

As Passed by the Senate

131st General Assembly

Regular Session

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Sub. S. B. No. 175

Senator Eklund

Cosponsors: Senators Hite, Seitz, Bacon, Burke, Hackett, Jordan, Oelslager

A BILL

To enact sections 1112.01, 1112.02, 1112.03, 1
1112.04, 1112.05, 1112.06, 1112.07, 1112.08, 2
1112.09, 1112.10, 1112.11, 1112.12, 1112.13, 3
1112.14, 1112.15, 1112.16, 1112.17, 1112.18, 4
1112.19, 1112.20, 1112.21, 1112.22, 1112.23, 5
1112.24, 1112.25, 1112.26, 1112.27, 1112.28, and 6
1112.99 of the Revised Code to create the Ohio 7
Family Trust Company Act. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1112.01, 1112.02, 1112.03, 9
1112.04, 1112.05, 1112.06, 1112.07, 1112.08, 1112.09, 1112.10, 10
1112.11, 1112.12, 1112.13, 1112.14, 1112.15, 1112.16, 1112.17, 11
1112.18, 1112.19, 1112.20, 1112.21, 1112.22, 1112.23, 1112.24, 12
1112.25, 1112.26, 1112.27, 1112.28, and 1112.99 of the Revised 13
Code be enacted to read as follows: 14

Sec. 1112.01. As used in this chapter: 15

(A) "Affiliate" means any individual or entity 16
controlling, controlled by, or under common control with a 17
family trust company. 18

(B) "Business entity" means a partnership, corporation, limited liability company, or other entity. 19
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(C) "Control" means the power to direct or cause the direction of the management and policies of a business entity, whether through ownership of voting securities, by contract, or otherwise. 21
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(D) (1) With respect to a licensed family trust company or a family trust company applying for a license under this chapter, "designated relative" means the common ancestor of the family, whether living or deceased, who is designated in the application for a license. 25
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(2) With respect to any other family trust company, "designated relative" means the common ancestor of the family, whether living or deceased, who is designated in a written document by the family trust company, which document is maintained with the permanent records of the family trust company. 30
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(3) Once designated, a "designated relative" may not be changed. 36
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(E) "Family affiliate" means a business entity controlled by family members or affiliates. 38
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(F) (1) "Family client" means all of the following: 40

(a) Any family member; 41

(b) Any former family member; 42

(c) Any key employee; 43

(d) Any former key employee provided that, upon the end of the individual's employment by the family trust company, the 44
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individual does not receive investment advice from the family 46
trust company, or invest additional assets with a family trust 47
company-advised trust, foundation, or entity, other than with 48
respect to assets advised directly or indirectly by the family 49
trust company immediately prior to the end of the individual's 50
employment. Nothing in division (F) (1) (d) of this section shall 51
be considered to preclude a former key employee from being a 52
family client if the employee received investment advice from 53
the family trust company with respect to additional investments 54
that the individual was contractually obligated to make, and 55
that relate to a family trust company-advised investment 56
existing, prior to the end of the individual's employment by the 57
family trust company. 58

(e) Any nonprofit organization, charitable foundation, 59
charitable trust, including a charitable lead trust and 60
charitable remainder trust whose only current beneficiaries are 61
other family clients and charitable or nonprofit organizations, 62
or other charitable organization, so long as all of the 63
contributions to the organization, foundation, or trust came 64
exclusively from one or more other family clients; 65

(f) Any estate of a family member, former family member, 66
key employee, or former key employee; 67

(g) Any irrevocable trust in which one or more other 68
family clients are the only current beneficiaries; 69

(h) Any irrevocable trust funded exclusively by one or 70
more other family clients in which other family clients and 71
nonprofit organizations, charitable foundations, charitable 72
trusts, or other charitable organizations are the only current 73
beneficiaries; 74

<u>(i) Any revocable trust of which one or more other family</u>	75
<u>clients are the sole grantors;</u>	76
<u>(j) Any trust to which both of the following conditions</u>	77
<u>apply:</u>	78
<u>(i) Each trustee or other person authorized to make</u>	79
<u>decisions with respect to the trust is a key employee.</u>	80
<u>(ii) Each settlor or other person who has contributed</u>	81
<u>assets to the trust is a key employee or the key employee's</u>	82
<u>current or former spouse or spousal equivalent who, at the time</u>	83
<u>of the contribution, holds a joint, community property, or other</u>	84
<u>similar shared ownership interest with the key employee.</u>	85
<u>(k) Any business entity wholly owned, either directly or</u>	86
<u>indirectly, exclusively by and operated for the sole benefit of</u>	87
<u>one or more other family clients.</u>	88
<u>(2) With respect to licensed family trust companies only,</u>	89
<u>"family client" also means a family affiliate and any</u>	90
<u>shareholder, partner, member, director, officer, or employee of</u>	91
<u>a family affiliate who is an individual described in division</u>	92
<u>(F)(1) of this section.</u>	93
<u>(G)(1) "Family member" means all of the following,</u>	94
<u>provided that the designated relative is not more than ten</u>	95
<u>generations removed from the youngest generation of family</u>	96
<u>members:</u>	97
<u>(a) All lineal descendants, including adopted children,</u>	98
<u>stepchildren, foster children, and individuals who were a minor</u>	99
<u>when another family member became a legal guardian of the</u>	100
<u>individual, of the designated relative;</u>	101
<u>(b) Such lineal descendants' spouses or spousal</u>	102

<u>equivalents.</u>	103
<u>(2) With respect to licensed family trust companies only,</u>	104
<u>"family member" also means all of the following:</u>	105
<u>(a) An ancestor or sibling of a spouse or spousal</u>	106
<u>equivalent described in division (G) (1) of this section;</u>	107
<u>(b) Any individual who is a beneficiary of a will or trust</u>	108
<u>established by an individual described in division (G) (1) of</u>	109
<u>this section, provided that, at any given time, the number of</u>	110
<u>individuals qualifying as family members under division (G) (2)</u>	111
<u>(b) of this section does not exceed twenty-five.</u>	112
<u>(H) "Family trust company" means a corporation or limited</u>	113
<u>liability company organized under the laws of this state that</u>	114
<u>meets all of the following requirements:</u>	115
<u>(1) It is organized to serve only family clients.</u>	116
<u>(2) It is wholly owned by family clients and is</u>	117
<u>exclusively controlled, either directly or indirectly, by one or</u>	118
<u>more family members or family entities. For purposes of division</u>	119
<u>(H) (2) of this section, "family entity" means any of the trusts,</u>	120
<u>estates, or other entities described in division (F) (1) (e), (f),</u>	121
<u>(g), (h), (i), or (k) of this section, except for key employees</u>	122
<u>and their trusts.</u>	123
<u>(3) It acts as a fiduciary.</u>	124
<u>(4) It does not transact trust business with, propose to</u>	125
<u>act as a fiduciary for, or accept trust business from, a person</u>	126
<u>that is not a family client.</u>	127
<u>(I) "Former family member" means a spouse, spousal</u>	128
<u>equivalent, or stepchild who was a family member but is no</u>	129
<u>longer a family member due to a divorce or other similar event.</u>	130

<u>(J) "Key employee" means all of the following:</u>	131
<u>(1) Any natural person who is an executive officer,</u>	132
<u>director, trustee, or general partner of, or a person serving in</u>	133
<u>a similar capacity to, the family trust company. For purposes of</u>	134
<u>division (J) (1) of this section, "executive officer" means the</u>	135
<u>president, any vice-president in charge of a principal business</u>	136
<u>unit, division, or function such as administration or finance,</u>	137
<u>any other officer who performs a policymaking function, or any</u>	138
<u>other person who performs a similar policymaking function.</u>	139
<u>(2) The spouse or spousal equivalent of a person described</u>	140
<u>in division (J) (1) of this section, if the spouse or spousal</u>	141
<u>equivalent holds a joint, community property, or other similar</u>	142
<u>shared ownership interest with that person;</u>	143
<u>(3) Any employee of the family trust company, other than</u>	144
<u>an employee performing solely clerical, secretarial, or</u>	145
<u>administrative functions or duties, who participates in the</u>	146
<u>investment activities of the family trust company, provided that</u>	147
<u>the employee has been participating in those investment</u>	148
<u>activities for or on behalf of the family trust company, or has</u>	149
<u>been performing similar functions or duties for or on behalf of</u>	150
<u>another business entity, for at least one year.</u>	151
<u>(K) "Licensed family trust company" means a family trust</u>	152
<u>company licensed under this chapter.</u>	153
<u>(L) "Spousal equivalent" means a cohabitant occupying a</u>	154
<u>relationship generally equivalent to that of a spouse.</u>	155
<u>(M) "Trust business" has the same meaning as in section</u>	156
<u>1111.01 of the Revised Code.</u>	157
<u>Sec. 1112.02. Except as otherwise provided in this chapter</u>	158
<u>or in any other provision of the Revised Code, a family trust</u>	159

company is subject to this chapter only to the extent that the 160
family trust company transacts trust business in this state. 161

Sec. 1112.03. (A) (1) A family trust company may be, but is 162
not required to be, licensed under this chapter. If a family 163
trust company does not apply for a license under this chapter, 164
it is not subject to supervision by the superintendent of 165
financial institutions, so long as the family trust company 166
meets the criteria as set forth in this chapter for an 167
unlicensed family trust company. It shall, however, before 168
commencing operations as a family trust company and annually 169
thereafter, submit to the superintendent an affidavit signed by 170
a senior officer of the family trust company verifying that the 171
family trust company meets all of the requirements set forth 172
under this chapter to transact business as an unlicensed family 173
trust company in this state. The superintendent may charge and 174
collect a fee from the unlicensed family trust company when the 175
unlicensed family trust company files the affidavit with the 176
superintendent. 177

(2) If the superintendent requires a fee under division 178
(A) (1) of this section, the superintendent shall adopt rules in 179
accordance with Chapter 119. of the Revised Code to establish 180
the amount of the fee. 181

(B) Except as otherwise provided in this chapter, a family 182
trust company licensed under this chapter is not subject to any 183
other chapter of Title XI of the Revised Code. 184

Sec. 1112.04. (A) A family trust company may do any of the 185
following for the benefit of family clients only: 186

(1) Act as a fiduciary, including as a personal 187
representative, within and outside this state; 188

(2) Act within and outside this state as advisory agent, 189
agent, assignee, assignee for the benefit of creditors, attorney 190
in fact, authenticating agent, bailee, bond or indenture 191
trustee, conservator, conversion agent, curator, custodian, 192
escrow agent, exchange agent, fiscal or paying agent, financial 193
adviser, investment adviser, investment manager, managing agent, 194
purchase agent, receiver, registrar, safekeeping agent, 195
subscription agent, transfer agent except for public business 196
entities, warrant agent, or in any similar capacity generally 197
performed by corporate trustees and, in so acting, possess, 198
purchase, sell, invest, reinvest, safe keep, or otherwise manage 199
or administer the real or personal property of other persons; 200

(3) Exercise the powers of a corporation or limited 201
liability company organized under the laws of this state and any 202
incidental powers to enable it to fully exercise any power 203
authorized under this chapter. 204

(B) A family trust company shall not do any of the 205
following: 206

(1) Except as otherwise provided in division (A) (10) of 207
section 1112.05 of the Revised Code, receive money or its 208
equivalent from any individual or entity for deposit, make loans 209
of any nature to any individual or entity, or otherwise conduct 210
a general banking business; 211

(2) Engage in trust business with, or advertise its 212
services to, the public; 213

(3) Use "trust" or any direct derivative of that word as 214
any part of its name, unless it is a licensed family trust 215
company. 216

Sec. 1112.05. (A) Notwithstanding any other provision of 217

<u>law to the contrary, while acting as the fiduciary of a trust, a</u>	218
<u>family trust company may do all of the following:</u>	219
<u>(1) Invest in a security of an investment company or</u>	220
<u>investment trust for which the family trust company or a family</u>	221
<u>affiliate provides services in a capacity other than as a</u>	222
<u>fiduciary;</u>	223
<u>(2) Place a security transaction using a broker that is a</u>	224
<u>family affiliate;</u>	225
<u>(3) Invest in an investment contract that is purchased from</u>	226
<u>an insurance company or carrier owned by or affiliated with the</u>	227
<u>family trust company or a family affiliate;</u>	228
<u>(4) Enter into an agreement with a beneficiary or grantor</u>	229
<u>of a trust relative to the appointment or compensation of the</u>	230
<u>fiduciary or a family affiliate;</u>	231
<u>(5) Transact with another trust, estate, guardianship, or</u>	232
<u>conservatorship for which the family trust company is a</u>	233
<u>fiduciary or in which a beneficiary has an interest;</u>	234
<u>(6) Make an equity investment in a nonpublicly traded</u>	235
<u>entity that may or may not be marketable and that is owned or</u>	236
<u>controlled, either directly or indirectly, by one or more</u>	237
<u>beneficiaries, family members, or family affiliates;</u>	238
<u>(7) Deposit trust money in a financial institution that is</u>	239
<u>owned or operated by a family affiliate;</u>	240
<u>(8) Delegate the authority to conduct any transaction or</u>	241
<u>action under this section to an agent of the family trust</u>	242
<u>company or a family affiliate;</u>	243
<u>(9) Purchase, sell, hold, own, or invest in any security,</u>	244
<u>bond, real or personal property, stock, or other asset of a</u>	245

<u>family affiliate;</u>	246
<u>(10) Loan money to or borrow money from a family member or</u>	247
<u>the family member's legal representative, another trust managed</u>	248
<u>by the family trust company, or a family affiliate;</u>	249
<u>(11) Act as proxy in voting any shares of stock that are</u>	250
<u>assets of the trust;</u>	251
<u>(12) Exercise any powers of control with respect to any</u>	252
<u>interest in a business entity that is an asset of the trust,</u>	253
<u>including, without limitation, the appointment of officers or</u>	254
<u>directors who are family members;</u>	255
<u>(13) Receive reasonable compensation for its services.</u>	256
<u>(B) After full disclosure to the governing body of the</u>	257
<u>family trust company is provided, nothing in this section</u>	258
<u>prohibits a family trust company from entering into a</u>	259
<u>transaction with or investing in any asset of any of the</u>	260
<u>following:</u>	261
<u>(1) A trust, estate, guardianship, or conservatorship for</u>	262
<u>which the family trust company is a fiduciary;</u>	263
<u>(2) A family affiliate;</u>	264
<u>(3) Any other business entity, agent, or person for which</u>	265
<u>a conflict of interest may exist.</u>	266
<u>Sec. 1112.06.</u> <u>Each member of the governing board of a</u>	267
<u>family trust company shall take and subscribe an oath that the</u>	268
<u>member will administer the affairs of the family trust company</u>	269
<u>diligently and honestly and that the member will not knowingly</u>	270
<u>or willfully permit noncompliance with or violation of any of</u>	271
<u>the laws relating to family trust companies.</u>	272

Sec. 1112.07. (A) A family trust company wishing to be 273
licensed under this chapter shall file an application with the 274
superintendent of financial institutions. The application shall 275
be in the form prescribed by the superintendent and shall be 276
accompanied by a nonrefundable application fee of five thousand 277
dollars. 278

(B) Within sixty days after a complete application for a 279
license is filed, the division of financial institutions shall 280
investigate the relevant facts concerning the applicant. If the 281
application involves investigation outside this state, the 282
division may require the applicant to advance sufficient funds 283
to pay any of the actual expenses of that investigation. 284

(C) In determining whether to approve or disapprove an 285
application for a family trust company license, the 286
superintendent shall consider all of the following: 287

(1) Whether the applicant is a corporation or limited 288
liability company described in division (H) of section 1112.01 289
of the Revised Code; 290

(2) Whether the applicant's articles of incorporation or 291
articles of organization authorize the applicant to serve as a 292
trustee; 293

(3) Whether the applicant satisfies the requirements of 294
section 1112.13 of the Revised Code; 295

(4) Whether it is reasonable to believe the applicant will 296
comply with applicable laws and observe sound fiduciary 297
standards in conducting trust business in this state. 298

(D) If an application for a license does not contain all 299
of the information required or is not accompanied by the 300
required fee, and if that information or fee is not submitted to 301

the superintendent within twelve months after the superintendent 302
first requests the information or fee, or within such later 303
period as determined by the superintendent, the superintendent 304
shall consider the application withdrawn. If an application is 305
considered withdrawn under this division or if an applicant 306
otherwise withdraws its application, the superintendent shall 307
not issue a license to the applicant unless the applicant 308
submits a new application and pays the required fee. 309

(E) When an applicant has satisfied all prior conditions 310
imposed by the superintendent in approving the applicant's 311
application for a family trust company license and has pledged 312
securities as required by section 1112.12 of the Revised Code, 313
the superintendent shall issue the applicant a trust company 314
license. A license issued pursuant to this section shall remain 315
in force and effect until surrendered by the licensee pursuant 316
to section 1112.17 of the Revised Code or suspended or revoked 317
by the superintendent pursuant to section 1112.24 or 1112.25 of 318
the Revised Code. 319

Sec. 1112.08. (A) Upon the conclusion of the investigation 320
required under section 1112.07 of the Revised Code, the 321
superintendent of financial institutions shall issue a license 322
to the applicant if the superintendent finds that all of the 323
following conditions are met: 324

(1) The applicant is organized as a corporation or limited 325
liability company under the laws of this state. 326

(2) The articles of incorporation or articles of 327
organization of the applicant contain both of the following: 328

(a) A name for the family trust company that includes 329
"family trust company" or "FTC" and that distinguishes it from 330

any trust company licensed under Chapter 1111. of the Revised 331
Code or any other family trust company licensed under this 332
chapter; 333

(b) The purpose for which it is formed, including a 334
statement that its services will be provided only to family 335
clients of a designated relative. 336

(3) The individuals who will serve as directors or 337
officers of the corporation, or the managers or family members 338
acting in a managerial capacity for the limited liability 339
company, as applicable: 340

(a) Have a reputation for honesty, trustworthiness, and 341
integrity and display competence to transact the business of a 342
licensed family trust company; 343

(b) Have not been convicted of, or pleaded guilty or nolo 344
contendere to, a felony or any crime involving fraud, 345
misrepresentation, or moral turpitude; 346

(c) Have not made a false statement of material fact on the 347
application; 348

(d) Have not had a license issued under Chapter 1111. of 349
the Revised Code or under this chapter suspended or revoked 350
within the ten years immediately preceding the date of the 351
application; 352

(e) Have not had a trust company license issued in any 353
other state or any foreign country suspended or revoked within 354
the ten years immediately preceding the date of the application; 355

(f) Have not failed to comply with any of the provisions of 356
this chapter or any rule adopted thereunder that, in the 357
judgment of the superintendent, would render the person unfit 358

for the proposed position. 359

(4) The qualifications of the directors and the president, 360
vice-presidents, and treasurer of the corporation, or the 361
managers and family members acting in a managerial capacity for 362
the limited liability company, as applicable, are consistent 363
with their responsibilities and duties. 364

(5) The initial stockholders' equity meets the minimum 365
requirement set forth in division (E) (2) of section 1112.14 of 366
the Revised Code. 367

(B) If the superintendent does not find that all of the 368
conditions set forth in division (A) of this section have been 369
met, the superintendent shall enter an order denying the 370
application and notify the applicant of the denial and the 371
applicant's reasonable opportunity to be heard in accordance 372
with Chapter 119. of the Revised Code, excepting any such 373
related hearings shall not be open to the public. The notice 374
shall be in writing, either served personally or sent by 375
certified mail. 376

Sec. 1112.09. A family trust company's license to engage 377
in trust business in this state is not transferable or 378
assignable. 379

Sec. 1112.10. Not more than one place of business shall be 380
maintained under the same license issued under this chapter, but 381
the superintendent of financial institutions may issue 382
additional licenses to the same licensee. For every additional 383
place of business in this state, the licensee shall submit an 384
application in the form prescribed by the superintendent and pay 385
a one-time nonrefundable fee of five hundred dollars. For every 386
additional place of business outside of this state, the licensee 387

shall give written notice thereof to the superintendent. 388

Sec. 1112.11. The existence of any licensed family trust 389
company shall date from the filing of its articles of 390
incorporation or articles of organization, from which time it 391
shall have and may exercise the incidental powers conferred by 392
law upon corporations or limited liability companies, as 393
applicable. However, until it has obtained a license issued 394
under this chapter, a family trust company shall not transact 395
any business as a licensed family trust company, other than the 396
election of officers, the taking and approving of their official 397
bonds, the receipts of payment upon stock subscriptions, and 398
other business incidental to its organization. 399

Sec. 1112.12. (A) Prior to transacting any business as a 400
licensed family trust company, a family trust company shall 401
pledge to the treasurer of state interest-bearing securities 402
authorized in division (B) of this section, having a par value, 403
not including unaccrued interest, of one hundred thousand 404
dollars, and approved by the superintendent of financial 405
institutions. The family trust company may pledge the securities 406
either by delivery to the treasurer of state or by placing the 407
securities with a qualified trustee for safekeeping to the 408
account of the treasurer of state. 409

(B) Securities pledged by a family trust company to 410
satisfy the requirements of division (A) of this section shall 411
be one or more of the following, provided that the bonds or 412
other obligations are rated at the time of purchase in the three 413
highest classifications established by at least one nationally 414
recognized standard rating service and purchased through a 415
registered securities broker or dealer: 416

(1) Bonds, notes, or other obligations of or guaranteed by 417

the United States or for which the full faith and credit of the 418
United States is pledged for the payment of principal and 419
interest; 420

(2) Bonds, notes, debentures, or other obligations or 421
securities issued by any agency or instrumentality of the United 422
States. 423

(C) The treasurer of state shall accept delivery of 424
securities pursuant to this section when accompanied by the 425
superintendent's approval of the securities or the written 426
receipt of a qualified trustee describing the securities and 427
showing the superintendent's approval of the securities, and 428
shall issue a written acknowledgment of the delivery of the 429
securities or the qualified trustee's receipt and the 430
superintendent's approval to the family trust company. 431

(D) The superintendent shall approve securities to be 432
pledged by a family trust company pursuant to this section if 433
the securities are all of the following: 434

(1) Interest-bearing and of the value required by division 435
(A) of this section; 436

(2) Of one or more of the kinds authorized by division (B) 437
of this section and not a derivative of or merely an interest in 438
any of those securities; 439

(3) Not in default. 440

(E) The treasurer of state shall, with the approval of the 441
superintendent, permit a family trust company to pledge 442
securities in substitution for securities pledged pursuant to 443
this section and the withdrawal of the securities substituted 444
for so long as the securities remaining pledged satisfy the 445
requirements of division (A) of this section. The treasurer of 446

state shall permit a family trust company to collect interest 447
paid on securities pledged pursuant to this section so long as 448
the family trust company is solvent. The treasurer of state 449
shall, with the approval of the superintendent, permit a 450
licensed family trust company to withdraw securities pledged 451
pursuant to this section when the family trust company has 452
discontinued its business as a licensed family trust company in 453
this state. 454

(F) For purposes of this section, a qualified trustee is a 455
federal reserve bank, a federal home loan bank, a trust company 456
as defined in section 1101.01 of the Revised Code, or a bank or 457
savings association that has pledged securities pursuant to 458
section 1111.04 of the Revised Code, is authorized to accept and 459
execute trusts, and is doing business under authority granted by 460
the comptroller of the currency. 461

(G) The superintendent, with the approval of the treasurer 462
of state, shall prescribe the form of all receipts and 463
acknowledgments provided for by this section, and upon request 464
shall furnish a copy of each form, with the superintendent's 465
certification attached, to each qualified trustee eligible to 466
hold securities for safekeeping under this section. 467

Sec. 1112.13. (A) Each licensed family trust company shall 468
obtain and maintain all of the following: 469

(1) Fidelity bonds in such amounts as it considers 470
advisable, but not less than an aggregate amount of one million 471
dollars, on any active officer, manager, family member acting in 472
a managerial capacity, or employee, whether or not such persons 473
receive a salary or other compensation from the family trust 474
company, to indemnify it against loss because of any dishonest, 475
fraudulent, or criminal act or omission by any of the persons 476

bonded, acting alone or in combination with any other person. 477
The bonds may be in any form and may be paid for by the family 478
trust company. 479

(2) Directors and officers liability insurance coverage in 480
the amount of at least one million dollars. 481

(B) A licensed family trust company may also procure 482
property and casualty insurance of a nature and with such 483
coverage amounts as it considers advisable. 484

Sec. 1112.14. Each licensed family trust company shall do 485
all of the following: 486

(A) Maintain office space in this state for the 487
transaction of trust business and for the storage of, and access 488
to, family trust company records; 489

(B) Hold in this state at least two governing board 490
meetings per year at which a quorum of the board members are 491
physically present; 492

(C) Employ, engage, or contract with at least one 493
individual, on a part-time basis, to provide services in this 494
state for the family trust company; 495

(D) Perform at least three of the following trust 496
administration activities wholly or partly in this state for the 497
accounts under the management, administration, or custody of the 498
family trust company: 499

(1) Annual account reviews; 500

(2) Annual investment reviews; 501

(3) Trust accountings; 502

(4) Account correspondence; 503

<u>(5) Completion of trust account tax returns;</u>	504
<u>(6) Distribution of account statements.</u>	505
<u>(E) Maintain all of the following:</u>	506
<u>(1) A minimum of three directors or managers, at least one</u> <u>of whom is a resident of this state;</u>	507 508
<u>(2) A minimum stockholders' equity of an amount determined</u> <u>by the division of financial institutions, which amount shall be</u> <u>at least two hundred thousand dollars but not more than five</u> <u>hundred thousand dollars. The equity may be comprised of cash,</u> <u>securities, including stock of a nonpublicly traded business</u> <u>entity, or other reasonably liquid assets exclusive of all</u> <u>organization expenses.</u>	509 510 511 512 513 514 515
<u>(3) All applicable state and local business licenses and</u> <u>permits;</u>	516 517
<u>(4) A bank account with a state chartered or national bank</u> <u>having a principal or branch office in this state.</u>	518 519
<u>Sec. 1112.15. The governing board of a licensed family</u> <u>trust company shall hold at least one regular meeting during</u> <u>each calendar quarter. At each of the quarterly meetings, the</u> <u>board, or an auditor selected by the board, shall thoroughly</u> <u>review the books, records, funds, and securities held by the</u> <u>family trust company. If the board selects an auditor, the</u> <u>auditor's findings shall be reported directly to the board. In</u> <u>lieu of the quarterly examinations, the board may accept an</u> <u>annual audit conducted by a certified public accountant or an</u> <u>independent auditor selected by the board.</u>	520 521 522 523 524 525 526 527 528 529
<u>Sec. 1112.16. Except as otherwise provided in section</u> <u>1112.04 of the Revised Code, a licensed family trust company has</u>	530 531

all the rights, privileges, and exemptions from licensing and 532
regulation requirements that are granted by any law of this 533
state to trust companies licensed under Chapter 1111. of the 534
Revised Code, including, without limitation, the requirements 535
for registration, licensing, and supervision set forth in 536
Chapter 1707. of the Revised Code. A family trust company 537
established under Chapter 1112. of the Revised Code is not 538
subject to taxation under Chapter 5726. of the Revised Code. 539

Sec. 1112.17. (A) A family trust company licensed under 540
this chapter may cease doing trust business and voluntarily 541
surrender its license to engage in trust business in this state, 542
and as a consequence be relieved of the necessity to comply with 543
the requirements of this chapter, only with the consent of the 544
superintendent of financial institutions. 545

(B) A licensed family trust company proposing to cease 546
doing trust business in this state shall submit both of the 547
following to the superintendent: 548

(1) A certified copy of the resolution of the licensed 549
family trust company's board of directors reflecting the board's 550
decision that the trust company should cease doing trust 551
business in this state and adopting a plan for winding up its 552
trust business in this state; 553

(2) The licensed family trust company's plan for winding 554
up its trust business in this state. 555

(C) The superintendent may approve or deny the licensed 556
family trust company's plan for winding up its trust business in 557
this state based on the superintendent's evaluation of whether 558
the plan provides adequate protection for those persons and 559
interests that the trust company serves as a fiduciary. The 560

superintendent's approval may be subject to any condition the 561
superintendent determines appropriate under the circumstances. 562

(D) During the implementation of a licensed family trust 563
company's plan for winding up its trust business in this state, 564
the superintendent shall retain the authority to supervise the 565
trust company and may conduct any examination relating to either 566
the trust company or the plan the superintendent considers 567
necessary or appropriate. 568

(E) If the superintendent has reason to conclude that the 569
licensed family trust company is not safely or expeditiously 570
implementing the approved plan for winding up the licensed 571
family trust company's trust business in this state, the 572
superintendent may do either of the following: 573

(1) Begin revocation proceedings under section 1112.24 of 574
the Revised Code; 575

(2) Take possession of the trust company's trust business 576
in this state in the same manner, with the same effect, and 577
subject to the same rights accorded to the trust company under 578
section 1112.26 of the Revised Code. 579

(F) The superintendent shall cancel the family trust 580
company's license to do trust business in this state if the 581
superintendent has approved the licensed family trust company's 582
plan for winding up its trust business in this state and, when 583
applicable, the licensed family trust company has met all of the 584
following conditions: 585

(1) The licensed family trust company has completed its 586
plan for winding up its trust business in this state consistent 587
with any conditions imposed by the superintendent in approving 588
the plan. 589

(2) The licensed family trust company has been relieved in 590
accordance with the law of all duties as trustee, executor, 591
administrator, registrar of stocks and bonds, or any other 592
fiduciary under court, private, or other appointment the trust 593
company had accepted. 594

(3) The licensed family trust company has, in accordance 595
with the law, wound up its trust business in each of the other 596
jurisdictions in which the family trust company solicited 597
appointment or served as a fiduciary or engaged in trust 598
business. 599

(G) Upon the superintendent's canceling the licensed 600
family trust company's license to do trust business in this 601
state, the company shall no longer, without obtaining a license 602
from the superintendent, engage in trust business in this state. 603

Sec. 1112.18. (A) A family trust company shall keep 604
separate and complete records for each fiduciary account or 605
relationship, including a record of any securities constituting 606
assets of each particular estate, trust, or account. 607

(B) A family trust company may place securities it holds 608
in any fiduciary capacity with a qualified custodian of 609
securities. A qualified custodian of securities that has custody 610
of securities held by a family trust company in a fiduciary 611
capacity may place those securities with another qualified 612
custodian of securities. 613

(C) A family trust company may register and hold 614
securities it holds in any fiduciary capacity in its own name, 615
in the name of a nominee, or, if appropriate to the securities, 616
in bearer form. A custodian of securities that has custody of 617
securities held by a family trust company in a fiduciary 618

capacity may hold or place those securities in the name of the 619
family trust company, the custodian's own name, the name of 620
either of their nominees, or, if appropriate to the securities, 621
in bearer form. 622

(D) A family trust company, and a custodian of securities 623
that has custody of securities held by a family trust company in 624
any fiduciary capacity, may hold securities it holds in any 625
fiduciary capacity, including those held in bearer form, in 626
bulk, whether or not the securities are certificated, without 627
certification of ownership attached to the securities. 628

(E) (1) A family trust company that serves as a cofiduciary 629
may, with the consent of the other cofiduciaries, do any of the 630
following: 631

(a) Place securities it holds in any fiduciary capacity 632
with a custodian of securities, as provided in division (B) of 633
this section; 634

(b) Register and hold securities it holds in any fiduciary 635
capacity in its own name, in the name of a nominee, or in bearer 636
form, as provided in division (C) of this section; 637

(c) Hold securities it holds in any fiduciary capacity in 638
bulk, as provided in division (D) of this section. 639

(2) Any person that serves as a cofiduciary with a family 640
trust company for any property in this state consisting of 641
securities may consent to the family trust company taking any of 642
the actions authorized by division (E) (1) of this section. 643

Sec. 1112.19. (A) A family trust company may, for any 644
business purpose, retain a document, paper, or other instrument. 645
A family trust company may record by use of a process to record, 646
copy, photograph, or store a representation of the original 647

document, paper, or other instrument or record if all of the 648
following apply: 649

(1) The process correctly and accurately copies or 650
reproduces, or provides a means for correctly and accurately 651
copying or reproducing, the original document, paper, or other 652
instrument or record with regard to both its substance and 653
appearance, except the copy or reproduction need not reflect the 654
original paper or other medium, size, or color, unless the 655
medium, size, or color is necessary to establish the 656
authenticity of the original. 657

(2) The process does not permit the recording, copy, 658
photographic image, or stored representation of the original 659
document, paper, or other instrument or record to be altered or 660
manipulated. 661

(3) Any medium the process uses to record, copy, 662
photograph, or store a representation of the original document, 663
paper, or other instrument or record is a durable medium for 664
retaining and reproducing records. 665

(B) The superintendent of financial institutions shall 666
identify and publish a list of processes that satisfy the 667
conditions of division (A) of this section. 668

(C) Each family trust company that uses a process 669
authorized by this section to preserve any of its records shall 670
also provide for safekeeping and for examining, viewing, or 671
projecting the records preserved, and for producing 672
reproductions of the original records. 673

Sec. 1112.20. (A) Any licensed family trust company is 674
subject to all powers of, and remedies and sanctions available 675
to, the superintendent of financial institutions and the 676

division of financial institutions under Chapters 1101. to 1127. 677
of the Revised Code, in addition to the specific powers, 678
remedies, and sanctions provided for in this chapter. 679

(B) (1) With regard to a licensed family trust company, 680
"regulated person," as used in division (B) of this section, 681
means a director, officer, employee, or controlling shareholder 682
of or agent for the licensed family trust company or a person 683
who participates in the management of the licensed family trust 684
company, whether or not the person is assigned to an office of 685
the licensed family trust company in this state or specifically 686
to the licensed trust company's trust business in this state. 687

(2) An order to cease and desist issued under section 688
1121.32 of the Revised Code, a removal or prohibition order 689
issued under section 1121.33 of the Revised Code, or a 690
suspension order issued under section 1121.34 of the Revised 691
Code, which order is issued against a regulated person who is a 692
regulated person because of the person's relationship with a 693
licensed family trust company doing trust business in this 694
state, does not affect the relationship between the regulated 695
person and the licensed family trust company except as it 696
relates to the conduct of the licensed family trust company's 697
trust business in this state. 698

Sec. 1112.21. Each family trust company licensed under 699
this chapter shall file with the superintendent of financial 700
institutions any report the superintendent may require, in the 701
form and manner and containing the information prescribed by the 702
superintendent. 703

Sec. 1112.22. (A) Not later than eighteen months after a 704
licensed family trust company receives its initial license under 705
this chapter, and as often thereafter as the superintendent of 706

financial institutions considers necessary, but at least once 707
each thirty-six-month cycle, the superintendent, or any deputy 708
or examiner appointed by the superintendent for that purpose, 709
shall thoroughly examine the records and affairs of the licensed 710
family trust company. For purposes of the examination, the 711
superintendent may require the attendance of, and examine under 712
oath, any governing board member, officer, manager, employee, or 713
agent of a licensed family trust company. A licensed family 714
trust company shall produce and make available all records or 715
other documents requested by the superintendent, in either 716
electronic or paper form, whether the examination is conducted 717
at the office of the family trust company or wholly or partially 718
off-site. 719

(B) The findings of any examination conducted under this 720
section shall be recorded in a written examination report that 721
contains a full, true, and careful statement of the condition of 722
the licensed family trust company. The superintendent shall 723
provide a copy of the written examination report to the 724
governing board of the licensed family trust company. 725

(C) A licensed family trust company being examined shall 726
pay the expense of any examination conducted under this section, 727
including salaries, travel expenses, supplies, and equipment. 728

Sec. 1112.23. (A) Except as provided in division (D) of 729
this section, the superintendent of financial institutions, the 730
superintendent's agents, and employees shall keep privileged and 731
confidential all of the following information: 732

(1) Application information and other information obtained 733
from a family trust company, including the names and addresses 734
of the directors and officers, the names and addresses of the 735
stockholders, family members, or other owners, capital 736

<u>contributions, and business affiliations;</u>	737
<u>(2) Information required to be reported to, or filed with,</u>	738
<u>the superintendent of financial institutions under this chapter,</u>	739
<u>including the affidavit described in division (A)(1) of section</u>	740
<u>1112.03 of the Revised Code;</u>	741
<u>(3) Information leading to, arising from, or obtained in</u>	742
<u>the course of an examination or investigation conducted under</u>	743
<u>the authority of this chapter;</u>	744
<u>(4) Information relating to a family trust company that</u>	745
<u>qualifies as nonpublic personal information under 15 U.S.C. 6809</u>	746
<u>and the regulations adopted thereunder;</u>	747
<u>(5) Information or agreements relating to any merger,</u>	748
<u>consolidation, or transfer;</u>	749
<u>(6) Any other private information relating to a family</u>	750
<u>trust company.</u>	751
<u>(B) Any person who receives privileged and confidential</u>	752
<u>information as described in division (A) of this section is</u>	753
<u>subject to the requirements of this section. No person, knowing</u>	754
<u>the information is privileged and confidential, shall purposely</u>	755
<u>divulge the information in any manner.</u>	756
<u>(C) Neither the superintendent, nor any agent or employee</u>	757
<u>of the superintendent, shall purposely make, or cause to be</u>	758
<u>made, any false statements or reports regarding the affairs or</u>	759
<u>condition of a family trust company.</u>	760
<u>(D) The information described in division (A) of this</u>	761
<u>section shall remain confidential and not discoverable from any</u>	762
<u>source, and shall not be introduced into evidence, except in the</u>	763
<u>following circumstances:</u>	764

(1) When it is necessary for the superintendent to take 765
official action regarding the affairs of a family trust company; 766

(2) To assist another state or a federal agency 767
investigating activities regulated under this chapter; 768

(3) When obtained by a law enforcement officer pursuant to 769
a subpoena, court order, search warrant, or other lawful means. 770

(E) The discovery of information pursuant to division (D) 771
of this section shall be limited to information that directly 772
relates to the family trust company that is the subject of the 773
enforcement action or litigation. 774

Sec. 1112.24. (A) The superintendent of financial 775
institutions may revoke a license issued under this chapter if, 776
after notice and an opportunity for hearing in accordance with 777
Chapter 119. of the Revised Code (which hearing shall not be 778
open to the public), the superintendent finds either of the 779
following: 780

(1) An officer or director of, or any manager or family 781
member acting in a managerial capacity for, the licensed family 782
trust company has failed to comply with any provision of this 783
chapter. 784

(2) The licensed family trust company, or any person 785
authorized to act on its behalf, refuses to allow the 786
superintendent or any deputy or examiner appointed by the 787
superintendent to inspect all books, records, papers, and 788
effects related to the family trust company's business. 789

(B) In addition to any other remedy provided under this 790
chapter, the superintendent may impose a fine of not more than 791
ten thousand dollars upon either of the following: 792

(1) A person who fails to comply with any provision of 793
this chapter or any rule adopted thereunder; 794

(2) A family trust company that is not licensed under this 795
chapter that operates in any manner that is authorized only for 796
licensed family trust companies. 797

Sec. 1112.25. (A) The superintendent of financial 798
institutions may revoke a trust company's license to do trust 799
business in this state, if the superintendent determines, after 800
notice in accordance with section 1121.37 of the Revised Code 801
and opportunity for hearing in accordance with section 1121.38 802
of the Revised Code, that any of the following factors is true: 803

(1) The existence of the family trust company, or its 804
authority to transact business, has been terminated or suspended 805
under the laws of the state or country in which the trust 806
company is incorporated. 807

(2) The family trust company's authority to transact trust 808
business has been terminated or suspended under the laws of the 809
state or country in which the trust company is incorporated, or 810
its license to engage in trust business has been terminated or 811
suspended under the laws of any other jurisdiction in which the 812
family trust company had been licensed to engage in trust 813
business. 814

(3) A receiver, liquidator, or conservator has been 815
appointed for the family trust company under the laws of the 816
state or country in which the family trust company is 817
incorporated or for its business in any other jurisdiction in 818
which the family trust company transacts business. 819

(4) The family trust company is violating or has violated, 820
or the superintendent has reasonable cause to believe the family 821

<u>trust company is about to violate, any of the following:</u>	822
<u>(a) A law or rule;</u>	823
<u>(b) A condition imposed by the superintendent in writing</u> <u>in connection with approving an application or notice or</u> <u>granting any other request of the family trust company;</u>	824 825 826
<u>(c) A written agreement the family trust company entered</u> <u>into with the superintendent;</u>	827 828
<u>(d) A cease and desist order issued by the superintendent</u> <u>under section 1121.32 of the Revised Code.</u>	829 830
<u>(5) The family trust company is engaging or has engaged,</u> <u>or the superintendent has reasonable cause to believe the family</u> <u>trust company is about to engage, in any unsafe or unsound</u> <u>practice.</u>	831 832 833 834
<u>(6) The family trust company has ceased to pay its debts</u> <u>in the ordinary course of business, is incapable of paying its</u> <u>debts as they mature, has liabilities in excess of its assets,</u> <u>or is subject to or has applied for an adjudication in</u> <u>bankruptcy, reorganization, or other relief under any</u> <u>bankruptcy, reorganization, insolvency, or moratorium law.</u>	835 836 837 838 839 840
<u>(7) The family trust company has ceased or failed to</u> <u>conduct trust business in this state.</u>	841 842
<u>(8) The family trust company has failed to pay any fees,</u> <u>charges, forfeitures, or penalties assessed under Chapters 1101.</u> <u>to 1127. of the Revised Code.</u>	843 844 845
<u>(B) (1) If the superintendent has reasonable cause to</u> <u>believe any of the factors in division (A) of this section is</u> <u>true, and the superintendent determines it is necessary to</u> <u>protect the persons and interests in this state that the family</u>	846 847 848 849

trust company serves as a fiduciary or the property in this 850
state that the trust company holds title to or an interest in a 851
fiduciary, the superintendent may immediately suspend the family 852
trust company's license to do trust business in this state. 853

(2) Within ten days after the order suspending a family 854
trust company's license to do trust business in this state is 855
served upon it, the family trust company may apply to the court 856
of common pleas of any county in this state in which the family 857
trust company is doing business, or the court of common pleas of 858
Franklin county, for an injunction setting aside, limiting, or 859
suspending enforcement of the suspension order pending an 860
opportunity for hearing on whether the family trust company's 861
license to do trust business in this state should be revoked, 862
and the court has jurisdiction to issue the injunction. 863

Sec. 1112.26. (A) If the superintendent of financial 864
institutions revokes a family trust company's license to do 865
trust business in this state pursuant to division (A) of section 866
1111.32 of the Revised Code, the superintendent may take 867
possession of the family trust company's trust business in this 868
state and may appoint a receiver for the liquidation of the 869
trust business in this state. If the family trust company has 870
its principal place of business in this state, the 871
superintendent may take possession of, and appoint a receiver 872
for the liquidation of, its entire trust business wherever it is 873
conducted. 874

(B) The superintendent's taking possession of, and 875
appointing a receiver for the liquidation of, a family trust 876
company's trust business in this state under division (A) of 877
this section and the liquidation of the family trust company's 878
trust business in this state shall be conducted in accordance 879

with the procedures and subject to the rights, powers, duties, 880
requirements, and limitations provided in Chapter 1125. of the 881
Revised Code for taking possession of the business and property 882
and liquidation of a bank, except for the following: 883

(1) After payment of the expenses of the liquidation and 884
claims against the family trust company arising from its doing 885
trust business in this state in accordance with divisions (A) 886
and (B) of section 1125.25 of the Revised Code, the receiver 887
shall distribute any remaining funds from the liquidation of the 888
trust company's trust business in this state to the receiver for 889
liquidation of the family trust company's trust business in 890
another state of the United States or for conducting a 891
liquidation of all or part of the family trust company's trust 892
business under laws of the United States, or equitably among the 893
receivers if the trust company's trust business is being 894
liquidated under the laws of more than one other state or the 895
United States, for payment of the expenses of liquidation and 896
claims against the family trust company's trust business. If 897
there is no liquidation of the family trust company's trust 898
business under way in any other state or under laws of the 899
United States, the receiver shall, after satisfying the 900
requirements of divisions (A) and (B) of section 1125.25 of the 901
Revised Code, pay any remaining funds from the liquidation of 902
the family trust company's trust business in this state to the 903
family trust company. 904

(2) When the receiver has completed the liquidation of the 905
family trust company's trust business in this state, the 906
receiver shall, with notice to the superintendent, petition the 907
court for an order declaring the family trust company's trust 908
business in this state is properly wound up in the manner 909
provided in section 1125.30 of the Revised Code. Upon the filing 910

of the petition, the court shall proceed as provided in section 911
1125.30 of the Revised Code. 912

An order issued by the court pursuant to a petition filed 913
under division (B)(2) of this section shall comply with section 914
1125.30 of the Revised Code. However, the order shall only 915
declare the family trust company's trust business in this state 916
has been properly wound up and shall not declare the family 917
trust company is dissolved. The court may make whatever 918
additional orders and grant whatever additional relief the court 919
determines is proper upon the evidence submitted. 920

Once the order is issued declaring the family trust 921
company's trust business in this state is properly wound up, 922
both of the following shall occur: 923

(a) The family trust company shall, except for any further 924
winding up, cease engaging in trust business in this state and, 925
if the family trust company has its principal place of business 926
in this state, cease engaging in trust business in any 927
jurisdiction. 928

(b) The receiver shall promptly file, with both the 929
secretary of state and the superintendent, a copy of the order, 930
certified by the clerk of the court. 931

(C) If the family trust company is a bank doing business 932
under authority granted by the superintendent, all of the 933
following apply: 934

(1) If the family trust company is being liquidated under 935
Chapter 1125. of the Revised Code, the trust company's trust 936
business shall also be liquidated even if there would not be 937
independent grounds for liquidation of the trust business under 938
this section. 939

(2) If the family trust company's trust business is being 940
liquidated under this section and the trust company as a whole 941
is being liquidated under Chapter 1125. of the Revised Code, the 942
liquidations shall be merged. 943

(3) If the family trust company is not authorized to 944
engage in any business other than trust business, its 945
liquidation shall be of the company as a whole, conducted under 946
Chapter 1125. of the Revised Code, and completed by the 947
dissolution of the trust company. 948

Sec. 1112.27. The superintendent of financial institutions 949
shall not have an ownership interest in a licensed family trust 950
company. 951

Sec. 1112.28. The superintendent of financial institutions 952
may, in accordance with Chapter 119. of the Revised Code, adopt 953
any rule necessary to carry out the purposes of this chapter. 954

Sec. 1112.99. Whoever violates division (B) of section 955
1112.23 of the Revised Code is guilty of a felony of the fourth 956
degree. 957