

524.1004 Voluntary relinquishment of fiduciary capacity.

1. A state bank desiring to completely surrender its authorization to act in any fiduciary capacity shall file with the superintendent a certified copy of a resolution by the board of directors signifying such intent.

2. Following the filing with the superintendent of the resolution to surrender its authorization to act in a fiduciary capacity, the state bank shall file a petition in the district court in which the state bank has its principal place of business setting forth in general terms that the state bank is acting as fiduciary with respect to certain property, that the state bank desires to cease its fiduciary function and resign its fiduciary positions, and that it is necessary and desirable that successor fiduciaries be appointed for such property.

3. The filing of the petition shall operate as a resignation of the state bank from all of its fiduciary positions. During the adjudication of the petition, the state bank shall retain all fiduciary rights, powers, titles, duties, responsibilities, and accounts it held prior to filing the petition. The state bank's liability for any action or inaction in its former fiduciary positions shall not be impacted by the transfer of fiduciary duties pursuant to [this section](#).

4. Following the filing of the petition, the district court shall issue an order requiring all persons interested in such fiduciary accounts to appoint a successor fiduciary by a specific date, acknowledge the fiduciary succession as described in the will, trust instrument, or other governing instrument of the fiduciary account, or show cause why the district court should not appoint a successor fiduciary. The district court shall also enter an order directing the state bank to provide notice of the petition and the order described in [this section](#), through a means approved by the district court, to all persons shown in the records of the state bank to have a beneficial interest in the fiduciary accounts or entitled to notice or an accounting under the terms of the will, trust instrument, or other governing instrument of the fiduciary account, [chapter 633](#), [633A](#), [633B](#), or other applicable statute under which the state bank has been operating as a fiduciary. The district court may also order publication of the notice for two consecutive weeks in newspapers of general circulation in one or more counties as prescribed by the district court, and publication on the state bank's internet site for at least twenty days, to the extent the district court deems such published notice necessary to protect the interests of absent or remote beneficiaries.

5. At least twenty days after the state bank provides notice of the petition and order as described in [this section](#), the district court shall appoint a permanent successor fiduciary for any fiduciary account where appropriate parties have failed to cause a successor fiduciary to be appointed. A successor fiduciary appointed in accordance with the terms of [this section](#) shall succeed to all the rights, powers, titles, duties, and responsibilities of the state bank except that the successor fiduciary shall not exercise powers given in the instrument creating the powers that by its express terms are personal to the state bank previously designated and except claims or liabilities arising out of the management of the fiduciary account prior to the date of the transfer.

6. Following the adjudication of the petition described in [this section](#), the state bank shall proceed to amend its articles of incorporation, in accordance with the provisions of [this chapter](#), in a manner to indicate that it is no longer authorized to act in a fiduciary capacity. The superintendent shall approve the proposed amendment, in the manner provided for in [this chapter](#), if the superintendent is satisfied that the state bank has properly relieved itself of its fiduciary responsibilities.

[S13, §1889-h; C24, 27, 31, 35, 39, §9292; C46, 50, 54, 58, 62, 66, §532.9; C71, 73, 75, 77, 79, 81, §524.1004]

[2018 Acts, ch 1041, §127](#); [2022 Acts, ch 1062, §95](#)