

524.1003 Removal of fiduciary powers.

1. *a.* If the superintendent at any time concludes that a state bank authorized to act in a fiduciary capacity is managing its accounts in an unsafe or unsound manner, or in a manner in conflict with the provisions of [this chapter](#), and such state bank refuses to correct such practices following notice to do so, the superintendent may direct that the state bank cease to act as a fiduciary.

b. After directing the state bank to cease to act as a fiduciary, the superintendent shall file a petition in the district court of Polk county setting forth in general terms that the state bank is acting as fiduciary with respect to certain property and that it is necessary and desirable that successor fiduciaries be appointed for such property.

c. Following the filing of a petition pursuant to paragraph “*b*” by the superintendent, the district court shall issue an order requiring all persons interested in the state bank’s 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. Such order may also appoint a temporary fiduciary for the fiduciary accounts held by the state bank who shall be obligated to take possession of the fiduciary accounts and perform necessary tax, investment, distribution, asset protection, and reporting obligations required of the fiduciary accounts and perform necessary tax, investment, distribution, asset protection, and reporting obligations required of the fiduciary until a permanent successor is appointed. Neither the temporary nor permanent successor fiduciary shall be liable for the actions of the state bank and shall not be responsible for reviewing the action or inaction of the preceding fiduciary. 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](#). The district court may assess the fees and costs of the temporary fiduciary against the state bank.

d. Following the appointment of a temporary fiduciary, the district court shall enter an order directing the temporary fiduciary 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 temporary fiduciary’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.

2. At least twenty days after providing notice of a petition and order appointing the temporary fiduciary 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 the 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.

[C39, §9283.38; C46, 50, 54, 58, 62, 66, §528.123; C71, 73, 75, 77, 79, 81, §524.1003]

2015 Acts, ch 29, §82; 2022 Acts, ch 1062, §91 – 94

Subsection 1, paragraph a amended
Subsection 1, paragraph b stricken and rewritten
Subsection 1, NEW paragraphs c and d
Subsection 2 stricken and rewritten