

HOUSE BILL NO. 285

INTRODUCED BY PADRAGA, 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; Noes, 0.

IN THE HOUSE

March 19, 1981	Returned from Senate. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 HOUSE BILL NO. 285
2 INTRODUCED BY *George Burdick Lee 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 (2) It Any bank or trust company may, as that

1 fiduciary or cofiduciary, invest funds which it lawfully
2 holds for investment in interests in the common trust fund;
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~~
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~~

1 ~~it holds for investment in common trust funds established~~
 2 ~~and maintained pursuant to subsection (a) 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."~~

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

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2 INTRODUCED BY Felipe Barker Lee J. O'Hara
3

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12 or trust company qualified to act as fiduciary in this state
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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 (2) If Any bank or trust company may, as that

1 fiduciary or cofiduciary, invest funds which it lawfully
2 holds for investment in interests in the common trust fund
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 ~~-----affittates~~
17 ~~established. (1) Notwithatending the provisions of 32-1-703,~~
18 ~~any bank or trust company qualified to act as fiduciary in~~
19 ~~this state may:~~

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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~~

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

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

NEW SECTION. Section 3. Affiliated defined. For

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

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

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

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

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