

1 *House* BILL NO. *424*
 2 INTRODUCED BY *[Signature]*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE SUBSIDIARY
 5 TRUST COMPANIES TO HAVE ONE OR MORE TRUST OFFICES; TO
 6 AUTHORIZE CERTAIN BANKS TO MAINTAIN ONE OR MORE TRUST
 7 OFFICES; TO PROVIDE FOR SUBSTITUTION IN FIDUCIARY
 8 CAPACITIES; TO AMEND SECTION 86-905, R.C.M. 1947; AND TO
 9 PROVIDE AN IMMEDIATE EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Short title. This act may be cited as "The
 13 Subsidiary Trust Company Act of 1975".

14 Section 2. Definitions. As used in this act: (1)
 15 "subsidiary trust company" means any corporation which is
 16 incorporated under the banking laws of this state and any
 17 national banking association having its main office in this
 18 state more than fifty percent (50%) of the voting stock of
 19 which is owned by an owning bank holding company and which
 20 has as its purposes any one or more of the purposes
 21 described in section 5-106, except that a subsidiary trust
 22 company may not be empowered to accept deposits except those
 23 deposits incidental to its trust business.

24 (2) "affiliated bank" with respect to a subsidiary
 25 trust company, means any bank incorporated under the laws of

1 this state and any national banking association having its
 2 main office in this state more than fifty percent (50%) of
 3 the voting stock of which is owned by the same owning bank
 4 holding company that owns more than fifty percent (50%) of
 5 the voting stock of the subsidiary trust company.

6 (3) "affiliated bank" with respect to another bank
 7 which is not a subsidiary trust company, means any bank
 8 incorporated under the laws of this state and any national
 9 banking association having its main office located in this
 10 state more than fifty percent (50%) of the stock of which is
 11 owned by the same owning bank holding company that owns more
 12 than fifty percent (50%) of the voting stock of such other
 13 bank.

14 (4) "owning bank holding company", with respect to a
 15 subsidiary trust company or an affiliated bank, means a bank
 16 holding company as defined in the United States Bank Holding
 17 Company Act of 1956, as amended.

18 (5) "main office", with respect to a subsidiary trust
 19 company or an affiliated bank, is the place designated in
 20 the articles of incorporation or articles of association of
 21 that subsidiary trust company or affiliated bank at which
 22 its principal functions are to be conducted.

23 (6) "trust office", with respect to a subsidiary trust
 24 company, means an office, including the main office, of the
 25 subsidiary trust company maintained for the purpose of

1 conducting its business.

2 (7) "trust office", with respect to a bank which is
3 not a subsidiary trust company, means an office other than
4 the main office of that bank maintained solely for the
5 purpose of conducting trust business as described in section
6 4.

7 (8) "fiduciary capacity" means a capacity resulting
8 from a bank undertaking to act alone or jointly with others
9 primarily for the benefit of another in all matters
10 connected with its undertaking and includes the capacities
11 of trustee (including trustee of a common trust fund),
12 executor, administrator, personal representative, registrar
13 or transfer agent with respect to stocks, bonds or other
14 evidences of indebtedness of any corporation, association,
15 municipality, state or public authority, guardian or
16 estates, receiver, conservator, escrow agent, agent for the
17 investment of money, attorney-in-fact and any other similar
18 capacity.

19 Section 3. Organization of subsidiary trust companies.
20 A subsidiary trust company shall be incorporated under the
21 laws of this state in accordance with, and subject to, the
22 provisions of chapter 2 of Title 5, R.C.M. 1947, or under
23 the laws of the United States. To the extent not
24 inconsistent with the provisions of this chapter, any
25 subsidiary trust company incorporated under the laws of this

1 state shall be subject to the laws of this state generally
2 applicable to trust companies. A subsidiary trust company
3 formed under the laws of the United States, shall be
4 subject, to the extent provided by the laws of the United
5 States, to the laws of this state applicable to subsidiary
6 trust companies incorporated under the laws of this state.

7 Section 4. Permissible business of subsidiary trust
8 companies. The permissible business of a subsidiary trust
9 company shall be to engage in trust business as may be
10 engaged in by a trust company under section 5-106 and
11 business incidental thereto. A subsidiary trust company
12 shall accept only those deposits incidental to the trust
13 business conducted by it.

14 Section 5. Trust offices of subsidiary trust
15 companies. Notwithstanding the provisions of section 5-1028,
16 a subsidiary trust company may have a trust office at any
17 one or more locations in this state in the same building
18 with the main office of any affiliated bank, but not
19 elsewhere.

20 Section 6. Trust offices of affiliated banks.
21 Notwithstanding the provisions of section 5-1028, a bank
22 having trust powers may be authorized by the department of
23 business regulation or by the comptroller of the currency,
24 in the case of a national banking association, to maintain a
25 trust office at any one or more locations in this state in

1 the same building with the main office of any affiliated
2 bank.

3 Section 7. Transfer of fiduciary relationships from
4 affiliated banks to subsidiary trust companies. (1) Upon
5 authorization of any subsidiary trust company to commence
6 the business for which it is organized, that subsidiary
7 trust company may file an application in the district court
8 of the county in which its main office is located requesting
9 that it be substituted, except as may be expressly excluded
10 in the application, in every fiduciary capacity for each of
11 its affiliated banks specified in the application, and each
12 such specified affiliated bank shall join in the
13 application. Upon finding that the subsidiary trust company
14 is authorized to commence the business for which it is
15 organized by the department of business regulation, or the
16 comptroller of the currency if the subsidiary trust company
17 is a national banking association, the district court shall
18 enter an order substituting the subsidiary trust company in
19 every fiduciary capacity for each of its specified
20 affiliated banks, except as may be otherwise specified in
21 the application. The application may be made ex parte and
22 need not list the fiduciary capacities in which substitution
23 is made. Upon entry of this order, the subsidiary trust
24 company shall be substituted, in every such fiduciary
25 capacity, and the substitution may be evidenced by filing a

1 copy of the order with the clerk of any district court in
2 this state or by delivery for recording a copy of the order
3 to the clerk and recorder of any county in this state. That
4 officer shall index the order as other recorded orders and
5 decrees are indexed.

6 (2) Each prior or succeeding designation in a will or
7 other instrument executed by a bank as fiduciary shall be
8 considered a designation of the subsidiary trust company
9 substituted for that bank under this section, except where a
10 will or other instrument is executed after the above
11 substitution and it expressly negates the application of
12 this section. Any grant in any such will or other
13 instrument of any discretionary power shall be considered
14 conferred upon the subsidiary trust company considered
15 designated as the fiduciary under this section.

16 (3) A bank shall account jointly with the subsidiary
17 trust company which has been substituted as fiduciary for
18 that bank under this section for the accounting period
19 during which the subsidiary trust company is initially
20 substituted. Upon substitution under this section, the bank
21 shall deliver to the subsidiary trust company all assets
22 held by the bank as fiduciary (except assets held for
23 accounts with respect to which there has been no
24 substitution under this section) and upon this substitution
25 all those assets shall become the property of the subsidiary

1 trust company without the necessity of any instrument of
2 transfer or conveyance.

3 Section 8. Transfer of fiduciary relationships between
4 affiliated banks. (1) Any bank which has received
5 approval, under section 6, to maintain a trust office in the
6 same building with the main office of any affiliated bank,
7 may file an application in the district court in which its
8 main office is located, requesting that it be substituted,
9 except as may be expressly excluded in the application, in
10 every fiduciary capacity for the affiliated bank, and that
11 affiliated bank shall join in the application. Upon finding
12 that the bank filing an application has received the
13 requisite approval from the department of business
14 regulation or the comptroller of the currency, the district
15 court shall enter an order substituting the bank in every
16 fiduciary capacity for this affiliated bank, except as may
17 be otherwise specified in the application. Such application
18 may be made ex parte and need not list the fiduciary
19 capacities in which substitution is made. Upon entry of
20 this order, the bank shall be substituted, without further
21 act, in every such fiduciary capacity, and the substitution
22 may be evidenced by filing a copy of the order with the
23 clerk of any district court in this state or by delivery for
24 recording a copy of the order to the clerk and recorder of
25 any county in this state. That officer shall index the

1 order as other recorded orders and decrees are indexed.

2 (2) Each prior or succeeding designation in a will or
3 other instrument executed by a bank as fiduciary shall be
4 considered a designation of the affiliated bank substituted
5 for that bank under this section, except where a will or
6 other instrument is executed after the above substitution
7 and expressly negates the application of this section. Any
8 grant in any such will or other such instrument of any
9 discretionary power shall be considered conferred upon the
10 affiliated bank considered designated as the fiduciary under
11 this section.

12 (3) A bank shall account jointly with the affiliated
13 bank which has been substituted as fiduciary for that bank
14 under this section for the accounting period during which
15 the affiliated bank is initially substituted. Upon
16 substitution under this section, the bank for which
17 substitution has been made shall deliver to the affiliated
18 bank all assets held by the bank as fiduciary (except assets
19 held for accounts with respect of which there has been no
20 substitution under this section) and upon this substitution
21 all those assets shall become the property of the affiliated
22 bank without the necessity of any instrument or transfer of
23 conveyance.

24 Section 9. Section 86-905, R.C.M. 1947, is amended to
25 read as follows:

1 "86-905. Transfer of office prohibited. ~~The~~ Except as
2 provided in sections [7 and 8 of this act], the trustee
3 shall not transfer his office to another or delegate the
4 entire administration of the trust to a co-trustee or
5 another."

6 Section 10. Effective date. This act is effective on
7 its passage and approval.

-End-

Approved by Committee
on Judiciary

HOUSE BILL NO. 424

INTRODUCED BY JAMES MOORE, FABREGA

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE SUBSIDIARY TRUST COMPANIES TO HAVE ONE OR MORE TRUST OFFICES; TO AUTHORIZE CERTAIN BANKS TO MAINTAIN ONE OR MORE TRUST OFFICES; TO PROVIDE FOR SUBSTITUTION IN FIDUCIARY CAPACITIES; TO AMEND SECTION 86-905, R.C.M. 1947; AND TO PROVIDE AN IMMEDIATE EFFECTIVE DATE."

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Section 1. Short title. This act may be cited as "The Subsidiary Trust Company Act of 1975".

Section 2. Definitions. As used in this act: (1) "subsidiary trust company" means any corporation which is incorporated under the banking laws of this state and any national banking association having its main office in this state more than fifty percent (50%) of the voting stock of which is owned by an owning bank holding company and which has as its purposes any one or more of the purposes described in section 5-106, except that a subsidiary trust company may not be empowered to accept deposits except those deposits incidental to its trust business.

(2) "affiliated bank" with respect to a subsidiary trust company, means any bank incorporated under the laws of

this state and any national banking association having its main office in this state more than fifty percent (50%) of the voting stock of which is owned by the same owning bank holding company that owns more than fifty percent (50%) of the voting stock of the subsidiary trust company.

(3) "affiliated bank" with respect to another bank which is not a subsidiary trust company, means any bank incorporated under the laws of this state and any national banking association having its main office located in this state more than fifty percent (50%) of the stock of which is owned by the same owning bank holding company that owns more than fifty percent (50%) of the voting stock of such other bank.

(4) "owning bank holding company", with respect to a subsidiary trust company or an affiliated bank, means a bank holding company as defined in the United States Bank Holding Company Act of 1956, as amended.

(5) "main office", with respect to a subsidiary trust company or an affiliated bank, is the place designated in the articles of incorporation or articles of association of that subsidiary trust company or affiliated bank at which its principal functions are to be conducted.

(6) "trust office", with respect to a subsidiary trust company, means an office, including the main office, of the subsidiary trust company maintained for the purpose of

1 conducting its business.

2 (7) "trust office", with respect to a bank which is
 3 not a subsidiary trust company, means an office other than
 4 the main office of that bank maintained solely for the
 5 purpose of conducting trust business as described in section
 6 4.

7 (8) "fiduciary capacity" means a capacity resulting
 8 from a bank undertaking to act alone or jointly with others
 9 primarily for the benefit of another in all matters
 10 connected with its undertaking and includes the capacities
 11 of trustee (including trustee of a common trust fund),
 12 executor, administrator, personal representative, registrar
 13 or transfer agent with respect to stocks, bonds or other
 14 evidences of indebtedness of any corporation, association,
 15 municipality, state or public authority, guardian ~~of~~ OF
 16 estates, receiver, conservator, escrow agent, agent for the
 17 investment of money, attorney-in-fact and any other similar
 18 capacity.

19 Section 3. Organization of subsidiary trust companies.
 20 A subsidiary trust company shall be incorporated under the
 21 laws of this state in accordance with, and subject to, the
 22 provisions of chapter 2 of Title 5, R.C.M. 1947, or under
 23 the laws of the United States. To the extent not
 24 inconsistent with the provisions of this chapter, any
 25 subsidiary trust company incorporated under the laws of this

1 state shall be subject to the laws of this state generally
 2 applicable to trust companies. A subsidiary trust company
 3 formed under the laws of the United States, shall be
 4 subject, to the extent provided by the laws of the United
 5 States, to the laws of this state applicable to subsidiary
 6 trust companies incorporated under the laws of this state.

7 Section 4. Permissible business of subsidiary trust
 8 companies. The permissible business of a subsidiary trust
 9 company shall be to engage in SUCH trust business as may be
 10 engaged in by a trust company under section 5-106 and SUCH
 11 business AS IS incidental thereto. A subsidiary trust
 12 company shall accept only those deposits incidental to the
 13 trust business conducted by it.

14 Section 5. Trust offices of subsidiary trust
 15 companies. Notwithstanding the provisions of section 5-1028,
 16 a subsidiary trust company may have a trust office at any
 17 one or more locations in this state in the same building
 18 with the main office of any affiliated bank, but not
 19 elsewhere.

20 Section 6. Trust offices of affiliated banks.
 21 Notwithstanding the provisions of section 5-1028, a bank
 22 having trust powers may be authorized by the department of
 23 business regulation or by the comptroller of the currency,
 24 in the case of a national banking association, to maintain a
 25 trust office at any one or more locations in this state in

1 the same building with the main office of any affiliated
2 bank.

3 ~~Section 7. Transfer of fiduciary relationships from~~
4 ~~affiliated banks to subsidiary trust companies. (1) Upon~~
5 ~~authorization of any subsidiary trust company to commence~~
6 ~~the business for which it is organized, that subsidiary~~
7 ~~trust company may file an application in the district court~~
8 ~~of the county in which its main office is located requesting~~
9 ~~that it be substituted, except as may be expressly excluded~~
10 ~~in the application, in every fiduciary capacity for each of~~
11 ~~its affiliated banks specified in the application, and each~~
12 ~~such specified affiliated bank shall join in the~~
13 ~~application. Upon finding that the subsidiary trust company~~
14 ~~is authorized to commence the business for which it is~~
15 ~~organized by the department of business regulation, or the~~
16 ~~comptroller of the currency if the subsidiary trust company~~
17 ~~is a national banking association, the district court shall~~
18 ~~enter an order substituting the subsidiary trust company in~~
19 ~~every fiduciary capacity for each of its specified~~
20 ~~affiliated banks, except as may be otherwise specified in~~
21 ~~the application. The application may be made ex parte and~~
22 ~~need not list the fiduciary capacities in which substitution~~
23 ~~is made. Upon entry of this order, the subsidiary trust~~
24 ~~company shall be substituted, in every such fiduciary~~
25 ~~capacity, and the substitution may be evidenced by filing a~~

1 ~~copy of the order with the clerk of any district court in~~
2 ~~this state or by delivery for recording a copy of the order~~
3 ~~to the clerk and recorder of any county in this state. That~~
4 ~~officer shall index the order as other recorded orders and~~
5 ~~decrees are indexed.~~

6 ~~(2) Each prior or succeeding designation in a will or~~
7 ~~other instrument executed by a bank as fiduciary shall be~~
8 ~~considered a designation of the subsidiary trust company~~
9 ~~substituted for that bank under this section, except where a~~
10 ~~will or other instrument is executed after the above~~
11 ~~substitution and it expressly negates the application of~~
12 ~~this section. Any grant in any such will or other~~
13 ~~instrument of any discretionary power shall be considered~~
14 ~~conferred upon the subsidiary trust company considered~~
15 ~~designated as the fiduciary under this section.~~

16 ~~(3) A bank shall account jointly with the subsidiary~~
17 ~~trust company which has been substituted as fiduciary for~~
18 ~~that bank under this section for the accounting period~~
19 ~~during which the subsidiary trust company is initially~~
20 ~~substituted. Upon substitution under this section, the bank~~
21 ~~shall deliver to the subsidiary trust company all assets~~
22 ~~held by the bank as fiduciary (except assets held for~~
23 ~~accounts with respect to which there has been no~~
24 ~~substitution under this section) and upon this substitution~~
25 ~~all these assets shall become the property of the subsidiary~~

1 ~~trust-company-without-the-necessity--of--any--instrument--of~~
 2 ~~transfer-or-conveyance.~~

3 SECTION 7. TRANSFER OF FIDUCIARY RELATIONSHIPS FROM
 4 AFFILIATED BANKS TO SUBSIDIARY TRUST COMPANIES. (1) UPON
 5 ANY SUBSIDIARY TRUST COMPANY BEING DULY AUTHORIZED TO
 6 COMMENCE THE BUSINESS FOR WHICH IT IS ORGANIZED, SUCH
 7 SUBSIDIARY TRUST COMPANY MAY FILE ITS VERIFIED APPLICATION
 8 IN THE DISTRICT COURT OF THE COUNTY IN WHICH ITS MAIN OFFICE
 9 IS LOCATED REQUESTING THAT IT BE SUBSTITUTED, EXCEPT AS MAY
 10 BE EXPRESSLY EXCLUDED IN SUCH APPLICATION, IN EVERY
 11 FIDUCIARY CAPACITY FOR EACH OF ITS AFFILIATED BANKS
 12 SPECIFIED IN THE APPLICATION, AND EACH SUCH SPECIFIED
 13 AFFILIATED BANK SHALL JOIN IN SUCH APPLICATION. SUCH
 14 APPLICATION SHALL INDICATE THE COUNTY WHEREIN THE MAIN
 15 OFFICE OF EACH AFFILIATED BANK JOINING IN THE APPLICATION IS
 16 LOCATED AND SHALL DESIGNATE EACH FIDUCIARY ACCOUNT EXISTING
 17 AT THE DATE THEREOF WITH RESPECT TO WHICH SUCH SUBSIDIARY
 18 TRUST COMPANY REQUESTS SUBSTITUTION, BUT FIDUCIARY
 19 CAPACITIES IN OTHER CASES NEED NOT BE LISTED. SUCH
 20 APPLICATION SHALL ADDITIONALLY SET FORTH, WITH REGARD TO
 21 EACH EXISTING FIDUCIARY ACCOUNT DESIGNATED THEREIN, THE NAME
 22 AND ADDRESS LAST KNOWN TO THE APPLICANT OF EACH PERSON
 23 ENTITLED TO MAILED NOTICE OF HEARING THEREON, TO WIT:

24 (A) IN THE CASE OF AN EXISTING FIDUCIARY ACCOUNT WHICH
 25 MAY BE REVOKED, TERMINATED OR AMENDED, EACH PERSON WHO,

1 ALONE OR TOGETHER WITH OTHERS, IS EMPOWERED TO REVOKE,
 2 TERMINATE OR AMEND THE SAME;

3 (B) IN THE CASE OF AN EXISTING FIDUCIARY ACCOUNT WITH
 4 RESPECT TO WHICH ANY PERSON OTHER THAN A COURT HAS THE POWER
 5 TO REMOVE THE CORPORATE FIDUCIARY, EACH PERSON WHO, ALONE OR
 6 TOGETHER WITH OTHERS, IS EMPOWERED TO REMOVE THE CORPORATE
 7 FIDUCIARY;

8 (C) IN THE CASE OF AN EXISTING FIDUCIARY ACCOUNT WHICH
 9 IS AN ESTATE OF A DECEASED PERSON OR WHICH IS A GUARDIANSHIP
 10 OR CONSERVATORSHIP, TO THE CLERK OF THE COURT IN WHICH SUCH
 11 ESTATE, GUARDIANSHIP OR CONSERVATORSHIP MATTER IS PENDING;

12 (D) IN THE CASE OF AN EXISTING FIDUCIARY ACCOUNT NOT
 13 DESCRIBED IN ANY OF THE FOREGOING SUBPARAGRAPHS, TO EACH
 14 INCOME BENEFICIARY OF SUCH ACCOUNT AND TO EACH BENEFICIARY
 15 WHO, WERE SUCH ACCOUNT TERMINATED AT THE DATE OF THE
 16 APPLICATION RESPECTING SUCH ACCOUNT, WOULD BE ENTITLED TO
 17 SHARE IN DISTRIBUTIONS OF INCOME OR PRINCIPAL THEREOF; AND

18 (E) IN THE CASE OF ANY EXISTING FIDUCIARY ACCOUNT
 19 WHEREIN AN AFFILIATED BANK SPECIFIED IN THE APPLICATION IS
 20 ACTING WITH A CO-FIDUCIARY, TO EACH SUCH CO-FIDUCIARY AT HIS
 21 LAST KNOWN ADDRESS.

22 (2) WHEN ANY SUCH APPLICATION SHALL HAVE BEEN FILED,
 23 THE CLERK OF THE COURT WHERE FILED SHALL MAKE AN ORDER
 24 FIXING A DATE AND TIME FOR HEARING THEREON AND GIVE NOTICE
 25 THEREOF AS HEREINAFTER PROVIDED. THE CLERK OF COURT SHALL

1 CAUSE A COPY OF SUCH NOTICE TO BE PUBLISHED AT LEAST ONCE A
 2 WEEK FOR THREE (3) SUCCESSIVE WEEKS PRECEDING THE HEARING
 3 DATE, THE FIRST SUCH PUBLICATION TO BE AT LEAST TWENTY-FIVE
 4 (25) DAYS PRECEDING THE HEARING DATE, SUCH PUBLICATION TO BE
 5 IN A NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN EACH
 6 COUNTY IN WHICH THE MAIN OFFICE OF AN AFFILIATED BANK
 7 SPECIFIED IN THE APPLICATION IS LOCATED, OR IF IN ANY CASE
 8 THERE BE NO SUCH NEWSPAPER, THEN IN A NEWSPAPER OF GENERAL
 9 CIRCULATION PUBLISHED IN A CONTIGUOUS COUNTY. IN ADDITION,
 10 AT LEAST TWENTY-FIVE (25) DAYS PRECEDING THE HEARING DATE,
 11 THE CLERK OF THE COURT SHALL CAUSE A COPY OF SUCH NOTICE TO
 12 BE MAILED BY FIRST CLASS MAIL TO EACH PERSON IDENTIFIED IN
 13 THE APPLICATION AS BEING ENTITLED TO MAILED NOTICE UNDER THE
 14 PROVISIONS OF THIS ACT, AT HIS ADDRESS LAST KNOWN TO THE
 15 APPLICANT AS SET FORTH IN THE APPLICATION.

16 (3) THE NOTICE TO BE PUBLISHED AND MAILED WITH RESPECT
 17 TO EACH SUCH APPLICATION SHALL STATE THE TIME AND PLACE OF
 18 THE HEARING THEREON, THE NAME OF THE SUBSIDIARY TRUST
 19 COMPANY WHICH HAS FILED THE APPLICATION, THE NAME OF EACH
 20 AFFILIATED BANK WHICH HAS JOINED IN SUCH APPLICATION, THAT
 21 THE APPLICATION REQUESTS THAT THE SUBSIDIARY TRUST COMPANY
 22 BE SUBSTITUTED IN EVERY FIDUCIARY CAPACITY FOR EACH OF ITS
 23 AFFILIATED BANKS SPECIFIED IN THE APPLICATION, AND THAT ANY
 24 PERSON BENEFICIALLY INTERESTED IN ANY AFFECTED FIDUCIARY
 25 ACCOUNT MAY APPEAR ON OR BEFORE THE DATE OF HEARING AND FILE

1 HIS WRITTEN OBJECTION TO SUCH SUBSTITUTION AS TO SUCH
 2 AFFECTED FIDUCIARY ACCOUNT, AND SUCH NOTICE SHALL REFER TO
 3 SUCH APPLICATION FOR FURTHER PARTICULARS.

4 (4) ON OR BEFORE THE DATE AND TIME OF HEARING ANY SUCH
 5 APPLICATION, ANY PERSON BENEFICIALLY INTERESTED IN ANY
 6 FIDUCIARY ACCOUNT AS TO WHICH SUBSTITUTION OF THE SUBSIDIARY
 7 TRUST COMPANY IS REQUESTED, MAY APPEAR AND FILE OBJECTION TO
 8 SUBSTITUTION ON THE SOLE GROUND THAT SUCH SUBSIDIARY TRUST
 9 COMPANY IS UNFIT TO ACT WITH RESPECT TO SUCH ACCOUNT, AND
 10 SHALL BE ENTITLED TO BE HEARD WITH RESPECT TO SUCH
 11 OBJECTION.

12 (5) ON SUCH DATE OF HEARING, UPON FINDING THAT DUE
 13 NOTICE HAS BEEN GIVEN AS REQUIRED BY THIS ACT AND UPON
 14 FINDING THAT THE SUBSIDIARY TRUST COMPANY HAS BEEN DULY
 15 AUTHORIZED TO COMMENCE THE BUSINESS FOR WHICH IT IS
 16 ORGANIZED BY THE DEPARTMENT OF BUSINESS REGULATION, OR THE
 17 COMPTROLLER OF THE CURRENCY IF THE SUBSIDIARY TRUST COMPANY
 18 IS A NATIONAL BANKING ASSOCIATION, THE DISTRICT COURT SHALL
 19 ENTER AN ORDER SUBSTITUTING THE SUBSIDIARY TRUST COMPANY IN
 20 EVERY FIDUCIARY CAPACITY FOR EACH OF ITS SPECIFIED
 21 AFFILIATED BANKS, EXCEPTING AS MAY BE OTHERWISE SPECIFIED IN
 22 THE APPLICATION, AND EXCEPTING FIDUCIARY CAPACITIES IN ANY
 23 ACCOUNT WITH RESPECT TO WHICH AN OBJECTION HAS BEEN FILED
 24 PURSUANT TO THIS SECTION AND THE DISTRICT COURT HAS FOUND
 25 FACTS REQUIRING THAT SUCH OBJECTION BE ALLOWED. UPON ENTRY

1 OF SUCH ORDER, THE SUBSIDIARY TRUST COMPANY SHALL, WITHOUT
 2 FURTHER ACT, BE SUBSTITUTED IN EVERY SUCH FIDUCIARY
 3 CAPACITY. SUCH SUBSTITUTION MAY BE MADE A MATTER OF RECORD
 4 IN ANY COUNTY OF THIS STATE BY FILING A CERTIFIED COPY OF
 5 THE ORDER OF SUBSTITUTION IN THE OFFICE OF THE CLERK OF ANY
 6 DISTRICT COURT IN THIS STATE OR BY FILING A CERTIFIED COPY
 7 OF SUCH ORDER IN THE OFFICE OF THE CLERK AND RECORDER OF ANY
 8 COUNTY IN THIS STATE TO BE BY SUCH OFFICER RECORDED AND
 9 INDEXED IN LIKE MANNER AND WITH LIKE EFFECT AS OTHER ORDERS
 10 AND DECREES OF COURT ARE RECORDED AND INDEXED.

11 (6) EACH DESIGNATION IN A WILL OR OTHER INSTRUMENT
 12 HERETOFORE OR HEREAFTER EXECUTED OF A BANK AS FIDUCIARY
 13 SHALL BE DEEMED A DESIGNATION OF THE SUBSIDIARY TRUST
 14 COMPANY SUBSTITUTED FOR SUCH BANK PURSUANT TO THIS SECTION
 15 EXCEPT WHERE SUCH WILL OR OTHER INSTRUMENT IS EXECUTED AFTER
 16 SUCH SUBSTITUTION AND EXPRESSLY NEGATES THE APPLICATION OF
 17 THIS SECTION. ANY GRANT IN ANY SUCH WILL OR OTHER
 18 INSTRUMENT OF ANY DISCRETIONARY POWER SHALL BE DEEMED
 19 CONFERRED UPON THE SUBSIDIARY TRUST COMPANY DEEMED
 20 DESIGNATED AS THE FIDUCIARY PURSUANT TO THIS SECTION.

21 (7) A BANK SHALL ACCOUNT JOINTLY WITH THE SUBSIDIARY
 22 TRUST COMPANY WHICH HAS BEEN SUBSTITUTED AS FIDUCIARY FOR
 23 SUCH BANK PURSUANT TO THIS SECTION FOR THE ACCOUNTING PERIOD
 24 DURING WHICH THE SUBSIDIARY TRUST COMPANY IS INITIALLY SO
 25 SUBSTITUTED. UPON SUBSTITUTION PURSUANT TO THIS SECTION,

1 THE BANK SHALL DELIVER TO THE SUBSIDIARY TRUST COMPANY ALL
 2 ASSETS HELD BY THE BANK AS FIDUCIARY (EXCEPT ASSETS HELD FOR
 3 ACCOUNTS WITH RESPECT TO WHICH THERE HAS BEEN NO
 4 SUBSTITUTION PURSUANT TO THIS SECTION) AND UPON SUCH
 5 SUBSTITUTION ALL SUCH ASSETS SHALL BECOME THE PROPERTY OF
 6 THE SUBSIDIARY TRUST COMPANY WITHOUT THE NECESSITY OF ANY
 7 INSTRUMENT OF TRANSFER OR CONVEYANCE.

8 ~~Section 8.--Transfer-of-fiduciary-relationships-between~~
 9 ~~affiliated-banks,--(1)--Any-bank--which--has--received~~
 10 ~~approval,--under-section-6,--to-maintain-a-trust-office-in-the~~
 11 ~~same--building--with-the-main-office-of-any-affiliated-bank,~~
 12 ~~may-file-an-application-in-the-district-court-in-which-its~~
 13 ~~main--office--is-located,--requesting-that-it-be-substituted,~~
 14 ~~except-as-may-be-expressly-excluded-in-the-application,--in~~
 15 ~~every--fiduciary--capacity-for-the-affiliated-bank,--and-that~~
 16 ~~affiliated-bank-shall-join-in-the-application.--Upon-finding~~
 17 ~~that--the--bank--filing--an--application--has--received--the~~
 18 ~~requisite--approval--from--the--department--of--business~~
 19 ~~regulation-or-the-comptroller-of-the-currency,--the--district~~
 20 ~~court--shall--enter--an-order-substituting-the-bank-in-every~~
 21 ~~fiduciary-capacity-for-this-affiliated-bank,--except--as--may~~
 22 ~~be-otherwise-specified-in-the-application.--Such-application~~
 23 ~~may--be--made--ex--parte--and--need--not--list-the-fiduciary~~
 24 ~~capacities-in-which-substitution-is--made,--Upon-entry--of~~
 25 ~~this--order,--the-bank-shall-be-substituted,--without-further~~

~~act, in every such fiduciary capacity, and the substitution may be evidenced by filing a copy of the order with the clerk of any district court in this state or by delivery for recording a copy of the order to the clerk and recorder of any county in this state. That officer shall index the order as other recorded orders and decrees are indexed.~~

~~(2) Each prior or succeeding designation in a will or other instrument executed by a bank as fiduciary shall be considered a designation of the affiliated bank substituted for that bank under this section, except where a will or other instrument is executed after the above substitution and expressly negates the application of this section. Any grant in any such will or other such instrument of any discretionary power shall be considered conferred upon the affiliated bank considered designated as the fiduciary under this section.~~

~~(3) A bank shall account jointly with the affiliated bank which has been substituted as fiduciary for that bank under this section for the accounting period during which the affiliated bank is initially substituted. Upon substitution under this section, the bank for which substitution has been made shall deliver to the affiliated bank all assets held by the bank as fiduciary (except assets held for accounts with respect of which there has been no substitution under this section) and upon this substitution~~

~~all these assets shall become the property of the affiliated bank without the necessity of any instrument or transfer of conveyance.~~

SECTION 8. TRANSFER OF FIDUCIARY RELATIONSHIPS BETWEEN AFFILIATED BANKS. (1) ANY BANK WHICH HAS RECEIVED APPROVAL, PURSUANT TO SECTION 6 TO MAINTAIN A TRUST OFFICE IN THE SAME BUILDING WITH THE MAIN OFFICE OF ANY AFFILIATED BANK MAY FILE ITS VERIFIED APPLICATION IN THE DISTRICT COURT OF THE COUNTY IN WHICH ITS MAIN OFFICE IS LOCATED REQUESTING THAT IT BE SUBSTITUTED, EXCEPT AS MAY BE EXPRESSLY EXCLUDED IN SUCH APPLICATION, IN EVERY FIDUCIARY CAPACITY FOR SUCH AFFILIATED BANK, AND SUCH AFFILIATED BANK SHALL JOIN IN SUCH APPLICATION. SUCH APPLICATION SHALL INDICATE THE COUNTY WHEREIN THE MAIN OFFICE OF SUCH AFFILIATED BANK IS LOCATED AND SHALL DESIGNATE EACH FIDUCIARY ACCOUNT EXISTING AT THE DATE THEREOF WITH RESPECT TO WHICH THE APPLICANT BANK REQUESTS SUBSTITUTION, BUT FIDUCIARY CAPACITIES IN OTHER CASES NEED NOT BE LISTED. SUCH APPLICATION SHALL ADDITIONALLY SET FORTH, WITH REGARD TO EACH EXISTING FIDUCIARY ACCOUNT DESIGNATED THEREIN, THE NAME AND ADDRESS LAST KNOWN TO THE APPLICANT OF EACH PERSON ENTITLED TO MAILED NOTICE OF HEARING THEREON, WHO SHALL BE THOSE PERSONS SPECIFIED IN SUBSECTIONS (A) TO (E), INCLUSIVE, OF SECTION

7.

(2) WHEN ANY SUCH APPLICATION SHALL HAVE BEEN FILED,

1 THE CLERK OF THE COURT WHERE FILED SHALL MAKE AN ORDER
 2 FIXING A DATE AND TIME FOR HEARING THEREON AND SHALL CAUSE
 3 NOTICE THEREOF TO BE GIVEN BY PUBLICATION AND MAILING IN THE
 4 MANNER REQUIRED BY SECTION 7.

5 (3) THE NOTICE TO BE PUBLISHED AND MAILED WITH RESPECT
 6 TO EACH SUCH APPLICATION SHALL STATE THE TIME AND PLACE OF
 7 THE HEARING THEREON, THE NAME OF THE BANK WHICH HAS FILED
 8 THE APPLICATION, THE NAME OF THE AFFILIATED BANK WHICH HAS
 9 JOINED IN SUCH APPLICATION, THAT THE APPLICATION REQUESTS
 10 THAT THE APPLICANT BANK BE SUBSTITUTED IN EVERY FIDUCIARY
 11 CAPACITY FOR THE AFFILIATED BANK SPECIFIED IN THE
 12 APPLICATION, AND THAT ANY PERSON BENEFICIALLY INTERESTED IN
 13 ANY AFFECTED FIDUCIARY ACCOUNT MAY APPEAR ON OR BEFORE THE
 14 DATE OF HEARING AND FILE HIS WRITTEN OBJECTION TO SUCH
 15 SUBSTITUTIONS AS TO SUCH AFFECTED FIDUCIARY ACCOUNT ON THE
 16 SOLE GROUND THAT THE APPLICANT BANK IS UNFIT TO ACT WITH
 17 RESPECT TO SUCH AFFECTED FIDUCIARY ACCOUNT, AND SUCH NOTICE
 18 SHALL REFER TO SUCH APPLICATION FOR FURTHER PARTICULARS.

19 (4) ON OR BEFORE THE DATE AND TIME OF HEARING ANY SUCH
 20 APPLICATION, ANY PERSON BENEFICIALLY INTERESTED IN ANY
 21 FIDUCIARY ACCOUNT AS TO WHICH SUBSTITUTION OF THE APPLICANT
 22 BANK IS REQUESTED, MAY APPEAR AND FILE OBJECTION TO
 23 SUBSTITUTION ON THE SOLE GROUND THAT SUCH APPLICANT BANK IS
 24 UNFIT TO ACT WITH RESPECT TO SUCH ACCOUNT, AND SHALL BE
 25 ENTITLED TO BE HEARD WITH RESPECT TO SUCH OBJECTION.

1 (5) ON SUCH DATE OF HEARING, UPON FINDING THAT DUE
 2 NOTICE HAS BEEN GIVEN AS REQUIRED BY THIS ACT AND UPON
 3 FINDING THAT THE APPLICANT BANK HAS RECEIVED THE REQUISITE
 4 APPROVAL FROM THE DEPARTMENT OF BUSINESS REGULATION, OR THE
 5 COMPTROLLER OF THE CURRENCY IF THE APPLICANT BANK IS A
 6 NATIONAL BANKING ASSOCIATION, THE DISTRICT COURT SHALL ENTER
 7 AN ORDER SUBSTITUTING THE APPLICANT BANK IN EVERY FIDUCIARY
 8 CAPACITY FOR THE AFFILITED BANK DESIGNATED IN THE
 9 APPLICATION, EXCEPTING AS MAY BE OTHERWISE SPECIFIED IN THE
 10 APPLICATION, AND EXCEPTING FIDUCIARY CAPACITIES IN ANY
 11 ACCOUNT WITH RESPECT TO WHICH AN OBJECTION HAS BEEN FILED
 12 PURSUANT TO THIS SECTION AND THE DISTRICT COURT HAS FOUND
 13 FACTS REQUIRING THAT SUCH OBJECTION BE ALLOWED. UPON ENTRY
 14 OF SUCH ORDER, THE APPLICANT BANK SHALL, WITHOUT FURTHER
 15 ACT, BE SUBSTITUTED IN EVERY SUCH FIDUCIARY CAPACITY. SUCH
 16 SUBSTITUTION MAY BE MADE A MATER OF RECORD IN ANY COUNTY OF
 17 THIS STATE BY FILING A CERTIFIED COPY OF THE ORDER OF
 18 SUBSTITUTION IN THE OFFICE OF THE CLERK OF ANY DISTRICT
 19 COURT IN THIS STATE OR BY FILING A CERTIFIED COPY OF SUCH
 20 ORDER IN THE OFFICE OF THE CLERK AND RECORDER OF ANY COUNTY
 21 IN THIS STATE TO BE BY SUCH OFFICER RECORDED AND INDEXED IN
 22 LIKE MANNER AND WITH LIKE EFFECT AS OTHER ORDERS AND DECREES
 23 OF COURT ARE RECORDED AND INDEXED.

24 (6) EACH DESIGNATION IN A WILL OR OTHER INSTRUMENT
 25 HERETOFORE OR HEREAFTER EXECUTED OF A BANK AS FIDUCIARY

1 SHALL BE DEEMED A DESIGNATION OF THE APPLICANT BANK
 2 SUBSTITUTED FOR SUCH BANK PURSUANT TO THIS SECTION EXCEPT
 3 WHERE SUCH WILL OR OTHER INSTRUMENT IS EXECUTED AFTER SUCH
 4 SUBSTITUTION AND EXPRESSLY NEGATES THE APPLICATION OF THIS
 5 SECTION. ANY GRANT IN ANY SUCH WILL OR OTHER SUCH
 6 INSTRUMENT OF ANY DISCRETIONARY POWER SHALL BE DEEMED
 7 CONFERRED UPON THE APPLICANT BANK DEEMED DESIGNATED AS THE
 8 FIDUCIARY PURSUANT TO THIS SECTION.

9 (7) A BANK SHALL ACCOUNT JOINTLY WITH THE APPLICANT
 10 BANK WHICH HAS BEEN SUBSTITUTED AS FIDUCIARY FOR SUCH BANK
 11 PURSUANT TO THIS SECTION FOR THE ACCOUNTING PERIOD DURING
 12 WHICH THE APPLICANT BANK IS INITIALLY SO SUBSTITUTED. UPON
 13 SUBSTITUTION PURSUANT TO THIS SECTION, THE AFFILIATED BANK
 14 FOR WHICH SUBSTITUTION HAS BEEN MADE SHALL DELIVER TO SUCH
 15 APPLICANT BANK ALL ASSETS HELD BY SUCH AFFILIATED BANK AS
 16 FIDUCIARY (EXCEPT ASSETS HELD FOR ACCOUNTS WITH RESPECT OF
 17 WHICH THERE HAS BEEN NO SUBSTITUTION PURSUANT TO THIS
 18 SECTION) AND UPON SUCH SUBSTITUTION ALL SUCH ASSETS SHALL
 19 BECOME THE PROPERTY OF SUCH APPLICANT BANK WITHOUT THE
 20 NECESSITY OF ANY INSTRUMENT OR TRANSFER OR CONVEYANCE.

21 Section 9. Section 86-905, R.C.M. 1947, is amended to
 22 read as follows:

23 "86-905. Transfer of office prohibited. ~~The~~ Except as
 24 provided in sections [7 and 8 of this act], the trustee
 25 shall not transfer his office to another or delegate the

1 entire administration of the trust to a co-trustee or
 2 another."

3 SECTION 10. TRUST SUBSIDIARIES OF UNAFFILIATED BANKS
 4 AND TRUST-CORRESPONDENT RELATIONSHIPS. NOTHING IN SECTIONS
 5 2 TO 8 SHALL BE CONSTRUED TO PROHIBIT OR RESTRICT ANY BANK
 6 HAVING ITS MAIN OFFICE IN THIS STATE FROM ESTABLISHING A
 7 SUBSIDIARY WHICH IS A TRUST COMPANY OR TO PROHIBIT OR
 8 RESTRICT ANY GROUP OF BANKS HAVING THEIR MAIN OFFICE IN THIS
 9 STATE FROM ACTING JOINTLY TO ESTABLISH ONE OR MORE TRUST
 10 COMPANIES. FURTHER, NOTHING IN SECTIONS 2 TO 8 SHALL BE
 11 CONSTRUED AS IN ANY WAY LIMITING OR RESTRICTING THE ABILITY
 12 OF ANY BANK HAVING ITS MAIN OFFICE IN THIS STATE TO
 13 ESTABLISH A TRUST-CORRESPONDENT RELATIONSHIP WITH ANY OTHER
 14 BANK HAVING TRUST POWERS.

15 Section 11. Effective date. This act is effective on
 16 its passage and approval.

-End-

1 HOUSE BILL NO. 424

2 INTRODUCED BY JAMES MOORE, FABREGA

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE SUBSIDIARY
5 TRUST COMPANIES TO HAVE ONE OR MORE TRUST OFFICES; TO
6 AUTHORIZE CERTAIN BANKS TO MAINTAIN ONE OR MORE TRUST
7 OFFICES; TO PROVIDE FOR SUBSTITUTION IN FIDUCIARY
8 CAPACITIES; TO AMEND SECTION 86-905, R.C.M. 1947; AND TO
9 PROVIDE AN IMMEDIATE EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:12 Section 1. Short title. This act may be cited as "The
13 Subsidiary Trust Company Act of 1975".

14 Section 2. Definitions. As used in this act: (1)
15 "subsidiary trust company" means any corporation which is
16 incorporated under the banking laws of this state and any
17 national banking association having its main office in this
18 state more than fifty percent (50%) of the voting stock of
19 which is owned by an owning bank holding company and which
20 has as its purposes any one or more of the purposes
21 described in section 5-106, except that a subsidiary trust
22 company may not be empowered to accept deposits except those
23 deposits incidental to its trust business.

24 (2) "affiliated bank" with respect to a subsidiary
25 trust company, means any bank incorporated under the laws of

1 this state and any national banking association having its
2 main office in this state more than fifty percent (50%) of
3 the voting stock of which is owned by the same owning bank
4 holding company that owns more than fifty percent (50%) of
5 the voting stock of the subsidiary trust company.

6 (3) "affiliated bank" with respect to another bank
7 which is not a subsidiary trust company, means any bank
8 incorporated under the laws of this state and any national
9 banking association having its main office located in this
10 state more than fifty percent (50%) of the stock of which is
11 owned by the same owning bank holding company that owns more
12 than fifty percent (50%) of the voting stock of such other
13 bank.

14 (4) "owning bank holding company", with respect to a
15 subsidiary trust company or an affiliated bank, means a bank
16 holding company as defined in the United States Bank Holding
17 Company Act of 1956, as amended.

18 (5) "main office", with respect to a subsidiary trust
19 company or an affiliated bank, is the place designated in
20 the articles of incorporation or articles of association of
21 that subsidiary trust company or affiliated bank at which
22 its principal functions are to be conducted.

23 (6) "trust office", with respect to a subsidiary trust
24 company, means an office, including the main office, of the
25 subsidiary trust company maintained for the purpose of

1 conducting its business.

2 (7) "trust office", with respect to a bank which is
3 not a subsidiary trust company, means an office other than
4 the main office of that bank maintained solely for the
5 purpose of conducting trust business as described in section
6 4.

7 (8) "fiduciary capacity" means a capacity resulting
8 from a bank undertaking to act alone or jointly with others
9 primarily for the benefit of another in all matters
10 connected with its undertaking and includes the capacities
11 of trustee (including trustee of a common trust fund),
12 executor, administrator, personal representative, registrar
13 or transfer agent with respect to stocks, bonds or other
14 evidences of indebtedness of any corporation, association,
15 municipality, state or public authority, guardian ~~or~~ OF
16 estates, receiver, conservator, escrow agent, agent for the
17 investment of money, attorney-in-fact and any other similar
18 capacity.

19 Section 3. Organization of subsidiary trust companies.
20 A subsidiary trust company shall be incorporated under the
21 laws of this state in accordance with, and subject to, the
22 provisions of chapter 2 of Title 5, R.C.M. 1947, or under
23 the laws of the United States. To the extent not
24 inconsistent with the provisions of this chapter, any
25 subsidiary trust company incorporated under the laws of this

1 state shall be subject to the laws of this state generally
2 applicable to trust companies. A subsidiary trust company
3 formed under the laws of the United States, shall be
4 subject, to the extent provided by the laws of the United
5 States, to the laws of this state applicable to subsidiary
6 trust companies incorporated under the laws of this state.

7 Section 4. Permissible business of subsidiary trust
8 companies. The permissible business of a subsidiary trust
9 company shall be to engage in SUCH trust business as may be
10 engaged in by a trust company under section 5-106 and SUCH
11 business AS IS incidental thereto. A subsidiary trust
12 company shall accept only those deposits incidental to the
13 trust business conducted by it.

14 Section 5. Trust offices of subsidiary trust
15 companies. Notwithstanding the provisions of section 5-1028,
16 a subsidiary trust company may have a trust office at any
17 one or more locations in this state in the same building
18 with the main office of any affiliated bank, but not
19 elsewhere.

20 Section 6. Trust offices of affiliated banks.
21 Notwithstanding the provisions of section 5-1028, a bank
22 having trust powers may be authorized by the department of
23 business regulation or by the comptroller of the currency,
24 in the case of a national banking association, to maintain a
25 trust office at any one or more locations in this state in

1 the same building with the main office of any affiliated
2 bank.

3 ~~Section 7, Transfer of fiduciary relationships from~~
4 ~~affiliated banks to subsidiary trust companies. (1) Upon~~
5 ~~authorization of any subsidiary trust company to commence~~
6 ~~the business for which it is organized, that subsidiary~~
7 ~~trust company may file an application in the district court~~
8 ~~of the county in which its main office is located requesting~~
9 ~~that it be substituted, except as may be expressly excluded~~
10 ~~in the application, in every fiduciary capacity for each of~~
11 ~~its affiliated banks specified in the application, and each~~
12 ~~such specified affiliated bank shall join in the~~
13 ~~application. Upon finding that the subsidiary trust company~~
14 ~~is authorized to commence the business for which it is~~
15 ~~organized by the department of business regulation or the~~
16 ~~comptroller of the currency if the subsidiary trust company~~
17 ~~is a national banking association, the district court shall~~
18 ~~enter an order substituting the subsidiary trust company in~~
19 ~~every fiduciary capacity for each of its specified~~
20 ~~affiliated banks, except as may be otherwise specified in~~
21 ~~the application. The application may be made ex parte and~~
22 ~~need not list the fiduciary capacities in which substitution~~
23 ~~is made. Upon entry of this order, the subsidiary trust~~
24 ~~company shall be substituted in every such fiduciary~~
25 ~~capacity, and the substitution may be evidenced by filing a~~

1 ~~copy of the order with the clerk of any district court in~~
2 ~~this state or by delivery for recording a copy of the order~~
3 ~~to the clerk and recorder of any county in this state. That~~
4 ~~officer shall index the order as other recorded orders and~~
5 ~~decrees are indexed.~~

6 ~~(2) Each prior or succeeding designation in a will or~~
7 ~~other instrument executed by a bank as fiduciary shall be~~
8 ~~considered a designation of the subsidiary trust company~~
9 ~~substituted for that bank under this section, except where a~~
10 ~~will or other instrument is executed after the above~~
11 ~~substitution and it expressly negates the application of~~
12 ~~this section. Any grant in any such will or other~~
13 ~~instrument of any discretionary power shall be considered~~
14 ~~conferred upon the subsidiary trust company considered~~
15 ~~designated as the fiduciary under this section.~~

16 ~~(3) A bank shall account jointly with the subsidiary~~
17 ~~trust company which has been substituted as fiduciary for~~
18 ~~that bank under this section for the accounting period~~
19 ~~during which the subsidiary trust company is initially~~
20 ~~substituted. Upon substitution under this section, the bank~~
21 ~~shall deliver to the subsidiary trust company all assets~~
22 ~~held by the bank as fiduciary (except assets held for~~
23 ~~accounts with respect to which there has been no~~
24 ~~substitution under this section) and upon this substitution~~
25 ~~all those assets shall become the property of the subsidiary~~

1 ~~trust company without the necessity of any instrument of~~
 2 ~~transfer or conveyance.~~

3 SECTION 7. TRANSFER OF FIDUCIARY RELATIONSHIPS FROM
 4 AFFILIATED BANKS TO SUBSIDIARY TRUST COMPANIES. (1) UPON
 5 ANY SUBSIDIARY TRUST COMPANY BEING DULY AUTHORIZED TO
 6 COMMENCE THE BUSINESS FOR WHICH IT IS ORGANIZED, SUCH
 7 SUBSIDIARY TRUST COMPANY MAY FILE ITS VERIFIED APPLICATION
 8 IN THE DISTRICT COURT OF THE COUNTY IN WHICH ITS MAIN OFFICE
 9 IS LOCATED REQUESTING THAT IT BE SUBSTITUTED, EXCEPT AS MAY
 10 BE EXPRESSLY EXCLUDED IN SUCH APPLICATION, IN EVERY
 11 FIDUCIARY CAPACITY FOR EACH OF ITS AFFILIATED BANKS
 12 SPECIFIED IN THE APPLICATION, AND EACH SUCH SPECIFIED
 13 AFFILIATED BANK SHALL JOIN IN SUCH APPLICATION. SUCH
 14 APPLICATION SHALL INDICATE THE COUNTY WHEREIN THE MAIN
 15 OFFICE OF EACH AFFILIATED BANK JOINING IN THE APPLICATION IS
 16 LOCATED AND SHALL DESIGNATE EACH FIDUCIARY ACCOUNT EXISTING
 17 AT THE DATE THEREOF WITH RESPECT TO WHICH SUCH SUBSIDIARY
 18 TRUST COMPANY REQUESTS SUBSTITUTION, BUT FIDUCIARY
 19 CAPACITIES IN OTHER CASES NEED NOT BE LISTED. SUCH
 20 APPLICATION SHALL ADDITIONALLY SET FORTH, WITH REGARD TO
 21 EACH EXISTING FIDUCIARY ACCOUNT DESIGNATED THEREIN, THE NAME
 22 AND ADDRESS LAST KNOWN TO THE APPLICANT OF EACH PERSON
 23 ENTITLED TO MAILED NOTICE OF HEARING THEREON, TO WIT:

24 (A) IN THE CASE OF AN EXISTING FIDUCIARY ACCOUNT WHICH
 25 MAY BE REVOKED, TERMINATED OR AMENDED, EACH PERSON WHO,

1 ALONE OR TOGETHER WITH OTHERS, IS EMPOWERED TO REVOKE,
 2 TERMINATE OR AMEND THE SAME;

3 (B) IN THE CASE OF AN EXISTING FIDUCIARY ACCOUNT WITH
 4 RESPECT TO WHICH ANY PERSON OTHER THAN A COURT HAS THE POWER
 5 TO REMOVE THE CORPORATE FIDUCIARY, EACH PERSON WHO, ALONE OR
 6 TOGETHER WITH OTHERS, IS EMPOWERED TO REMOVE THE CORPORATE
 7 FIDUCIARY;

8 (C) IN THE CASE OF AN EXISTING FIDUCIARY ACCOUNT WHICH
 9 IS AN ESTATE OF A DECEASED PERSON OR WHICH IS A GUARDIANSHIP
 10 OR CONSERVATORSHIP, TO THE CLERK OF THE COURT IN WHICH SUCH
 11 ESTATE, GUARDIANSHIP OR CONSERVATORSHIP MATTER IS PENDING;

12 (D) IN THE CASE OF AN EXISTING FIDUCIARY ACCOUNT NOT
 13 DESCRIBED IN ANY OF THE FOREGOING SUBPARAGRAPHS, TO EACH
 14 INCOME BENEFICIARY OF SUCH ACCOUNT AND TO EACH BENEFICIARY
 15 WHO, WERE SUCH ACCOUNT TERMINATED AT THE DATE OF THE
 16 APPLICATION RESPECTING SUCH ACCOUNT, WOULD BE ENTITLED TO
 17 SHARE IN DISTRIBUTIONS OF INCOME OR PRINCIPAL THEREOF; AND

18 (E) IN THE CASE OF ANY EXISTING FIDUCIARY ACCOUNT
 19 WHEREIN AN AFFILIATED BANK SPECIFIED IN THE APPLICATION IS
 20 ACTING WITH A CO-FIDUCIARY, TO EACH SUCH CO-FIDUCIARY AT HIS
 21 LAST KNOWN ADDRESS.

22 (2) WHEN ANY SUCH APPLICATION SHALL HAVE BEEN FILED,
 23 THE CLERK OF THE COURT WHERE FILED SHALL MAKE AN ORDER
 24 FIXING A DATE AND TIME FOR HEARING THEREON AND GIVE NOTICE
 25 THEREOF AS HEREINAFTER PROVIDED. THE CLERK OF COURT SHALL

1 CAUSE A COPY OF SUCH NOTICE TO BE PUBLISHED AT LEAST ONCE A
 2 WEEK FOR THREE (3) SUCCESSIVE WEEKS PRECEDING THE HEARING
 3 DATE, THE FIRST SUCH PUBLICATION TO BE AT LEAST TWENTY-FIVE
 4 (25) DAYS PRECEDING THE HEARING DATE, SUCH PUBLICATION TO BE
 5 IN A NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN EACH
 6 COUNTY IN WHICH THE MAIN OFFICE OF AN AFFILIATED BANK
 7 SPECIFIED IN THE APPLICATION IS LOCATED, OR IF IN ANY CASE
 8 THERE BE NO SUCH NEWSPAPER, THEN IN A NEWSPAPER OF GENERAL
 9 CIRCULATION PUBLISHED IN A CONTIGUOUS COUNTY. IN ADDITION,
 10 AT LEAST TWENTY-FIVE (25) DAYS PRECEDING THE HEARING DATE,
 11 THE CLERK OF THE COURT SHALL CAUSE A COPY OF SUCH NOTICE TO
 12 BE MAILED BY FIRST CLASS MAIL TO EACH PERSON IDENTIFIED IN
 13 THE APPLICATION AS BEING ENTITLED TO MAILED NOTICE UNDER THE
 14 PROVISIONS OF THIS ACT, AT HIS ADDRESS LAST KNOWN TO THE
 15 APPLICANT AS SET FORTH IN THE APPLICATION.

16 (3) THE NOTICE TO BE PUBLISHED AND MAILED WITH RESPECT
 17 TO EACH SUCH APPLICATION SHALL STATE THE TIME AND PLACE OF
 18 THE HEARING THEREON, THE NAME OF THE SUBSIDIARY TRUST
 19 COMPANY WHICH HAS FILED THE APPLICATION, THE NAME OF EACH
 20 AFFILIATED BANK WHICH HAS JOINED IN SUCH APPLICATION, THAT
 21 THE APPLICATION REQUESTS THAT THE SUBSIDIARY TRUST COMPANY
 22 BE SUBSTITUTED IN EVERY FIDUCIARY CAPACITY FOR EACH OF ITS
 23 AFFILIATED BANKS SPECIFIED IN THE APPLICATION, AND THAT ANY
 24 PERSON BENEFICIALLY INTERESTED IN ANY AFFECTED FIDUCIARY
 25 ACCOUNT MAY APPEAR ON OR BEFORE THE DATE OF HEARING AND FILE

1 HIS WRITTEN OBJECTION TO SUCH SUBSTITUTION AS TO SUCH
 2 AFFECTED FIDUCIARY ACCOUNT, AND SUCH NOTICE SHALL REFER TO
 3 SUCH APPLICATION FOR FURTHER PARTICULARS.

4 (4) ON OR BEFORE THE DATE AND TIME OF HEARING ANY SUCH
 5 APPLICATION, ANY PERSON BENEFICIALLY INTERESTED IN ANY
 6 FIDUCIARY ACCOUNT AS TO WHICH SUBSTITUTION OF THE SUBSIDIARY
 7 TRUST COMPANY IS REQUESTED, MAY APPEAR AND FILE OBJECTION TO
 8 SUBSTITUTION ON THE SOLE GROUND THAT SUCH SUBSIDIARY TRUST
 9 COMPANY IS UNFIT TO ACT WITH RESPECT TO SUCH ACCOUNT, AND
 10 SHALL BE ENTITLED TO BE HEARD WITH RESPECT TO SUCH
 11 OBJECTION.

12 (5) ON SUCH DATE OF HEARING, UPON FINDING THAT DUE
 13 NOTICE HAS BEEN GIVEN AS REQUIRED BY THIS ACT AND UPON
 14 FINDING THAT THE SUBSIDIARY TRUST COMPANY HAS BEEN DULY
 15 AUTHORIZED TO COMMENCE THE BUSINESS FOR WHICH IT IS
 16 ORGANIZED BY THE DEPARTMENT OF BUSINESS REGULATION, OR THE
 17 COMPTROLLER OF THE CURRENCY IF THE SUBSIDIARY TRUST COMPANY
 18 IS A NATIONAL BANKING ASSOCIATION, THE DISTRICT COURT SHALL
 19 ENTER AN ORDER SUBSTITUTING THE SUBSIDIARY TRUST COMPANY IN
 20 EVERY FIDUCIARY CAPACITY FOR EACH OF ITS SPECIFIED
 21 AFFILIATED BANKS, EXCEPTING AS MAY BE OTHERWISE SPECIFIED IN
 22 THE APPLICATION, AND EXCEPTING FIDUCIARY CAPACITIES IN ANY
 23 ACCOUNT WITH RESPECT TO WHICH AN OBJECTION HAS BEEN FILED
 24 PURSUANT TO THIS SECTION AND THE DISTRICT COURT HAS FOUND
 25 FACTS REQUIRING THAT SUCH OBJECTION BE ALLOWED. UPON ENTRY

1 OF SUCH ORDER, THE SUBSIDIARY TRUST COMPANY SHALL, WITHOUT
 2 FURTHER ACT, BE SUBSTITUTED IN EVERY SUCH FIDUCIARY
 3 CAPACITY. SUCH SUBSTITUTION MAY BE MADE A MATTER OF RECORD
 4 IN ANY COUNTY OF THIS STATE BY FILING A CERTIFIED COPY OF
 5 THE ORDER OF SUBSTITUTION IN THE OFFICE OF THE CLERK OF ANY
 6 DISTRICT COURT IN THIS STATE OR BY FILING A CERTIFIED COPY
 7 OF SUCH ORDER IN THE OFFICE OF THE CLERK AND RECORDER OF ANY
 8 COUNTY IN THIS STATE TO BE BY SUCH OFFICER RECORDED AND
 9 INDEXED IN LIKE MANNER AND WITH LIKE EFFECT AS OTHER ORDERS
 10 AND DECREES OF COURT ARE RECORDED AND INDEXED.

11 (6) EACH DESIGNATION IN A WILL OR OTHER INSTRUMENT
 12 HERETOFORE OR HEREAFTER EXECUTED OF A BANK AS FIDUCIARY
 13 SHALL BE DEEMED A DESIGNATION OF THE SUBSIDIARY TRUST
 14 COMPANY SUBSTITUTED FOR SUCH BANK PURSUANT TO THIS SECTION
 15 EXCEPT WHERE SUCH WILL OR OTHER INSTRUMENT IS EXECUTED AFTER
 16 SUCH SUBSTITUTION AND EXPRESSLY NEGATES THE APPLICATION OF
 17 THIS SECTION. ANY GRANT IN ANY SUCH WILL OR OTHER
 18 INSTRUMENT OF ANY DISCRETIONARY POWER SHALL BE DEEMED
 19 CONFERRED UPON THE SUBSIDIARY TRUST COMPANY DEEMED
 20 DESIGNATED AS THE FIDUCIARY PURSUANT TO THIS SECTION.

21 (7) A BANK SHALL ACCOUNT JOINTLY WITH THE SUBSIDIARY
 22 TRUST COMPANY WHICH HAS BEEN SUBSTITUTED AS FIDUCIARY FOR
 23 SUCH BANK PURSUANT TO THIS SECTION FOR THE ACCOUNTING PERIOD
 24 DURING WHICH THE SUBSIDIARY TRUST COMPANY IS INITIALLY SO
 25 SUBSTITUTED. UPON SUBSTITUTION PURSUANT TO THIS SECTION,

1 THE BANK SHALL DELIVER TO THE SUBSIDIARY TRUST COMPANY ALL
 2 ASSETS HELD BY THE BANK AS FIDUCIARY (EXCEPT ASSETS HELD FOR
 3 ACCOUNTS WITH RESPECT TO WHICH THERE HAS BEEN NO
 4 SUBSTITUTION PURSUANT TO THIS SECTION) AND UPON SUCH
 5 SUBSTITUTION ALL SUCH ASSETS SHALL BECOME THE PROPERTY OF
 6 THE SUBSIDIARY TRUST COMPANY WITHOUT THE NECESSITY OF ANY
 7 INSTRUMENT OF TRANSFER OR CONVEYANCE.

8 ~~Section 8. Transfer of fiduciary relationships between~~
 9 ~~affiliated banks. (1) Any bank which has received~~
 10 ~~approval, under section 67, to maintain a trust office in the~~
 11 ~~same building with the main office of any affiliated bank,~~
 12 ~~may file an application in the district court in which its~~
 13 ~~main office is located, requesting that it be substituted,~~
 14 ~~except as may be expressly excluded in the application, in~~
 15 ~~every fiduciary capacity for the affiliated bank, and that~~
 16 ~~affiliated bank shall join in the application. Upon finding~~
 17 ~~that the bank filing an application has received the~~
 18 ~~requisite approval from the department of business~~
 19 ~~regulation or the comptroller of the currency, the district~~
 20 ~~court shall enter an order substituting the bank in every~~
 21 ~~fiduciary capacity for this affiliated bank, except as may~~
 22 ~~be otherwise specified in the application. Such application~~
 23 ~~may be made ex parte and need not list the fiduciary~~
 24 ~~capacities in which substitution is made. Upon entry of~~
 25 ~~this order, the bank shall be substituted, without further~~

1 act, in every such fiduciary capacity, and the substitution
 2 may be evidenced by filing a copy of the order with the
 3 clerk of any district court in this state or by delivery for
 4 recording a copy of the order to the clerk and recorder of
 5 any county in this state. That officer shall index the
 6 order as other recorded orders and decrees are indexed.

7 (2) -- Each prior or succeeding designation in a will or
 8 other instrument executed by a bank as fiduciary shall be
 9 considered a designation of the affiliated bank substituted
 10 for that bank under this section, except where a will or
 11 other instrument is executed after the above substitution
 12 and expressly negates the application of this section. Any
 13 grant in any such will or other such instrument of any
 14 discretionary power shall be considered conferred upon the
 15 affiliated bank considered designated as the fiduciary under
 16 this section.

17 (3) -- A bank shall account jointly with the affiliated
 18 bank which has been substituted as fiduciary for that bank
 19 under this section for the accounting period during which
 20 the affiliated bank is initially substituted. Upon
 21 substitution under this section, the bank for which
 22 substitution has been made shall deliver to the affiliated
 23 bank all assets held by the bank as fiduciary (except assets
 24 held for accounts with respect of which there has been no
 25 substitution under this section) and upon this substitution

1 all these assets shall become the property of the affiliated
 2 bank without the necessity of any instrument or transfer of
 3 conveyance.

4 SECTION 8. TRANSFER OF FIDUCIARY RELATIONSHIPS BETWEEN
 5 AFFILIATED BANKS. (1) ANY BANK WHICH HAS RECEIVED APPROVAL,
 6 PURSUANT TO SECTION 6 TO MAINTAIN A TRUST OFFICE IN THE SAME
 7 BUILDING WITH THE MAIN OFFICE OF ANY AFFILIATED BANK MAY
 8 FILE ITS VERIFIED APPLICATION IN THE DISTRICT COURT OF THE
 9 COUNTY IN WHICH ITS MAIN OFFICE IS LOCATED REQUESTING THAT
 10 IT BE SUBSTITUTED, EXCEPT AS MAY BE EXPRESSLY EXCLUDED IN
 11 SUCH APPLICATION, IN EVERY FIDUCIARY CAPACITY FOR SUCH
 12 AFFILIATED BANK, AND SUCH AFFILIATED BANK SHALL JOIN IN SUCH
 13 APPLICATION. SUCH APPLICATION SHALL INDICATE THE COUNTY
 14 WHEREIN THE MAIN OFFICE OF SUCH AFFILIATED BANK IS LOCATED
 15 AND SHALL DESIGNATE EACH FIDUCIARY ACCOUNT EXISTING AT THE
 16 DATE THEREOF WITH RESPECT TO WHICH THE APPLICANT BANK
 17 REQUESTS SUBSTITUTION, BUT FIDUCIARY CAPACITIES IN OTHER
 18 CASES NEED NOT BE LISTED. SUCH APPLICATION SHALL
 19 ADDITIONALLY SET FORTH, WITH REGARD TO EACH EXISTING
 20 FIDUCIARY ACCOUNT DESIGNATED THEREIN, THE NAME AND ADDRESS
 21 LAST KNOWN TO THE APPLICANT OF EACH PERSON ENTITLED TO
 22 MAILED NOTICE OF HEARING THEREON, WHO SHALL BE THOSE PERSONS
 23 SPECIFIED IN SUBSECTIONS (A) TO (E), INCLUSIVE, OF SECTION

24 7.

25 (2) WHEN ANY SUCH APPLICATION SHALL HAVE BEEN FILED,

1 THE CLERK OF THE COURT WHERE FILED SHALL MAKE AN ORDER
 2 FIXING A DATE AND TIME FOR HEARING THEREON AND SHALL CAUSE
 3 NOTICE THEREOF TO BE GIVEN BY PUBLICATION AND MAILING IN THE
 4 MANNER REQUIRED BY SECTION 7.

5 (3) THE NOTICE TO BE PUBLISHED AND MAILED WITH RESPECT
 6 TO EACH SUCH APPLICATION SHALL STATE THE TIME AND PLACE OF
 7 THE HEARING THEREON, THE NAME OF THE BANK WHICH HAS FILED
 8 THE APPLICATION, THE NAME OF THE AFFILIATED BANK WHICH HAS
 9 JOINED IN SUCH APPLICATION, THAT THE APPLICATION REQUESTS
 10 THAT THE APPLICANT BANK BE SUBSTITUTED IN EVERY FIDUCIARY
 11 CAPACITY FOR THE AFFILIATED BANK SPECIFIED IN THE
 12 APPLICATION, AND THAT ANY PERSON BENEFICIALLY INTERESTED IN
 13 ANY AFFECTED FIDUCIARY ACCOUNT MAY APPEAR ON OR BEFORE THE
 14 DATE OF HEARING AND FILE HIS WRITTEN OBJECTION TO SUCH
 15 SUBSTITUTIONS AS TO SUCH AFFECTED FIDUCIARY ACCOUNT ON THE
 16 SOLE GROUND THAT THE APPLICANT BANK IS UNFIT TO ACT WITH
 17 RESPECT TO SUCH AFFECTED FIDUCIARY ACCOUNT, AND SUCH NOTICE
 18 SHALL REFER TO SUCH APPLICATION FOR FURTHER PARTICULARS.

19 (4) ON OR BEFORE THE DATE AND TIME OF HEARING ANY SUCH
 20 APPLICATION, ANY PERSON BENEFICIALLY INTERESTED IN ANY
 21 FIDUCIARY ACCOUNT AS TO WHICH SUBSTITUTION OF THE APPLICANT
 22 BANK IS REQUESTED, MAY APPEAR AND FILE OBJECTION TO
 23 SUBSTITUTION ON THE SOLE GROUND THAT SUCH APPLICANT BANK IS
 24 UNFIT TO ACT WITH RESPECT TO SUCH ACCOUNT, AND SHALL BE
 25 ENTITLED TO BE HEARD WITH RESPECT TO SUCH OBJECTION.

1 (5) ON SUCH DATE OF HEARING, UPON FINDING THAT DUE
 2 NOTICE HAS BEEN GIVEN AS REQUIRED BY THIS ACT AND UPON
 3 FINDING THAT THE APPLICANT BANK HAS RECEIVED THE REQUISITE
 4 APPROVAL FROM THE DEPARTMENT OF BUSINESS REGULATION, OR THE
 5 COMPTROLLER OF THE CURRENCY IF THE APPLICANT BANK IS A
 6 NATIONAL BANKING ASSOCIATION, THE DISTRICT COURT SHALL ENTER
 7 AN ORDER SUBSTITUTING THE APPLICANT BANK IN EVERY FIDUCIARY
 8 CAPACITY FOR THE AFFILITED BANK DESIGNATED IN THE
 9 APPLICATION, EXCEPTING AS MAY BE OTHERWISE SPECIFIED IN THE
 10 APPLICATION, AND EXCEPTING FIDUCIARY CAPACITIES IN ANY
 11 ACCOUNT WITH RESPECT TO WHICH AN OBJECTION HAS BEEN FILED
 12 PURSUANT TO THIS SECTION AND THE DISTRICT COURT HAS FOUND
 13 FACTS REQUIRING THAT SUCH OBJECTION BE ALLOWED. UPON ENTRY
 14 OF SUCH ORDER, THE APPLICANT BANK SHALL, WITHOUT FURTHER
 15 ACT, BE SUBSTITUTED IN EVERY SUCH FIDUCIARY CAPACITY. SUCH
 16 SUBSTITUTION MAY BE MADE A MATTER OF RECORD IN ANY COUNTY OF
 17 THIS STATE BY FILING A CERTIFIED COPY OF THE ORDER OF
 18 SUBSTITUTION IN THE OFFICE OF THE CLERK OF ANY DISTRICT
 19 COURT IN THIS STATE OR BY FILING A CERTIFIED COPY OF SUCH
 20 ORDER IN THE OFFICE OF THE CLERK AND RECORDER OF ANY COUNTY
 21 IN THIS STATE TO BE BY SUCH OFFICER RECORDED AND INDEXED IN
 22 LIKE MANNER AND WITH LIKE EFFECT AS OTHER ORDERS AND DECREES
 23 OF COURT ARE RECORDED AND INDEXED.

24 (6) EACH DESIGNATION IN A WILL OR OTHER INSTRUMENT
 25 HERETOFORE OR HEREAFTER EXECUTED OF A BANK AS FIDUCIARY

1 SHALL BE DEEMED A DESIGNATION OF THE APPLICANT BANK
 2 SUBSTITUTED FOR SUCH BANK PURSUANT TO THIS SECTION EXCEPT
 3 WHERE SUCH WILL OR OTHER INSTRUMENT IS EXECUTED AFTER SUCH
 4 SUBSTITUTION AND EXPRESSLY NEGATES THE APPLICATION OF THIS
 5 SECTION. ANY GRANT IN ANY SUCH WILL OR OTHER SUCH
 6 INSTRUMENT OF ANY DISCRETIONARY POWER SHALL BE DEEMED
 7 CONFERRED UPON THE APPLICANT BANK DEEMED DESIGNATED AS THE
 8 FIDUCIARY PURSUANT TO THIS SECTION.

9 (7) A BANK SHALL ACCOUNT JOINTLY WITH THE APPLICANT
 10 BANK WHICH HAS BEEN SUBSTITUTED AS FIDUCIARY FOR SUCH BANK
 11 PURSUANT TO THIS SECTION FOR THE ACCOUNTING PERIOD DURING
 12 WHICH THE APPLICANT BANK IS INITIALLY SO SUBSTITUTED. UPON
 13 SUBSTITUTION PURSUANT TO THIS SECTION, THE AFFILIATED BANK
 14 FOR WHICH SUBSTITUTION HAS BEEN MADE SHALL DELIVER TO SUCH
 15 APPLICANT BANK ALL ASSETS HELD BY SUCH AFFILIATED BANK AS
 16 FIDUCIARY (EXCEPT ASSETS HELD FOR ACCOUNTS WITH RESPECT OF
 17 WHICH THERE HAS BEEN NO SUBSTITUTION PURSUANT TO THIS
 18 SECTION) AND UPON SUCH SUBSTITUTION ALL SUCH ASSETS SHALL
 19 BECOME THE PROPERTY OF SUCH APPLICANT BANK WITHOUT THE
 20 NECESSITY OF ANY INSTRUMENT OR TRANSFER OR CONVEYANCE.

21 Section 9. Section 86-905, R.C.M. 1947, is amended to
 22 read as follows:

23 "86-905. Transfer of office prohibited. ~~The~~ Except as
 24 provided in sections [7 and 8 of this act], the trustee
 25 shall not transfer his office to another or delegate the

1 entire administration of the trust to a co-trustee or
 2 another."

3 SECTION 10. TRUST SUBSIDIARIES OF UNAFFILIATED BANKS
 4 AND TRUST-CORRESPONDENT RELATIONSHIPS. NOTHING IN SECTIONS
 5 2 TO 8 SHALL BE CONSTRUED TO PROHIBIT OR RESTRICT ANY BANK
 6 HAVING ITS MAIN OFFICE IN THIS STATE FROM ESTABLISHING A
 7 SUBSIDIARY WHICH IS A TRUST COMPANY OR TO PROHIBIT OR
 8 RESTRICT ANY GROUP OF BANKS HAVING THEIR MAIN OFFICE IN THIS
 9 STATE FROM ACTING JOINTLY TO ESTABLISH ONE OR MORE TRUST
 10 COMPANIES. FURTHER, NOTHING IN SECTIONS 2 TO 8 SHALL BE
 11 CONSTRUED AS IN ANY WAY LIMITING OR RESTRICTING THE ABILITY
 12 OF ANY BANK HAVING ITS MAIN OFFICE IN THIS STATE TO
 13 ESTABLISH A TRUST-CORRESPONDENT RELATIONSHIP WITH ANY OTHER
 14 BANK HAVING TRUST POWERS.

15 Section 11. Effective date. This act is effective on
 16 its passage and approval.

-End-

March 17, 1975

SENATE COMMITTEE ON BUSINESS AND INDUSTRY

AMENDMENTS TO HOUSE BILL NO. 424

That House Bill No. 424, third reading, be amended as follows:

1. Amend page 1, section 2, lines 22 and 23.
Following: "accept deposits"
Strike: "except those deposits incidental to its trust business"
Insert: "or otherwise to conduct commercial banking business"
2. Amend page 4, section 4, lines 12 and 13.
Following: "shall"
Strike: "accept only those deposits incidental to the trust business conducted by it"
Insert: "not accept deposits or otherwise conduct commercial banking business"
3. Amend page 4, section 5, line 18.
Following: "bank"
Insert: "which, on January 1, 1975, was authorized to act in fiduciary capacities"
4. Amend page 5, section 6, line 2.
Following: "bank"
Insert: "which, on January 1, 1975, was authorized to act in fiduciary capacities"
5. Amend page 10, section 7, line 8.
Following: "SUBSTITUTION"
Strike: "ON THE SOLE GROUND THAT SUCH SUBSIDIARY TRUST COMPANY IS UNFIT TO ACT WITH RESPECT TO SUCH ACCOUNT"
6. Amend page 10, section 7, lines 24 and 25.
Following: "SECTION"
Strike: "AND THE DISTRICT COURT HAS FOUND FACTS REQUIRING THAT SUCH OBJECTION BE ALLOWED"
7. Amend page 15, section 8, line 15.
Following: line 14
Strike: "SUBSTITUTIONS"
Insert: "substitution"
8. Amend page 15, section 8, lines 15 through 16 and 17.
Following: "ACCOUNT"
Strike: "ON THE SOLE GROUND THAT THE APPLICANT BANK IS UNFIT TO ACT WITH RESPECT TO SUCH AFFECTED FIDUCIARY ACCOUNT"
9. Amend page 15, section 8, lines 23 and 24.
Following: "SUBSTITUTION"
STRIKE: "ON THE SOLE GROUND THAT SUCH APPLICANT BANK IF UNFIT TO ACT WITH RESPECT TO SUCH ACCOUNT"

10. Amend page 16, section 8, lines 12 and 13.
Following: "SECTION"
STRIKE: "AND THE DISTRICT COURT HAS FOUND FACTS REQUIRING THAT SUCH OBJECTION BE ALLOWED"
11. Amend page 18, section 10, lines 5 through 6 and 7.
Following: "CONSTRUED"
Strike: "TO PROHIBIT OR RESTRICT ANY BANK HAVING ITS MAIN OFFICE IN THIS STATE FROM ESTABLISHING A SUBSIDIARY WHICH IS A TRUST COMPANY OR"
12. Amend page 18, section 10, line 8.
Following: "MAIN"
Strike: "OFFICE"
Insert: "OFFICES
13. Amend page 18, section 10, line 10.
Following: "COMPANIES"
Strike: "."
Insert: "; provided, that no such trust company may accept deposits or otherwise conduct commercial banking business."

March 17, 1975

Corrected copy
3/19/75

SENATE COMMITTEE ON BUSINESS AND INDUSTRY

AMENDMENTS TO HOUSE BILL NO. 424

That House Bill No. 424, third reading, be amended as follows:

1. Amend page 1, section 2, lines 22 and 23.
Following: "accept deposits"
Strike: "except those deposits incidental to its trust business"
Insert: "or otherwise to conduct commercial banking business"
2. Amend page 4, section 4, lines 12 and 13.
Following: "shall"
Strike: "accept only those deposits incidental to the trust business conducted by it"
Insert: "not accept deposits or otherwise conduct commercial banking business"
3. Amend page 4, section 5, line 18.
Following: "bank"
Insert: "which, on January 1, 1975, was authorized to act in fiduciary capacities"
4. Amend page 5, section 6, line 2.
Following: "bank"
Insert: "which, on January 1, 1975, was authorized to act in fiduciary capacities"
5. Amend page 10, section 7, line 8.
Following: "SUBSTITUTION"
Strike: "ON THE SOLE GROUND THAT SUCH SUBSIDIARY TRUST COMPANY IS UNFIT TO ACT WITH RESPECT TO SUCH ACCOUNT"
6. Amend page 10, section 7, lines 24 and 25.
Following: "SECTION"
Strike: "AND THE DISTRICT COURT HAS FOUND FACTS REQUIRING THAT SUCH OBJECTION BE ALLOWED"
7. Amend page 15, section 8, line 15.
Following: line 14
Strike: "SUBSTITUTIONS"
Insert: "substitution"
8. Amend page 15, section 8, lines 15 through 16 and 17.
Following: "ACCOUNT"
Strike: "ON THE SOLE GROUND THAT THE APPLICANT BANK IS UNFIT TO ACT WITH RESPECT TO SUCH AFFECTED FIDUCIARY ACCOUNT"
9. Amend page 15, section 8, lines 23 and 24.
Following: "SUBSTITUTION"
STRIKE: "ON THE SOLE GROUND THAT SUCH APPLICANT BANK IS UNFIT TO ACT WITH RESPECT TO SUCH ACCOUNT"

10. Amend page 16, section 8, lines 12 and 13.
Following: "SECTION"
STRIKE: "AND THE DISTRICT COURT HAS FOUND FACTS REQUIRING THAT SUCH OBJECTION BE ALLOWED"
11. Amend page 18, section 10, lines 5 through 6 and 7.
Following: "CONSTRUED"
Strike: "TO PROHIBIT OR RESTRICT ANY BANK HAVING ITS MAIN OFFICE IN THIS STATE FROM ESTABLISHING A SUBSIDIARY WHICH IS A TRUST COMPANY OR"
12. Amend page 18, section 10, line 8.
Following: "MAIN"
Strike: "OFFICE"
Insert: "OFFICES"
13. Amend page 18, section 10, line 10.
Following: "COMPANIES"
Strike: "."
Insert: "; provided, that no such trust company may accept deposits or otherwise conduct commercial banking business."

March 19, 1975

SENATE COMMITTEE OF THE WHOLE
AMENDMENTS TO HOUSE BILL NO. 424

That House Bill No. 424, third reading, be amended as follows:

1. Amend page 18, section 10, lines 3 through 14.
Strike: Section 10 in its entirety
Renumber: Subsequent section

HOUSE BILL NO. 424

INTRODUCED BY JAMES MOORE, FAEBEGA

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE SUBSIDIARY TRUST COMPANIES TO HAVE ONE OR MORE TRUST OFFICES; TO AUTHORIZE CERTAIN BANKS TO MAINTAIN ONE OR MORE TRUST OFFICES; TO PROVIDE FOR SUBSTITUTION IN FIDUCIARY CAPACITIES; TO AMEND SECTION 86-905, R.C.M. 1947; AND TO PROVIDE AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. This act may be cited as "The Subsidiary Trust Company Act of 1975".

Section 2. Definitions. As used in this act: (1) "subsidiary trust company" means any corporation which is incorporated under the banking laws of this state and any national banking association having its main office in this state more than fifty percent (50%) of the voting stock of which is owned by an owning bank holding company and which has as its purposes any one or more of the purposes described in section 5-106, except that a subsidiary trust company may not be empowered to accept deposits ~~except those deposits incidental to its trust business~~ OR OTHERWISE TO CONDUCT COMMERCIAL BANKING BUSINESS.

(2) "affiliated bank" with respect to a subsidiary

trust company, means any bank incorporated under the laws of this state and any national banking association having its main office in this state more than fifty percent (50%) of the voting stock of which is owned by the same owning bank holding company that owns more than fifty percent (50%) of the voting stock of the subsidiary trust company.

(3) "affiliated bank" with respect to another bank which is not a subsidiary trust company, means any bank incorporated under the laws of this state and any national banking association having its main office located in this state more than fifty percent (50%) of the stock of which is owned by the same owning bank holding company that owns more than fifty percent (50%) of the voting stock of such other bank.

(4) "owning bank holding company", with respect to a subsidiary trust company or an affiliated bank, means a bank holding company as defined in the United States Bank Holding Company Act of 1956, as amended.

(5) "main office", with respect to a subsidiary trust company or an affiliated bank, is the place designated in the articles of incorporation or articles of association of that subsidiary trust company or affiliated bank at which its principal functions are to be conducted.

(6) "trust office", with respect to a subsidiary trust company, means an office, including the main office, of the

1 subsidiary trust company maintained for the purpose of
2 conducting its business.

3 (7) "trust office", with respect to a bank which is
4 not a subsidiary trust company, means an office other than
5 the main office of that bank maintained solely for the
6 purpose of conducting trust business as described in section
7 4.

8 (8) "fiduciary capacity" means a capacity resulting
9 from a bank undertaking to act alone or jointly with others
10 primarily for the benefit of another in all matters
11 connected with its undertaking and includes the capacities
12 of trustee (including trustee of a common trust fund),
13 executor, administrator, personal representative, registrar
14 or transfer agent with respect to stocks, bonds or other
15 evidences of indebtedness of any corporation, association,
16 municipality, state or public authority, guardian ~~or~~ of
17 estates, receiver, conservator, escrow agent, agent for the
18 investment of money, attorney-in-fact and any other similar
19 capacity.

20 Section 3. Organization of subsidiary trust companies.
21 A subsidiary trust company shall be incorporated under the
22 laws of this state in accordance with, and subject to, the
23 provisions of chapter 2 of Title 5, S.C.M. 1947, or under
24 the laws of the United States. To the extent not
25 inconsistent with the provisions of this chapter, any

1 subsidiary trust company incorporated under the laws of this
2 state shall be subject to the laws of this state generally
3 applicable to trust companies. A subsidiary trust company
4 formed under the laws of the United States, shall be
5 subject, to the extent provided by the laws of the United
6 States, to the laws of this state applicable to subsidiary
7 trust companies incorporated under the laws of this state.

8 Section 4. Permissible business of subsidiary trust
9 companies. The permissible business of a subsidiary trust
10 company shall be to engage in SUCH trust business as may be
11 engaged in by a trust company under section 5-106 and SUCH
12 business AS IS incidental thereto. A subsidiary trust
13 company shall ~~accept only those deposits incidental to the~~
14 ~~trust business conducted by it~~ NOT ACCEPT DEPOSITS OR
15 OTHERWISE CONDUCT COMMERCIAL BANKING BUSINESS.

16 Section 5. Trust offices of subsidiary trust
17 companies. Notwithstanding the provisions of section 5-1028,
18 a subsidiary trust company may have a trust office at any
19 one or more locations in this state in the same building
20 with the main office of any affiliated bank WHICH, ON
21 JANUARY 1, 1975, WAS AUTHORIZED TO ACT IN FIDUCIARY
22 CAPACITIES, but not elsewhere.

23 Section 6. Trust offices of affiliated banks.
24 Notwithstanding the provisions of section 5-1028, a bank
25 having trust powers may be authorized by the department of

1 business regulation or by the comptroller of the currency,
 2 in the case of a national banking association, to maintain a
 3 trust office at any one or more locations in this state in
 4 the same building with the main office of any affiliated
 5 bank WHICH, ON JANUARY 1, 1975, WAS AUTHORIZED TO ACT IN
 6 FIDUCIARY CAPACITIES.

7 ~~Section 7. Transfer of fiduciary relationships from~~
 8 ~~affiliated banks to subsidiary trust companies. (1) Upon~~
 9 ~~authorization of any subsidiary trust company to commence~~
 10 ~~the business for which it is organized, that subsidiary~~
 11 ~~trust company may file an application in the district court~~
 12 ~~of the county in which its main office is located requesting~~
 13 ~~that it be substituted, except as may be expressly excluded~~
 14 ~~in the application, in every fiduciary capacity for each of~~
 15 ~~its affiliated banks specified in the application, and each~~
 16 ~~such specified affiliated bank shall join in the~~
 17 ~~application. Upon finding that the subsidiary trust company~~
 18 ~~is authorized to commence the business for which it is~~
 19 ~~organized by the department of business regulation, or the~~
 20 ~~comptroller of the currency if the subsidiary trust company~~
 21 ~~is a national banking association, the district court shall~~
 22 ~~enter an order substituting the subsidiary trust company in~~
 23 ~~every fiduciary capacity for each of its specified~~
 24 ~~affiliated banks, except as may be otherwise specified in~~
 25 ~~the application. The application may be made ex parte and~~

1 ~~need not list the fiduciary capacities in which substitution~~
 2 ~~is made. Upon entry of this order, the subsidiary trust~~
 3 ~~company shall be substituted, in every such fiduciary~~
 4 ~~capacity, and the substitution may be evidenced by filing a~~
 5 ~~copy of the order with the clerk of any district court in~~
 6 ~~this state or by delivery for recording a copy of the order~~
 7 ~~to the clerk and recorder of any county in this state. That~~
 8 ~~officer shall index the order as other recorded orders and~~
 9 ~~decrees are indexed.~~

10 (2) ~~Each prior or succeeding designation in a will or~~
 11 ~~other instrument executed by a bank as fiduciary shall be~~
 12 ~~considered a designation of the subsidiary trust company~~
 13 ~~substituted for that bank under this section, except where a~~
 14 ~~will or other instrument is executed after the above~~
 15 ~~substitution and it expressly negates the application of~~
 16 ~~this section. Any grant in any such will or other~~
 17 ~~instrument of any discretionary power shall be considered~~
 18 ~~conferred upon the subsidiary trust company considered~~
 19 ~~designated as the fiduciary under this section.~~

20 (3) ~~A bank shall account jointly with the subsidiary~~
 21 ~~trust company which has been substituted as fiduciary for~~
 22 ~~that bank under this section for the accounting period~~
 23 ~~during which the subsidiary trust company is initially~~
 24 ~~substituted. Upon substitution under this section, the bank~~
 25 ~~shall deliver to the subsidiary trust company all assets~~

1 ~~held by the bank as fiduciary (except assets held for~~
 2 ~~accounts with respect to which there has been no~~
 3 ~~substitution under this section) and upon this substitution~~
 4 ~~all these assets shall become the property of the subsidiary~~
 5 ~~trust company without the necessity of any instrument of~~
 6 ~~transfer or conveyance.~~

7 SECTION 7. TRANSFER OF FIDUCIARY RELATIONSHIPS FROM
 8 AFFILIATED BANKS TO SUBSIDIARY TRUST COMPANIES. (1) UPON
 9 ANY SUBSIDIARY TRUST COMPANY BEING DULY AUTHORIZED TO
 10 COMMENCE THE BUSINESS FOR WHICH IT IS ORGANIZED, SUCH
 11 SUBSIDIARY TRUST COMPANY MAY FILE ITS VERIFIED APPLICATION
 12 IN THE DISTRICT COURT OF THE COUNTY IN WHICH ITS MAIN OFFICE
 13 IS LOCATED REQUESTING THAT IT BE SUBSTITUTED, EXCEPT AS MAY
 14 BE EXPRESSLY EXCLUDED IN SUCH APPLICATION, IN EVERY
 15 FIDUCIARY CAPACITY FOR EACH OF ITS AFFILIATED BANKS
 16 SPECIFIED IN THE APPLICATION, AND EACH SUCH SPECIFIED
 17 AFFILIATED BANK SHALL JOIN IN SUCH APPLICATION. SUCH
 18 APPLICATION SHALL INDICATE THE COUNTY WHEREIN THE MAIN
 19 OFFICE OF EACH AFFILIATED BANK JOINING IN THE APPLICATION IS
 20 LOCATED AND SHALL DESIGNATE EACH FIDUCIARY ACCOUNT EXISTING
 21 AT THE DATE THEREOF WITH RESPECT TO WHICH SUCH SUBSIDIARY
 22 TRUST COMPANY REQUESTS SUBSTITUTION, BUT FIDUCIARY
 23 CAPACITIES IN OTHER CASES NEED NOT BE LISTED. SUCH
 24 APPLICATION SHALL ADDITIONALLY SET FORTH, WITH REGARD TO
 25 EACH EXISTING FIDUCIARY ACCOUNT DESIGNATED THEREIN, THE NAME

1 AND ADDRESS LAST KNOWN TO THE APPLICANT OF EACH PERSON
 2 ENTITLED TO MAILED NOTICE OF HEARING THEREON, TO WIT:

3 (A) IN THE CASE OF AN EXISTING FIDUCIARY ACCOUNT WHICH
 4 MAY BE REVOKED, TERMINATED OR AMENDED, EACH PERSON WHO,
 5 ALONE OR TOGETHER WITH OTHERS, IS EMPOWERED TO REVOKE,
 6 TERMINATE OR AMEND THE SAME:

7 (B) IN THE CASE OF AN EXISTING FIDUCIARY ACCOUNT WITH
 8 RESPECT TO WHICH ANY PERSON OTHER THAN A COURT HAS THE POWER
 9 TO REMOVE THE CORPORATE FIDUCIARY, EACH PERSON WHO, ALONE OR
 10 TOGETHER WITH OTHERS, IS EMPOWERED TO REMOVE THE CORPORATE
 11 FIDUCIARY:

12 (C) IN THE CASE OF AN EXISTING FIDUCIARY ACCOUNT WHICH
 13 IS AN ESTATE OF A DECEASED PERSON OR WHICH IS A GUARDIANSHIP
 14 OR CONSERVATORSHIP, TO THE CLERK OF THE COURT IN WHICH SUCH
 15 ESTATE, GUARDIANSHIP OR CONSERVATORSHIP MATTER IS PENDING:

16 (D) IN THE CASE OF AN EXISTING FIDUCIARY ACCOUNT NOT
 17 DESCRIBED IN ANY OF THE FOREGOING SUBPARAGRAPHS, TO EACH
 18 INCOME BENEFICIARY OF SUCH ACCOUNT AND TO EACH BENEFICIARY
 19 WHO, WERE SUCH ACCOUNT TERMINATED AT THE DATE OF THE
 20 APPLICATION RESPECTING SUCH ACCOUNT, WOULD BE ENTITLED TO
 21 SHARE IN DISTRIBUTIONS OF INCOME OR PRINCIPAL THEREOF; AND

22 (E) IN THE CASE OF ANY EXISTING FIDUCIARY ACCOUNT
 23 WHEREIN AN AFFILIATED BANK SPECIFIED IN THE APPLICATION IS
 24 ACTING WITH A CO-FIDUCIARY, TO EACH SUCH CO-FIDUCIARY AT HIS
 25 LAST KNOWN ADDRESS.

1 (2) WHEN ANY SUCH APPLICATION SHALL HAVE BEEN FILED,
 2 THE CLERK OF THE COURT WHERE FILED SHALL MAKE AN ORDER
 3 FIXING A DATE AND TIME FOR HEARING THEREON AND GIVE NOTICE
 4 THEREOF AS HEREINAFTER PROVIDED. THE CLERK OF COURT SHALL
 5 CAUSE A COPY OF SUCH NOTICE TO BE PUBLISHED AT LEAST ONCE A
 6 WEEK FOR THREE (3) SUCCESSIVE WEEKS PRECEDING THE HEARING
 7 DATE. THE FIRST SUCH PUBLICATION TO BE AT LEAST TWENTY-FIVE
 8 (25) DAYS PRECEDING THE HEARING DATE, SUCH PUBLICATION TO BE
 9 IN A NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN EACH
 10 COUNTY IN WHICH THE MAIN OFFICE OF AN AFFILIATED BANK
 11 SPECIFIED IN THE APPLICATION IS LOCATED, OR IF IN ANY CASE
 12 THERE BE NO SUCH NEWSPAPER, THEN IN A NEWSPAPER OF GENERAL
 13 CIRCULATION PUBLISHED IN A CONTIGUOUS COUNTY. IN ADDITION,
 14 AT LEAST TWENTY-FIVE (25) DAYS PRECEDING THE HEARING DATE,
 15 THE CLERK OF THE COURT SHALL CAUSE A COPY OF SUCH NOTICE TO
 16 BE MAILED BY FIRST CLASS MAIL TO EACH PERSON IDENTIFIED IN
 17 THE APPLICATION AS BEING ENTITLED TO MAILED NOTICE UNDER THE
 18 PROVISIONS OF THIS ACT, AT HIS ADDRESS LAST KNOWN TO THE
 19 APPLICANT AS SET FORTH IN THE APPLICATION.

20 (3) THE NOTICE TO BE PUBLISHED AND MAILED WITH RESPECT
 21 TO EACH SUCH APPLICATION SHALL STATE THE TIME AND PLACE OF
 22 THE HEARING THEREON, THE NAME OF THE SUBSIDIARY TRUST
 23 COMPANY WHICH HAS FILED THE APPLICATION, THE NAME OF EACH
 24 AFFILIATED BANK WHICH HAS JOINED IN SUCH APPLICATION, THAT
 25 THE APPLICATION REQUESTS THAT THE SUBSIDIARY TRUST COMPANY

1 BE SUBSTITUTED IN EVERY FIDUCIARY CAPACITY FOR EACH OF ITS
 2 AFFILIATED BANKS SPECIFIED IN THE APPLICATION, AND THAT ANY
 3 PERSON BENEFICIALLY INTERESTED IN ANY AFFECTED FIDUCIARY
 4 ACCOUNT MAY APPEAR ON OR BEFORE THE DATE OF HEARING AND FILE
 5 HIS WRITTEN OBJECTION TO SUCH SUBSTITUTION AS TO SUCH
 6 AFFECTED FIDUCIARY ACCOUNT, AND SUCH NOTICE SHALL REFER TO
 7 SUCH APPLICATION FOR FURTHER PARTICULARS.

8 (4) ON OR BEFORE THE DATE AND TIME OF HEARING ANY SUCH
 9 APPLICATION, ANY PERSON BENEFICIALLY INTERESTED IN ANY
 10 FIDUCIARY ACCOUNT AS TO WHICH SUBSTITUTION OF THE SUBSIDIARY
 11 TRUST COMPANY IS REQUESTED, MAY APPEAR AND FILE OBJECTION TO
 12 SUBSTITUTION ON THE SOLE GROUND THAT SUCH SUBSIDIARY TRUST
 13 COMPANY IS UNFIT TO ACT WITH RESPECT TO SUCH ACCOUNT, AND
 14 SHALL BE ENTITLED TO BE HEARD WITH RESPECT TO SUCH
 15 OBJECTION.

16 (5) ON SUCH DATE OF HEARING, UPON FINDING THAT DUE
 17 NOTICE HAS BEEN GIVEN AS REQUIRED BY THIS ACT AND UPON
 18 FINDING THAT THE SUBSIDIARY TRUST COMPANY HAS BEEN DULY
 19 AUTHORIZED TO COMMENCE THE BUSINESS FOR WHICH IT IS
 20 ORGANIZED BY THE DEPARTMENT OF BUSINESS REGULATION, OR THE
 21 COMPTROLLER OF THE CURRENCY IF THE SUBSIDIARY TRUST COMPANY
 22 IS A NATIONAL BANKING ASSOCIATION, THE DISTRICT COURT SHALL
 23 ENTER AN ORDER SUBSTITUTING THE SUBSIDIARY TRUST COMPANY IN
 24 EVERY FIDUCIARY CAPACITY FOR EACH OF ITS SPECIFIED
 25 AFFILIATED BANKS, EXCEPTING AS MAY BE OTHERWISE SPECIFIED IN

1 THE APPLICATION, AND EXCEPTING FIDUCIARY CAPACITIES IN ANY
 2 ACCOUNT WITH RESPECT TO WHICH AN OBJECTION HAS BEEN FILED
 3 PURSUANT TO THIS SECTION AND THE DISTRICT COURT HAS FOUND
 4 FACTS REQUIRING THAT SUCH OBJECTION BE ALLOWED. UPON ENTRY
 5 OF SUCH ORDER, THE SUBSIDIARY TRUST COMPANY SHALL, WITHOUT
 6 FURTHER ACT, BE SUBSTITUTED IN EVERY SUCH FIDUCIARY
 7 CAPACITY. SUCH SUBSTITUTION MAY BE MADE A MATTER OF RECORD
 8 IN ANY COUNTY OF THIS STATE BY FILING A CERTIFIED COPY OF
 9 THE ORDER OF SUBSTITUTION IN THE OFFICE OF THE CLERK OF ANY
 10 DISTRICT COURT IN THIS STATE OR BY FILING A CERTIFIED COPY
 11 OF SUCH ORDER IN THE OFFICE OF THE CLERK AND RECORDER OF ANY
 12 COUNTY IN THIS STATE TO BE BY SUCH OFFICER RECORDED AND
 13 INDEXED IN LIKE MANNER AND WITH LIKE EFFECT AS OTHER ORDERS
 14 AND DECREES OF COURT ARE RECORDED AND INDEXED.

15 (6) EACH DESIGNATION IN A WILL OR OTHER INSTRUMENT
 16 HERETOFORE OR HEREAFTER EXECUTED OF A BANK AS FIDUCIARY
 17 SHALL BE DEEMED A DESIGNATION OF THE SUBSIDIARY TRUST
 18 COMPANY SUBSTITUTED FOR SUCH BANK PURSUANT TO THIS SECTION
 19 EXCEPT WHERE SUCH WILL OR OTHER INSTRUMENT IS EXECUTED AFTER
 20 SUCH SUBSTITUTION AND EXPRESSLY NEGATES THE APPLICATION OF
 21 THIS SECTION. ANY GRANT IN ANY SUCH WILL OR OTHER
 22 INSTRUMENT OF ANY DISCRETIONARY POWER SHALL BE DEEMED
 23 CONFERRED UPON THE SUBSIDIARY TRUST COMPANY DEEMED
 24 DESIGNATED AS THE FIDUCIARY PURSUANT TO THIS SECTION.

25 (7) A BANK SHALL ACCOUNT JOINTLY WITH THE SUBSIDIARY

1 TRUST COMPANY WHICH HAS BEEN SUBSTITUTED AS FIDUCIARY FOR
 2 SUCH BANK PURSUANT TO THIS SECTION FOR THE ACCOUNTING PERIOD
 3 DURING WHICH THE SUBSIDIARY TRUST COMPANY IS INITIALLY SO
 4 SUBSTITUTED. UPON SUBSTITUTION PURSUANT TO THIS SECTION,
 5 THE BANK SHALL DELIVER TO THE SUBSIDIARY TRUST COMPANY ALL
 6 ASSETS HELD BY THE BANK AS FIDUCIARY (EXCEPT ASSETS HELD FOR
 7 ACCOUNTS WITH RESPECT TO WHICH THERE HAS BEEN NO
 8 SUBSTITUTION PURSUANT TO THIS SECTION) AND UPON SUCH
 9 SUBSTITUTION ALL SUCH ASSETS SHALL BECOME THE PROPERTY OF
 10 THE SUBSIDIARY TRUST COMPANY WITHOUT THE NECESSITY OF ANY
 11 INSTRUMENT OF TRANSFER OR CONVEYANCE.

12 Section 8. Transfer of fiduciary relationships between
 13 affiliated banks. (1) Any bank which has received
 14 approval, under section 6, to maintain a trust office in the
 15 same building with the main office of any affiliated bank,
 16 may file an application in the district court in which its
 17 main office is located, requesting that it be substituted,
 18 except as may be expressly excluded in the application, in
 19 every fiduciary capacity for the affiliated bank, and that
 20 affiliated bank shall join in the application. Upon finding
 21 that the bank filing an application has received the
 22 requisite approval from the department of business
 23 regulation or the comptroller of the currency, the district
 24 court shall enter an order substituting the bank in every
 25 fiduciary capacity for this affiliated bank, except as may

1 ~~be otherwise specified in the application. Such application~~
 2 ~~may be made ex parte and need not list the fiduciary~~
 3 ~~capacities in which substitution is made. Upon entry of~~
 4 ~~this order, the bank shall be substituted, without further~~
 5 ~~act, in every such fiduciary capacity, and the substitution~~
 6 ~~may be evidenced by filing a copy of the order with the~~
 7 ~~clerk of any district court in this state or by delivery for~~
 8 ~~recording a copy of the order to the clerk and recorder of~~
 9 ~~any county in this state. That officer shall index the~~
 10 ~~order as other recorded orders and decrees are indexed.~~

11 ~~(2) Each prior or succeeding designation in a will or~~
 12 ~~other instrument executed by a bank as fiduciary shall be~~
 13 ~~considered a designation of the affiliated bank substituted~~
 14 ~~for that bank under this section, except where a will or~~
 15 ~~other instrument is executed after the above substitution~~
 16 ~~and expressly negates the application of this section. Any~~
 17 ~~grant in any such will or other such instrument of any~~
 18 ~~discretionary power shall be considered conferred upon the~~
 19 ~~affiliated bank considered designated as the fiduciary under~~
 20 ~~this section.~~

21 ~~(3) A bank shall account jointly with the affiliated~~
 22 ~~bank which has been substituted as fiduciary for that bank~~
 23 ~~under this section for the accounting period during which~~
 24 ~~the affiliated bank is initially substituted. Upon~~
 25 ~~substitution under this section, the bank for which~~

1 ~~substitution has been made shall deliver to the affiliated~~
 2 ~~bank all assets held by the bank as fiduciary (except assets~~
 3 ~~held for accounts with respect of which there has been no~~
 4 ~~substitution under this section) and upon this substitution~~
 5 ~~all these assets shall become the property of the affiliated~~
 6 ~~bank without the necessity of any instrument or transfer of~~
 7 ~~conveyance.~~

8 SECTION 6. TRANSFER OF FIDUCIARY RELATIONSHIPS BETWEEN
 9 AFFILIATED BANKS. (1) ANY BANK WHICH HAS RECEIVED APPROVAL,
 10 PURSUANT TO SECTION 6 TO MAINTAIN A TRUST OFFICE IN THE SAME
 11 BUILDING WITH THE MAIN OFFICE OF ANY AFFILIATED BANK MAY
 12 FILE ITS VERIFIED APPLICATION IN THE DISTRICT COURT OF THE
 13 COUNTY IN WHICH ITS MAIN OFFICE IS LOCATED REQUESTING THAT
 14 IT BE SUBSTITUTED, EXCEPT AS MAY BE EXPRESSLY EXCLUDED IN
 15 SUCH APPLICATION, IN EVERY FIDUCIARY CAPACITY FOR SUCH
 16 AFFILIATED BANK, AND SUCH AFFILIATED BANK SHALL JOIN IN SUCH
 17 APPLICATION. SUCH APPLICATION SHALL INDICATE THE COUNTY
 18 WHEREIN THE MAIN OFFICE OF SUCH AFFILIATED BANK IS LOCATED
 19 AND SHALL DESIGNATE EACH FIDUCIARY ACCOUNT EXISTING AT THE
 20 DATE THEREOF WITH RESPECT TO WHICH THE APPLICANT BANK
 21 REQUESTS SUBSTITUTION, BUT FIDUCIARY CAPACITIES IN OTHER
 22 CASES NEED NOT BE LISTED. SUCH APPLICATION SHALL
 23 ADDITIONALLY SET FORTH, WITH REGARD TO EACH EXISTING
 24 FIDUCIARY ACCOUNT DESIGNATED THEREIN, THE NAME AND ADDRESS
 25 LAST KNOWN TO THE APPLICANT OF EACH PERSON ENTITLED TO

1 MAILED NOTICE OF HEARING THEREON, WHO SHALL BE THOSE PERSONS
 2 SPECIFIED IN SUBSECTIONS (A) TO (E), INCLUSIVE, OF SECTION
 3 7.

4 (2) WHEN ANY SUCH APPLICATION SHALL HAVE BEEN FILED,
 5 THE CLERK OF THE COURT WHERE FILED SHALL MAKE AN ORDER
 6 FIXING A DATE AND TIME FOR HEARING THEREON AND SHALL CAUSE
 7 NOTICE THEREOF TO BE GIVEN BY PUBLICATION AND MAILING IN THE
 8 MANNER REQUIRED BY SECTION 7.

9 (3) THE NOTICE TO BE PUBLISHED AND MAILED WITH RESPECT
 10 TO EACH SUCH APPLICATION SHALL STATE THE TIME AND PLACE OF
 11 THE HEARING THEREON, THE NAME OF THE BANK WHICH HAS FILED
 12 THE APPLICATION, THE NAME OF THE AFFILIATED BANK WHICH HAS
 13 JOINED IN SUCH APPLICATION, THAT THE APPLICATION REQUESTS
 14 THAT THE APPLICANT BANK BE SUBSTITUTED IN EVERY FIDUCIARY
 15 CAPACITY FOR THE AFFILIATED BANK SPECIFIED IN THE
 16 APPLICATION, AND THAT ANY PERSON BENEFICIALLY INTERESTED IN
 17 ANY AFFECTED FIDUCIARY ACCOUNT MAY APPEAR ON OR BEFORE THE
 18 DATE OF HEARING AND FILE HIS WRITTEN OBJECTION TO SUCH
 19 SUBSTITUTION AS TO SUCH AFFECTED FIDUCIARY
 20 ACCOUNT ~~ON THE SOLE GROUND THAT THE APPLICANT BANK IS UNFIT~~
 21 ~~TO ACT WITH RESPECT TO SUCH AFFECTED FIDUCIARY ACCOUNT, AND~~
 22 SUCH NOTICE SHALL REFER TO SUCH APPLICATION FOR FURTHER
 23 PARTICULARS.

24 (4) ON OR BEFORE THE DATE AND TIME OF HEARING ANY SUCH
 25 APPLICATION, ANY PERSON BENEFICIALLY INTERESTED IN ANY

1 FIDUCIARY ACCOUNT AS TO WHICH SUBSTITUTION OF THE APPLICANT
 2 BANK IS REQUESTED, MAY APPEAR AND FILE OBJECTION TO
 3 SUBSTITUTION ~~ON THE SOLE GROUND THAT SUCH APPLICANT BANK IS~~
 4 ~~UNFIT TO ACT WITH RESPECT TO SUCH ACCOUNT,~~ AND SHALL BE
 5 ENTITLED TO BE HEARD WITH RESPECT TO SUCH OBJECTION.

6 (5) ON SUCH DATE OF HEARING, UPON FINDING THAT DUE
 7 NOTICE HAS BEEN GIVEN AS REQUIRED BY THIS ACT AND UPON
 8 FINDING THAT THE APPLICANT BANK HAS RECEIVED THE REQUISITE
 9 APPROVAL FROM THE DEPARTMENT OF BUSINESS REGULATION, OR THE
 10 COMPTROLLER OF THE CURRENCY IF THE APPLICANT BANK IS A
 11 NATIONAL BANKING ASSOCIATION, THE DISTRICT COURT SHALL ENTER
 12 AN ORDER SUBSTITUTING THE APPLICANT BANK IN EVERY FIDUCIARY
 13 CAPACITY FOR THE AFFILIATED BANK DESIGNATED IN THE
 14 APPLICATION, EXCEPTING AS MAY BE OTHERWISE SPECIFIED IN THE
 15 APPLICATION, AND EXCEPTING FIDUCIARY CAPACITIES IN ANY
 16 ACCOUNT WITH RESPECT TO WHICH AN OBJECTION HAS BEEN FILED
 17 PURSUANT TO THIS SECTION ~~AND THE DISTRICT COURT HAS FOUND~~
 18 ~~FACTS REQUIRING THAT SUCH OBJECTION BE ALLOWED.~~ UPON ENTRY
 19 OF SUCH ORDER, THE APPLICANT BANK SHALL, WITHOUT FURTHER
 20 ACT, BE SUBSTITUTED IN EVERY SUCH FIDUCIARY CAPACITY. SUCH
 21 SUBSTITUTION MAY BE MADE A MATTER OF RECORD IN ANY COUNTY OF
 22 THIS STATE BY FILING A CERTIFIED COPY OF THE ORDER OF
 23 SUBSTITUTION IN THE OFFICE OF THE CLERK OF ANY DISTRICT
 24 COURT IN THIS STATE OR BY FILING A CERTIFIED COPY OF SUCH
 25 ORDER IN THE OFFICE OF THE CLERK AND RECORDER OF ANY COUNTY

1 IN THIS STATE TO BE BY SUCH OFFICER RECORDED AND INDEXED IN
2 LIKE MANNER AND WITH LIKE EFFECT AS OTHER ORDERS AND DECREES
3 OF COURT ARE RECORDED AND INDEXED.

4 (6) EACH DESIGNATION IN A WILL OR OTHER INSTRUMENT
5 HERETOFORE OR HEREAFTER EXECUTED OF A BANK AS FIDUCIARY
6 SHALL BE DEEMED A DESIGNATION OF THE APPLICANT BANK
7 SUBSTITUTED FOR SUCH BANK PURSUANT TO THIS SECTION EXCEPT
8 WHERE SUCH WILL OR OTHER INSTRUMENT IS EXECUTED AFTER SUCH
9 SUBSTITUTION AND EXPRESSLY NEGATES THE APPLICATION OF THIS
10 SECTION. ANY GRANT IN ANY SUCH WILL OR OTHER SUCH
11 INSTRUMENT OF ANY DISCRETIONARY POWER SHALL BE DEEMED
12 CONFERRED UPON THE APPLICANT BANK DEEMED DESIGNATED AS THE
13 FIDUCIARY PURSUANT TO THIS SECTION.

14 (7) A BANK SHALL ACCOUNT JOINTLY WITH THE APPLICANT
15 BANK WHICH HAS BEEN SUBSTITUTED AS FIDUCIARY FOR SUCH BANK
16 PURSUANT TO THIS SECTION FOR THE ACCOUNTING PERIOD DURING
17 WHICH THE APPLICANT BANK IS INITIALLY SO SUBSTITUTED. UPON
18 SUBSTITUTION PURSUANT TO THIS SECTION, THE AFFILIATED BANK
19 FOR WHICH SUBSTITUTION HAS BEEN MADE SHALL DELIVER TO SUCH
20 APPLICANT BANK ALL ASSETS HELD BY SUCH AFFILIATED BANK AS
21 FIDUCIARY (EXCEPT ASSETS HELD FOR ACCOUNTS WITH RESPECT OF
22 WHICH THERE HAS BEEN NO SUBSTITUTION PURSUANT TO THIS
23 SECTION) AND UPON SUCH SUBSTITUTION ALL SUCH ASSETS SHALL
24 BECOME THE PROPERTY OF SUCH APPLICANT BANK WITHOUT THE
25 NECESSITY OF ANY INSTRUMENT OR TRANSFER OR CONVEYANCE.

1 Section 9. Section 86-905, R.C.M. 1947, is amended to
2 read as follows:

3 "86-905. Transfer of office prohibited. ~~The~~ Except as
4 provided in sections [7 and 8 of this act], the trustee
5 shall not transfer his office to another or delegate the
6 entire administration of the trust to a co-trustee or
7 another."

8 SECTION 10. TRUST SUBSIDIARIES OF UNAFFILIATED BANKS
9 AND TRUST CORRESPONDENT RELATIONSHIPS. NOTHING IN SECTIONS
10 2 TO 9 SHALL BE CONSTRUED TO PROHIBIT OR RESTRICT ANY BANK
11 HAVING ITS MAIN OFFICE IN THIS STATE FROM ESTABLISHING A
12 SUBSIDIARY WHICH IS A TRUST COMPANY OR TO PROHIBIT OR
13 RESTRICT ANY GROUP OF BANKS HAVING THEIR MAIN OFFICE OFFICES
14 IN THIS STATE FROM ACTING JOINTLY TO ESTABLISH ONE OR MORE
15 TRUST COMPANIES, PROVIDED, THAT NO SUCH TRUST COMPANY MAY
16 ACCEPT DEPOSITS OR OTHERWISE CONDUCT COMMERCIAL BANKING
17 BUSINESS. FURTHER, NOTHING IN SECTIONS 2 TO 9 SHALL BE
18 CONSTRUED AS IN ANY WAY LIMITING OR RESTRICTING THE ABILITY
19 OF ANY BANK HAVING ITS MAIN OFFICE IN THIS STATE TO
20 ESTABLISH A TRUST CORRESPONDENT RELATIONSHIP WITH ANY OTHER
21 BANK HAVING TRUST POWERS.

22 Section 10. Effective date. This act is effective on
23 its passage and approval.

-End-