such additional expenses incurred in the process of investigation as the commissioner deems necessary. All money received by the commissioner pursuant to this paragraph must be placed in the investigative account created by NRS 232.545.

(c) For examinations and the examination of trust departments of state banks ~~or~~ **or trust offices**, a fee for conducting the examination and ~~for~~ preparing and typing the report of the examination at the rate established pursuant to NRS 658.101.

2. Except as otherwise provided in paragraph (b) of subsection 1, all money collected pursuant this section must be paid into the state general fund.

3. As used in this section, "trust office" has the meaning ascribed to it in subsection 4 of section 4 of this act.

Sec. 2. Chapter 662 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. *As used in NRS 662.235 and 662.245 and section 4 of this act, "business of a trust company" or "trust company business" has the meaning ascribed to it in section 7 of this act.*

Sec. 4. 1. *A bank organized under this Title may maintain trust offices in this or other states with the written consent of the commissioner.*

2. *Any action taken by the commissioner pursuant to subsection 1 is subject to review in the manner provided in NRS 659.055.*

3. *The commissioner may adopt regulations establishing reasonable conditions and requirements for the approval and maintenance of trust offices.*

4. *As used in this section, "trust office" means an office, other than the principal office, at which a bank organized under this Title is authorized by the commissioner to conduct the business of a trust company.*

Sec. 5. NRS 662.245 is hereby amended to read as follows:

662.245 1. ~~[Except as otherwise specifically provided by statute, no bank or other organization, and no officer, employee or agent of such an organization, acting on its behalf,]~~ **An organization that does not maintain an office in this state to conduct the business of a trust company** may be appointed to act as fiduciary by any court or by authority of any law of this state ~~[unless,]~~ **if**, in addition to any other requirements of law, the ~~[bank or other]~~ **organization:**

1 ~~—(a) Is organized under the laws of and has its principal place of business~~
2 ~~in this state or is a depository institution authorized by the commissioner to~~
3 ~~operate a branch or agency in this state;~~

4 ~~—(b) Is a national banking association which has its principal place of~~
5 ~~business in this state;~~

6 ~~—(c)]~~ **organization:**

7 **(a)** Associates as cofiduciary a bank ~~{whose principal place of business~~
8 ~~is}~~ **authorized to do business** in this state ~~}; or~~

9 ~~—(d) Is a national bank, banking corporation,]~~ **or a trust company**
10 **licensed pursuant to chapter 669 of NRS; or**

11 **(b)** **Is a** trust corporation or trust company which:

12 (1) Is organized under the laws of and has its principal place of
13 business in another state which allows ~~{banks,}~~ trust corporations or trust
14 companies ~~{organized under the laws of this state}~~ **licensed pursuant to**
15 **chapter 669 of NRS** to act as fiduciary ~~};~~ **in that state;**

16 (2) Is authorized by its charter to act as fiduciary; and

17 (3) Before the appointment as fiduciary, files with the secretary of
18 state a document, acknowledged before a notarial officer, which:

19 (I) Appoints the secretary of state as its agent upon whom all
20 process in any action or proceeding against it may be served;

21 (II) Contains its agreement that the appointment continues in force
22 as long as any liability remains outstanding against it in this state, and that
23 any process against it which is served on the secretary of state is of the
24 same legal validity as if served on it personally;

25 (III) Contains an address to which the secretary of state may mail
26 the process when received; and

27 (IV) Is accompanied by a fee of \$10.

28 A copy of the document required by this subparagraph, certified by the
29 secretary of state, is sufficient evidence of the appointment and agreement.

30 2. A court ~~{with}~~ **which has** jurisdiction over the accounts of a
31 fiduciary that is a ~~{national bank, banking corporation,}~~ trust corporation or
32 trust company described in paragraph ~~{(d)}~~ **(b)** of subsection 1 ~~{;}~~ may
33 require ~~{such a}~~ **the** fiduciary to provide a bond to ensure the performance
34 of its duties as fiduciary, in the same manner and to the same extent as the
35 court may require such a bond from a fiduciary that is a ~~{banking or other~~
36 ~~corporation}~~ **bank or trust company** described in paragraph (a) ~~{or (b)}~~ of
37 subsection 1.

38 3. Service of process authorized by subparagraph (3) of paragraph ~~{(d)}~~
39 **(b)** of subsection 1 must be made by filing with the secretary of state:

40 (a) Two copies of the legal process. The copies must include a specific
41 citation to the provisions of this section. The secretary of state may refuse
42 to accept such service if the proper citation is not included in each copy.

1 (b) A fee of \$10.

2 The secretary of state shall forthwith forward one copy of the legal process
3 to the ~~bank or other~~ organization, by registered or certified mail prepaid
4 to the address provided in the document filed pursuant to subparagraph (3)
5 of paragraph ~~(d)~~ (b) of subsection 1.

6 4. As used in this section:

7 (a) "Fiduciary" means an executor, commissioner, guardian of minors or
8 estates, receiver, depository or trustee.

9 (b) "Notarial officer" has the meaning ascribed to it in NRS 240.005.

10 (c) "State" means any state or territory of the United States, or the
11 District of Columbia.

12 **Sec. 6.** Chapter 669 of NRS is hereby amended by adding thereto the
13 provisions set forth as sections 7 to 10, inclusive, of this act.

14 **Sec. 7.** *"Business of a trust company" or "trust company business"*
15 *means the holding out by a person, by advertising, solicitation or other*
16 *means, that it is available to act as a fiduciary in this state and*
17 *undertaking to act as a fiduciary in the regular course of its business.*

18 **Sec. 8.** *"Fiduciary" means a trustee, executor, administrator,*
19 *guardian of an estate, conservator, assignee for the benefit of creditors,*
20 *receiver, depository or person that receives on deposit money or property*
21 *from a public administrator under any provision of this chapter or from*
22 *another fiduciary.*

23 **Sec. 9. 1.** *If the commissioner ascertains by examination or*
24 *otherwise that the capital or assets of a trust company are impaired or*
25 *that the affairs of a trust company are in an unsafe condition which may*
26 *result in danger to the public, he may immediately take possession of all*
27 *the property, business and assets of the company which are located in*
28 *this state and retain possession of them pending further proceedings as*
29 *provided in this chapter.*

30 **2.** *If the directors or officers of a corporation or the managers or*
31 *members acting in a managerial capacity of a limited-liability company*
32 *refuse to allow the commissioner to take possession of the property of the*
33 *company, the commissioner shall communicate that fact to the attorney*
34 *general. Upon notification from the commissioner, the attorney general*
35 *shall immediately institute such proceedings as may be necessary to place*
36 *the commissioner in immediate possession of the property of the*
37 *company. Upon possession of the property, the commissioner shall make*
38 *or have made an inventory of the assets and known liabilities of the*
39 *company.*

40 **3.** *The commissioner shall file one copy of the inventory in his office*
41 *and one copy in the office of the clerk of the district court of the county*
42 *in which the principal office of the trust company is located and shall*

1 *mail one copy to each director or officer of the corporation, or the*
2 *manager or member acting in a managerial capacity of the limited-*
3 *liability company, at his last known address.*

4 *4. The clerk of the court with which the copy of the inventory is filed*
5 *shall file it as any other case or proceeding pending in the court and*
6 *shall give it a docket number.*

7 **Sec. 10.** 1. *The directors or officers of a corporation or the*
8 *managers or members acting in a managerial capacity of a limited-*
9 *liability company licensed as a trust company may, within 60 days after*
10 *the date the commissioner takes possession of the property, business and*
11 *assets of the corporation or limited-liability company licensed as a trust*
12 *company, make good any deficit that exists or remedy the unsafe*
13 *condition of the affairs of the corporation or limited-liability company*
14 *licensed as a trust company.*

15 2. *At the expiration of the 60-day period set forth in subsection 1, if*
16 *the deficiency in assets or capital has not been made good or the unsafe*
17 *condition remedied, the commissioner may apply to the court to be*
18 *appointed receiver and proceed to liquidate the assets of the company*
19 *that are located in this state in the same manner as now provided by law*
20 *for liquidation of a private corporation in receivership.*

21 3. *Another person may not be appointed receiver by any court unless*
22 *he first gives the commissioner ample notice of his application.*

23 4. *The inventory made by the commissioner pursuant to section 9 of*
24 *this act and all claims filed by creditors are open at all reasonable times*
25 *for inspection, and any action taken by the receiver upon any of the*
26 *claims is subject to the approval of the court before which the cause is*
27 *pending.*

28 5. *The expenses of the receiver and compensation of counsel, as well*
29 *as all expenditures required in the liquidation proceedings, must be fixed*
30 *by the commissioner subject to the approval of the court and, upon*
31 *certification of the commissioner, must be paid out of the money in his*
32 *hands as the receiver.*

33 **Sec. 11.** NRS 669.020 is hereby amended to read as follows:

34 669.020 As used in this chapter, unless the context otherwise requires,
35 the words and terms defined in NRS ~~669.030~~ 669.040 to 669.070,
36 inclusive, *and sections 7 and 8 of this act* have the meanings ascribed to
37 them in ~~such~~ *those* sections.

38 **Sec. 12.** NRS 669.040 is hereby amended to read as follows:

39 669.040 "Court trust" means ~~the action of a trust company acting~~
40 ~~under~~ *a fiduciary relationship created by an* appointment, order or decree
41 ~~of any court as executor, administrator, guardian, conservator, assignee,~~
42 ~~receiver, depository or trustee, or receiving on deposit money or property~~

1 ~~from a public administrator under any provision of this chapter or from any~~
2 ~~executor, administrator, guardian, conservator, assignee, receiver,~~
3 ~~depository or trustee under any order or decree]~~ of any court.

4 **Sec. 13.** NRS 669.050 is hereby amended to read as follows:

5 669.050 "Private trust" means ~~[every other trust, agency,]~~ a fiduciary
6 relationship ~~[or representative capacity]~~ other than a court trust.

7 **Sec. 14.** NRS 669.070 is hereby amended to read as follows:

8 669.070 "Trust company" means a corporation ~~[organized and]~~ or
9 **limited-liability company** licensed as provided in this chapter and engaged
10 in a trust company business.

11 **Sec. 15.** NRS 669.080 is hereby amended to read as follows:

12 669.080 **1.** This chapter does not apply to ~~1:~~

13 ~~—1. Banks or banking institutions regulated under the provisions of~~
14 ~~chapters 657 to 668, inclusive, of NRS;~~

15 ~~—2. Savings and loan institutions regulated under chapter 673 of NRS;~~

16 ~~—3. Title insurers but only respecting escrows;~~

17 ~~—4. Nonprofit, charitable trusts or trust associations; or~~

18 ~~—5. Any person, if:~~

19 ~~(a)] a person who:~~

20 **(a) Does business under the laws of this state, the United States or**
21 **another state relating to banks, savings banks, savings and loan**
22 **associations or thrift companies, but if the business conducted in this**
23 **state is not subject to supervision by a regulatory authority of another**
24 **jurisdiction, the person must be licensed pursuant to this chapter;**

25 **(b) Is appointed as a fiduciary pursuant to NRS 662.245;**

26 **(c) Is in the performance of his duties as an attorney at law;**

27 **(d) Acts as a trustee under a deed of trust;**

28 **(e) Acts as a resident agent for a domestic or foreign corporation,**
29 **limited-liability company, limited partnership or limited-liability**
30 **partnership;**

31 **(f) Acts as a trustee of a trust holding real property for the primary**
32 **purpose of facilitating any transaction with respect to real estate if he is**
33 **not regularly engaged in the business of acting as a trustee for such**
34 **trusts;**

35 **(g) Engages in the business of a collection agency pursuant to chapter**
36 **649 of NRS;**

37 **(h) Engages in the business of an escrow agency, escrow agent or**
38 **escrow officer pursuant to the provisions of chapter 645A or 692A of**
39 **NRS;**

40 **(i) Acts as a trustee of a trust created for charitable or nonprofit**
41 **purposes if he is not regularly engaged in the business of acting as**
42 **trustee for such trusts;**

1 *(j) Receives money or other property as a real estate broker licensed*
2 *under chapter 645 of NRS on behalf of a principal;*

3 *(k) Engages in transactions as a broker-dealer or sales representative*
4 *pursuant to chapter 90 of NRS;*

5 *(l) Acts as a fiduciary under a court trust;*

6 *(m) Does business as an insurer authorized to issue policies of life*
7 *insurance and annuities or endowment contracts in this state and subject*
8 *to regulation and control of the commissioner of insurance; or*

9 *(n) Acts as a fiduciary if:*

10 *(1) The fiduciary relationship is not one of his principal occupations;*
11 *or*

12 ~~[(b)]~~ *(2) He serves as* ~~[trustee]~~ *a fiduciary* ~~for a relative by blood or~~
13 ~~marriage.~~

14 *2. A bank, savings bank, savings and loan association or thrift*
15 *company claiming an exemption from this chapter pursuant to*
16 *paragraph (a) of subsection 1 must notify the commissioner of financial*
17 *institutions of its intention to engage in the business of a trust company*
18 *in this state and present proof satisfactory to the commissioner of*
19 *financial institutions that its fiduciary activities in this state will be*
20 *subject to regulation by another jurisdiction.*

21 **Sec. 16.** NRS 669.095 is hereby amended to read as follows:

22 669.095 1. Except as otherwise provided in subsection 2, no person
23 ~~[, partnership, firm, association, corporation or other business]~~ *or*
24 *organization formed and doing business under the laws of this state* *or any*
25 *other state* may:

26 (a) Use the word “trust” or any direct derivative of that word as a part of
27 its name.

28 (b) Advertise or use any sign with the word “trust” used as a part of its
29 name.

30 2. The provisions of subsection 1 do not apply to a person or ~~[business]~~
31 *organization which:*

32 (a) Is supervised by the commissioner *of financial institutions* pursuant
33 to this chapter or chapters 657 to 668, inclusive, or 673 of NRS; ~~[or]~~

34 (b) *Is doing business under the laws of the United States or another*
35 *state relating to banks, savings banks, savings and loan associations or*
36 *thrift companies;*

37 (c) *Is acting under an appointment pursuant to NRS 662.245; or*

38 (d) Is supervised by the commissioner of insurance.

39 **Sec. 17.** NRS 669.110 is hereby amended to read as follows:

40 669.110 ~~[Any three or more persons, a majority of whom shall be~~
41 ~~residents of this state, may execute articles of incorporation and be~~
42 ~~incorporated as a trust company in the manner prescribed in this chapter.]~~

43 *An applicant for a license to conduct the business of a trust company*

1 *under this chapter must be organized as a corporation or limited-liability*
2 *company under the laws of this state or authorized to do business in this*
3 *state as a foreign corporation or foreign limited-liability company.*

4 **Sec. 18.** NRS 669.120 is hereby amended to read as follows:

5 669.120 1. ~~{The}~~ *If a corporation or limited-liability company that*
6 *is engaged in trust company business is organized under the laws of this*
7 *state, the* articles of incorporation must contain:

8 (a) The ~~{corporate}~~ name adopted by the ~~{corporation,}~~ *trust company,*
9 which must be such as to distinguish it from any other trust company
10 formed or incorporated in this state, or engaged in the ~~{trust}~~ business *of a*
11 *trust company* in this state ~~};~~

12 ~~—(b) The place where its business is to be conducted.~~

13 ~~—(c) ; and~~

14 *(b)* The purpose for which it is formed.

15 ~~{(d) The amount of its stock, which must be divided into shares of the~~
16 ~~par value of not less than \$1 each.~~

17 ~~—(e) The name and place of residence of, and the number of shares~~
18 ~~subscribed by, each stockholder.~~

19 ~~—(f) The number of directors, which must not be less than five, and the~~
20 ~~names of the stockholders selected to act as the first board of directors,~~
21 ~~each of whom must be a bona fide subscriber for at least \$1,000 of the~~
22 ~~stock of the bank, fully paid and not hypothecated.~~

23 ~~—(g) The location of all branch offices as approved by the commissioner.~~

24 ~~—(h) Such other matters, not inconsistent with law, as the incorporators~~
25 ~~deem appropriate.~~

26 ~~—2. The articles of incorporation may also provide for:~~

27 ~~—(a) The issuance and sale of preferred stock in such amount as is fixed~~
28 ~~by the articles or by amendments thereto;~~

29 ~~—(b) The amount and number of shares of preferred stock; and~~

30 ~~—(c) The terms and conditions of the issuance and sale, which must not be~~
31 ~~inconsistent with the provisions of this chapter.}~~

32 *2. The provisions of subsection 1 do not apply to a corporation or*
33 *limited-liability company engaged in trust company business that is*
34 *organized under the laws of another state, but it must use a name that*
35 *distinguishes it from any other trust company organized as or conducting*
36 *the business of a trust company in this state.*

37 **Sec. 19.** NRS 669.130 is hereby amended to read as follows:

38 669.130 ~~{1. The secretary of state shall issue a certificate in the form~~
39 ~~provided by law for other corporations, and the existence of the trust~~
40 ~~company as a corporation begins upon the issuance of the certificate by the~~
41 ~~secretary of state, from which time it has and may exercise the powers~~
42 ~~conferred by law upon corporations generally, except as those powers are~~
43 ~~limited or modified by this chapter.~~

1 ~~—2.—The~~ A trust company shall not transact business, except ~~{the~~
2 ~~election of officers and the taking and approving of their official bonds, the~~
3 ~~receipt of payments on account of the subscriptions of the stock and such~~
4 ~~other business as is}~~ **business that is** incidental to its organization, until it is
5 authorized by the commissioner to commence the ~~{trust company}~~ business
6 **of a trust company** as provided in this chapter.

7 **Sec. 20.** NRS 669.150 is hereby amended to read as follows:

8 669.150 1. ~~{The corporate trust company shall}~~ **An applicant must**
9 file an application for a license to transact trust company business with the
10 commissioner on forms prescribed by the commissioner, which must
11 contain **or be accompanied by** such information as the commissioner
12 requires.

13 2. A nonrefundable fee of \$1,000 ~~{for the application and survey}~~ must
14 accompany the application. The applicant ~~{shall}~~ **must** also pay such
15 **reasonable** additional expenses incurred in the process of investigation as
16 the commissioner deems necessary. In addition, a fee of not less than \$100
17 nor more than \$250, prorated on the basis of the licensing year as provided
18 by the commissioner, must be paid at the time of making the application.

19 3. ~~{Any}~~ **A trust company may maintain offices in this and other**
20 **states. For every branch location of a trust company organized under the**
21 **laws of this state, and every branch location in this state of a foreign trust**
22 **company authorized to do business in this state, a** request for approval
23 and licensing ~~{of a branch location for a trust company}~~ must be filed with
24 the commissioner on such forms as he prescribes. A nonrefundable fee of
25 \$250 ~~{for the application and survey}~~ must accompany each request. In
26 addition, a fee of not more than \$100, prorated on the basis of the licensing
27 year as provided by the commissioner, must be paid at the time of making
28 the request.

29 4. All money received by the commissioner pursuant to this section
30 must be placed in the investigative account created by NRS 232.545.

31 **Sec. 21.** NRS 669.160 is hereby amended to read as follows:

32 669.160 1. Within 60 days after the application for a license is filed,
33 the commissioner shall investigate the facts of the application and the other
34 requirements of this chapter to determine:

35 (a) That the persons who will serve as directors or officers ~~{are qualified~~
36 ~~by character and experience.}~~ **of the corporation, or the managers or**
37 **members acting in a managerial capacity of the limited-liability**
38 **company, as applicable:**

39 (1) **Have a good reputation for honesty, trustworthiness and**
40 **integrity and display competence to transact the business of a trust**
41 **company in a manner which safeguards the interests of the general**
42 **public. The applicant must submit satisfactory proof of these**
43 **qualifications** to the commissioner.

1 (2) *Have not been convicted of, or entered a plea of nolo contendere*
2 *to, a felony or any crime involving fraud, misrepresentation or moral*
3 *turpitude.*

4 (3) *Have not made a false statement of material fact on the*
5 *application.*

6 (4) *Have not had a license that was issued pursuant to the*
7 *provisions of this chapter suspended or revoked within the 10 years*
8 *immediately preceding the date of the application.*

9 (5) *Have not had a license as a trust company which was issued in*
10 *any other state, district or territory of the United States or any foreign*
11 *country suspended or revoked within the 10 years immediately preceding*
12 *the date of the application.*

13 (6) *Have not violated any of the provisions of this chapter or any*
14 *regulation adopted pursuant to the provisions of this chapter.*

15 (b) That the financial status of the ~~{stockholders,}~~ directors and officers
16 *of the corporation or the managers or members acting in a managerial*
17 *capacity of the limited-liability company* is consistent with their
18 responsibilities and duties.

19 (c) That the name of the proposed company is not deceptively similar to
20 the name of another trust company licensed in this state or is not otherwise
21 misleading.

22 (d) That the initial stockholders' equity is not less than the required
23 minimum.

24 ~~{(e) The need for trust facilities or additional trust facilities in the~~
25 ~~community where the proposed trust company is to be located.~~

26 ~~—(f) Such other matters concerning the proposed trust company in relation~~
27 ~~to its location as the commissioner may deem relevant.~~

28 ~~—2.— Within 90 days after the application is filed, the commissioner shall~~
29 ~~conduct a public hearing to consider the application. At least 30 days~~
30 ~~before the hearing, the commissioner shall give written notice of the~~
31 ~~hearing to all persons doing a trust business in the community in which the~~
32 ~~proposed trust company is to be located and to such other persons,~~
33 ~~institutions or organizations as he deems appropriate.]~~

34 2. *Notice of the entry of an order refusing a license to a trust*
35 *company must be given in writing, served personally or sent by certified*
36 *mail or by telegraph to the company affected. The company, upon*
37 *application, is entitled to a hearing before a hearing officer appointed by*
38 *the director of the department of business and industry, but if no such*
39 *application is made within 30 days after the entry of an order refusing a*
40 *license to any company, the commissioner shall enter a final order.*

41 3. *If the hearing officer affirms the order of the commissioner*
42 *refusing the license, the applicant may file a petition for judicial review*
43 *pursuant to NRS 233B.130.*

1 **Sec. 22.** NRS 669.220 is hereby amended to read as follows:

2 669.220 1. ~~{Every}~~ **A** trust company:

3 (a) Shall keep all trust funds and investments separate from the assets of
4 the **trust** company, and all investments made by the **trust** company as a
5 fiduciary must be designated so that the trust or estate to which the
6 investments belong may be clearly identified.

7 (b) ~~{Holding}~~ **When it holds** trust funds awaiting investment or
8 distribution, may deposit or leave those funds on deposit with a state or
9 national bank. The funds must not be deposited or left with the same
10 corporation depositing them or leaving them on deposit, or with a
11 corporation or association holding or owning a majority of the stock of the
12 trust company making or leaving the deposit, unless that corporation or
13 association first pledges, as security for the deposit, securities eligible for
14 investment by state banks which have a market value equal to that of the
15 deposited funds. No security is required with respect to any portion of the
16 deposits that is insured under the provisions of any law of the United
17 States.

18 (c) ~~{Acting}~~ **When it acts** in any capacity under a court trust or private
19 trust, unless the instrument creating the trust provides otherwise, may cause
20 any securities held by it in its representative capacity to be registered in the
21 name of a nominee or nominees of the **trust** company.

22 (d) When acting as depository or custodian for the personal
23 representative of a court trust or private trust, unless the instrument creating
24 the trust provides otherwise, may with the consent of the personal
25 representative of the trust, cause any securities held by it to be registered in
26 the name of a nominee or nominees of the **trust** company.

27 2. ~~{Every}~~ **A** trust company is liable for any loss occasioned by the acts
28 of its nominees with respect to securities registered under this section.

29 3. No corporation or the registrar or transfer agent of the corporation is
30 liable for registering or causing to be registered on the books of the
31 corporation any securities in the name of any nominee of a trust company
32 or for transferring or causing to be transferred on the books of the
33 corporation any securities registered by the corporation in the name of any
34 nominee of a trust company when the transfer is made on the authorization
35 of the nominee.

36 4. Except as otherwise provided in subsection 5, ~~{a trust company's~~
37 ~~investments}~~ **the assets forming the capital of a trust company** must:

38 (a) Be governmental obligations or insured deposits ~~+~~
39 ~~—(b) Mature}~~ **that mature** within 3 years after acquisition.

40 ~~{The}~~

41 (b) **Have an** aggregate market value ~~{of all investments must equal or~~
42 ~~exceed}~~ **that equals or exceeds** 60 percent of the company's current

1 stockholders' equity or 60 percent of the company's initial stockholders'
2 equity, whichever is greater.

3 5. A trust company may purchase or rent land and equipment for use in
4 the daily activities of the *trust* company.

5 **Sec. 23.** NRS 669.225 is hereby amended to read as follows:

6 669.225 1. ~~[A]~~ *In addition to the powers of investment granted to*
7 *the trust company by the instrument creating the relationship of fiduciary*
8 *or agent, a* trust company which is acting as a fiduciary or agent may, in its
9 discretion or at the direction of another person who is authorized to direct
10 the investment of money held by the trust company as a fiduciary or agent,
11 invest in the securities of ~~[a management]~~ *an* investment trust or
12 ~~[management]~~ investment company if:

13 (a) The investment trust or investment company is registered pursuant to
14 the Investment Company Act of 1940 as amended, ~~[H]~~ 15 U.S.C. §§ 80a-1
15 et seq. ~~[H]~~; and

16 (b) The portfolio of the investment trust or investment company consists
17 substantially of investments which are not prohibited by the instrument
18 creating the fiduciary or agency relationship.

19 2. A trust company or an affiliate of the trust company may provide
20 services to the investment trust or investment company, including, without
21 limitation, acting as an investment adviser, custodian, transfer agent,
22 registrar, sponsor, distributor or manager and may receive reasonable
23 compensation for the services. The manner in which the compensation is
24 calculated must be disclosed to the person who is currently receiving the
25 benefits of the *relationship of a* fiduciary or ~~[agency relationship]~~ *agent*
26 with the trust company. The disclosure may be made by a prospectus, a
27 statement of account or otherwise.

28 3. A trust company may deposit money held by the trust company as a
29 fiduciary or agent with an affiliate before investing or making other
30 disposition of the money.

31 **Sec. 24.** NRS 669.240 is hereby amended to read as follows:

32 669.240 1. The directors *or managers* of a trust company shall
33 require good and sufficient fidelity bonds in the amount of \$25,000 or more
34 on all active officers, *managers, members acting in a managerial*
35 *capacity* and employees, whether or not they receive a salary or other
36 compensation from the *trust* company, to indemnify the *trust* company
37 against loss because of any dishonest, fraudulent or criminal act or
38 omission by any ~~[officer or employee]~~ *of the persons bonded* acting alone
39 or in combination with any other person. The bonds may be in any form
40 and may be paid for by the trust company.

1 2. The ~~{directors}~~ **trust company** shall obtain suitable insurance ~~{for~~
2 ~~their company}~~ against burglary, robbery, theft and other hazards to which
3 it may be exposed in the operation of its business.

4 3. The ~~{directors}~~ **trust company** shall at least annually prescribe the
5 amount or penal sum of the bonds or policies and designate the sureties and
6 underwriters thereof, after giving due and careful consideration to all
7 known elements and factors constituting a risk or hazard. The ~~{directors'}~~
8 action must be recorded in the minutes of the ~~{board of directors}~~ **trust**
9 **company** and reported to the commissioner.

10 **Sec. 25.** NRS 669.280 is hereby amended to read as follows:

11 669.280 1. The violation of any of the provisions of this chapter by
12 the officers or directors , **or the managers or members acting in a**
13 **managerial capacity**, of any trust company ~~{authorized to do business~~
14 ~~under the provisions of this chapter}~~ is sufficient cause for the
15 commissioner to close the trust company, liquidate its business and revoke
16 its license.

17 2. If ~~{any officer or director of}~~ a trust company **or any person**
18 **authorized to act on the behalf of the trust company** refuses to allow the
19 commissioner or his deputies to inspect all books, records, papers and
20 effects of ~~{its business,}~~ **the business of the trust company**, the
21 commissioner may revoke its license and proceed to wind up ~~{its affairs.}~~
22 **the affairs of the trust company.**

23 **Sec. 26.** NRS 669.290 is hereby amended to read as follows:

24 669.290 Each officer, ~~{employer,}~~ director , **manager, member,**
25 **employee** or agent of a trust company who knowingly or willfully neglects
26 to perform any duty required by this chapter or other applicable law, or
27 who knowingly or willfully fails to conform to any material lawful
28 requirement made by the commissioner, is subject to removal upon order of
29 the commissioner, and is guilty of a category D felony and shall be
30 punished as provided in NRS 193.130.

31 **Sec. 27.** NRS 159.017 is hereby amended to read as follows:

32 159.017 “Guardian” means any person appointed under this chapter as
33 guardian of the person, of the estate, or of the person and estate for any
34 other person, and includes ~~{a bank}~~ **an organization** under NRS 662.245
35 and joint appointees. The term includes a special guardian.

36 **Sec. 28.** The amendatory provisions of this act do not apply to
37 offenses that were committed before October 1, 1999.

38 **Sec. 29.** NRS 669.030, 669.140, 669.170 and 669.180 are hereby
39 repealed.

LEADLINES OF REPEALED SECTIONS

669.030 “Community” defined.

669.140 Subscription, acknowledgment and filing of articles of incorporation; filing of copies.

669.170 Applicant’s burden of proof at hearing.

669.180 Issuance or denial of license.

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