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SENATE FILE 2398
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 2311)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the organization and regulation of trust
2 companies by the superintendent of banking and providing
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2398

1 Section 1. NEW SECTION. 524A.1 SHORT TITLE.

2 This chapter shall be known and may be cited as the "Iowa
3 Trust Company Act".

4 Sec. 2. NEW SECTION. 524A.2 DEFINITIONS.

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "Affiliate" means any corporation, partnership,
8 association, trust, estate, or similar organization of which a
9 trust company or any shareholder of such trust company,
10 directly or indirectly, owns or controls either a majority of
11 the voting shares or more than fifty percent of the number of
12 shares voted for the election of its directors, trustees, or
13 other individuals exercising similar functions at the
14 preceding election, or controls in any manner the election of
15 a majority of such individuals.

16 2. "Bank holding company" means bank holding company as
17 provided in 12 U.S.C. § 1841(a), and includes a company that
18 would become a bank holding company upon completion of an
19 acquisition.

20 3. "Business of banking" means business of banking as
21 defined in section 524.103.

22 4. "Capital stock" means the sum of the par value of the
23 preferred and common shares of a trust company which are
24 issued and outstanding.

25 5. "Capital structure" means the total of the par value of
26 the outstanding preferred and common shares of capital stock,
27 surplus, and undivided profits of a trust company.

28 6. "Fiduciary" means fiduciary as defined in section
29 524.103.

30 7. "Person" means person as defined in section 4.1.

31 8. "Principal place of business", with respect to a trust
32 company, means the location specified in the application for a
33 charter of authority of a trust company, or such other
34 location as is approved by the superintendent from time to
35 time, which is the location for the original trust

1 recordkeeping functions.

2 9. "Superintendent" means the superintendent of banking of
3 this state.

4 10. "Trust company" means a corporation issued a charter
5 under this chapter.

6 Sec. 3. NEW SECTION. 524A.3 AUTHORIZATION.

7 1. The superintendent may issue to a corporation desiring
8 to transact business as a trust company in this state a
9 charter of authority to act in a fiduciary capacity pursuant
10 to this chapter.

11 2. A corporation is eligible to receive or retain a
12 charter of authority under this chapter if all of the shares
13 of that corporation are held by one or more of the following:

14 a. A state or national bank which has its principal place
15 of business in this state.

16 b. A bank holding company which owns or controls a state
17 or national bank that has its principal place of business in
18 this state.

19 c. A combination of banks and bank holding companies
20 described in paragraphs "a" and "b".

21 3. A person shall not transact business as a trust company
22 in this state, except for the following:

23 a. A corporation holding a charter issued under this
24 chapter.

25 b. A trust company that is existing, operating, and
26 authorized to act as a trust company pursuant to section
27 524.1005 or pursuant to any other law of this state on July 1,
28 1996.

29 c. A trust company that is chartered under federal law and
30 authorized to transact business as a trust company in this
31 state.

32 d. A trust company that is chartered under the laws of
33 another state and authorized to transact business as a trust
34 company in this state.

35 Sec. 4. NEW SECTION. 524A.4 APPLICABILITY OF CHAPTER.

1 1. The corporate existence of a trust company existing and
2 operating on July 1, 1996, and which is authorized to act as a
3 trust company pursuant to section 524.1005 or pursuant to any
4 other law of this state, shall not be affected by this
5 chapter. All such trust companies, except for a trust company
6 which is supervised by a federal banking or thrift regulatory
7 agency on July 1, 1996, shall be subject to the provisions and
8 requirements of this chapter, except for section 524A.3,
9 sections 524A.5 through 524A.14, and section 524A.32,
10 subsections 2 and 3.

11 2. A federally chartered trust company authorized to
12 transact business in this state is subject to the provisions
13 and requirements of this chapter except to the extent
14 preempted by federal law or regulation.

15 3. This chapter does not apply to a bank, savings bank, or
16 savings and loan association chartered under state or federal
17 law and authorized to act in a fiduciary capacity in this
18 state.

19 Sec. 5. NEW SECTION. 524A.5 ORGANIZATION.

20 A corporation organized for and desiring to transact
21 business as a trust company in this state, before commencing
22 such business, shall certify and file with the superintendent
23 an application for a charter of authority. A corporation
24 organized for and desiring to transact business as a trust
25 company in this state shall be organized under chapter 490.

26 Sec. 6. NEW SECTION. 524A.6 CONTENTS OF APPLICATION FOR
27 CHARTER OF AUTHORITY.

28 1. An application for a charter of authority to transact
29 business as a trust company in this state shall be certified
30 and filed with the superintendent in a form prescribed by the
31 superintendent and shall contain the following information:

32 a. The name and address of each applicant associated with
33 the application.

34 b. The name of the proposed trust company.

35 c. The location of the principal place of business of the

1 proposed trust company.

2 d. The duration of the proposed trust company, which shall
3 be perpetual.

4 e. The aggregate number of shares of capital stock which
5 the proposed trust company shall have authority to issue, the
6 par value of such shares, and, if the shares are to be divided
7 into classes, the number of shares of each class, a statement
8 of the par value of the shares of each class, and a statement
9 of the preferences, voting rights, limitations, and other
10 relative rights, if any, of the shares of such class or
11 classes.

12 f. A copy of the articles of incorporation of the proposed
13 trust company in the form prescribed by chapter 490.

14 g. The names and addresses of the stockholders and the
15 ownership percentage of issued and subscribed capital stock of
16 the proposed trust company of each stockholder.

17 h. The current locations where each stockholder and bank
18 subsidiary of each stockholder maintains its principal place
19 of business and all bank offices, and all proposed business
20 locations of the proposed trust company, designating whether
21 each such location is accessible to customers or not
22 accessible to customers.

23 i. The name and address of each director and officer of
24 the proposed trust company and a description of the
25 individual's character, qualifications, experience or
26 familiarity with trust services, and any sanctions imposed
27 against such individual by a governmental entity.

28 j. A list of the powers, fiduciary appointments, and
29 fiduciary functions the proposed trust company desires to
30 exercise, which may include a statement to exercise any and
31 all powers, fiduciary appointments, and fiduciary functions
32 which an individual, bank, or trust company may exercise from
33 time to time in this state.

34 k. A business plan of the proposed trust company with
35 projected revenue sources and expenses for the first three

1 years of operation.

2 1. A statement that the board of directors of the proposed
3 trust company has adopted a statement of principles of trust
4 department management or other policies or guidelines
5 acceptable to the superintendent.

6 m. Other relevant information deemed necessary and
7 appropriate by the superintendent.

8 2. If at any time while an application is pending or after
9 an application is approved, transfers, changes, or events
10 occur which cause the information contained in the application
11 to be incorrect or incomplete, the applicant shall immediately
12 file a certified report with the superintendent describing the
13 transfers, changes, or events, and containing correct and
14 complete information as required by this section.

15 Sec. 7. NEW SECTION. 524A.7 DIRECTORS AND OFFICERS --
16 MINIMUM NUMBER REQUIRED.

17 The board of directors of a trust company shall consist of
18 at least five individuals. Each director shall be eighteen
19 years of age or older and a citizen of the United States. A
20 majority of the directors shall be citizens of this state.
21 The officers of a trust company shall include, at a minimum, a
22 president, vice president, and a treasurer. Any one
23 individual may fill two such positions, except that of both
24 president and vice president.

25 Sec. 8. NEW SECTION. 524A.8 PUBLICATION OF NOTICE --
26 INVESTIGATION AND EXAMINATION OF APPLICATION -- APPROVAL OF
27 APPLICATION.

28 1. The applicant shall publish notice of its intention to
29 deliver, or the delivery of, the application for a charter of
30 authority to the superintendent, once each week for two
31 successive weeks in a newspaper of general circulation
32 published in the municipal corporation which is proposed as
33 the principal place of business of the proposed trust company,
34 or if there is none, a newspaper of general circulation
35 published in the county, or in a county adjoining the county,

1 in which the proposed trust company is to have its principal
2 place of business. The first publication of the notice shall
3 appear prior to, or within ten days after, the date of
4 delivery of the application to the superintendent. The first
5 and second publications shall set forth all of the following:

- 6 a. The name of the proposed trust company.
- 7 b. A statement that the trust company seeks a charter of
8 authority under this chapter.
- 9 c. The name and address of each applicant associated with
10 the application.
- 11 d. The name and address of each member of the initial
12 board of directors of the trust company.
- 13 e. The proposed location of the principal place of
14 business of the trust company.

15 Within thirty days after the filing of the application, the
16 applicant shall deliver to the superintendent proof of
17 publication of the notice required by this section by
18 affidavit of the publisher of the newspaper in which the
19 publication was made.

20 2. Upon the filing of an application for a charter of
21 authority to transact business as a trust company in this
22 state, the superintendent shall conduct an investigation of
23 the statements made in the application and the background of
24 the management and controlling shareholder or shareholders.
25 The superintendent shall not approve the application and issue
26 a charter of authority to transact business as a trust company
27 unless the superintendent finds all of the following:

- 28 a. The capital structure meets the minimum amounts as
29 determined pursuant to this chapter including additional
30 amounts if deemed necessary to support the scope of the
31 proposed operation.
- 32 b. The directors possess satisfactory character,
33 qualifications, and general business experience or familiarity
34 with trust services to assure reasonable promise of a
35 successful, safe, and sound operation.

1 c. The officers and other management possess satisfactory
2 character, qualifications, and experience or familiarity with
3 trust services to assure reasonable promise of a successful,
4 safe, and sound operation.

5 d. The prospects for success based on all of the factors
6 considered are such to allow the operation of the proposed
7 trust company.

8 3. Within ninety days after the second publication of the
9 notice required by this section, any person opposing the
10 pending application shall file written objections with the
11 superintendent. Following the expiration of the ninety-day
12 period and prior to making a determination on the pending
13 application, the superintendent shall give adequate notice of
14 the pending application, and may afford all interested
15 persons, including the applicant and any persons objecting to
16 the application, an opportunity for a hearing during which
17 such persons shall be allowed to present evidence in support
18 of, or in opposition to, the pending application. The hearing
19 shall be recorded. The superintendent shall conduct a hearing
20 if any interested person files an objection to the pending
21 application and requests a hearing.

22 4. Within one hundred eighty days after receipt of the
23 application for a charter of authority under this chapter, the
24 superintendent shall make a determination whether to approve
25 or disapprove the pending application on the basis of the
26 investigation.

27 5. If the superintendent approves the application, the
28 superintendent shall deliver the articles of incorporation,
29 with the superintendent's approval indicated thereon, to the
30 secretary of state and notify the applicant, and such other
31 persons who requested in writing that they be notified of such
32 approval. The receipt of the approved articles of
33 incorporation of a trust company by the secretary of state
34 constitutes filing with that office. The secretary of state
35 shall record the articles of incorporation and forward a copy

1 of them to the county recorder of the county in which the
2 trust company is to have its principal place of business.
3 Upon the filing of the articles of incorporation, the
4 secretary of state shall issue a certificate of incorporation
5 and send the certificate to the applicant. If the
6 superintendent disapproves the application, the superintendent
7 shall notify the applicant of the action and the reason for
8 the decision.

9 6. The actions of the superintendent shall be subject to
10 judicial review pursuant to chapter 17A.

11 7. Upon the issuance of the certificate of incorporation
12 of a trust company, the corporate existence shall begin,
13 unless the certificate in conformity with a provision of the
14 articles of incorporation provides that it shall begin on a
15 stated day in the future, in which event the corporate
16 existence shall, without further action by either the
17 incorporators or the secretary of state, begin on the day so
18 stated.

19 8. The trust company shall not transact any business as a
20 trust company except such business as is incident to
21 commencement of business, or to the obtaining of subscriptions
22 and payment for its shares, until receipt of the charter of
23 authority to transact business as a trust company from the
24 superintendent. The superintendent shall issue an
25 authorization to transact business as a trust company upon
26 finding that the proposed trust company has complied with all
27 of the requirements of this chapter related to the issuance of
28 such charter and has submitted to the superintendent a
29 certified statement, in the form prescribed by the
30 superintendent, showing that the capital stock, surplus, and
31 undivided profits required by the superintendent in accordance
32 with this chapter have been fully paid.

33 Sec. 9. NEW SECTION. 524A.9 EXPENSES OF EXAMINATION OF
34 THE APPLICATION.

35 An applicant shall pay all reasonable expenses incurred in

1 an examination and investigation related to the application as
2 deemed necessary and appropriate by the superintendent.

3 Sec. 10. NEW SECTION. 524A.10 AMOUNT OF CAPITAL.

4 1. The initial minimum amount of capital stock, surplus,
5 and undivided profits required to be raised or subscribed for
6 prior to the filing of an application for a charter of
7 authority to transact business as a trust company in this
8 state is one hundred thousand dollars. However, the
9 superintendent may require additional initial minimum capital
10 stock, surplus, or undivided profits based on the amount and
11 character of the anticipated business of the proposed trust
12 company or the projected revenues and expenses of the proposed
13 trust company, or for the safety of the customers of the
14 proposed trust company.

15 2. The ongoing minimum capital requirements shall be based
16 on the nature and extent of the trust activities being
17 conducted by the trust company, but shall not be less than the
18 lesser of the initial minimum established in subsection 1, or
19 the sum of thirty basis points of the market value of those
20 trust assets in which the trust company has either sole or
21 joint investment discretion and ten basis points of the market
22 value of those trust assets in which the trust company does
23 not have investment discretion. However, the superintendent
24 may require from time to time additional ongoing capital based
25 on the nature, extent, and risks of the business being
26 conducted by the trust company, and the amounts and types of
27 insurance protection, including deductible limits, maintained
28 by the trust company.

29 3. The ongoing minimum capital requirements shall be
30 adjusted by the trust company annually within one hundred
31 twenty days following the close of the fiscal year of the
32 trust company, or more frequently if requested by the
33 superintendent.

34 4. If the trust company does not have insurance to cover
35 this liability of directors and officers of the trust company

1 in amounts and coverages acceptable to the superintendent,
2 then the trust company shall maintain such additional minimum
3 capital requirements as the superintendent deems necessary and
4 appropriate.

5 Sec. 11. NEW SECTION. 524A.11 OWNERSHIP AND TRANSFER OF
6 STOCK.

7 1. The shares of any trust company shall be owned only by
8 one or more banks, with each having its principal place of
9 business in this state, or one or more bank holding companies
10 owning or controlling one or more banks, with each having
11 their principal place of business in this state, or a
12 combination of such banks and bank holding companies. If, at
13 any time, an event occurs or a transfer of shares of stock of
14 a trust company occurs which results in ownership of shares of
15 the trust company by a person or entity that is not a bank
16 having its principal place of business in this state or a bank
17 holding company owning or controlling one or more banks, with
18 each having its principal place of business in this state, the
19 trust company, as of the date of such event or transfer, shall
20 cease to exercise fiduciary powers, appointments, and
21 functions, and otherwise cease to transact business as a trust
22 company in this state.

23 2. Shares of stock of the trust company shall not be
24 transferred on the books of the trust company when the capital
25 structure is impaired, except upon approval of the
26 superintendent.

27 3. If a transfer of shares of stock of a trust company
28 occurs which results in direct or indirect ownership by a
29 stockholder or an affiliated group of stockholders of ten
30 percent or more of the outstanding stock of the trust company,
31 or in the event additional shares of voting stock of the trust
32 company are transferred to such stockholders or affiliated
33 group of stockholders, the president or other officer of the
34 trust company shall file a certified report which describes
35 the transfer with the superintendent within ten days after

1 such transfer. Such report shall include the names and
2 addresses of the stockholders and their ownership percentage
3 of issued and subscribed stock of the trust company after such
4 transfer and the current locations where each stockholder and
5 bank subsidiary of each stockholder maintains its principal
6 place of business and all bank offices. The superintendent
7 may require the submission of additional information regarding
8 the transfer as the superintendent deems appropriate.

9 4. A trust company, with the prior approval of the
10 superintendent, may acquire its own shares and such acquired
11 shares constitute authorized but unissued shares. However, if
12 the articles of incorporation prohibit the reissue of acquired
13 shares, the number of authorized shares shall be reduced by
14 the number of shares acquired, effective upon amendment of the
15 articles of incorporation regarding the number of authorized
16 shares.

17 Sec. 12. NEW SECTION. 524A.12 INCREASE OF CAPITAL STOCK.

18 1. The capital stock of a trust company may be increased.
19 The president or other chief executive officer of the trust
20 company shall file a certified report with the superintendent
21 within ten days after such increase in capital stock stating
22 all of the following:

23 a. The amount of the increase.

24 b. The names and addresses of the subscribers.

25 c. The amount subscribed by each subscriber.

26 d. The ownership percentage of issued and subscribed stock
27 of the trust company held by each subscriber after the
28 increase.

29 e. The current location of the principal place of business
30 and all bank offices of each subscriber and bank subsidiary of
31 each subscriber.

32 f. That the amounts subscribed have been paid in full to
33 the trust company.

34 2. The superintendent may require the submission of
35 additional information regarding the increase in capital stock

1 as the superintendent deems necessary and appropriate.

2 Sec. 13. NEW SECTION. 524A.13 RESTORATION OF IMPAIRED
3 CAPITAL.

4 The superintendent, if it appears that the capital
5 structure of any trust company is impaired, shall notify the
6 trust company that the trust company must restore the capital
7 structure of the trust company within thirty days of receipt
8 of the notice or within such other period as prescribed by the
9 superintendent in the notice. If the capital structure is not
10 restored as required by the superintendent, the superintendent
11 may revoke the charter of authority of the trust company to
12 transact business and may institute proceedings for the
13 appointment of a receiver for the trust company or take such
14 actions under this chapter as the superintendent deems
15 necessary or appropriate.

16 Sec. 14. NEW SECTION. 524A.14 DIVIDENDS FROM CAPITAL
17 STOCK PROHIBITED.

18 A trust company, during the time it continues in business,
19 shall not make any distribution to its shareholders related to
20 its capital stock which would reduce its capital structure
21 below the minimum capital requirements of this chapter or
22 which would be in violation of applicable corporation law.
23 The current dividends of a trust company shall be paid from
24 undivided profits after deducting losses, based on reasonably
25 current financial statements prepared in accordance with
26 generally accepted accounting principles applicable to a trust
27 company.

28 Sec. 15. NEW SECTION. 524A.15 POWERS OF TRUST COMPANIES.

29 A trust company may exercise all powers connected with, and
30 necessary or incidental to, carrying on a trust company
31 business, as well as act in any capacity which an individual
32 or corporation acting as a fiduciary in this state may act,
33 subject to any limitations contained in this chapter. Such
34 powers include, but are not limited to, the following:

35 1. Subject to the prior approval of the superintendent,

1 acquire and hold, or lease as lessee, only such real property
2 as is used, or is to be used, wholly or substantially, by the
3 trust company in its operations or for future use in its
4 operations.

5 2. Subject to the prior approval of the superintendent,
6 acquire and hold ownership interests in an entity engaged
7 solely in holding and operating real property used, or to be
8 used, wholly or substantially, by the trust company in its
9 operations or for future use in its operations.

10 3. Subject to the prior approval of the superintendent,
11 acquire and hold ownership interests in an entity organized
12 solely for the purpose of providing data processing services,
13 or other clerical, bookkeeping, accounting, tax, statistical,
14 safekeeping, or similar services, to the trust company.

15 4. Subject to the superintendent's supervision,
16 regulation, and examination of services performed by persons
17 and entities other than a trust company as provided in this
18 chapter, enter into service agreements or contracts with any
19 person or entity for the purpose of providing data processing
20 services, or other clerical, bookkeeping, tax, statistical,
21 safekeeping or similar services, to the trust company, whether
22 on or off the premises of the trust company. Written
23 assurances satisfactory to the superintendent by the trust
24 company and the person or entity shall be furnished to the
25 superintendent prior to the performance of any services
26 certifying that the performance of the services is subject to
27 supervision, regulation, and examination by the superintendent
28 to the same extent as if the services were being performed by
29 the trust company itself on its own premises.

30 5. Receive and invest funds in a fiduciary capacity upon
31 such terms and conditions as may be agreed upon.

32 6. Accept and execute all such agreements as may be
33 committed to it by any person or entity to act as assignee,
34 receiver, trustee, successor trustee, or depository, and to
35 accept and execute all such trusts as may be committed or

1 referred to it by order, judgment, or decree of any court.

2 7. Take, accept, and hold by order, judgment, or decree of
3 any court or by gift, grant, assignment, transfer, devise or
4 bequest, any real or personal property in trust, care for,
5 manage, lease, and convey the property pursuant to the trusts,
6 and execute and perform all such trusts.

7 8. Act either by itself or jointly with an individual or
8 another trust company, state bank, national bank, savings
9 bank, or savings and loan association authorized to act in a
10 fiduciary capacity in this state, as agent or as attorney-in-
11 fact for any person or entity, public or private.

12 9. Act by itself or jointly with any other person
13 qualified to act as a fiduciary, as administrator of the
14 estate of any deceased person, as personal representative, as
15 conservator of the property or guardian of the person of any
16 minor or incompetent or person under any disability, or as
17 trustee for any person or of the estate of any deceased person
18 under the appointment of any court having jurisdiction of the
19 estate of such person. A trust company so appointed as
20 administrator, personal representative, conservator, guardian,
21 or trustee shall give a bond in the same manner as is required
22 for banks acting in a similar fiduciary capacity.

23 10. Subject to the approval of the superintendent, borrow
24 money and pledge its real estate for a loan.

25 11. Buy, hold, own, and sell all of the following:

26 a. Securities issued or guaranteed by the United States,
27 or an authorized agency of the United States, including a
28 corporation or enterprise wholly owned, directly or
29 indirectly, by the United States or with the authority to
30 borrow directly from the United States treasury.

31 b. Securities secured by obligations of the United States
32 or an authorized agency of the United States.

33 c. Securities of any state, or political subdivision of a
34 state, which possesses general powers of taxation.

35 d. Stocks, warrants, bills of exchange, notes, mortgages,

1 banker's acceptances, certificates of deposit in institutions
2 whose accounts are insured, and other investment securities,
3 negotiable and nonnegotiable.

4 12. Appointment by a court of this state as receiver,
5 assignee, trustee, conservator, guardian, personal
6 representative, custodian, or administrator. If a trust
7 company is so appointed and required to take an oath, whether
8 to qualify as such appointee or for any other purpose, the
9 president, vice president, treasurer, or any other officer of
10 the trust company, on behalf of the trust company, may make
11 and subscribe the required oath.

12 13. Lease, transfer, or convey real property owned or held
13 in trust by the trust company. All such leases, transfers and
14 conveyances, and the instruments affecting such real property,
15 shall be authorized by a resolution of the board of directors,
16 or a committee appointed by the board of directors, and signed
17 in the name of the trust company by its president, vice
18 president, or other authorized officer or officers.

19 14. Establish common trust funds for the purpose of
20 furnishing investments to itself as fiduciary, or to itself
21 and others as cofiduciaries, and to invest funds that it
22 lawfully holds for investment in such common trust funds, if
23 the investment is not prohibited by the instrument, judgment,
24 decree, or order creating the fiduciary relationship.

25 Sec. 16. NEW SECTION. 524A.16 SUPERINTENDENT'S POWERS.

26 1. The superintendent shall supervise and regulate all
27 trust companies and is charged with the administration and
28 execution of the laws of this state relating to trust
29 companies and the business of trust companies, and with such
30 other duties and responsibilities as are imposed upon the
31 superintendent by the laws of this state. The superintendent
32 shall have all powers with respect to trust companies as are
33 possessed by the superintendent with respect to banks having
34 fiduciary powers under chapter 524. The superintendent shall
35 adopt, amend, and repeal such rules pursuant to chapter 17A or

1 take other action which, in the superintendent's opinion, is
2 necessary and appropriate to properly and effectively carry
3 out and enforce the provisions of this chapter.

4 2. The superintendent, the deputy superintendent, and,
5 upon approval of the superintendent, any assistant or examiner
6 shall have the power to subpoena witnesses, to compel their
7 attendance, to administer an oath, to examine any person under
8 oath, and to require the production of any relevant records,
9 books, and papers. The examination shall be conducted by the
10 superintendent consistent with this chapter.

11 3. If a person subpoenaed pursuant to subsection 2
12 neglects or refuses to obey or comply with the terms of the
13 subpoena, neglects or refuses to produce books or papers, or
14 to give testimony as required, the superintendent may apply to
15 the district court of the county in which the trust company
16 has its principal place of business for the enforcement of the
17 subpoena or the issuance of an order compelling such
18 compliance as the court may direct.

19 4. A person who refuses to obey an order of the district
20 court issued pursuant to subsection 3 without reasonable cause
21 is subject to punishment for contempt.

22 Sec. 17. NEW SECTION. 524A.17 BONDS OF OFFICERS AND
23 EMPLOYEES.

24 An officer or employee of a trust company having the care,
25 custody, or control of any funds or securities of the trust
26 company, or funds or securities held for the beneficiaries of
27 its fiduciary obligations, shall provide a bond issued by a
28 surety company authorized to do business in this state
29 indemnifying the trust company and the beneficiaries of its
30 fiduciary obligations against loss which may be incurred by
31 reason of any act of fraud, dishonesty, forgery, theft,
32 larceny, embezzlement, wrongful abstraction, misapplication,
33 misappropriation, or other unlawful act committed by an
34 officer or employee, directly or through connivance with
35 others, until all of such officer's or employee's accounts

1 with the trust company, and the beneficiaries of its fiduciary
2 obligations, have been fully settled and satisfied. The
3 amount and surety are subject to the approval of the board of
4 directors of the trust company. If the agent of a bonding
5 company issuing a bond under this section is an officer or
6 employee of the trust company upon which the bond is issued,
7 the bond so issued shall contain a provision that the bonding
8 company shall not use, either as grounds for rescission or as
9 a defense to liability under the terms and conditions of the
10 bond, the knowledge that the agent was so employed, whether or
11 not the agent received any part of the premium for the bond as
12 a commission.

13 Sec. 18. NEW SECTION. 524A.18 ACTIONS REQUIRED,
14 PERMITTED OR PROHIBITED.

15 1. A trust company shall keep separate records for all
16 property held as a fiduciary for each account for which such
17 property is held.

18 2. A trust company shall not make a loan or extension of
19 credit of any funds held as a fiduciary, directly or
20 indirectly, except for a loan specifically authorized by the
21 terms of an agreement or instrument under which the trust
22 company is designated as fiduciary, to or for the benefit of
23 any of the following:

24 a. An affiliate of the trust company or a person or entity
25 which provides services to the trust company pursuant to a
26 contract with the trust company.

27 b. A director, officer, or employee of the trust company.

28 c. An affiliate, partnership, limited liability company,
29 or other unincorporated association of which a director,
30 officer, or employee of the trust company is a partner or
31 member.

32 d. A corporation in which such director, officer, or
33 employee has a controlling interest.

34 3. Unless authorized by an agreement or instrument
35 creating a fiduciary relationship, a court order, or the laws

1 of this state, a trust company, directly or indirectly, shall
2 not sell any asset or security held by the trust company as a
3 fiduciary to the trust company for its own account or to an
4 affiliate, officer, director, or employee of the trust
5 company, or purchase from the trust company, or an affiliate,
6 officer, director, or employee of the trust company, any asset
7 or security issued by the trust company except for the
8 following:

9 a. An investment in which a state bank may invest without
10 limitation pursuant to section 524.901, subsection 3.

11 b. An asset purchased by the trust company pursuant to an
12 agreement where the trust company is bound to sell, and the
13 trust company as fiduciary is bound to buy, at a date not more
14 than one year from the date of acquisition by the trust
15 company, and at a price agreed upon at the time of acquisition
16 by the trust company.

17 c. An asset sold to the trust company for its own account
18 or purchased in a fiduciary capacity from the trust company
19 with the prior approval of the superintendent.

20 Sec. 19. NEW SECTION. 524.19 PROHIBITIONS APPLICABLE TO
21 OFFICERS AND EMPLOYEES.

22 An officer or employee of a trust company shall not do any
23 of the following:

24 1. Receive anything of value for procuring, or attempting
25 to procure, an investment by the trust company.

26 2. Engage, directly or indirectly, in the sale of any kind
27 of insurance, shares of stock, bonds or other securities, or
28 real property, or procure or attempt to procure for a fee or
29 other compensation fiduciary services for any person from a
30 person other than the trust company, unless authorized to do
31 so by the board of directors of the trust company. If so
32 authorized, the board of directors shall also determine the
33 manner in which profits, fees, or other compensation derived
34 from the sale or procurement shall be distributed.

35 3. Serve as a personal fiduciary with respect to any

1 matter as to which the trust company is acting as a fiduciary
2 or solicit fiduciary appointments, functions, or powers
3 contrary to or in competition with the fiduciary services
4 exercised or provided by the trust company of which the person
5 is an officer or employee.

6 Sec. 20. NEW SECTION. 524A.20 RETENTION OF BOOKS AND
7 RECORDS.

8 1. A trust company shall retain its business records for
9 the periods prescribed in this section, except as may be
10 otherwise prescribed by state or federal law or rule.

11 2. A trust company shall retain permanently the minute
12 books of meetings of its stockholders and directors, its
13 capital stock ledger, capital stock certificate ledger or
14 stubs, and all other records which the superintendent,
15 pursuant to this section, shall require to be retained
16 permanently.

17 3. All other records of a trust company shall be retained
18 for such periods as the superintendent, pursuant to this
19 section, shall prescribe.

20 4. The superintendent, as deemed necessary and
21 appropriate, may adopt, amend, and repeal rules classifying
22 all records to be maintained by trust companies, prescribing
23 the periods for which records of various classes shall be
24 retained, and prescribing the manner in which records of the
25 destruction of records are to be recorded and maintained. The
26 periods may be permanent or for a term of years. Prior to
27 adoption, amendment, or repeal of the rules, the
28 superintendent shall consider all of the following:

29 a. Actions and administrative proceedings in which the
30 production of trust company records might be necessary or
31 advisable.

32 b. State and federal statutes of limitation applicable to
33 the actions or proceedings.

34 c. The availability of information contained in trust
35 company records from other sources.

1 d. Other matters as the superintendent deems pertinent to
2 the interest of customers and shareholders of a trust company
3 and to the interest of the people of this state in having such
4 records available.

5 5. A trust company may destroy any record which has been
6 retained for the period prescribed in accordance with the
7 terms of this section for retention of records of its class
8 and, after it has destroyed a record, is under no duty to
9 produce the record except as may be otherwise required by
10 state or federal law or rule.

11 6. A trust company, instead of retaining the original
12 records, may cause any or all of its records and the records
13 of others held at any time in its custody, including those
14 held by it as a fiduciary, to be photographed or otherwise
15 reproduced to a permanent form. A photograph or reproduction
16 shall have the same force and effect as the original record
17 and be admitted in evidence in the same manner as the
18 original.

19 7. A trust company may cause any or all transactions,
20 information, and data occurring in the regular course of its
21 operations to be recorded and maintained by electronic means.
22 If the electronic records of such transactions, information,
23 and data are converted to writing, such writings shall
24 constitute the original records of the transactions,
25 information, and data, and shall have the force and effect of
26 the original records.

27 8. Except to the extent preempted by federal law, this
28 section shall apply to all trust companies authorized to
29 transact business in this state.

30 9. This section shall not be construed to affect any duty
31 of a trust company to preserve the confidentiality of those
32 records deemed to be confidential records by law or rule.

33 Sec. 21. NEW SECTION. 524A.21 REPORTS TO SUPERINTENDENT.

34 1. A trust company shall provide to the superintendent
35 annual financial statements within forty-five days after the

1 end of each fiscal year of the trust company. The annual
2 financial statements shall be accompanied by the unqualified
3 opinion of an independent accountant, if required by the
4 superintendent. The superintendent may require such other
5 financial reports as the superintendent deems necessary and
6 appropriate. Financial statements shall be prepared in
7 accordance with generally accepted accounting principles
8 applicable to trust companies.

9 2. The superintendent may require a trust company to
10 establish an autonomous internal audit control system which
11 shall be subject to the approval of the superintendent, or may
12 require periodic examinations of the financial condition of a
13 trust company, and written reports of the examinations, to be
14 performed by the board of directors or by a certified public
15 accountant or a firm of the accountants, or both, as the
16 superintendent deems necessary and appropriate.

17 3. If, at any time, an event occurs or a transfer of
18 shares of stock of a trust company occurs which results in
19 ownership of shares of the trust company by a person or entity
20 that is not a bank having its principal place of business in
21 this state or a bank holding company owning or controlling one
22 or more banks having its principal place of business in this
23 state, the president or other officer of the trust company
24 shall file a certified report describing the event or transfer
25 with the superintendent within ten days after the event or
26 transfer.

27 4. If, at any time, a trust company maintains a business
28 location that has not been approved by the superintendent or
29 an event occurs or a transfer of shares of stock of the trust
30 company occurs which results in the existence of a business
31 location of the trust company in violation of this chapter,
32 the president or other officer of the trust company shall file
33 a certified report describing the event or transfer which
34 results in such condition with the superintendent within ten
35 days after the event or transfer.

1 5. A trust company shall maintain a complete and correct
2 list of the names and addresses of the directors, officers,
3 and stockholders of the trust company and the number of shares
4 and their percentage ownership of issued and subscribed
5 capital stock of the trust company held by each director,
6 officer, and stockholder. The list shall also include the
7 locations of the principal place of business and all bank
8 offices of each stockholder and bank subsidiary of each
9 stockholder. The list shall be subject to public inspection
10 during usual business hours. A copy of the list as of the
11 date of the adjournment of each annual meeting of
12 stockholders, certified by the president or other officer of
13 the trust company, shall be filed with the superintendent
14 within ten days after the annual meeting.

15 Sec. 22. NEW SECTION. 524A.22 EXAMINATION OF TRUST
16 COMPANIES.

17 1. The superintendent, either personally or by one or more
18 persons appointed by the superintendent, shall examine each
19 trust company at least once every twenty-four months, and may
20 examine any trust company or service provider at any time if
21 the superintendent deems it necessary or advisable, to make a
22 full and careful examination and inquiry into the condition of
23 the affairs of such trust company or service provider. The
24 affairs of a trust company or service provider shall include,
25 but not be limited to, clerical, accounting, bookkeeping,
26 statistical, data processing, safekeeping, or similar
27 functions of a trust company.

28 2. The superintendent and a person appointed by the
29 superintendent pursuant to subsection 1 may administer an oath
30 to any person whose testimony is required during an
31 examination, and compel the appearance and attendance of any
32 person for the purpose of examination, by summons, subpoena,
33 or attachment, in the manner authorized with respect to the
34 attendance of persons as witnesses in court. All books and
35 papers which are necessary for examination by the

1 superintendent or person so appointed shall be produced, and
2 their production may be compelled in a like manner.

3 3. A trust company subject to examination, supervision,
4 and regulation by the superintendent shall pay to the
5 superintendent fees, established by the state banking board,
6 based on the costs and expenses incurred in the discharge of
7 the duties imposed upon the superintendent by this chapter.
8 The fees shall include, but are not limited to, costs and
9 expenses for salaries, expenses, and travel for employees,
10 office facilities, supplies, and equipment. Upon completion
11 of an examination pursuant to this chapter, the examiner in
12 charge of the examination shall render a bill for the fees, in
13 duplicate, and shall deliver one copy of the bill to the trust
14 company and one copy to the superintendent. Failure to pay
15 the amount of the fees to the superintendent within ten days
16 after the date of billing shall subject the trust company to
17 an additional charge equal to five percent of the amount of
18 the fees for each day the payment is delinquent.

19 4. On every examination, inquiry shall be made as to the
20 condition and resources of the trust company generally, the
21 mode of conducting and managing its affairs, the action of its
22 directors, the investments of its funds, the safety and
23 prudence of its management, the security afforded to its
24 customers, and whether the requirements of its charter and of
25 the laws of this state have been complied with in the
26 administration of its affairs.

27 5. Any data processing services, or other clerical,
28 bookkeeping, accounting, tax, statistical, safekeeping, or
29 similar services, which a trust company causes to be
30 performed, by contract or other agreement, whether on or off
31 its premises, is subject to both of the following:

32 a. Supervision, regulation, and examination by the
33 superintendent to the same extent as if the services were
34 being performed by the trust company itself on its own
35 premises.

1 b. The provision of written assurances to the
2 superintendent, which are satisfactory to the superintendent,
3 by the trust company and the person or entity performing the
4 services, prior to the performance of the services.

5 6. The superintendent, in lieu of making a direct
6 examination and inspection, may accept the examination and
7 report of an authorized federal agency.

8 7. A report of examination pursuant to this section and
9 any copies of such report are the property of the
10 superintendent, are confidential, and shall only be disclosed
11 pursuant to section 524.215.

12 Sec. 23. NEW SECTION. 524A.23 REFUSAL TO SUBMIT TO
13 EXAMINATION.

14 In the event an officer of a trust company subject to
15 supervision by the superintendent under this chapter, or a
16 person or entity performing services for the trust company,
17 refuses to submit the books, records, papers, and instruments
18 of the trust company, person, or entity to the examination and
19 inspection of the superintendent or any appointee, or in any
20 manner obstructs or interferes with the examination and
21 investigation of the trust company, person, or entity, or
22 refuses to be examined under oath concerning any of the
23 affairs of the trust company, person, or entity, the
24 superintendent may revoke the charter of authority of the
25 trust company to transact business and may institute
26 proceedings for the appointment of a receiver for the trust
27 company or take such actions under this chapter as the
28 superintendent deems necessary or appropriate.

29 Sec. 24. NEW SECTION. 524A.24 POWER OF SUPERINTENDENT TO
30 ISSUE ORDERS.

31 1. If it appears to the superintendent that a trust
32 company is engaging or has engaged, or the superintendent has
33 reasonable cause to believe that the trust company is about to
34 engage, in an unsafe or unsound practice in conducting the
35 business of the trust company, or is violating or has

1 violated, or the superintendent has reasonable cause to
2 believe that the trust company is about to violate, any
3 provision of this chapter or of any rule adopted pursuant to
4 this chapter, or any condition imposed in writing by the
5 superintendent in connection with the approval of any matter
6 required by this chapter, or any written agreement entered
7 into with the superintendent, or engage in any other practice
8 deemed unsafe or unsound by the superintendent, the
9 superintendent may issue and serve upon the trust company a
10 written notice containing a statement of the facts
11 constituting the alleged violation or violations, or the
12 unsafe or unsound practice or practices, and fixing a time and
13 place at which a hearing shall be held to determine whether an
14 order to cease and desist from the violation or practice
15 should be issued to the trust company.

16 2. A trust company which fails to appear at the hearing is
17 deemed to have consented to the issuance of a cease and desist
18 order. If upon such consent, or if upon the record made at
19 the hearing, the superintendent finds that a violation or
20 unsafe or unsound practice specified in the notice is
21 established, the superintendent may issue and serve upon the
22 trust company an order to cease and desist from any such
23 violation or practice. The order may require the trust
24 company and its directors, officers, and employees to cease
25 and desist from any such violation or practice and, further,
26 to take affirmative action to correct the conditions resulting
27 from any such violation or practice.

28 3. An order issued pursuant to this section becomes
29 effective upon service of the order on the trust company and
30 remains effective except to the extent that it is stayed,
31 modified, terminated, or set aside by action of the
32 superintendent or of the district court of the county in which
33 the trust company has its principal place of business.

34 4. The superintendent may apply to the district court of
35 the county in which the trust company has its principal place

1 of business for the enforcement of an order pursuant to this
2 section and the court shall have jurisdiction and power to
3 order and require compliance with the order.

4 Sec. 25. NEW SECTION. 524A.25 SPECIAL MEETING OF BOARD
5 OF DIRECTORS.

6 1. Whenever the superintendent deems it necessary or
7 advisable, the superintendent may cause a meeting of the board
8 of directors of a trust company to be held in the manner and
9 at such time and place as the superintendent may direct. A
10 report of an examination required or allowed by this chapter,
11 conclusions drawn from the report by the superintendent,
12 recommendations made relative to the report, and any other
13 matters concerning the operation and condition of the trust
14 company may be presented to the board of directors by the
15 superintendent. The trust company shall record the
16 recommendations and conclusions of the superintendent in the
17 minutes of the board of directors of the trust company.

18 2. Each member of the board of directors shall certify to
19 the superintendent that the member has read and understands
20 the conclusions and recommendations of the superintendent.

21 Sec. 26. NEW SECTION. 524A.26 REFUSAL TO COMPLY.

22 A trust company which refuses or neglects for a period of
23 thirty days after written notice demanding compliance with any
24 lawful requirement of the superintendent is deemed to have
25 relinquished its charter of authority and the superintendent
26 shall revoke its authority to transact business. The
27 superintendent shall give written notice of the revocation to
28 the trust company and begin an action for the appointment of a
29 receiver or take such actions under this chapter as the
30 superintendent deems necessary or appropriate. The trust
31 company shall not have a right to a hearing under section
32 524A.27 in the event of the relinquishment of its charter of
33 authority under this section.

34 Sec. 27. NEW SECTION. 524A.27 RIGHT TO HEARING.

35 Except as otherwise provided in this chapter, a trust

1 company subject to revocation of its charter of authority
2 shall be afforded the right to a hearing in accordance with
3 the provisions of chapter 17A, in addition to any other rights
4 which the trust company is or may be entitled to under chapter
5 17A.

6 Sec. 28. NEW SECTION. 524A.28 INSOLVENCY.

7 1. The proceedings pursuant to this section are the
8 exclusive remedy and the only proceedings which may be
9 commenced in any court for the dissolution or winding up of
10 the affairs of, or for the appointment of a receiver for, a
11 trust company authorized to transact business in this state
12 pursuant to a charter issued by the superintendent under this
13 chapter or any trust company existing, operating, and
14 authorized to act as a trust company in this state pursuant to
15 section 524.1005 on July 1, 1996.

16 2. a. The superintendent may give written notice to the
17 board of directors of a trust company upon a finding with
18 respect to a trust company of any of the following:

19 (1) Its capital is impaired or it is otherwise in an
20 unsound condition.

21 (2) Its business is being conducted in an unlawful manner,
22 in violation of an order of the superintendent, or in a
23 fraudulent or unsafe manner.

24 (3) It is unable to continue operations.

25 (4) Its examination has been obstructed or impeded.

26 b. If the superintendent, after providing notice under
27 paragraph "a", finds that the situation resulting in the
28 notice is not corrected to the superintendent's satisfaction
29 within thirty days after the notice, the superintendent, at
30 the termination of the thirty-day period, shall take
31 possession and control of the trust company, its assets, and
32 the assets held for beneficiaries of its fiduciary
33 obligations, in the same manner as provided for the
34 examination, reorganization, or liquidation through
35 receivership.

1 3. If, in addition to a finding under subsection 2, the
2 superintendent is of the opinion and finds that an emergency
3 exists which may result in serious losses to the beneficiaries
4 of fiduciary relationships with the trust company, the
5 superintendent, in the superintendent's discretion and without
6 giving notice pursuant to subsection 2, and whether or not
7 proceedings under subsection 2 have been instituted or are
8 pending, may immediately take possession and control of the
9 trust company, its assets, and the assets held for
10 beneficiaries of its fiduciary obligations, in the same manner
11 as provided for the examination, reorganization, or
12 liquidation through receivership.

13 4. The superintendent may take possession and control of a
14 trust company, its assets, and the assets held for
15 beneficiaries of its fiduciary obligations by posting upon the
16 premises of each office at which the trust company transacts
17 its business as a trust company a notice reciting that the
18 superintendent is assuming possession and control pursuant to
19 this chapter, and the time when the possession and control is
20 deemed to commence.

21 5. Promptly after taking possession and control of a trust
22 company, the superintendent shall do the following:

23 a. File a copy of the notice in the district court of the
24 county in which the trust company has its principal place of
25 business, which cause shall be entered as an action upon the
26 dockets of the court under the name and style of "In the
27 Matter of the Possession and Control of the Superintendent of
28 Banking of the (insert the name of the trust company)". If
29 the superintendent determines that no practical possibility
30 exists to reorganize the trust company after reasonable
31 efforts have been made, the superintendent, if the
32 superintendent has not previously done so, shall also apply
33 for the appointment of a receiver or such other proceeding as
34 is appropriate under the circumstances. The determination may
35 be made at the time of, or at any time subsequent to, the

1 superintendent taking possession and control of a trust
2 company. The court shall have jurisdiction to hear and
3 determine all issues and matters pertaining to or connected
4 with the superintendent's possession and control of the trust
5 company, and any further issues and matters pertaining to or
6 connected with the superintendent's possession and control as
7 may be submitted to the court by the superintendent for
8 adjudication.

9 b. The superintendent, immediately upon filing an
10 application for dissolution and if the superintendent has not
11 previously done so, shall examine the affairs of the trust
12 company or appoint another trust company, bank, or other
13 suitable person to make the examination as the
14 superintendent's agent. The examination shall be conducted in
15 accordance with the provisions of this chapter relating to
16 examinations and the trust company, bank, or other suitable
17 person conducting the examination is authorized to exercise on
18 behalf of the superintendent, all of the powers and authority
19 granted to the superintendent under this chapter. The report
20 of examination shall, to the extent reasonably possible,
21 identify those governing agreements and instruments with
22 specific instructions concerning the appointment of a
23 successor fiduciary. A copy of the report shall be filed in
24 any dissolution proceeding filed by the superintendent. The
25 reasonable fees and necessary expenses of the examining trust
26 company, bank, or other suitable person, as approved by the
27 superintendent or as recommended by the superintendent and
28 approved by the court if a dissolution proceeding has been
29 filed, shall be borne by the subject trust company and shall
30 have the same priority for payment as the reasonable and
31 necessary expenses of the superintendent in conducting an
32 examination.

33 c. If deemed necessary and appropriate by the
34 superintendent, the superintendent, as soon as practical,
35 shall seek the advice and instruction of the court concerning

1 the removal of the trust company as to all of its fiduciary
2 accounts and fiduciary appointments and the appointment of a
3 successor fiduciary, which may be the examining trust company,
4 to take over and administer all of the fiduciary accounts and
5 fiduciary appointments being administered by the trust
6 company. The trust company, bank, or other suitable person
7 appointed to make the examination shall make a proper
8 accounting, in the manner and scope as determined by the
9 superintendent to be practical and advisable under the
10 circumstances, on behalf of the trust company and the
11 appointment of a guardian ad litem shall not be required to
12 review the accounting.

13 6. Upon taking possession and control of a trust company,
14 the superintendent is vested with the full powers of
15 management and control, including, but not limited to, all of
16 the following:

17 a. The power to continue or to discontinue the business.

18 b. The power to stop or to limit the payment of its
19 obligations.

20 c. The power to collect and to use its assets and to give
21 valid receipts and acquittances for the assets.

22 d. The power to employ and to pay any necessary
23 assistants.

24 e. The power to execute any instrument in the name of the
25 trust company.

26 f. The power to commence, defend, and conduct in the name
27 of the trust company any action or proceeding in which the
28 trust company may be a party.

29 g. The power, upon the order of the court, to sell and
30 convey the assets of the trust company, in whole or in part,
31 and to sell or settle bad or doubtful debts upon such terms
32 and conditions as may be fixed in the order.

33 h. The power, upon the order of the court, to make and
34 carry out agreements with other trust companies, financial
35 institutions, or the United States or any agency of the United

1 States, for the payment or assumption of the trust company's
2 liabilities, in whole or in part, and to transfer assets and
3 make guaranties, in whole or in part, in connection with the
4 assets.

5 i. The power, upon the order of the court, to borrow money
6 in the name of the trust company and pledge its assets as
7 security for the loan.

8 j. The power to terminate the superintendent's possession
9 and control by restoring the trust company to its board of
10 directors.

11 k. The power to reorganize the trust company as provided
12 in this chapter.

13 l. Upon the order of the court and without the appointment
14 of a receiver, the power to determine that the trust company
15 has been closed for the purpose of liquidation without
16 adequate provision being made for payment of its fiduciary
17 obligations, and upon such determination, the trust company is
18 deemed to have been closed on account of the inability to meet
19 its obligations to its beneficiaries.

20 7. Upon taking possession and control of a trust company,
21 the superintendent shall make an examination of the condition
22 of the trust company and an inventory of its assets and the
23 assets held for beneficiaries of its fiduciary obligations.
24 Unless the time is extended by order of the court, or unless
25 the superintendent has otherwise settled the affairs of a
26 trust company pursuant to this chapter, within sixty days from
27 the time of taking possession and control of the trust company
28 for the purpose of examination, reorganization, or liquidation
29 through receivership, the superintendent shall either
30 terminate possession and control by restoring the trust
31 company to its board of directors or appoint a receiver which
32 may be the superintendent, a trust company, bank, or other
33 suitable person, and order the liquidation of the trust
34 company as provided in this chapter. All necessary and
35 reasonable expenses, including reasonable attorney's fees, of

1 the superintendent's possession and control and of the
2 reorganization or liquidation of the trust company shall be a
3 priority claim and shall be borne by the subject trust company
4 and may be paid to the superintendent from the assets of the
5 trust company as distinguished from the assets of
6 beneficiaries of fiduciary relations.

7 8. If the superintendent takes possession and control of a
8 trust company or appoints a receiver, any period of limitation
9 fixed by a statute, court rule, or agreement which would
10 otherwise expire on a claim or right of action of the trust
11 company, on its own behalf or on behalf of a beneficiary in
12 any of its fiduciary capacities, or upon which an appeal must
13 be taken or a pleading or other document must be filed by the
14 trust company, on its own behalf or on behalf of a beneficiary
15 in any of its fiduciary capacities, in any pending action or
16 proceeding, is tolled for a period of six months after the
17 commencement of such possession and control, or after the
18 appointment of a receiver, whichever is later, and no
19 judgment, lien, levy, attachment, or other similar legal
20 process shall be enforced upon or satisfied in whole or in
21 part from any asset of the trust company or from any asset of
22 a beneficiary of any of its fiduciary capacities while the
23 trust company is in the possession and control of the
24 superintendent or receiver, except upon the order of the
25 court.

26 9. The superintendent, while in possession and control of
27 a trust company, may propose and implement a reorganization
28 plan, which may be amended as necessary because of changes in
29 circumstances, if the superintendent finds any of the
30 following:

31 a. The plan is feasible and fair to all classes of
32 beneficiaries, creditors, and stockholders.

33 b. The face amount of the interest accorded to any class
34 of creditors or stockholders under the plan does not exceed
35 the value of the assets upon liquidation, less the full amount

1 of the claims of all prior classes, subject, however, to any
2 fair adjustment for new capital that any class will pay in
3 under the plan.

4 c. The plan assures the removal of any director, officer,
5 or employee responsible for an unsound or unlawful action or
6 the existence of an unsound condition.

7 d. Any merger or consolidation provided by the plan
8 conforms to the requirements of this chapter and chapter 490.

9 e. Any reorganized trust company provided by the plan
10 conforms to the requirements of this chapter and chapter 490
11 for the organization of a trust company.

12 10. If the superintendent determines at any time that no
13 reasonable possibility exists for the trust company to be
14 reorganized after reasonable efforts have been made, and that
15 the trust company should be liquidated through receivership,
16 the superintendent shall appoint a receiver. The
17 superintendent may require the receiver to provide such bond
18 and security as the superintendent deems necessary and
19 appropriate. The superintendent shall file a petition for the
20 dissolution or for the winding up of the affairs of the trust
21 company in the district court of the county in which the
22 principal place of business of the trust company is located,
23 and shall publish notice of the petition in a newspaper of
24 general circulation once each week for four consecutive weeks.
25 The notice shall state that a petition for the dissolution or
26 winding up of the affairs of the trust company has been filed
27 and shall state the name and location of the court. The
28 notice shall also state that persons who may have claims
29 against the trust company shall present the claims to the
30 receiver. All persons who may have claims against the assets
31 of the trust company, as distinguished from the assets of the
32 beneficiaries of the fiduciary relations of the trust company,
33 and the receiver to whom the persons have presented their
34 claims, may present the claims to the clerk of the district
35 court, and the allowance or disallowance of the claims by the

1 court in connection with the proceeding is deemed an
2 adjudication in a court of competent jurisdiction.

3 11. The receiver of a trust company, under the direction
4 of the superintendent, has the power and authority and is
5 charged with the duties and responsibilities as follows:

6 a. To take possession of the title to the books, records,
7 and assets of every description of the trust company for
8 purposes of the receivership.

9 b. To proceed to collect all debts, dues, and claims
10 belonging to the trust company.

11 c. To file with the superintendent a copy of each report
12 which the receiver makes to the court, together with other
13 reports and records as the superintendent may require.

14 d. To sue and defend in the receiver's own name and with
15 respect to the affairs, assets, claims, debts, and choses in
16 action of the trust company.

17 e. To surrender to the customers of the trust company,
18 when requested in writing directed to the receiver by the
19 customers, the assets, private papers, and valuables left with
20 the trust company for safekeeping under a custodial or agency
21 agreement, upon satisfactory proof of ownership.

22 f. To resign on behalf of the trust company, as soon as
23 reasonably possible, all fiduciary relationships under which
24 the trust company is holding property in a fiduciary capacity
25 for the benefit of another person, preparing in each case,
26 from the records and documents available to the receiver, a
27 proper accounting, in the manner and scope as determined by
28 the superintendent to be practical and advisable under the
29 circumstances, on behalf of the trust company. The receiver,
30 prior to resigning, shall cause a successor trustee or
31 fiduciary to be appointed pursuant to the terms set forth in
32 the governing instrument or agreement or pursuant to chapter
33 633, if applicable, or, if not, then the receiver shall make
34 application to the court having jurisdiction over the
35 dissolution or winding up of the trust company, for the

1 appointment of a successor. The receiver, if a trust company,
2 is not disqualified from acting as successor trustee or
3 fiduciary if appointed under the terms of the governing
4 instrument or agreement, by court order, or by the customer of
5 the trust company whose affairs are being dissolved or wound
6 up and, in such case, the appointment of a guardian ad litem
7 shall not be required to review the accounting of the receiver
8 unless the beneficiaries or customers of the trust company
9 request the appointment in writing.

10 g. To redeem or purchase collateral hypothecated by the
11 trust company to secure its notes and other evidence of
12 indebtedness if the superintendent deems it to be in the best
13 interest of the creditors of the trust company and so directs
14 the receiver.

15 h. To use and employ money of the trust company, in order
16 to protect fully and benefit the trust company, for the
17 purchase or redemption of any property, real or personal, in
18 which the trust company may have any rights by reason of any
19 bond, mortgage, assignment, or other claim to such property,
20 upon the receiver's certification of such facts, together with
21 the receiver's opinions as to the value of the property
22 involved, and the value of the equity the trust company may
23 have in the property, and request for the right and authority
24 to use and employ so much of the money of the trust company as
25 may be necessary to purchase the property, or to redeem the
26 property from a sale if there has been a sale.

27 i. To deposit daily all moneys collected by the receiver
28 in any state or national bank selected by the superintendent
29 and invest the moneys in accordance with chapter 633 relating
30 to authorized investments for fiduciaries.

31 j. To do such things and take such steps from time to time
32 under the direction and approval of the superintendent as may
33 reasonably appear to be necessary to conserve the trust
34 company's assets and secure the best interests of the
35 creditors of the trust company.

1 k. To record any judgment of dissolution entered in a
2 dissolution proceeding and upon such entry turn over to the
3 superintendent a certified copy of the judgment, together with
4 all books of accounts and ledgers of the trust company for
5 preservation, and to turn over the books of accounts and
6 ledgers of the trust company relating to the assets of the
7 beneficiaries of the fiduciary relations to the successor
8 trustee or fiduciary.

9 l. To register in the name of the receiver or in the name
10 of the receiver's nominee the assets of beneficiaries of
11 fiduciary relations to the extent deemed necessary or
12 advisable by the receiver.

13 m. To review within a reasonable period of time all of the
14 fiduciary accounts and relationships in order to ascertain
15 that the investments by the trust company of the assets of the
16 fiduciary accounts and relationships comply with the terms of
17 the governing instrument or agreement, the prudent person rule
18 governing the investment of the funds, and any other law
19 regulating the investment of the funds.

20 n. To be reimbursed for all costs and expenses incurred by
21 the receiver in administering the fiduciary accounts and
22 relationships of the trust company during the period of
23 dissolution or winding up the affairs of the trust company,
24 and to receive out of the assets of the individual fiduciary
25 accounts being administered by the receiver during such period
26 and prior to the appointment of a successor fiduciary, in
27 addition to such costs and expenses, the usual and customary
28 fees charged by the receiver in the administration of similar
29 fiduciary accounts, the fees charged by the trust company for
30 the administration of the individual fiduciary accounts, or
31 such other reasonable fees as approved by the superintendent.

32 o. To exercise all of the powers which are vested in
33 trustees under the terms and provisions of chapter 633 with
34 respect to the receiver's administration of the fiduciary
35 accounts and relationships of the trust company during the

1 period of dissolution or winding up the affairs of the trust
2 company.

3 p. To deliver to any successor trustee or fiduciary all of
4 the assets belonging to the individual trust or fiduciary
5 account as to which the successor trustee or fiduciary
6 succeeds. Upon delivery, the receiver is relieved of any
7 further duties, responsibilities, or obligations with respect
8 to the assets.

9 12. Upon the order of the court, the receiver for the
10 trust company shall have the power and authority and is
11 charged with the duties and responsibilities as follows:

12 a. To sell or settle all bad and doubtful debts on such
13 terms as the court shall direct.

14 b. To sell the real and personal property of the trust
15 company, as distinguished from the real and personal property
16 of the beneficiaries of such fiduciary relations, on such
17 terms as the court shall direct.

18 c. To petition the court for the authority to borrow
19 money, and to pledge the assets of the trust company as
20 security for the loans. Upon the filing of the petition, the
21 practice and procedure shall be as follows:

22 (1) The court shall set a date for the hearing of the
23 petition and shall prescribe the form and manner of the notice
24 to be given to the officers, stockholders, creditors, and
25 other persons interested in the trust company.

26 (2) During the hearing, any officer, stockholder,
27 creditor, or interested person shall have the right to be
28 heard.

29 (3) If the court grants such authority, the receiver may
30 borrow money and issue evidences of indebtedness for the loan,
31 and may secure the payment of the loan by the mortgage,
32 pledge, transfer in trust, or hypothecation of any or all
33 property and assets of the trust company, whether real,
34 personal, or mixed, superior to any charge on the property for
35 the expenses of liquidation.

1 (4) The loan may be obtained in an amount, upon such terms
2 and conditions, and with provisions for repayment as deemed
3 necessary or expedient.

4 (5) The loan may be obtained for the purposes of
5 facilitating liquidation, protecting or preserving the assets,
6 expediting the making of distributions to creditors, providing
7 for the expenses of administration and liquidation, or aiding
8 in the reopening of the trust company, the merger or
9 consolidation with another trust company, or the sale of its
10 assets.

11 (6) The receiver is under no personal obligation to repay
12 any such loan and is authorized to take any action necessary
13 or proper to consummate the loan and to provide for the
14 repayment of the loan. The receiver, when required, may give
15 bond for the faithful performance of all undertakings in
16 connection with the loan.

17 (7) Prior to petitioning the court for authority to make
18 any such loan, the receiver may make application for or
19 negotiate any loan subject to obtaining an order of the court
20 approving the loan.

21 d. To make and carry out agreements with other trust
22 companies, banks or the United States, or any agency of the
23 United States, for the payment or assumption of the trust
24 company's liabilities, in whole or in part, and the receiver
25 may transfer assets and make guaranties in connection with
26 such agreements.

27 e. To file with the court, after the expiration of four
28 weeks after the first publication of the superintendent's
29 notice as provided in subsection 10, a correct list of all
30 creditors of the trust company, as shown by its books, who
31 have not presented their claims and the amount of their
32 respective claims after allowing all just credits, deductions,
33 and set-offs as shown by the books of the trust company. A
34 claim filed pursuant to this paragraph is deemed to be proven,
35 unless objections are filed to the claim by a party or parties

1 interested in the claim within such time as is fixed by the
2 court.

3 f. To petition the court, at the termination of the
4 receiver's administration, for the entry of a judgment of
5 dissolution. After a hearing upon such notice as the court
6 may prescribe, the court may enter a judgment of dissolution
7 whereupon the trust company's corporate existence shall be
8 terminated and the receivership concluded.

9 13. The receiver shall serve at the pleasure of the
10 superintendent and upon the receiver's death, inability to
11 act, resignation, or removal by the superintendent, the
12 superintendent may appoint a successor and, upon such
13 appointment, all rights and duties of the predecessor shall at
14 once devolve upon such appointee.

15 14. All necessary and reasonable expenses of a
16 receivership, including reasonable receiver's and attorney's
17 fees, approved by the superintendent, shall be paid out of the
18 assets of the trust company. All expenses of any preliminary
19 or other examination into the condition of any such trust
20 company or receivership, and all expenses incident to and in
21 connection with the possession and control of the trust
22 company for the purpose of examination, reorganization, or
23 liquidation through receivership, shall be paid out of the
24 assets of the trust company. A payment authorized under this
25 subsection may be made by the superintendent with moneys and
26 property of the trust company in the possession or control of
27 the superintendent and shall have priority over all claims but
28 shall not give rise to a claim against properties held by the
29 trust company in a fiduciary capacity.

30 15. Periodically during a receivership, the superintendent
31 shall pay from moneys of the trust company a ratable dividend
32 on all claims as may be proven to the satisfaction of the
33 superintendent or adjudicated by the court.

34 16. If the superintendent takes possession and control of
35 a trust company for the purpose of examination,

1 reorganization, or liquidation through receivership, or if the
2 superintendent appoints a receiver for a trust company and
3 files a petition for the dissolution or the winding up of the
4 affairs of a trust company, and the trust company denies the
5 grounds for such actions, the trust company may at any time
6 within ten days apply to the district court of the county in
7 which the trust company has its principal place of business to
8 enjoin further proceedings. The court shall direct the
9 superintendent to show cause why further proceedings should
10 not be enjoined, and if the court finds that such grounds do
11 not exist, the court shall issue an order enjoining the
12 superintendent and any receiver acting under the
13 superintendent's direction from all further proceedings on
14 account of the alleged grounds.

15 17. A trust company which desires to voluntarily cease
16 transacting business as a trust company in this state under
17 this chapter shall furnish to the superintendent satisfactory
18 evidence of its release and discharge from all the obligations
19 and trusts of the trust company, and upon receipt of such
20 evidence, the superintendent shall revoke the charter of
21 authority of the trust company.

22 Sec. 29. NEW SECTION. 524A.29 OFFENSES AND PENALTIES.

23 An officer, director, employee, or agent of a trust company
24 who willfully and knowingly subscribes to or makes, or causes
25 to be made, a false statement with intent to deceive any
26 person or persons authorized to examine into the affairs of
27 the trust company or with intent to deceive the superintendent
28 or any of the superintendent's administrative officers in the
29 performance of their duties under this chapter, upon
30 conviction, is guilty of a class "C" felony, and is forever
31 disqualified from acting as a director, officer, employee, or
32 agent of any trust company.

33 Sec. 30. NEW SECTION. 524A.30 SUCCESSION OF FIDUCIARY
34 ACCOUNTS.

35 1. Subject to the approval of the superintendent, a trust

1 company authorized to transact business as a trust company in
2 this state may enter into an agreement for the succession of
3 fiduciary accounts, whether pursuant to a merger or otherwise,
4 with one or more state or national banks, savings and loan
5 associations, savings banks, or Iowa or federally chartered
6 trust companies, authorized to transact business in this state
7 and authorized to act in a fiduciary capacity. The succeeding
8 party, under the agreement, may agree to succeed the
9 relinquishing party as fiduciary with respect to those
10 fiduciary accounts which are designated in the agreement. The
11 designation of accounts may be by general class or description
12 and may include fiduciary accounts subject to and not subject
13 to court administration, and fiduciary accounts to arise in
14 the future under wills, trusts, court orders, or other
15 documents under which the relinquishing party is named as a
16 fiduciary or is named to become a fiduciary upon the death of
17 a testator or settlor or upon the happening of any other
18 subsequent event. The relinquishing party shall mail a notice
19 of the succession to all persons having an interest in a
20 fiduciary account at their last known addresses, and shall
21 publish a notice of the succession to fiduciary accounts in a
22 newspaper published in the county of the principal place of
23 business of the relinquishing party. After the publication,
24 the succeeding party, without further notice, approval, or
25 authorization, shall succeed to the relinquishing party as to
26 the fiduciary accounts and the fiduciary powers, rights,
27 privileges, duties, and liabilities for the fiduciary
28 accounts. On the effective date of the succession to
29 fiduciary accounts, the relinquishing party is released from
30 the fiduciary duties under the fiduciary accounts and shall
31 discontinue its exercise of trust powers to the fiduciary
32 accounts. This subsection does not absolve a relinquishing
33 party from liabilities arising out of a breach of fiduciary
34 duty occurring prior to the succession to fiduciary accounts.
35 2. Within sixty days after the mailing and publication of

1 the notice, a person having an interest in a fiduciary account
2 included within the notice and agreement required by
3 subsection 1 may apply to the district court in the county in
4 which the notice is published for the appointment of a new
5 fiduciary on the ground that the succeeding fiduciary will
6 adversely affect the administration of the fiduciary account.
7 After notice to all interested parties and a hearing on the
8 issues, the court may appoint a new fiduciary to replace the
9 succeeding fiduciary if it finds that the substitution of the
10 succeeding fiduciary will adversely affect the administration
11 of the account and that the appointment of the new fiduciary
12 would be in the best interests of the beneficiaries of the
13 fiduciary account. This subsection is in addition to section
14 633.65 governing the removal of a fiduciary.

15 Sec. 31. NEW SECTION. 524A.31 NAMES.

16 A trust company issued a charter under this chapter shall
17 include the words "trust company" in its name. A trust
18 company shall not use the name of any other trust company
19 authorized to transact business in this state, or a name so
20 similar that it is likely to lead to confusion.

21 Sec. 32. NEW SECTION. 524A.32 BUSINESS LOCATIONS.

22 1. A trust company shall conduct its business at locations
23 that have been approved by the superintendent. A trust
24 company shall not change any of its business locations or
25 transfer any functions or activities between business
26 locations except upon the prior approval of the
27 superintendent.

28 2. A trust company may establish business locations that
29 are not accessible to its customers at one or more places
30 within this state. Functions or activities that are
31 permissible at a business location authorized by this
32 subsection may be conducted at a business location that is
33 authorized under subsection 3.

34 3. a. A trust company may establish and maintain business
35 locations that are accessible to its customers only as

1 follows:

2 (1) Within the principal place of business and the bank
3 offices of a bank that is a stockholder of the trust company.

4 (2) Within the principal place of business and the bank
5 offices of a subsidiary bank of a bank holding company that is
6 a stockholder of the trust company.

7 (3) Within the corporate limits of a city in which a
8 stockholder of the trust company or a bank subsidiary of the
9 stockholder maintains an authorized facility conducting the
10 business of banking.

11 b. The superintendent may determine that a business
12 location is within a principal place of business or bank
13 office of a bank without respect to walls, partitions, or
14 other physical obstructions that are used to segregate the
15 business operations of the trust company from the business
16 operations of the bank. The superintendent may prescribe the
17 means by which the business operations of the trust company
18 shall be physically segregated from the business operations of
19 the bank. The superintendent shall prescribe the means by
20 which the customers of a bank or trust company may readily
21 identify the portions of the premises that are used by the
22 trust company as a business location that is accessible to its
23 customers.

24 4. This section applies to all business locations
25 established or maintained by a trust company or by any person
26 or entity providing services to a trust company pursuant to an
27 agreement or contract authorized by this chapter.

28 5. If, at any time, a trust company maintains a business
29 location that has not been approved by the superintendent or
30 is in violation of this section, the trust company shall
31 immediately cease to exercise fiduciary powers, appointments,
32 and functions, and otherwise cease to transact business as a
33 trust company at the location.

34 Sec. 33. NEW SECTION. 524A.33 MISCELLANEOUS PROVISIONS.

35 1. A trust company may become a stockholder in and a

1 member of the federal reserve bank of the federal reserve
2 district where the trust company is located.

3 2. Notwithstanding any other provision of law, a trust
4 company when acting as fiduciary, or a trust company when
5 holding securities as custodian for a fiduciary, may deposit,
6 or arrange for the deposit, with the federal reserve bank in
7 its district, any securities the principal and interest of
8 which the United States or any department, agency, or
9 instrumentality of the United States has agreed to pay, or has
10 guaranteed payment, to be credited to one or more accounts on
11 the books of the federal reserve bank in the name of the trust
12 company, to be designated fiduciary or safekeeping accounts,
13 to which account other similar securities may be credited.
14 The records of the trust company shall always show the
15 ownership of the securities held in such account.

16 3. A trust company, when acting in this state as a
17 fiduciary or a cofiduciary with others and with the consent of
18 its cofiduciary or cofiduciaries, if any, who are authorized
19 to give such consent, may cause any investment held in any
20 such capacity, to be registered and held in the name of a
21 nominee or nominees of the trust company. The trust company
22 is liable for the acts of any such nominee with respect to any
23 investment so registered.

24 4. A trust company chartered under and subject to this
25 chapter is not be subject to sections 524.1001 through
26 524.1008, pertaining to state banks authorized to act in a
27 fiduciary capacity and trust companies existing and operating
28 on January 1, 1970.

29 Sec. 34. Section 422.34, subsection 1, Code 1995, is
30 amended to read as follows:

31 1. All state, national, private, co-operative, and savings
32 banks, credit unions, title insurance ~~and-trust~~ companies,
33 savings and loan associations, production credit associations,
34 insurance companies or insurance associations, reciprocal or
35 inter-insurance exchanges, and fraternal beneficiary

1 associations.

2 Sec. 35. Section 422.61, subsection 1, Code Supplement
3 1995, is amended to read as follows:

4 1. "Financial institution" means a state bank as defined
5 in section 524.103, subsection 33, a state bank chartered
6 under the laws of any other state, a national banking
7 association, ~~a trust company~~, a federally chartered savings
8 and loan association, an out-of-state state chartered savings
9 bank, a financial institution chartered by the federal home
10 loan bank board, a non-Iowa chartered savings and loan
11 association, an association incorporated or authorized to do
12 business under chapter 534, or a production credit
13 association.

14 Sec. 36. Section 524.107, subsection 2, Code Supplement
15 1995, is amended to read as follows:

16 2. A person doing business in this state shall not use the
17 words "bank" or "trust" or use any derivative, plural, or
18 compound of the words "bank", "banking", "bankers", or "trust"
19 in any manner which would tend to create the impression that
20 the person is authorized to engage in the business of banking
21 or to act in a fiduciary capacity, except a state bank
22 authorized to do so by this chapter, a national bank to the
23 extent permitted by the laws of the United States, a state
24 association pursuant to section 534.507, or a federal
25 association to the extent permitted by the laws of the United
26 States, or, insofar as the word "trust" is concerned, an
27 individual permissibly serving as a fiduciary in this state,
28 pursuant to section 633.63, or a trust company authorized to
29 act in a fiduciary capacity pursuant to chapter 524A, or,
30 insofar as the words "trust" and "bank" are concerned, a
31 nonresident corporate fiduciary permissibly serving as a
32 fiduciary in this state pursuant to section 633.64.

33 Sec. 37. Section 524.1007, subsection 4, Code 1995, is
34 amended to read as follows:

35 4. The privilege extended to a state bank by this section

1 is also extended on the same terms and conditions to a trust
2 company authorized to engage in trust business and supervised
3 by a state or federal banking or thrift regulatory agency, and
4 to a national bank located in this state and organized under
5 12 U.S.C. secs. 21 et seq. to engage generally in the banking
6 business.

7 Sec. 38. Section 524.1008, subsection 4, Code 1995, is
8 amended to read as follows:

9 4. The privilege of succeeding to fiduciary accounts that
10 is extended to a state bank by subsection 1 is also extended
11 on the same terms and conditions to a trust company authorized
12 to engage in trust business and supervised by a state or
13 federal banking or thrift regulatory agency, and to a national
14 bank located in this state and organized under 12 U.S.C. secs.
15 21 et seq. to engage generally in the banking business.

16 Sec. 39. Section 633.63, subsection 2, Code 1995, is
17 amended to read as follows:

18 2. Banks and trust companies organized under the laws of
19 the United States or state banks, when approved by the
20 superintendent of banking under section 524.1001, and trust
21 companies authorized to engage in trust business pursuant to
22 section 524.1005, chapter 524A, or other state law, are
23 authorized to act in a fiduciary capacity in Iowa.

24 Sec. 40. Section 633.203, Code 1995, is amended to read as
25 follows:

26 633.203 AFFIDAVIT FOR CORPORATE FIDUCIARY.

27 In any case where a corporation is acting as a fiduciary
28 under and by virtue of the provisions of chapter 524, division
29 X, chapter 524A, or other law of this state, the affidavit
30 required by section 633.202 shall be executed and made by an
31 officer of such corporation.

32 EXPLANATION

33 This bill creates a new chapter 524A relating to trust
34 companies.

35 New section 524A.1 establishes the title by which the

1 chapter may be cited.

2 New section 524A.2 establishes definitions of terms used in
3 the chapter.

4 New section 524A.3 grants the superintendent of banking
5 authority to issue a charter of authority to a corporation to
6 transact business as a trust company. The section also
7 defines what corporations are eligible to receive such a
8 charter.

9 New section 524A.4 defines the chapter's applicability and
10 provides that the corporate existence of a trust company
11 existing and operating on July 1, 1996, and which is
12 authorized to transact business as a trust company pursuant to
13 section 524.1005 or other applicable state law, is not
14 affected by chapter 524A.

15 New section 524A.5 provides that a corporation organized
16 for and desiring to transact business as a trust company is to
17 be organized under chapter 490.

18 New section 524A.6 sets forth the information to be
19 included in an application for a charter of authority to act
20 as a trust company.

21 New section 524A.7 provides that the board of directors of
22 a trust company shall consist of at least five members. A
23 director shall be 18 years of age or older and a citizen of
24 the United States.

25 New section 524A.8 establishes procedures for the
26 application for a charter of authority to engage in the
27 business of a proposed trust company, and for the
28 investigation of the application.

29 New section 524A.9 provides that an applicant is to pay all
30 reasonable costs associated with the examination and
31 investigation of the application for a charter of authority.

32 New section 524A.10 provides that the minimum capital,
33 surplus, and undivided profits of a trust company which must
34 be raised prior to the filing of the application is \$100,000.

35 New section 524A.11 establishes requirements and

1 restrictions on the ownership and transfer of the stock of a
2 trust company.

3 New section 524A.12 provides that the capital stock of a
4 trust company may be increased.

5 New section 524A.13 establishes requirements relating to
6 the restoration of impaired capital.

7 New section 524A.14 establishes certain restrictions
8 relating to the payment of dividends associated with the
9 capital stock of the trust company.

10 New section 524A.15 sets forth the powers of a trust
11 company.

12 New section 524A.16 sets forth the powers of the
13 superintendent of banking with respect to trust companies.

14 New section 524A.17 establishes bonding requirements for
15 the officers and employees of a trust company.

16 New section 524A.18 establishes certain restrictions on the
17 activities of a trust company.

18 New section 524A.19 prohibits certain acts by the officers
19 and employees of a trust company.

20 New section 524A.20 establishes certain requirements
21 relating to the retention of records and documents of a trust
22 company.

23 New section 524A.21 requires a trust company to file
24 certain reports and information with the superintendent.

25 New section 524A.22 establishes requirements for the
26 examination of trust companies by the superintendent of
27 banking.

28 New section 524A.23 establishes a penalty for refusing to
29 submit to an examination by the superintendent.

30 New section 524A.24 grants the superintendent certain
31 powers when a trust company is engaging in unsafe practices.

32 New section 524A.25 provides for special meetings by the
33 board of directors of a trust company.

34 New section 524A.26 establishes a penalty for a trust
35 company refusing to comply with an order of the

1 superintendent.

2 New section 524A.27 establishes a trust company's right to
3 a hearing with respect to the revocation of its charter of
4 authority.

5 New section 524A.28 establishes procedures in the event of
6 the insolvency of a trust company.

7 New section 524A.29 establishes offenses and penalties
8 relating to fraudulent and misleading acts by an officer,
9 director, or employee of a trust company.

10 New section 524A.30 provides for the succession of interest
11 and duties of a trust company.

12 New section 524A.31 establishes certain requirements on the
13 name of a trust company.

14 New section 524A.32 establishes certain requirements
15 related to the location of offices of a trust company.

16 New section 524A.33 provides for miscellaneous provisions.

17 Several conforming amendments are also made to current law.

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**SENATE FILE 2398
FISCAL NOTE**

A fiscal note for Senate File 2398 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2398 creates a new chapter relating to the organization and regulation of trust companies by the Superintendent of Banking.

CORRECTIONAL IMPACT

No significant correctional impact is anticipated.

FISCAL IMPACT

No significant fiscal impact is anticipated.

SOURCES

Banking Division, Department of Commerce
Criminal and Juvenile Justice Planning Division,
Department of Human Rights
Department of Corrections
Judicial Department

(LSB 4283SV, VMT)

FILED MARCH 18, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

Hynn
Deluhery
Redfern

SSB-2311
Commerce

SENATE FILE (SF) HF 2398
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY CHAIR-
PERSON DELUHERY)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the organization and regulation of trust
2 companies by the superintendent of banking and providing
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 524A.1 SHORT TITLE.

2 This chapter shall be known and may be cited as the "Iowa
3 Trust Company Act".

4 Sec. 2. NEW SECTION. 524A.2 DEFINITIONS.

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "Affiliate" means any corporation, partnership,
8 association, trust, estate, or similar organization of which a
9 trust company or any shareholder of such trust company,
10 directly or indirectly, owns or controls either a majority of
11 the voting shares or more than fifty percent of the number of
12 shares voted for the election of its directors, trustees, or
13 other individuals exercising similar functions at the
14 preceding election, or controls in any manner the election of
15 a majority of such individuals.

16 2. "Bank holding company" means bank holding company as
17 provided in 12 U.S.C. § 1841(a), and includes a company that
18 would become a bank holding company upon completion of an
19 acquisition.

20 3. "Business of banking" means business of banking as
21 defined in section 524.103.

22 4. "Capital stock" means the sum of the par value of the
23 preferred and common shares of a trust company which are
24 issued and outstanding.

25 5. "Capital structure" means the total of the par value of
26 the outstanding preferred and common shares of capital stock,
27 surplus, and undivided profits of a trust company.

28 6. "Fiduciary" means fiduciary as defined in section
29 524.103.

30 7. "Person" means person as defined in section 4.1.

31 8. "Principal place of business", with respect to a trust
32 company, means the location specified in the application for a
33 charter of authority of a trust company, or such other
34 location as is approved by the superintendent from time to
35 time, which is the location for the original trust

1 recordkeeping functions.

2 9. "Superintendent" means the superintendent of banking of
3 this state.

4 10. "Trust company" means a corporation issued a charter
5 under this chapter.

6 Sec. 3. NEW SECTION. 524A.3 AUTHORIZATION.

7 1. The superintendent may issue to a corporation desiring
8 to transact business as a trust company in this state a
9 charter of authority to act in a fiduciary capacity pursuant
10 to this chapter.

11 2. A corporation is eligible to receive or retain a
12 charter of authority under this chapter if all of the shares
13 of that corporation are held by one or more of the following:

14 a. A state or national bank which has its principal place
15 of business in this state.

16 b. A bank holding company which owns or controls a state
17 or national bank that has its principal place of business in
18 this state.

19 c. A combination of banks and bank holding companies
20 described in paragraphs "a" and "b".

21 3. A person shall not transact business as a trust company
22 in this state, except for the following:

23 a. A corporation holding a charter issued under this
24 chapter.

25 b. A trust company that is existing, operating, and
26 authorized to act as a trust company pursuant to section
27 524.1005 or pursuant to any other law of this state on July 1,
28 1996.

29 c. A trust company that is chartered under federal law and
30 authorized to transact business as a trust company in this
31 state.

32 d. A trust company that is chartered under the laws of
33 another state and authorized to transact business as a trust
34 company in this state.

35 Sec. 4. NEW SECTION. 524A.4 APPLICABILITY OF CHAPTER.

1 1. The corporate existence of a trust company existing and
2 operating on July 1, 1996, and which is authorized to act as a
3 trust company pursuant to section 524.1005 or pursuant to any
4 other law of this state, shall not be affected by this
5 chapter. All such trust companies, except for a trust company
6 which is supervised by a federal banking or thrift regulatory
7 agency on July 1, 1996, shall be subject to the provisions and
8 requirements of this chapter, except for section 524A.3,
9 sections 524A.5 through 524A.14, and section 524A.32,
10 subsections 2 and 3.

11 2. A federally chartered trust company authorized to
12 transact business in this state is subject to the provisions
13 and requirements of this chapter except to the extent
14 preempted by federal law or regulation.

15 3. This chapter does not apply to a bank, savings bank, or
16 savings and loan association chartered under state or federal
17 law and authorized to act in a fiduciary capacity in this
18 state.

19 Sec. 5. NEW SECTION. 524A.5 ORGANIZATION.

20 A corporation organized for and desiring to transact
21 business as a trust company in this state, before commencing
22 such business, shall certify and file with the superintendent
23 an application for a charter of authority. A corporation
24 organized for and desiring to transact business as a trust
25 company in this state shall be organized under chapter 490.

26 Sec. 6. NEW SECTION. 524A.6 CONTENTS OF APPLICATION FOR
27 CHARTER OF AUTHORITY.

28 1. An application for a charter of authority to transact
29 business as a trust company in this state shall be certified
30 and filed with the superintendent in a form prescribed by the
31 superintendent and shall contain the following information:

32 a. The name and address of each applicant associated with
33 the application.

34 b. The name of the proposed trust company.

35 c. The location of the principal place of business of the

1 proposed trust company.

2 d. The duration of the proposed trust company, which shall
3 be perpetual.

4 e. The aggregate number of shares of capital stock which
5 the proposed trust company shall have authority to issue, the
6 par value of such shares, and, if the shares are to be divided
7 into classes, the number of shares of each class, a statement
8 of the par value of the shares of each class, and a statement
9 of the preferences, voting rights, limitations, and other
10 relative rights, if any, of the shares of such class or
11 classes.

12 f. A copy of the articles of incorporation of the proposed
13 trust company in the form prescribed by chapter 490.

14 g. The names and addresses of the stockholders and the
15 ownership percentage of issued and subscribed capital stock of
16 the proposed trust company of each stockholder.

17 h. The current locations where each stockholder and bank
18 subsidiary of each stockholder maintains its principal place
19 of business and all bank offices, and all proposed business
20 locations of the proposed trust company, designating whether
21 each such location is accessible to customers or not
22 accessible to customers.

23 i. The name and address of each director and officer of
24 the proposed trust company and a description of the
25 individual's character, qualifications, experience or
26 familiarity with trust services, and any sanctions imposed
27 against such individual by a governmental entity.

28 j. A list of the powers, fiduciary appointments, and
29 fiduciary functions the proposed trust company desires to
30 exercise, which may include a statement to exercise any and
31 all powers, fiduciary appointments, and fiduciary functions
32 which an individual, bank, or trust company may exercise from
33 time to time in this state.

34 k. A business plan of the proposed trust company with
35 projected revenue sources and expenses for the first three

1 years of operation.

2 1. A statement that the board of directors of the proposed
3 trust company has adopted a statement of principles of trust
4 department management or other policies or guidelines
5 acceptable to the superintendent.

6 m. Other relevant information deemed necessary and
7 appropriate by the superintendent.

8 2. If at any time while an application is pending or after
9 an application is approved, transfers, changes, or events
10 occur which cause the information contained in the application
11 to be incorrect or incomplete, the applicant shall immediately
12 file a certified report with the superintendent describing the
13 transfers, changes, or events, and containing correct and
14 complete information as required by this section.

15 Sec. 7. NEW SECTION. 524A.7 DIRECTORS AND OFFICERS --
16 MINIMUM NUMBER REQUIRED.

17 The board of directors of a trust company shall consist of
18 at least five individuals. Each director shall be eighteen
19 years of age or older and a citizen of the United States. A
20 majority of the directors shall be citizens of this state.
21 The officers of a trust company shall include, at a minimum, a
22 president, vice president, and a treasurer. Any one
23 individual may fill two such positions, except that of both
24 president and vice president.

25 Sec. 8. NEW SECTION. 524A.8 PUBLICATION OF NOTICE --
26 INVESTIGATION AND EXAMINATION OF APPLICATION -- APPROVAL OF
27 APPLICATION.

28 1. The applicant shall publish notice of its intention to
29 deliver, or the delivery of, the application for a charter of
30 authority to the superintendent, once each week for two
31 successive weeks in a newspaper of general circulation
32 published in the municipal corporation which is proposed as
33 the principal place of business of the proposed trust company,
34 or if there is none, a newspaper of general circulation
35 published in the county, or in a county adjoining the county,

1 in which the proposed trust company is to have its principal
2 place of business. The first publication of the notice shall
3 appear prior to, or within ten days after, the date of
4 delivery of the application to the superintendent. The first
5 and second publications shall set forth all of the following:

6 a. The name of the proposed trust company.

7 b. A statement that the trust company seeks a charter of
8 authority under this chapter.

9 c. The name and address of each applicant associated with
10 the application.

11 d. The name and address of each member of the initial
12 board of directors of the trust company.

13 e. The proposed location of the principal place of
14 business of the trust company.

15 Within thirty days after the filing of the application, the
16 applicant shall deliver to the superintendent proof of
17 publication of the notice required by this section by
18 affidavit of the publisher of the newspaper in which the
19 publication was made.

20 2. Upon the filing of an application for a charter of
21 authority to transact business as a trust company in this
22 state, the superintendent shall conduct an investigation of
23 the statements made in the application and the background of
24 the management and controlling shareholder or shareholders.
25 The superintendent shall not approve the application and issue
26 a charter of authority to transact business as a trust company
27 unless the superintendent finds all of the following:

28 a. The capital structure meets the minimum amounts as
29 determined pursuant to this chapter including additional
30 amounts if deemed necessary to support the scope of the
31 proposed operation.

32 b. The directors possess satisfactory character,
33 qualifications, and general business experience or familiarity
34 with trust services to assure reasonable promise of a
35 successful, safe, and sound operation.

1 c. The officers and other management possess satisfactory
2 character, qualifications, and experience or familiarity with
3 trust services to assure reasonable promise of a successful,
4 safe, and sound operation.

5 d. The prospects for success based on all of the factors
6 considered are such to allow the operation of the proposed
7 trust company.

8 3. Within ninety days after the second publication of the
9 notice required by this section, any person opposing the
10 pending application shall file written objections with the
11 superintendent. Following the expiration of the ninety-day
12 period and prior to making a determination on the pending
13 application, the superintendent shall give adequate notice of
14 the pending application, and may afford all interested
15 persons, including the applicant and any persons objecting to
16 the application, an opportunity for a hearing during which
17 such persons shall be allowed to present evidence in support
18 of, or in opposition to, the pending application. The hearing
19 shall be recorded. The superintendent shall conduct a hearing
20 if any interested person files an objection to the pending
21 application and requests a hearing.

22 4. Within one hundred eighty days after receipt of the
23 application for a charter of authority under this chapter, the
24 superintendent shall make a determination whether to approve
25 or disapprove the pending application on the basis of the
26 investigation.

27 5. If the superintendent approves the application, the
28 superintendent shall deliver the articles of incorporation,
29 with the superintendent's approval indicated thereon, to the
30 secretary of state and notify the applicant, and such other
31 persons who requested in writing that they be notified of such
32 approval. The receipt of the approved articles of
33 incorporation of a trust company by the secretary of state
34 constitutes filing with that office. The secretary of state
35 shall record the articles of incorporation and forward a copy

1 of them to the county recorder of the county in which the
2 trust company is to have its principal place of business.
3 Upon the filing of the articles of incorporation, the
4 secretary of state shall issue a certificate of incorporation
5 and send the certificate to the applicant. If the
6 superintendent disapproves the application, the superintendent
7 shall notify the applicant of the action and the reason for
8 the decision.

9 6. The actions of the superintendent shall be subject to
10 judicial review pursuant to chapter 17A.

11 7. Upon the issuance of the certificate of incorporation
12 of a trust company, the corporate existence shall begin,
13 unless the certificate in conformity with a provision of the
14 articles of incorporation provides that it shall begin on a
15 stated day in the future, in which event the corporate
16 existence shall, without further action by either the
17 incorporators or the secretary of state, begin on the day so
18 stated.

19 8. The trust company shall not transact any business as a
20 trust company except such business as is incident to
21 commencement of business, or to the obtaining of subscriptions
22 and payment for its shares, until receipt of the charter of
23 authority to transact business as a trust company from the
24 superintendent. The superintendent shall issue an
25 authorization to transact business as a trust company upon
26 finding that the proposed trust company has complied with all
27 of the requirements of this chapter related to the issuance of
28 such charter and has submitted to the superintendent a
29 certified statement, in the form prescribed by the
30 superintendent, showing that the capital stock, surplus, and
31 undivided profits required by the superintendent in accordance
32 with this chapter have been fully paid.

33 Sec. 9. NEW SECTION. 524A.9 EXPENSES OF EXAMINATION OF
34 THE APPLICATION.

35 An applicant shall pay all reasonable expenses incurred in

1 an examination and investigation related to the application as
2 deemed necessary and appropriate by the superintendent.

3 Sec. 10. NEW SECTION. 524A.10 AMOUNT OF CAPITAL.

4 1. The initial minimum amount of capital stock, surplus,
5 and undivided profits required to be raised or subscribed for
6 prior to the filing of an application for a charter of
7 authority to transact business as a trust company in this
8 state is one hundred thousand dollars. However, the
9 superintendent may require additional initial minimum capital
10 stock, surplus, or undivided profits based on the amount and
11 character of the anticipated business of the proposed trust
12 company or the projected revenues and expenses of the proposed
13 trust company, or for the safety of the customers of the
14 proposed trust company.

15 2. The ongoing minimum capital requirements shall be based
16 on the nature and extent of the trust activities being
17 conducted by the trust company, but shall not be less than the
18 lesser of the initial minimum established in subsection 2, or
19 the sum of thirty basis points of the market value of those
20 trust assets in which the trust company has either sole or
21 joint investment discretion and ten basis points of the market
22 value of those trust assets in which the trust company does
23 not have investment discretion. However, the superintendent
24 may require from time to time additional ongoing capital based
25 on the nature, extent, and risks of the business being
26 conducted by the trust company, and the amounts and types of
27 insurance protection, including deductible limits, maintained
28 by the trust company.

29 3. The ongoing minimum capital requirements shall be
30 adjusted by the trust company annually within one hundred
31 twenty days following the close of the fiscal year of the
32 trust company, or more frequently if requested by the
33 superintendent.

34 4. If the trust company does not have insurance to cover
35 this liability of directors and officers of the trust company

1 in amounts and coverages acceptable to the superintendent,
2 then the trust company shall maintain such additional minimum
3 capital requirements as the superintendent deems necessary and
4 appropriate.

5 Sec. 11. NEW SECTION. 524A.11 OWNERSHIP AND TRANSFER OF
6 STOCK.

7 1. The shares of any trust company shall be owned only by
8 one or more banks, with each having its principal place of
9 business in this state, or one or more bank holding companies
10 owning or controlling one or more banks, with each having
11 their principal place of business in this state, or a
12 combination of such banks and bank holding companies. If, at
13 any time, an event occurs or a transfer of shares of stock of
14 a trust company occurs which results in ownership of shares of
15 the trust company by a person or entity that is not a bank
16 having its principal place of business in this state or a bank
17 holding company owning or controlling one or more banks, with
18 each having its principal place of business in this state, the
19 trust company, as of the date of such event or transfer, shall
20 cease to exercise fiduciary powers, appointments, and
21 functions, and otherwise cease to transact business as a trust
22 company in this state.

23 2. Shares of stock of the trust company shall not be
24 transferred on the books of the trust company when the capital
25 structure is impaired, except upon approval of the
26 superintendent.

27 3. If a transfer of shares of stock of a trust company
28 occurs which results in direct or indirect ownership by a
29 stockholder or an affiliated group of stockholders of ten
30 percent or more of the outstanding stock of the trust company,
31 or in the event additional shares of voting stock of the trust
32 company are transferred to such stockholders or affiliated
33 group of stockholders, the president or other officer of the
34 trust company shall file a certified report which describes
35 the transfer with the superintendent within ten days after

1 such transfer. Such report shall include the names and
2 addresses of the stockholders and their ownership percentage
3 of issued and subscribed stock of the trust company after such
4 transfer and the current locations where each stockholder and
5 bank subsidiary of each stockholder maintains its principal
6 place of business and all bank offices. The superintendent
7 may require the submission of additional information regarding
8 the transfer as the superintendent deems appropriate.

9 4. A trust company, with the prior approval of the
10 superintendent, may acquire its own shares and such acquired
11 shares constitute authorized but unissued shares. However, if
12 the articles of incorporation prohibit the reissue of acquired
13 shares, the number of authorized shares shall be reduced by
14 the number of shares acquired, effective upon amendment of the
15 articles of incorporation regarding the number of authorized
16 shares.

17 Sec. 12. NEW SECTION. 524A.12 INCREASE OF CAPITAL STOCK.

18 1. The capital stock of a trust company may be increased.
19 The president or other chief executive officer of the trust
20 company shall file a certified report with the superintendent
21 within ten days after such increase in capital stock stating
22 all of the following:

- 23 a. The amount of the increase.
- 24 b. The names and addresses of the subscribers.
- 25 c. The amount subscribed by each subscriber.
- 26 d. The ownership percentage of issued and subscribed stock
27 of the trust company held by each subscriber after the
28 increase.
- 29 e. The current location of the principal place of business
30 and all bank offices of each subscriber and bank subsidiary of
31 each subscriber.
- 32 f. That the amounts subscribed have been paid in full to
33 the trust company.

34 2. The superintendent may require the submission of
35 additional information regarding the increase in capital stock

1 as the superintendent deems necessary and appropriate.

2 Sec. 13. NEW SECTION. 524A.13 RESTORATION OF IMPAIRED
3 CAPITAL.

4 The superintendent, if it appears that the capital
5 structure of any trust company is impaired, shall notify the
6 trust company that the trust company must restore the capital
7 structure of the trust company within thirty days of receipt
8 of the notice or within such other period as prescribed by the
9 superintendent in the notice. If the capital structure is not
10 restored as required by the superintendent, the superintendent
11 may revoke the charter of authority of the trust company to
12 transact business and may institute proceedings for the
13 appointment of a receiver for the trust company or take such
14 actions under this chapter as the superintendent deems
15 necessary or appropriate.

16 Sec. 14. NEW SECTION. 524A.14 DIVIDENDS FROM CAPITAL
17 STOCK PROHIBITED.

18 A trust company, during the time it continues in business,
19 shall not make any distribution to its shareholders related to
20 its capital stock which would reduce its capital structure
21 below the minimum capital requirements of this chapter or
22 which would be in violation of applicable corporation law.
23 The current dividends of a trust company shall be paid from
24 undivided profits after deducting losses, based on reasonably
25 current financial statements prepared in accordance with
26 generally accepted accounting principles applicable to a trust
27 company.

28 Sec. 15. NEW SECTION. 524A.15 POWERS OF TRUST COMPANIES.

29 A trust company may exercise all powers connected with, and
30 necessary or incidental to, carrying on a trust company
31 business, as well as act in any capacity which an individual
32 or corporation acting as a fiduciary in this state may act,
33 subject to any limitations contained in this chapter. Such
34 powers include, but are not limited to, the following:

35 1. Subject to the prior approval of the superintendent,

1 acquire and hold, or lease as lessee, only such real property
2 as is used, or is to be used, wholly or substantially, by the
3 trust company in its operations or for future use in its
4 operations.

5 2. Subject to the prior approval of the superintendent,
6 acquire and hold ownership interests in an entity engaged
7 solely in holding and operating real property used, or to be
8 used, wholly or substantially, by the trust company in its
9 operations or for future use in its operations.

10 3. Subject to the prior approval of the superintendent,
11 acquire and hold ownership interests in an entity organized
12 solely for the purpose of providing data processing services,
13 or other clerical, bookkeeping, accounting, tax, statistical,
14 safekeeping, or similar services, to the trust company.

15 4. Subject to the superintendent's supervision,
16 regulation, and examination of services performed by persons
17 and entities other than a trust company as provided in this
18 chapter, enter into service agreements or contracts with any
19 person or entity for the purpose of providing data processing
20 services, or other clerical, bookkeeping, tax, statistical,
21 safekeeping or similar services, to the trust company, whether
22 on or off the premises of the trust company. Written
23 assurances satisfactory to the superintendent by the trust
24 company and the person or entity shall be furnished to the
25 superintendent prior to the performance of any services
26 certifying that the performance of the services is subject to
27 supervision, regulation, and examination by the superintendent
28 to the same extent as if the services were being performed by
29 the trust company itself on its own premises.

30 5. Receive and invest funds in a fiduciary capacity upon
31 such terms and conditions as may be agreed upon.

32 6. Accept and execute all such agreements as may be
33 committed to it by any person or entity to act as assignee,
34 receiver, trustee, successor trustee, or depository, and to
35 accept and execute all such trusts as may be committed or

1 referred to it by order, judgment, or decree of any court.

2 7. Take, accept, and hold by order, judgment, or decree of
3 any court or by gift, grant, assignment, transfer, devise or
4 bequest, any real or personal property in trust, care for,
5 manage, lease, and convey the property pursuant to the trusts,
6 and execute and perform all such trusts.

7 8. Act either by itself or jointly with an individual or
8 another trust company, state bank, national bank, savings
9 bank, or savings and loan association authorized to act in a
10 fiduciary capacity in this state, as agent or as attorney-in-
11 fact for any person or entity, public or private.

12 9. Act by itself or jointly with any other person
13 qualified to act as a fiduciary, as administrator of the
14 estate of any deceased person, as personal representative, as
15 conservator of the property or guardian of the person of any
16 minor or incompetent or person under any disability, or as
17 trustee for any person or of the estate of any deceased person
18 under the appointment of any court having jurisdiction of the
19 estate of such person. A trust company so appointed as
20 administrator, personal representative, conservator, guardian,
21 or trustee shall give a bond in the same manner as is required
22 for banks acting in a similar fiduciary capacity.

23 10. Subject to the approval of the superintendent, borrow
24 money and pledge its real estate for the loan.

25 11. Buy, hold, own, and sell all of the following:

26 a. Securities issued or guaranteed by the United States,
27 or an authorized agency of the United States, including a
28 corporation or enterprise wholly owned, directly or
29 indirectly, by the United States or with the authority to
30 borrow directly from the United States treasury.

31 b. Securities secured by obligations of the United States
32 or an authorized agency of the United States.

33 c. Securities of any state, or political subdivision of a
34 state, which possesses general powers of taxation.

35 d. Stocks, warrants, bills of exchange, notes, mortgages,

1 banker's acceptances, certificates of deposit in institutions
2 whose accounts are insured, and other investment securities,
3 negotiable and nonnegotiable.

4 12. Appointment by a court of this state as receiver,
5 assignee, trustee, conservator, guardian, personal
6 representative, custodian, or administrator. If a trust
7 company is so appointed and required to take an oath, whether
8 to qualify as such appointee or for any other purpose, the
9 president, vice president, treasurer, or any other officer of
10 the trust company, on behalf of the trust company, may make
11 and subscribe the required oath.

12 13. Lease, transfer, or convey real property owned or held
13 in trust by the trust company. All such leases, transfers and
14 conveyances, and the instruments affecting such real property,
15 shall be authorized by a resolution of the board of directors,
16 or a committee appointed by the board of directors, and signed
17 in the name of the trust company by its president, vice
18 president, or other authorized officer or officers.

19 14. Establish common trust funds for the purpose of
20 furnishing investments to itself as fiduciary, or to itself
21 and others as cofiduciaries, and to invest funds that it
22 lawfully holds for investment in such common trust funds, if
23 the investment is not prohibited by the instrument, judgment,
24 decree, or order creating the fiduciary relationship.

25 Sec. 16. NEW SECTION. 524A.16 SUPERINTENDENT'S POWERS.

26 1. The superintendent shall supervise and regulate all
27 trust companies and is charged with the administration and
28 execution of the laws of this state relating to trust
29 companies and the business of trust companies, and with such
30 other duties and responsibilities as are imposed upon the
31 superintendent by the laws of this state. The superintendent
32 shall have all powers with respect to trust companies as are
33 possessed by the superintendent with respect to banks having
34 fiduciary powers under chapter 524. The superintendent shall
35 adopt, amend, and repeal such rules pursuant to chapter 17A or

1 take other action which, in the superintendent's opinion, is
2 necessary and appropriate to properly and effectively carry
3 out and enforce the provisions of this chapter.

4 2. The superintendent, the deputy superintendent, and,
5 upon approval of the superintendent, any assistant or examiner
6 shall have the power to subpoena witnesses, to compel their
7 attendance, to administer an oath, to examine any person under
8 oath, and to require the production of any relevant records,
9 books, and papers. The examination shall be conducted by the
10 superintendent consistent with this chapter.

11 3. If a person subpoenaed pursuant to subsection 2
12 neglects or refuses to obey or comply with the terms of the
13 subpoena, neglects or refuses to produce books or papers, or
14 to give testimony as required, the superintendent may apply to
15 the district court of the county in which the trust company
16 has its principal place of business for the enforcement of the
17 subpoena or the issuance of an order compelling such
18 compliance as the court may direct.

19 4. A person who refuses to obey an order of the district
20 court issued pursuant to subsection 3 without reasonable cause
21 is subject to punishment for contempt.

22 Sec. 17. NEW SECTION. 524A.17 BONDS OF OFFICERS AND
23 EMPLOYEES.

24 An officer or employee of a trust company having the care,
25 custody, or control of any funds or securities of the trust
26 company, or funds or securities held for the beneficiaries of
27 its fiduciary obligations, shall provide a bond issued by a
28 surety company authorized to do business in this state
29 indemnifying the trust company and the beneficiaries of its
30 fiduciary obligations against loss which may be incurred by
31 reason of any act of fraud, dishonesty, forgery, theft,
32 larceny, embezzlement, wrongful abstraction, misapplication,
33 misappropriation, or other unlawful act committed by an
34 officer or employee, directly or through connivance with
35 others, until all of such officer's or employee's accounts

1 with the trust company, and the beneficiaries of its fiduciary
2 obligations, have been fully settled and satisfied. The
3 amount and surety are subject to the approval of the board of
4 directors of the trust company. If the agent of a bonding
5 company issuing a bond under this section is an officer or
6 employee of the trust company upon which the bond is issued,
7 the bond so issued shall contain a provision that the bonding
8 company shall not use, either as grounds for rescission or as
9 a defense to liability under the terms and conditions of the
10 bond, the knowledge that the agent was so employed, whether or
11 not the agent received any part of the premium for the bond as
12 a commission.

13 Sec. 18. NEW SECTION. 524A.18 ACTIONS REQUIRED,
14 PERMITTED OR PROHIBITED.

15 1. A trust company shall keep separate records for all
16 property held as a fiduciary for each account for which such
17 property is held.

18 2. A trust company shall not make a loan or extension of
19 credit of any funds held as a fiduciary, directly or
20 indirectly, except for a loan specifically authorized by the
21 terms of an agreement or instrument under which the trust
22 company is designated as fiduciary, to or for the benefit of
23 any of the following:

24 a. An affiliate of the trust company or a person or entity
25 which provides services to the trust company pursuant to a
26 contract with the trust company.

27 b. A director, officer, or employee of the trust company.

28 c. An affiliate, partnership, limited liability company,
29 or other unincorporated association of which a director,
30 officer, or employee of the trust company is a partner or
31 member.

32 d. A corporation in which such director, officer, or
33 employee has a controlling interest.

34 3. Unless authorized by an agreement or instrument
35 creating a fiduciary relationship, a court order, or the laws

1 of this state, a trust company, directly or indirectly, shall
2 not sell any asset or security held by the trust company as a
3 fiduciary to the trust company for its own account or to an
4 affiliate, officer, director, or employee of the trust
5 company, or purchase from the trust company, or an affiliate,
6 officer, director, or employee of the trust company, any asset
7 or security issued by the trust company except for the
8 following:

9 a. An investment in which a state bank may invest without
10 limitation pursuant to section 524.901, subsection 3.

11 b. An asset purchased by the trust company pursuant to an
12 agreement where the trust company is bound to sell, and the
13 trust company as fiduciary is bound to buy, at a date not more
14 than one year from the date of acquisition by the trust
15 company, and at a price agreed upon at the time of acquisition
16 by the trust company.

17 c. An asset sold to the trust company for its own account
18 or purchased in a fiduciary capacity from the trust company
19 with the prior approval of the superintendent.

20 Sec. 19. NEW SECTION. 524.19 PROHIBITIONS APPLICABLE TO
21 OFFICERS AND EMPLOYEES.

22 An officer or employee of a trust company shall not do any
23 of the following:

24 1. Receive anything of value for procuring, or attempting
25 to procure, an investment by the trust company.

26 2. Engage, directly or indirectly, in the sale of any kind
27 of insurance, shares of stock, bonds or other securities, or
28 real property, or procure or attempt to procure for a fee or
29 other compensation fiduciary services for any person from a
30 person other than the trust company, unless authorized to do
31 so by the board of directors of the trust company. If so
32 authorized, the board of directors shall also determine the
33 manner in which profits, fees, or other compensation derived
34 from the sale or procurement shall be distributed.

35 3. Serve as a personal fiduciary with respect to any

1 matter as to which the trust company is acting as a fiduciary
2 or solicit fiduciary appointments, functions, or powers
3 contrary to or in competition with the fiduciary services
4 exercised or provided by the trust company of which the person
5 is an officer or employee.

6 Sec. 20. NEW SECTION. 524A.20 RETENTION OF BOOKS AND
7 RECORDS.

8 1. A trust company shall retain its business records for
9 the periods prescribed in this section, except as may be
10 otherwise prescribed by state or federal law or rule.

11 2. A trust company shall retain permanently the minute
12 books of meetings of its stockholders and directors, its
13 capital stock ledger, capital stock certificate ledger or
14 stubs, and all other records which the superintendent,
15 pursuant to this section, shall require to be retained
16 permanently.

17 3. All other records of a trust company shall be retained
18 for such periods as the superintendent, pursuant to this
19 section, shall prescribe.

20 4. The superintendent, as deemed necessary and
21 appropriate, may adopt, amend, and repeal rules classifying
22 all records to be maintained by trust companies, prescribing
23 the periods for which records of various classes shall be
24 retained, and prescribing the manner in which records of the
25 destruction of records are to be recorded and maintained. The
26 periods may be permanent or for a term of years. Prior to
27 adoption, amendment, or repeal of the rules, the
28 superintendent shall consider all of the following:

29 a. Actions and administrative proceedings in which the
30 production of trust company records might be necessary or
31 advisable.

32 b. State and federal statutes of limitation applicable to
33 the actions or proceedings.

34 c. The availability of information contained in trust
35 company records from other sources.

1 d. Other matters as the superintendent deems pertinent to
2 the interest of customers and shareholders of a trust company
3 and to the interest of the people of this state in having such
4 records available.

5 5. A trust company may destroy any record which has been
6 retained for the period prescribed in accordance with the
7 terms of this section for retention of records of its class
8 and, after it has destroyed a record, is under no duty to
9 produce the record except as may be otherwise required by
10 state or federal law or rule.

11 6. A trust company, instead of retaining the original
12 records, may cause any or all of its records and the records
13 of others held at any time in its custody, including those
14 held by it as a fiduciary, to be photographed or otherwise
15 reproduced to a permanent form. A photograph or reproduction
16 shall have the same force and effect as the original record
17 and be admitted in evidence in the same manner as the
18 original.

19 7. A trust company may cause any or all transactions,
20 information, and data occurring in the regular course of its
21 operations to be recorded and maintained by electronic means.
22 If the electronic records of such transactions, information,
23 and data are converted to writing, such writings shall
24 constitute the original records of the transactions,
25 information, and data, and shall have the force and effect of
26 the original records.

27 8. Except to the extent preempted by federal law, this
28 section shall apply to all trust companies authorized to
29 transact business in this state.

30 9. This section shall not be construed to affect any duty
31 of a trust company to preserve the confidentiality of those
32 records deemed to be confidential records by law or rule.

33 Sec. 21. NEW SECTION. 524A.21 REPORTS TO SUPERINTENDENT.

34 1. A trust company shall provide to the superintendent
35 annual financial statements within forty-five days after the

1 end of each fiscal year of the trust company. The annual
2 financial statements shall be accompanied by the unqualified
3 opinion of an independent accountant, if required by the
4 superintendent. The superintendent may require such other
5 financial reports as the superintendent deems necessary and
6 appropriate. Financial statements shall be prepared in
7 accordance with generally accepted accounting principles
8 applicable to trust companies.

9 2. The superintendent may require a trust company to
10 establish an autonomous internal audit control system which
11 shall be subject to the approval of the superintendent, or may
12 require periodic examinations of the financial condition of a
13 trust company, and written reports of the examinations, to be
14 performed by the board of directors or by a certified public
15 accountant or a firm of the accountants, or both, as the
16 superintendent deems necessary and appropriate.

17 3. If, at any time, an event occurs or a transfer of
18 shares of stock of a trust company occurs which results in
19 ownership of shares of the trust company by a person or entity
20 that is not a bank having its principal place of business in
21 this state or a bank holding company owning or controlling one
22 or more banks having its principal place of business in this
23 state, the president or other officer of the trust company
24 shall file a certified report describing the event or transfer
25 with the superintendent within ten days after the event or
26 transfer.

27 4. If, at any time, a trust company maintains a business
28 location that has not been approved by the superintendent or
29 an event occurs or a transfer of shares of stock of the trust
30 company occurs which results in the existence of a business
31 location of the trust company in violation of this chapter,
32 the president or other officer of the trust company shall file
33 a certified report describing the event or transfer which
34 results in such condition with the superintendent within ten
35 days after the event or transfer.

1 5. A trust company shall maintain a complete and correct
2 list of the names and addresses of the directors, officers,
3 and stockholders of the trust company and the number of shares
4 and their percentage ownership of issued and subscribed
5 capital stock of the trust company held by each director,
6 officer, and stockholder. The list shall also include the
7 locations of the principal place of business and all bank
8 offices of each stockholder and bank subsidiary of each
9 stockholder. The list shall be subject to public inspection
10 during usual business hours. A copy of the list as of the
11 date of the adjournment of each annual meeting of
12 stockholders, certified by the president or other officer of
13 the trust company, shall be filed with the superintendent
14 within ten days after the annual meeting.

15 Sec. 22. NEW SECTION. 524A.22 EXAMINATION OF TRUST
16 COMPANIES.

17 1. The superintendent, either personally or by one or more
18 persons appointed by the superintendent, shall examine each
19 trust company at least once every twenty-four months, and may
20 examine any trust company or service provider at any time if
21 the superintendent deems it necessary or advisable, to make a
22 full and careful examination and inquiry into the condition of
23 the affairs of such trust company or service provider. The
24 affairs of a trust company or service provider shall include,
25 but not be limited to, clerical, accounting, bookkeeping,
26 statistical, data processing, safekeeping, or similar
27 functions of a trust company.

28 2. The superintendent and a person appointed by the
29 superintendent pursuant to subsection 1 may administer an oath
30 to any person whose testimony is required during an
31 examination, and compel the appearance and attendance of any
32 person for the purpose of examination, by summons, subpoena,
33 or attachment, in the manner authorized with respect to the
34 attendance of persons as witnesses in court. All books and
35 papers which are necessary for examination by the

1 superintendent or person so appointed shall be produced, and
2 their production may be compelled in a like manner.

3 3. A trust company subject to examination, supervision,
4 and regulation by the superintendent shall pay to the
5 superintendent fees, established by the state banking board,
6 based on the costs and expenses incurred in the discharge of
7 the duties imposed upon the superintendent by this chapter.
8 The fees shall include, but are not limited to, costs and
9 expenses for salaries, expenses, and travel for employees,
10 office facilities, supplies, and equipment. Upon completion
11 of an examination pursuant to this chapter, the examiner in
12 charge of the examination shall render a bill for the fees, in
13 duplicate, and shall deliver one copy of the bill to the trust
14 company and one copy to the superintendent. Failure to pay
15 the amount of the fees to the superintendent within ten days
16 after the date of billing shall subject the trust company to
17 an additional charge equal to five percent of the amount of
18 the fees for each day the payment is delinquent.

19 4. On every examination, inquiry shall be made as to the
20 condition and resources of the trust company generally, the
21 mode of conducting and managing its affairs, the action of its
22 directors, the investments of its funds, the safety and
23 prudence of its management, the security afforded to its
24 customers, and whether the requirements of its charter and of
25 the laws of this state have been complied with in the
26 administration of its affairs.

27 5. Any data processing services, or other clerical,
28 bookkeeping, accounting, tax, statistical, safekeeping, or
29 similar services, which a trust company causes to be
30 performed, by contract or other agreement, whether on or off
31 its premises, is subject to both of the following:

32 a. Supervision, regulation, and examination by the
33 superintendent to the same extent as if the services were
34 being performed by the trust company itself on its own
35 premises.

1 b. The provision of written assurances to the
2 superintendent, which are satisfactory to the superintendent,
3 by the trust company and the person or entity performing the
4 services, prior to the performance of the services.

5 6. The superintendent, in lieu of making a direct
6 examination and inspection, may accept the examination and
7 report of an authorized federal agency.

8 7. A report of examination pursuant to this section and
9 any copies of such report are the property of the
10 superintendent, are confidential, and shall only be disclosed
11 pursuant to section 524.215.

12 Sec. 23. NEW SECTION. 524A.23 REFUSAL TO SUBMIT TO
13 EXAMINATION.

14 In the event an officer of a trust company subject to
15 supervision by the superintendent under this chapter, or a
16 person or entity performing services for the trust company,
17 refuses to submit the books, records, papers, and instruments
18 of the trust company, person, or entity to the examination and
19 inspection of the superintendent or any appointee, or in any
20 manner obstructs or interferes with the examination and
21 investigation of the trust company, person, or entity, or
22 refuses to be examined under oath concerning any of the
23 affairs of the trust company, person, or entity, the
24 superintendent may revoke the charter of authority of the
25 trust company to transact business and may institute
26 proceedings for the appointment of a receiver for the trust
27 company or take such actions under this chapter as the
28 superintendent deems necessary or appropriate.

29 Sec. 24. NEW SECTION. 524A.24 POWER OF SUPERINTENDENT TO
30 ISSUE ORDERS.

31 1. If it appears to the superintendent that a trust
32 company is engaging or has engaged, or the superintendent has
33 reasonable cause to believe that the trust company is about to
34 engage, in an unsafe or unsound practice in conducting the
35 business of the trust company, or is violating or has

1 violated, or the superintendent has reasonable cause to
2 believe that the trust company is about to violate, any
3 provision of this chapter or of any rule adopted pursuant to
4 this chapter, or any condition imposed in writing by the
5 superintendent in connection with the approval of any matter
6 required by this chapter, or any written agreement entered
7 into with the superintendent, or engage in any other practice
8 deemed unsafe or unsound by the superintendent, the
9 superintendent may issue and serve upon the trust company a
10 written notice containing a statement of the facts
11 constituting the alleged violation or violations, or the
12 unsafe or unsound practice or practices, and fixing a time and
13 place at which a hearing shall be held to determine whether an
14 order to cease and desist from the violation or practice
15 should be issued to the trust company.

16 2. A trust company which fails to appear at the hearing is
17 deemed to have consented to the issuance of a cease and desist
18 order. If upon such consent, or if upon the record made at
19 the hearing, the superintendent finds that a violation or
20 unsafe or unsound practice specified in the notice is
21 established, the superintendent may issue and serve upon the
22 trust company an order to cease and desist from any such
23 violation or practice. The order may require the trust
24 company and its directors, officers, and employees to cease
25 and desist from any such violation or practice and, further,
26 to take affirmative action to correct the conditions resulting
27 from any such violation or practice.

28 3. An order issued pursuant to this section becomes
29 effective upon service of the order on the trust company and
30 remains effective except to the extent that it is stayed,
31 modified, terminated, or set aside by action of the
32 superintendent or of the district court of the county in which
33 the trust company has its principal place of business.

34 4. The superintendent may apply to the district court of
35 the county in which the trust company has its principal place

1 of business for the enforcement of an order pursuant to this
2 section and the court shall have jurisdiction and power to
3 order and require compliance with the order.

4 Sec. 25. NEW SECTION. 524A.25 SPECIAL MEETING OF BOARD
5 OF DIRECTORS.

6 1. Whenever the superintendent deems it necessary or
7 advisable, the superintendent may cause a meeting of the board
8 of directors of a trust company to be held in the manner and
9 at such time and place as the superintendent may direct. A
10 report of an examination required or allowed by this chapter,
11 conclusions drawn from the report by the superintendent,
12 recommendations made relative to the report, and any other
13 matters concerning the operation and condition of the trust
14 company may be presented to the board of directors by the
15 superintendent. The trust company shall record the
16 recommendations and conclusions of the superintendent in the
17 minutes of the board of directors of the trust company.

18 2. Each member of the board of directors shall certify to
19 the superintendent that the member has read and understands
20 the conclusions and recommendations of the superintendent.

21 Sec. 26. NEW SECTION. 524A.26 REFUSAL TO COMPLY.

22 A trust company which refuses or neglects for a period of
23 thirty days after written notice demanding compliance with any
24 lawful requirement of the superintendent is deemed to have
25 relinquished its charter of authority and the superintendent
26 shall revoke its authority to transact business. The
27 superintendent shall give written notice of the revocation to
28 the trust company and begin an action for the appointment of a
29 receiver or take such actions under this chapter as the
30 superintendent deems necessary or appropriate. The trust
31 company shall not have a right to a hearing under section
32 524A.27 in the event of the relinquishment of its charter of
33 authority under this section.

34 Sec. 27. NEW SECTION. 524A.27 RIGHT TO HEARING.

35 Except as otherwise provided in this chapter, a trust

1 company subject to revocation of its charter of authority
2 shall be afforded the right to a hearing in accordance with
3 the provisions of chapter 17A, in addition to any other rights
4 which the trust company is or may be entitled to under chapter
5 17A.

6 Sec. 28. NEW SECTION. 524A.28 INSOLVENCY.

7 1. The proceedings pursuant to this section are the
8 exclusive remedy and the only proceedings which may be
9 commenced in any court for the dissolution or winding up of
10 the affairs of, or for the appointment of a receiver for, a
11 trust company authorized to transact business in this state
12 pursuant to a charter issued by the superintendent under this
13 chapter or any trust company existing, operating, and
14 authorized to act as a trust company in this state pursuant to
15 section 524.1005 on July 1, 1996.

16 2. a. The superintendent may give written notice to the
17 board of directors of a trust company upon a finding with
18 respect to a trust company of any of the following:

19 (1) Its capital is impaired or it is otherwise in an
20 unsound condition.

21 (2) Its business is being conducted in an unlawful manner,
22 in violation of an order of the superintendent, or in a
23 fraudulent or unsafe manner.

24 (3) It is unable to continue operations.

25 (4) Its examination has been obstructed or impeded.

26 b. If the superintendent, after providing notice under
27 paragraph "a", finds that the situation resulting in the
28 notice is not corrected to the superintendent's satisfaction
29 within thirty days after the notice, the superintendent, at
30 the termination of the thirty-day period, shall take
31 possession and control of the trust company, its assets, and
32 the assets held for beneficiaries of its fiduciary
33 obligations, in the same manner as provided for the
34 examination, reorganization, or liquidation through
35 receivership.

1 3. If, in addition to a finding under subsection 1, the
2 superintendent is of the opinion and finds that an emergency
3 exists which may result in serious losses to the beneficiaries
4 of fiduciary relationships with the trust company, the
5 superintendent, in the superintendent's discretion and without
6 giving notice pursuant to subsection 1, and whether or not
7 proceedings under subsection 1 have been instituted or are
8 pending, may immediately take possession and control of the
9 trust company, its assets, and the assets held for
10 beneficiaries of its fiduciary obligations, in the same manner
11 as provided for the examination, reorganization, or
12 liquidation through receivership.

13 4. The superintendent may take possession and control of a
14 trust company, its assets, and the assets held for
15 beneficiaries of its fiduciary obligations by posting upon the
16 premises of each office at which the trust company transacts
17 its business as a trust company a notice reciting that the
18 superintendent is assuming possession and control pursuant to
19 this chapter, and the time when the possession and control is
20 deemed to commence.

21 5. Promptly after taking possession and control of a trust
22 company, the superintendent shall do the following:

23 a. File a copy of the notice in the district court of the
24 county in which the trust company has its principal place of
25 business, which cause shall be entered as an action upon the
26 dockets of the court under the name and style of "In the
27 Matter of the Possession and Control of the Superintendent of
28 Banking of the (insert the name of the trust company)". If
29 the superintendent determines that no practical possibility
30 exists to reorganize the trust company after reasonable
31 efforts have been made, the superintendent, if the
32 superintendent has not previously done so, shall also apply
33 for the appointment of a receiver or such other proceeding as
34 is appropriate under the circumstances. The determination may
35 be made at the time of, or at any time subsequent to, the

1 superintendent taking possession and control of a trust
2 company. The court shall have jurisdiction to hear and
3 determine all issues and matters pertaining to or connected
4 with the superintendent's possession and control of the trust
5 company, and any further issues and matters pertaining to or
6 connected with the superintendent's possession and control as
7 may be submitted to the court by the superintendent for
8 adjudication.

9 b. The superintendent, immediately upon filing an
10 application for dissolution and if the superintendent has not
11 previously done so, shall examine the affairs of the trust
12 company or appoint another trust company, bank, or other
13 suitable person to make the examination as the
14 superintendent's agent. The examination shall be conducted in
15 accordance with the provisions of this chapter relating to
16 examinations and the trust company, bank, or other suitable
17 person conducting the examination is authorized to exercise on
18 behalf of the superintendent, all of the powers and authority
19 granted to the superintendent under this chapter. The report
20 of examination shall, to the extent reasonably possible,
21 identify those governing agreements and instruments with
22 specific instructions concerning the appointment of a
23 successor fiduciary. A copy of the report shall be filed in
24 any dissolution proceeding filed by the superintendent. The
25 reasonable fees and necessary expenses of the examining trust
26 company, bank, or other suitable person, as approved by the
27 superintendent or as recommended by the superintendent and
28 approved by the court if a dissolution proceeding has been
29 filed, shall be borne by the subject trust company and shall
30 have the same priority for payment as the reasonable and
31 necessary expenses of the superintendent in conducting an
32 examination.

33 c. If deemed necessary and appropriate by the
34 superintendent, the superintendent, as soon as practical,
35 shall seek the advice and instruction of the court concerning

1 the removal of the trust company as to all of its fiduciary
2 accounts and fiduciary appointments and the appointment of a
3 successor fiduciary, which may be the examining trust company,
4 to take over and administer all of the fiduciary accounts and
5 fiduciary appointments being administered by the trust
6 company. The trust company, bank, or other suitable person
7 appointed to make the examination shall make a proper
8 accounting, in the manner and scope as determined by the
9 superintendent to be practical and advisable under the
10 circumstances, on behalf of the trust company and the
11 appointment of a guardian ad litem shall not be required to
12 review the accounting.

13 6. Upon taking possession and control of a trust company,
14 the superintendent is vested with the full powers of
15 management and control, including, but not limited to, all of
16 the following:

17 a. The power to continue or to discontinue the business.

18 b. The power to stop or to limit the payment of its
19 obligations.

20 c. The power to collect and to use its assets and to give
21 valid receipts and acquittances for the assets.

22 d. The power to employ and to pay any necessary
23 assistants.

24 e. The power to execute any instrument in the name of the
25 trust company.

26 f. The power to commence, defend, and conduct in the name
27 of the trust company any action or proceeding in which the
28 trust company may be a party.

29 g. The power, upon the order of the court, to sell and
30 convey the assets of the trust company, in whole or in part,
31 and to sell or settle bad or doubtful debts upon such terms
32 and conditions as may be fixed in the order.

33 h. The power, upon the order of the court, to make and
34 carry out agreements with other trust companies, financial
35 institutions, or the United States or any agency of the United

1 States, for the payment or assumption of the trust company's
2 liabilities, in whole or in part, and to transfer assets and
3 make guaranties, in whole or in part, in connection with the
4 assets.

5 i. The power, upon the order of the court, to borrow money
6 in the name of the trust company and pledge its assets as
7 security for the loan.

8 j. The power to terminate the superintendent's possession
9 and control by restoring the trust company to its board of
10 directors.

11 k. The power to reorganize the trust company as provided
12 in this chapter.

13 1. Upon the order of the court and without the appointment
14 of a receiver, the power to determine that the trust company
15 has been closed for the purpose of liquidation without
16 adequate provision being made for payment of its fiduciary
17 obligations, and upon such determination, the trust company is
18 deemed to have been closed on account of the inability to meet
19 its obligations to its beneficiaries.

20 7. Upon taking possession and control of a trust company,
21 the superintendent shall make an examination of the condition
22 of the trust company and an inventory of its assets and the
23 assets held for beneficiaries of its fiduciary obligations.
24 Unless the time is extended by order of the court, or unless
25 the superintendent has otherwise settled the affairs of a
26 trust company pursuant to this chapter, within sixty days from
27 the time of taking possession and control of the trust company
28 for the purpose of examination, reorganization, or liquidation
29 through receivership, the superintendent shall either
30 terminate possession and control by restoring the trust
31 company to its board of directors or appoint a receiver which
32 may be the superintendent, a trust company, bank, or other
33 suitable person, and order the liquidation of the trust
34 company as provided in this chapter. All necessary and
35 reasonable expenses, including reasonable attorney's fees, of

1 the superintendent's possession and control and of the
2 reorganization or liquidation of the trust company shall be a
3 priority claim and shall be borne by the subject trust company
4 and may be paid to the superintendent from the assets of the
5 trust company as distinguished from the assets of
6 beneficiaries of fiduciary relations.

7 8. If the superintendent takes possession and control of a
8 trust company or appoints a receiver, any period of limitation
9 fixed by a statute, court rule, or agreement which would
10 otherwise expire on a claim or right of action of the trust
11 company, on its own behalf or on behalf of a beneficiary in
12 any of its fiduciary capacities, or upon which an appeal must
13 be taken or a pleading or other document must be filed by the
14 trust company, on its own behalf or on behalf of a beneficiary
15 in any of its fiduciary capacities, in any pending action or
16 proceeding, is tolled for a period of six months after the
17 commencement of such possession and control, or after the
18 appointment of a receiver, whichever is later, and no
19 judgment, lien, levy, attachment, or other similar legal
20 process shall be enforced upon or satisfied in whole or in
21 part from any asset of the trust company or from any asset of
22 a beneficiary of any of its fiduciary capacities while the
23 trust company is in the possession and control of the
24 superintendent or receiver, except upon the order of the
25 court.

26 9. The superintendent, while in possession and control of
27 a trust company, may propose and implement a reorganization
28 plan, which may be amended as necessary because of changes in
29 circumstances, if the superintendent finds any of the
30 following:

31 a. The plan is feasible and fair to all classes of
32 beneficiaries, creditors, and stockholders.

33 b. The face amount of the interest accorded to any class
34 of creditors or stockholders under the plan does not exceed
35 the value of the assets upon liquidation, less the full amount

1 of the claims of all prior classes, subject, however, to any
2 fair adjustment for new capital that any class will pay in
3 under the plan.

4 c. The plan assures the removal of any director, officer,
5 or employee responsible for an unsound or unlawful action or
6 the existence of an unsound condition.

7 d. Any merger or consolidation provided by the plan
8 conforms to the requirements of this chapter and chapter 490.

9 e. Any reorganized trust company provided by the plan
10 conforms to the requirements of this chapter and chapter 490
11 for the organization of a trust company.

12 10. If the superintendent determines at any time that no
13 reasonable possibility exists for the trust company to be
14 reorganized after reasonable efforts have been made, and that
15 the trust company should be liquidated through receivership,
16 the superintendent shall appoint a receiver. The
17 superintendent may require the receiver to provide such bond
18 and security as the superintendent deems necessary and
19 appropriate. The superintendent shall file a petition for the
20 dissolution or for the winding up of the affairs of the trust
21 company in the district court of the county in which the
22 principal place of business of the trust company is located,
23 and shall publish notice of the petition in a newspaper of
24 general circulation once each week for four consecutive weeks.
25 The notice shall state that a petition for the dissolution or
26 winding up of the affairs of the trust company has been filed
27 and shall state the name and location of the court. The
28 notice shall also state that persons who may have claims
29 against the trust company shall present the claims to the
30 receiver. All persons who may have claims against the assets
31 of the trust company, as distinguished from the assets of the
32 beneficiaries of the fiduciary relations of the trust company,
33 and the receiver to whom the persons have presented their
34 claims, may present the claims to the clerk of the district
35 court, and the allowance or disallowance of the claims by the

1 court in connection with the proceeding is deemed an
2 adjudication in a court of competent jurisdiction.

3 11. The receiver of a trust company, under the direction
4 of the superintendent, has the power and authority and is
5 charged with the duties and responsibilities as follows:

6 a. To take possession of the title to the books, records,
7 and assets of every description of the trust company for
8 purposes of the receivership.

9 b. To proceed to collect all debts, dues, and claims
10 belonging to the trust company.

11 c. To file with the superintendent a copy of each report
12 which the receiver makes to the court, together with other
13 reports and records as the superintendent may require.

14 d. To sue and defend in the receiver's own name and with
15 respect to the affairs, assets, claims, debts, and choses in
16 action of the trust company.

17 e. To surrender to the customers of the trust company,
18 when requested in writing directed to the receiver by the
19 customers, the assets, private papers, and valuables left with
20 the trust company for safekeeping under a custodial or agency
21 agreement, upon satisfactory proof of ownership.

22 f. To resign on behalf of the trust company, as soon as
23 reasonably possible, all fiduciary relationships under which
24 the trust company is holding property in a fiduciary capacity
25 for the benefit of another person, preparing in each case,
26 from the records and documents available to the receiver, a
27 proper accounting, in the manner and scope as determined by
28 the superintendent to be practical and advisable under the
29 circumstances, on behalf of the trust company. The receiver,
30 prior to resigning, shall cause a successor trustee or
31 fiduciary to be appointed pursuant to the terms set forth in
32 the governing instrument or agreement or pursuant to chapter
33 633, if applicable, or, if not, then the receiver shall make
34 application to the court having jurisdiction over the
35 dissolution or winding up of the trust company, for the

1 appointment of a successor. The receiver, if a trust company,
2 is not disqualified from acting as successor trustee or
3 fiduciary if appointed under the terms of the governing
4 instrument or agreement, by court order, or by the customer of
5 the trust company whose affairs are being dissolved or wound
6 up and, in such case, the appointment of a guardian ad litem
7 shall not be required to review the accounting of the receiver
8 unless the beneficiaries or customers of the trust company
9 request the appointment in writing.

10 g. To redeem or purchase collateral hypothecated by the
11 trust company to secure its notes and other evidence of
12 indebtedness if the superintendent deems it to be in the best
13 interest of the creditors of the trust company and so directs
14 the receiver.

15 h. To use and employ money of the trust company, in order
16 to protect fully and benefit the trust company, for the
17 purchase or redemption of any property, real or personal, in
18 which the trust company may have any rights by reason of any
19 bond, mortgage, assignment, or other claim to such property,
20 upon the receiver's certification of such facts, together with
21 the receiver's opinions as to the value of the property
22 involved, and the value of the equity the trust company may
23 have in the property, and request for the right and authority
24 to use and employ so much of the money of the trust company as
25 may be necessary to purchase the property, or to redeem the
26 property from a sale if there has been a sale.

27 i. To deposit daily all moneys collected by the receiver
28 in any state or national bank selected by the superintendent
29 and invest the moneys in accordance with chapter 633 relating
30 to authorized investments for fiduciaries.

31 j. To do such things and take such steps from time to time
32 under the direction and approval of the superintendent as may
33 reasonably appear to be necessary to conserve the trust
34 company's assets and secure the best interests of the
35 creditors of the trust company.

1 k. To record any judgment of dissolution entered in a
2 dissolution proceeding and upon such entry turn over to the
3 superintendent a certified copy of the judgment, together with
4 all books of accounts and ledgers of the trust company for
5 preservation, and to turn over the books of accounts and
6 ledgers of the trust company relating to the assets of the
7 beneficiaries of the fiduciary relations to the successor
8 trustee or fiduciary.

9 l. To register in the name of the receiver or in the name
10 of the receiver's nominee the assets of beneficiaries of
11 fiduciary relations to the extent deemed necessary or
12 advisable by the receiver.

13 m. To review within a reasonable period of time all of the
14 fiduciary accounts and relationships in order to ascertain
15 that the investments by the trust company of the assets of the
16 fiduciary accounts and relationships comply with the terms of
17 the governing instrument or agreement, the prudent person rule
18 governing the investment of the funds, and any other law
19 regulating the investment of the funds.

20 n. To be reimbursed for all costs and expenses incurred by
21 the receiver in administering the fiduciary accounts and
22 relationships of the trust company during the period of
23 dissolution or winding up the affairs of the trust company,
24 and to receive out of the assets of the individual fiduciary
25 accounts being administered by the receiver during such period
26 and prior to the appointment of a successor fiduciary, in
27 addition to such costs and expenses, the usual and customary
28 fees charged by the receiver in the administration of similar
29 fiduciary accounts, the fees charged by the trust company for
30 the administration of the individual fiduciary accounts, or
31 such other reasonable fees as approved by the superintendent.

32 o. To exercise all of the powers which are vested in
33 trustees under the terms and provisions of chapter 633 with
34 respect to the receiver's administration of the fiduciary
35 accounts and relationships of the trust company during the

1 period of dissolution or winding up the affairs of the trust
2 company.

3 p. To deliver to any successor trustee or fiduciary all of
4 the assets belonging to the individual trust or fiduciary
5 account as to which the successor trustee or fiduciary
6 succeeds. Upon delivery, the receiver is relieved of any
7 further duties, responsibilities, or obligations with respect
8 to the assets.

9 12. Upon the order of the court, the receiver for the
10 trust company shall have the power and authority and is
11 charged with the duties and responsibilities as follows:

12 a. To sell or settle all bad and doubtful debts on such
13 terms as the court shall direct.

14 b. To sell the real and personal property of the trust
15 company, as distinguished from the real and personal property
16 of the beneficiaries of such fiduciary relations, on such
17 terms as the court shall direct.

18 c. To petition the court for the authority to borrow
19 money, and to pledge the assets of the trust company as
20 security for the loans. Upon the filing of the petition, the
21 practice and procedure shall be as follows:

22 (1) The court shall set a date for the hearing of the
23 petition and shall prescribe the form and manner of the notice
24 to be given to the officers, stockholders, creditors, and
25 other persons interested in the trust company.

26 (2) During the hearing, any officer, stockholder,
27 creditor, or interested person shall have the right to be
28 heard.

29 (3) If the court grants such authority, the receiver may
30 borrow money and issue evidences of indebtedness for the loan,
31 and may secure the payment of the loan by the mortgage,
32 pledge, transfer in trust, or hypothecation of any or all
33 property and assets of the trust company, whether real,
34 personal, or mixed, superior to any charge on the property for
35 the expenses of liquidation.

1 (4) The loan may be obtained in an amount, upon such terms
2 and conditions, and with provisions for repayment as deemed
3 necessary or expedient.

4 (5) The loan may be obtained for the purposes of
5 facilitating liquidation, protecting or preserving the assets,
6 expediting the making of distributions to creditors, providing
7 for the expenses of administration and liquidation, or aiding
8 in the reopening of the trust company, the merger or
9 consolidation with another trust company, or the sale of its
10 assets.

11 (6) The receiver is under no personal obligation to repay
12 any such loan and is authorized to take any action necessary
13 or proper to consummate the loan and to provide for the
14 repayment of the loan. The receiver, when required, may give
15 bond for the faithful performance of all undertakings in
16 connection with the loan.

17 (7) Prior to petitioning the court for authority to make
18 any such loan, the receiver may make application for or
19 negotiate any loan subject to obtaining an order of the court
20 approving the loan.

21 d. To make and carry out agreements with other trust
22 companies, banks or the United States, or any agency of the
23 United States, for the payment or assumption of the trust
24 company's liabilities, in whole or in part, and the receiver
25 may transfer assets and make guaranties in connection with
26 such agreements.

27 e. To file with the court, after the expiration of four
28 weeks after the first publication of the superintendent's
29 notice as provided in subsection 10, a correct list of all
30 creditors of the trust company, as shown by its books, who
31 have not presented their claims and the amount of their
32 respective claims after allowing all just credits, deductions,
33 and set-offs as shown by the books of the trust company. A
34 claim filed pursuant to this paragraph is deemed to be proven,
35 unless objections are filed to the claim by a party or parties

1 interested in the claim within such time as is fixed by the
2 court.

3 f. To petition the court, at the termination of the
4 receiver's administration, for the entry of a judgment of
5 dissolution. After a hearing upon such notice as the court
6 may prescribe, the court may enter a judgment of dissolution
7 whereupon the trust company's corporate existence shall be
8 terminated and the receivership concluded.

9 13. The receiver shall serve at the pleasure of the
10 superintendent and upon the receiver's death, inability to
11 act, resignation, or removal by the superintendent, the
12 superintendent may appoint a successor and, upon such
13 appointment, all rights and duties of the predecessor shall at
14 once devolve upon such appointee.

15 14. All necessary and reasonable expenses of a
16 receivership, including reasonable receiver's and attorney's
17 fees, approved by the superintendent, shall be paid out of the
18 assets of the trust company. All expenses of any preliminary
19 or other examination into the condition of any such trust
20 company or receivership, and all expenses incident to and in
21 connection with the possession and control of the trust
22 company for the purpose of examination, reorganization, or
23 liquidation through receivership, shall be paid out of the
24 assets of the trust company. A payment authorized under this
25 subsection may be made by the superintendent with moneys and
26 property of the trust company in the possession or control of
27 the superintendent and shall have priority over all claims but
28 shall not give rise to a claim against properties held by the
29 trust company in a fiduciary capacity.

30 15. Periodically during a receivership, the superintendent
31 shall pay from moneys of the trust company a ratable dividend
32 on all claims as may be proven to the satisfaction of the
33 superintendent or adjudicated by the court.

34 16. If the superintendent takes possession and control of
35 a trust company for the purpose of examination,

1 reorganization, or liquidation through receivership, or if the
2 superintendent appoints a receiver for a trust company and
3 files a petition for the dissolution or the winding up of the
4 affairs of a trust company, and the trust company denies the
5 grounds for such actions, the trust company may at any time
6 within ten days apply to the district court of the county in
7 which the trust company has its principal place of business to
8 enjoin further proceedings. The court shall direct the
9 superintendent to show cause why further proceedings should
10 not be enjoined, and if the court finds that such grounds do
11 not exist, the court shall issue an order enjoining the
12 superintendent and any receiver acting under the
13 superintendent's direction from all further proceedings on
14 account of the alleged grounds.

15 17. A trust company which desires to voluntarily cease
16 transacting business as a trust company in this state under
17 this chapter shall furnish to the superintendent satisfactory
18 evidence of its release and discharge from all the obligations
19 and trusts of the trust company, and upon receipt of such
20 evidence, the superintendent shall revoke the charter of
21 authority of the trust company.

22 Sec. 29. NEW SECTION. 524A.29 OFFENSES AND PENALTIES.

23 An officer, director, employee, or agent of a trust company
24 who willfully and knowingly subscribes to or makes, or causes
25 to be made, a false statement with intent to deceive any
26 person or persons authorized to examine into the affairs of
27 the trust company or with intent to deceive the superintendent
28 or any of the superintendent's administrative officers in the
29 performance of their duties under this chapter, upon
30 conviction, is guilty of a class "C" felony, and is forever
31 disqualified from acting as a director, officer, employee, or
32 agent of any trust company.

33 Sec. 30. NEW SECTION. 524A.30 SUCCESSION OF FIDUCIARY
34 ACCOUNTS.

35 1. Subject to the approval of the superintendent, a trust

1 company authorized to transact business as a trust company in
2 this state may enter into an agreement for the succession of
3 fiduciary accounts, whether pursuant to a merger or otherwise,
4 with one or more state or national banks, savings and loan
5 associations, savings banks, or Iowa or federally chartered
6 trust companies, authorized to transact business in this state
7 and authorized to act in a fiduciary capacity. The succeeding
8 party, under the agreement, may agree to succeed the
9 relinquishing party as fiduciary with respect to those
10 fiduciary accounts which are designated in the agreement. The
11 designation of accounts may be by general class or description
12 and may include fiduciary accounts subject to and not subject
13 to court administration, and fiduciary accounts to arise in
14 the future under wills, trusts, court orders, or other
15 documents under which the relinquishing party is named as a
16 fiduciary or is named to become a fiduciary upon the death of
17 a testator or settlor or upon the happening of any other
18 subsequent event. The relinquishing party shall mail a notice
19 of the succession to all persons having an interest in a
20 fiduciary account at their last known addresses, and shall
21 publish a notice of the succession to fiduciary accounts in a
22 newspaper published in the county of the principal place of
23 business of the relinquishing party. After the publication,
24 the succeeding party, without further notice, approval, or
25 authorization, shall succeed to the relinquishing party as to
26 the fiduciary accounts and the fiduciary powers, rights,
27 privileges, duties, and liabilities for the fiduciary
28 accounts. On the effective date of the succession to
29 fiduciary accounts, the relinquishing party is released from
30 the fiduciary duties under the fiduciary accounts and shall
31 discontinue its exercise of trust powers to the fiduciary
32 accounts. This subsection does not absolve a relinquishing
33 party from liabilities arising out of a breach of fiduciary
34 duty occurring prior to the succession to fiduciary accounts.
35 2. Within sixty days after the mailing and publication of

1 the notice, a person having an interest in a fiduciary account
2 included within the notice and agreement required by
3 subsection 1 may apply to the district court in the county in
4 which the notice is published for the appointment of a new
5 fiduciary on the ground that the succeeding fiduciary will
6 adversely affect the administration of the fiduciary account.
7 After notice to all interested parties and a hearing on the
8 issues, the court may appoint a new fiduciary to replace the
9 succeeding fiduciary if it finds that the substitution of the
10 succeeding fiduciary will adversely affect the administration
11 of the account and that the appointment of the new fiduciary
12 would be in the best interests of the beneficiaries of the
13 fiduciary account. This subsection is in addition to section
14 633.65 governing the removal of a fiduciary.

15 Sec. 31. NEW SECTION. 524A.31 NAMES.

16 A trust company issued a charter under this chapter shall
17 include the words "trust company" in its name. A trust
18 company shall not use the name of any other trust company
19 authorized to transact business in this state, or a name so
20 similar that it is likely to lead to confusion.

21 Sec. 32. NEW SECTION. 524A.32 BUSINESS LOCATIONS.

22 1. A trust company shall conduct its business at locations
23 that have been approved by the superintendent. A trust
24 company shall not change any of its business locations or
25 transfer any functions or activities between business
26 locations except upon the prior approval of the
27 superintendent.

28 2. A trust company may establish business locations that
29 are not accessible to its customers at one or more places
30 within this state. Functions or activities that are
31 permissible at a business location authorized by this
32 subsection may be conducted at a business location that is
33 authorized under subsection 3.

34 3. a. A trust company may establish and maintain business
35 locations that are accessible to its customers only as

1 follows:

2 (1) Within the principal place of business and the bank
3 offices of a bank that is a stockholder of the trust company.

4 (2) Within the principal place of business and the bank
5 offices of a subsidiary bank of a bank holding company that is
6 a stockholder of the trust company.

7 (3) Within the corporate limits of a city in which a
8 stockholder of the trust company or a bank subsidiary of the
9 stockholder maintains an authorized facility conducting the
10 business of banking.

11 b. The superintendent may determine that a business
12 location is within a principal place of business or bank
13 office of a bank without respect to walls, partitions, or
14 other physical obstructions that are used to segregate the
15 business operations of the trust company from the business
16 operations of the bank. The superintendent may prescribe the
17 means by which the business operations of the trust company
18 shall be physically segregated from the business operations of
19 the bank. The superintendent shall prescribe the means by
20 which the customers of a bank or trust company may readily
21 identify the portions of the premises that are used by the
22 trust company as a business location that is accessible to its
23 customers.

24 4. This section applies to all business locations
25 established or maintained by a trust company or by any person
26 or entity providing services to a trust company pursuant to an
27 agreement or contract authorized by this chapter.

28 5. If, at any time, a trust company maintains a business
29 location that has not been approved by the superintendent or
30 is in violation of this section, the trust company shall
31 immediately cease to exercise fiduciary powers, appointments,
32 and functions, and otherwise cease to transact business as a
33 trust company at the location.

34 Sec. 33. NEW SECTION. 524A.33 MISCELLANEOUS PROVISIONS.

35 1. A trust company may become a stockholder in and a

1 member of the federal reserve bank of the federal reserve
2 district where the trust company is located.

3 2. Notwithstanding any other provision of law, a trust
4 company when acting as fiduciary, or a trust company when
5 holding securities as custodian for a fiduciary, may deposit,
6 or arrange for the deposit, with the federal reserve bank in
7 its district, any securities the principal and interest of
8 which the United States or any department, agency, or
9 instrumentality of the United States has agreed to pay, or has
10 guaranteed payment, to be credited to one or more accounts on
11 the books of the federal reserve bank in the name of the trust
12 company, to be designated fiduciary or safekeeping accounts,
13 to which account other similar securities may be credited.
14 The records of the trust company shall always show the
15 ownership of the securities held in such account.

16 3. A trust company, when acting in this state as a
17 fiduciary or a cofiduciary with others and with the consent of
18 its cofiduciary or cofiduciaries, if any, who are authorized
19 to give such consent, may cause any investment held in any
20 such capacity, to be registered and held in the name of a
21 nominee or nominees of the trust company. The trust company
22 is liable for the acts of any such nominee with respect to any
23 investment so registered.

24 4. A trust company chartered under and subject to this
25 chapter is not be subject to sections 524.1001 through
26 524.1008, pertaining to state banks authorized to act in a
27 fiduciary capacity and trust companies existing and operating
28 on January 1, 1970.

29 Sec. 34. Section 422.34, subsection 1, Code 1995, is
30 amended to read as follows:

31 1. All state, national, private, co-operative, and savings
32 banks, credit unions, title insurance ~~and-trust~~ companies,
33 savings and loan associations, production credit associations,
34 insurance companies or insurance associations, reciprocal or
35 inter-insurance exchanges, and fraternal beneficiary

1 associations.

2 Sec. 35. Section 422.61, subsection 1, Code Supplement
3 1995, is amended to read as follows:

4 1. "Financial institution" means a state bank as defined
5 in section 524.103, subsection 33, a state bank chartered
6 under the laws of any other state, a national banking
7 association, ~~a-trust-company~~, a federally chartered savings
8 and loan association, an out-of-state state chartered savings
9 bank, a financial institution chartered by the federal home
10 loan bank board, a non-Iowa chartered savings and loan
11 association, an association incorporated or authorized to do
12 business under chapter 534, or a production credit
13 association.

14 Sec. 36. Section 524.107, subsection 2, Code Supplement
15 1995, is amended to read as follows:

16 2. A person doing business in this state shall not use the
17 words "bank" or "trust" or use any derivative, plural, or
18 compound of the words "bank", "banking", "bankers", or "trust"
19 in any manner which would tend to create the impression that
20 the person is authorized to engage in the business of banking
21 or to act in a fiduciary capacity, except a state bank
22 authorized to do so by this chapter, a national bank to the
23 extent permitted by the laws of the United States, a state
24 association pursuant to section 534.507, or a federal
25 association to the extent permitted by the laws of the United
26 States, or, insofar as the word "trust" is concerned, an
27 individual permissibly serving as a fiduciary in this state,
28 pursuant to section 633.63, or a trust company authorized to
29 act in a fiduciary capacity pursuant to chapter 524A, or,
30 insofar as the words "trust" and "bank" are concerned, a
31 nonresident corporate fiduciary permissibly serving as a
32 fiduciary in this state pursuant to section 633.64.

33 Sec. 37. Section 524.1007, subsection 4, Code 1995, is
34 amended to read as follows:

35 4. The privilege extended to a state bank by this section

1 is also extended on the same terms and conditions to a trust
2 company authorized to engage in trust business and supervised
3 by a state or federal banking or thrift regulatory agency, and
4 to a national bank located in this state and organized under
5 12 U.S.C. secs. 21 et seq. to engage generally in the banking
6 business.

7 Sec. 38. Section 524.1008, subsection 4, Code 1995, is
8 amended to read as follows:

9 4. The privilege of succeeding to fiduciary accounts that
10 is extended to a state bank by subsection 1 is also extended
11 on the same terms and conditions to a trust company authorized
12 to engage in trust business and supervised by a state or
13 federal banking or thrift regulatory agency, and to a national
14 bank located in this state and organized under 12 U.S.C. secs.
15 21 et seq. to engage generally in the banking business.

16 Sec. 39. Section 633.63, subsection 2, Code 1995, is
17 amended to read as follows:

18 2. Banks and trust companies organized under the laws of
19 the United States or state banks, when approved by the
20 superintendent of banking under section 524.1001, and trust
21 companies authorized to engage in trust business pursuant to
22 section 524.1005, chapter 524A, or other state law, are
23 authorized to act in a fiduciary capacity in Iowa.

24 Sec. 40. Section 633.203, Code 1995, is amended to read as
25 follows:

26 633.203 AFFIDAVIT FOR CORPORATE FIDUCIARY.

27 In any case where a corporation is acting as a fiduciary
28 under and by virtue of the provisions of chapter 524, division
29 X, chapter 524A, or other law of this state, the affidavit
30 required by section 633.202 shall be executed and made by an
31 officer of such corporation.

32 EXPLANATION

33 This bill creates a new chapter 524A relating to trust
34 companies.

35 New section 524A.1 establishes the title by which the

1 chapter may be cited.

2 New section 524A.2 establishes definitions of terms used in
3 the chapter.

4 New section 524A.3 grants the superintendent of banking
5 authority to issue a charter of authority to a corporation to
6 transact business as a trust company. The section also
7 defines what corporations are eligible to receive such a
8 charter.

9 New section 524A.4 defines the chapter's applicability and
10 provides that the corporate existence of a trust company
11 existing and operating on July 1, 1996, and which is
12 authorized to transact business as a trust company pursuant to
13 section 524.1005 or other applicable state law, is not
14 affected by chapter 524A.

15 New section 524A.5 provides that a corporation organized
16 for and desiring to transact business as a trust company is to
17 be organized under chapter 490.

18 New section 524A.6 sets forth the information to be
19 included in an application for a charter of authority to act
20 as a trust company.

21 New section 524A.7 provides that the board of directors of
22 a trust company shall consist of at least five members. A
23 director shall be 18 years of age or older and a citizen of
24 the United States.

25 New section 524A.8 establishes procedures for the
26 application for a charter of authority to engage in the
27 business of a proposed trust company, and for the
28 investigation of the application.

29 New section 524A.9 provides that an applicant is to pay all
30 reasonable costs associated with the examination and
31 investigation of the application for a charter of authority.

32 New section 524A.10 provides that the minimum capital,
33 surplus, and undivided profits of a trust company which must
34 be raised prior to the filing of the application is \$100,000.

35 New section 524A.11 establishes requirements and

1 restrictions on the ownership and transfer of the stock of a
2 trust company.

3 New section 524A.12 provides that the capital stock of a
4 trust company may be increased.

5 New section 524A.13 establishes requirements relating to
6 the restoration of impaired capital.

7 New section 524A.14 establishes certain restrictions
8 relating to the payment of dividends associated with the
9 capital stock of the trust company.

10 New section 524A.15 sets forth the powers of a trust
11 company.

12 New section 524A.16 sets forth the powers of the
13 superintendent of banking with respect to trust companies.

14 New section 524A.17 establishes bonding requirements for
15 the officers and employees of a trust company.

16 New section 524A.18 establishes certain restrictions on the
17 activities of a trust company.

18 New section 524A.19 prohibits certain acts by the officers
19 and employees of a trust company.

20 New section 524A.20 establishes certain requirements
21 relating to the retention of records and documents of a trust
22 company.

23 New section 524A.21 requires a trust company to file
24 certain reports and information with the superintendent.

25 New section 524A.22 establishes requirements for the
26 examination of trust companies by the superintendent of
27 banking.

28 New section 524A.23 establishes a penalty for refusing to
29 submit to an examination by the superintendent.

30 New section 524A.24 grants the superintendent certain
31 powers when a trust company is engaging in unsafe practices.

32 New section 524A.25 provides for special meetings by the
33 board of directors of a trust company.

34 New section 524A.26 establishes a penalty for a trust
35 company refusing to comply with an order of the

1 superintendent.

2 New section 524A.27 establishes a trust company's a right
3 to a hearing with respect to the revocation of its charter of
4 authority.

5 New section 524A.28 establishes procedures in the event of
6 the insolvency of a trust company.

7 New section 524A.29 establishes offenses and penalties
8 relating to fraudulent and misleading acts by an officer,
9 director, or employee of a trust company.

10 New section 524A.30 provides for the succession of interest
11 and duties of a trust company.

12 New section 524A.31 establishes certain requirements on the
13 name of a trust company.

14 New section 524A.32 establishes certain requirements
15 related to the location of offices of a trust company.

16 New section 524A.33 provides for miscellaneous provisions.

17 Several conforming amendments are also made to current law.

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