

HOUSE BILL NO. 285

INTRODUCED BY PADREGA, GOODOVER, LEE, J. O'HARA

IN THE HOUSE

January 16, 1981

Introduced and referred to Committee on Business and Industry.

January 31, 1981

Committee recommend bill do pass. Report adopted.

February 2, 1981

Bill printed and placed on members' desks.

February 3, 1981

Second reading, do pass.

February 4, 1981

Considered correctly engrossed.

February 6, 1981

Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 7, 1981

Introduced and referred to Committee on Business and Industry.

March 13, 1981

Committee recommend bill be concurred in. Report adopted.

March 16, 1981

Second reading, concurred in.

March 18, 1981

Third reading, concurred in. Ayes, 48; Noses, 0.

IN THE HOUSE

March 19, 1981

Returned from Senate. Concurred in. Sent to enrolling.

Reported correctly enrolled.

1 fiduciary or cofiduciary, invest funds which it lawfully
2 holds for investment in interests in the common trust funds
3 funds administered by itself or by any affiliated bank or
4 trust company if the investment is not prohibited by the
5 instrument, judgment, decree, or order, or statute creating
6 the and governing such fiduciary relationship and if, in the
7 case of cofiduciaries, the bank or trust company procures
8 the consent of its cofiduciary--or cofiduciaries to the
9 investment. A--bank--or--trust--company--qualified--to--act--as
10 fiduciary--in--this--state,--which--is--not--a--member--of--the
11 federal--reserve--system--shall--in--operation--of--the--common
12 trust--funds--comply--with--the--rules--adopted--by--the--department
13 and--the--department--may--adopt--rules--it--considers--necessary
14 and--proper--in--the--premises."

15 Section 2. Section 32-1-706, MCA, is amended to read:

16 "32-1-706. Common trust funds -----affiliates
17 established. (f) Notwithstanding the provisions of 32-1-703, any bank or trust company qualified to act as fiduciary in
18 this state may
19 (a) establish and maintain common trust funds for the
20 collective investment of funds held in any fiduciary capacity by it or by another bank or trust company which is
21 owned or controlled by a corporation which owns or controls
22 such bank or trust company; and
23 (b) as a fiduciary or cofiduciary, invest funds which

1 it-holds-for-investment-in-common--trust--funds--established
 2 and-maintained-pursuant-to-subsection-(f)-(i) if such investment
 3 is--not--prohibited--by-the-instrument--judgment--decree--or
 4 order-creating-such--fiduciary--relationships--This--section
 5 applies--to--fiduciary--relationships--now--in--existence--or
 6 hereafter-created.

7 (2)--To-the-extent-not-inconsistent-with-the-provisions
 8 of-this-section--the-provisions-of-32-1-781-through-32-1-785
 9 relating--to--common--trust--funds--shall--apply--to--the
 10 establishment--and--maintenance--of--common--trust--funds--under
 11 this-section. Each common trust fund established hereunder
 12 is a separate and distinct entity from the fiduciary
 13 relationships participating in the fund. No fiduciary in
 14 administering a participating fiduciary relationship, may be
 15 required to make any apportionment or allocation between the
 16 principal and income of such relationship different from
 17 that made for the common trust fund. No such participating
 18 fiduciary relationship or person having an interest in the
 19 relationship may have or be considered to have any ownership
 20 in any particular property of the common trust fund; but
 21 each participating fiduciary relationship shall have a
 22 proportionate undivided interest in the fund and its income;
 23 and the ownership of all property of the common trust fund
 24 shall be in the trustee of the fund."

25 NEW SECTION. Section 3. Affiliated defined. For

1 purposes of this part, two or more banks or trust companies
 2 are affiliated if they are members of the same affiliated
 3 group, within the meaning of section 1504 of the United
 4 States Internal Revenue Code.

5 NEW SECTION. Section 4. Limited application of
 6 insurance law -- exemption. (1) Nothing in this part exempts
 7 a common trust fund or any fiduciary thereof from the
 8 requirements of Title 33 if such common trust fund or
 9 fiduciary is used for insurance purposes.

10 (2) The establishment and maintenance of common trust
 11 funds under this part are exempt from the provisions of
 12 Title 30, chapter 10.

13 Section 5. Codification instruction. Sections 3 and 4
 14 are intended to be codified as an integral part of Title 32,
 15 chapter 1, part 7, and the provisions of Title 32, chapter
 16 1, part 7, apply to sections 3 and 4.

-End-

Approved by Committee
on Business and Industry

1 fiduciary or cofiduciary, invest funds which it lawfully
2 holds for investment in interests in the common trust funds
3 funds administered by itself or by any affiliated bank or
4 trust company if the investment is not prohibited by the
5 instrument, judgment, decree, or order, or statute creating
6 the and governing such fiduciary relationship and if, in the
7 case of cofiduciaries, the bank or trust company procures
8 the consent of its cofiduciary--or cofiduciaries to the
9 investment. A bank or trust company--qualified--to--act--as
10 fiduciary--in--this--state,--which--is--not--a--member--of--the
11 federal reserve system shall--in--operation--of--the--common
12 trust funds comply with the rules adopted by the departments
13 and the department may adopt rules it considers necessary
14 and proper in the premises."

15 Section 2. Section 32-1-706, MCA, is amended to read:

16 "32-1-706. Common trust funds -----affiliates
17 established. (a) Notwithstanding the provisions of 32-1-703,
18 any bank or trust company qualified to act as fiduciary in
19 this state may:

20 (a) establish and maintain common trust funds for the
21 collective investment of funds held in any fiduciary
22 capacity by it or by another bank or trust company which is
23 owned or controlled by a corporation which owns or controls
24 such bank or trust company; and
25 (b) as a fiduciary or cofiduciary, invest funds which

-2- SECOND READING
HB 285

1 it-holds-for-investment-in-common--trust--funds--established
 2 and-maintained-pursuant-to-subsection-(a)-(if-such-investment
 3 ts--not--prohibited--by-the-instrument--judgment--decree--or
 4 order-creating-such--fiduciary--relationships--This--section
 5 applies--to--fiduciary--relationships--now--in--existence--or
 6 hereafter-created.

7 (2)--To-the-extent-not-inconsistent-with-the-provisions
 8 of-this-section--the-provisions-of-32-1-701-through-32-1-705
 9 relating--to--common--trust--funds--shall--apply--to--the
 10 establishment--and--maintenance--of-common-trust-funds--under
 11 this-section. Each common trust fund established hereunder
 12 is a separate and distinct entity from the fiduciary
 13 relationships participating in the fund. No fiduciary, in
 14 administering a participating fiduciary relationship, may be
 15 required to make any apportionment or allocation between the
 16 principal and income of such relationship different from
 17 that made for the common trust fund. No such participating
 18 fiduciary relationship or person having an interest in the
 19 relationship may have or be considered to have any ownership
 20 in any particular property of the common trust fund, but
 21 each participating fiduciary relationship shall have a
 22 proportionate undivided interest in the fund and its income;
 23 and the ownership of all property of the common trust fund
 24 shall be in the trustee of the fund."

25 NEW SECTION. Section 3. Affiliated defined. For

1 purposes of this part, two or more banks or trust companies
 2 are affiliated if they are members of the same affiliated
 3 group, within the meaning of section 1504 of the United
 4 States Internal Revenue Code.

5 NEW SECTION. Section 4. Limited application of
 6 insurance law -- exemption. (1) Nothing in this part exempts
 7 a common trust fund or any fiduciary thereof from the
 8 requirements of Title 33 if such common trust fund or
 9 fiduciary is used for insurance purposes.

10 (2) The establishment and maintenance of common trust
 11 funds under this part are exempt from the provisions of
 12 Title 30, chapter 10.

13 Section 5. Codification instruction. Sections 3 and 4
 14 are intended to be codified as an integral part of Title 32,
 15 chapter 1, part 7, and the provisions of Title 32, chapter
 16 1, part 7, apply to sections 3 and 4.

-End-

1 fiduciary or cofiduciary, invest funds which it lawfully
2 holds for investment in interests in the common trust funds
3 funds administered by itself or by any affiliated bank or
4 trust company if the investment is not prohibited by the
5 instrument, judgment, decree, or order, or statute creating
6 the and governing such fiduciary relationship and if, in the
7 case of cofiduciaries, the bank or trust company procures
8 the consent of its cofiduciary--or cofiduciaries to the
9 investment. A bank-or-trust-company--qualified--to--act--as
10 fiduciary--in--this--state,--which--is--not--a--member--of--the
11 federal-reserve-system-shall--in--operation--of--the--common
12 trust-funds--comply--with--the--rules--adopted--by--the--department
13 and--the--department--may--adopt--rules--it--considers--necessary
14 end--proper--in--the--premises."

15 Section 2. Section 32-1-706, MCA, is amended to read:

16 "32-1-706. Common trust funds -----affiliates
17 established. (1) Notwithstanding the provisions of 32-1-703,
18 any bank or trust company qualified to act as fiduciary in
19 this state may:

20 (a) establish and maintain common trust funds for the
21 collective investment of funds held in any fiduciary
22 capacity by it or by another bank or trust company which is
23 owned or controlled by a corporation which owns or controls
24 such bank or trust company; and

25 (b) as a fiduciary or cofiduciary, invest funds which

THIRD READING
HB 285

1 it holds for investment in common trust funds established
 2 and maintained pursuant to subsection (f) if such investment
 3 is not prohibited by the instrument, judgment, decree or
 4 order creating such fiduciary relationship. This section
 5 applies to fiduciary relationships now in existence or
 6 hereafter created.

7 (2) To the extent not inconsistent with the provisions
 8 of this section, the provisions of 32-1-701 through 32-1-705
 9 relating to common trust funds shall apply to the
 10 establishment and maintenance of common trust funds under
 11 this section. Each common trust fund established hereunder
 12 is a separate and distinct entity from the fiduciary
 13 relationships participating in the fund. No fiduciary in
 14 administering a participating fiduciary relationship may be
 15 required to make any apportionment or allocation between the
 16 principal and income of such relationship different from
 17 that made for the common trust fund. No such participating
 18 fiduciary relationship or person having an interest in the
 19 relationship may have or be considered to have any ownership
 20 in any particular property of the common trust fund; but
 21 each participating fiduciary relationship shall have a
 22 proportionate undivided interest in the fund and its income
 23 and the ownership of all property of the common trust fund
 24 shall be in the trustee of the fund."

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1 purposes of this part, two or more banks or trust companies
 2 are affiliated if they are members of the same affiliated
 3 group, within the meaning of section 1504 of the United
 4 States Internal Revenue Code.

5 NEW SECTION. Section 4. Limited application of
 6 insurance law -- exemption. (1) Nothing in this part exempts
 7 a common trust fund or any fiduciary thereof from the
 8 requirements of Title 33 if such common trust fund or
 9 fiduciary is used for insurance purposes.

10 (2) The establishment and maintenance of common trust
 11 funds under this part are exempt from the provisions of
 12 Title 30, chapter 10.

13 Section 5. Codification instruction. Sections 3 and 4
 14 are intended to be codified as an integral part of Title 32,
 15 chapter 1, part 7, and the provisions of Title 32, chapter
 16 1, part 7, apply to sections 3 and 4.

-End-

1 HOUSE BILL NO. 285

2 INTRODUCED BY FABREGA, GOODOVER, LEE, J. O'HARA

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE UNIFORM
5 COMMON TRUST ACT; DEFINING AFFILIATED BANKS OR TRUST
6 COMPANIES; PROVIDING EXCLUSIONS; AMENDING SECTIONS 32-1-703
7 AND 32-1-706, MCA."8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:10 Section 1. Section 32-1-703, MCA, is amended to read:
11 "32-1-703. Common trust fund allowed. (1) A Any bank
12 or trust company qualified to act as fiduciary in this state
13 may establish and administer common trust funds composed of
14 property permitted by law for the investment of trust funds
15 for the purpose of furnishing investments to:16 (a) itself as fiduciary; or
17 (b) itself and others as cofiduciaries; or
18 (c) any affiliated bank or trust company, including
19 any foreign affiliated bank or trust company, as fiduciary;
20 (d) any affiliated bank or trust company, including
21 any foreign affiliated bank or trust company, and others, as
22 cofiduciaries; or
23 (e) any combination of the entities listed in
24 subsection (1)(a) through (1)(d);
25 (f) Any bank or trust company may, as that1 fiduciary or cofiduciary, invest funds which it lawfully
2 holds for investment in interests in the common trust funds
3 funds administered by itself or by any affiliated bank or
4 trust company if the investment is not prohibited by the
5 instrument, judgment, decree, or order, or statute creating
6 the and governing such fiduciary relationship and if, in the
7 case of cofiduciaries, the bank or trust company procures
8 the consent of its cofiduciary--or cofiduciaries to the
9 investment. A bank or trust company--qualified--to--act--as
10 fiduciary--in--this--state--which--is--not--a--member--of--the
11 federal--reserve--system--shall--in--operation--of--the--common
12 trust--fund--comply--with--the--rules--adopted--by--the--department
13 and--the--department--may--adopt--rules--it--considers--necessary
14 and--proper--in--the--premises--"15 Section 2. Section 32-1-706, MCA, is amended to read:
16 "32-1-706. Common trust funds affiliates
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18 any bank or trust company qualified to act as a fiduciary in
19 this state may
20 establish and maintain common trust funds for the
21 collective investment of funds held in any fiduciary
22 capacity by it or by another bank or trust company which is
23 owned or controlled by a corporation which owns or controls
24 such bank or trust company; and
25 (b) as a fiduciary or cofiduciary invest funds which

1 it-holds-for-investment-in-common--trust--funds--established
 2 and-maintained-pursuant-to-subsection-(a)-(1)-(f) such-investment
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 4 order-creating-such--fiduciary--relationships--this--section
 5 applies--to--fiduciary--relationships--now--in--existence--or
 6 hereafter-created.

7 to--the-extent-not-inconsistent-with-the-provisions
 8 of-this-section, the-provisions-of-32-t-701-through-32-t-705
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