

HOUSE BILL NO. 596
INTRODUCED BY WISEMAN

IN THE HOUSE

FEBRUARY 11, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
FEBRUARY 19, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 20, 1993	PRINTING REPORT.
FEBRUARY 22, 1993	SECOND READING, DO PASS.
FEBRUARY 23, 1993	ENGROSSING REPORT.
FEBRUARY 24, 1993	THIRD READING, PASSED. AYES, 91; NOES, 8.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 1, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
MARCH 24, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 26, 1993	SECOND READING, CONCURRED IN.
MARCH 27, 1993	THIRD READING, CONCURRED IN. AYES, 47; NOES, 1.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 29, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 596
2 INTRODUCED BY Wiseman

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4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING TRUST
5 COMPANIES ORGANIZED IN ANOTHER STATE TO SERVE AS TRUSTEE,
6 GUARDIAN, OR CONSERVATOR IN THIS STATE IF THE STATE IN WHICH
7 THE TRUST COMPANY IS ORGANIZED GRANTS AUTHORITY TO SERVE IN
8 SIMILAR FIDUCIARY CAPACITIES TO A TRUST COMPANY ORGANIZED IN
9 MONTANA."

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

12 NEW SECTION. Section 1. Definition of foreign trust
13 company. (1) For the purposes of [sections 1 through 7], the
14 term "foreign trust company" includes each banking and trust
15 association or corporation organized under the laws of any
16 state other than Montana that has the power to act as
17 trustee, guardian, or conservator and each national banking
18 association that maintains its principal office in any state
19 other than Montana that has been granted permission by the
20 comptroller of the currency to act in a fiduciary capacity
21 under the provisions of 12 U.S.C. 92a, as amended.

22 (2) A foreign trust company acting pursuant to
23 [sections 1 through 7] is not a foreign corporation
24 regulated by 32-1-103 or 32-1-402.

25 NEW SECTION. Section 2. Appointment of foreign trust

1 companies. (1) A foreign trust company from a state offering
2 reciprocity, as provided in subsection (2), may accept an
3 appointment and act as:

4 (a) the trustee of any trust created by will,
5 indenture, or other instrument by a person residing in this
6 state, a corporation with its principal offices in this
7 state, or a political entity located in this state;

8 (b) a guardian or conservator of the person, estate, or
9 both person and estate of any resident of this state;

10 (c) an executor of the will or administrator of the
11 estate of a decedent who was a resident of the state in
12 which the foreign trust company maintains its principal
13 office at the time of death, in ancillary probate
14 proceedings in this state; and

15 (d) a guardian or conservator in ancillary proceedings
16 in this state with respect to the property of a resident of
17 the state in which the foreign trust company maintains its
18 principal office.

19 (2) A foreign trust company may accept appointments in
20 this state if banking or trust associations or corporations
21 organized under the laws of this state or national banking
22 associations that maintain their principal offices in this
23 state are permitted to act as trustees, guardians, or
24 conservators in the state in which the foreign trust company
25 maintains its principal office.

NEW SECTION. Section 3. Designation of attorney for service of process. Before accepting an appointment or acting as a trustee, guardian, or conservator, a foreign trust company shall appoint the secretary of state as its attorney for the service of all legal process in any action or proceedings involving any acts or defaults by it as trustee, guardian, or conservator. The appointment is irrevocable. Service upon the secretary of state as attorney is as valid and binding as if personal service were made upon the foreign trust company.

NEW SECTION. Section 4. Service of process. Service of process under [sections 1 through 7] may be made by delivering a copy of the papers to be served to the secretary of state personally or by filing a copy in the secretary of state's office, accompanied by one additional copy for each foreign trust company to be served. The secretary of state shall, no later than the business day following the date of service, mail to each served foreign trust company, by certified mail, a copy of papers that were served. The copies must be mailed to the address shown for each foreign trust company in the records of the office of the secretary of state.

NEW SECTION. Section 5. Bond. Before accepting an appointment or acting as a trustee, guardian, or conservator, a foreign trust company shall file a bond with

a court of competent jurisdiction in an amount as the court directs, with sufficient sureties, conditioned on the faithful discharge of its duties as trustee, guardian, or conservator. In lieu of the bond, the foreign trust company shall certify, in a manner acceptable to the department of commerce, that the capital stock of the foreign trust company is fully paid in cash, on deposit with an appropriate bank, and is of a sufficient amount [to meet the requirements of 32-1-307(3) for a trust company organized under the laws of this state]. The deposit must be maintained until the foreign trust company ceases to act as trustee, guardian, or conservator under [sections 1 through 7]. A foreign trust company does not have to file a bond or certify the deposit of its capital with respect to a trust, created other than a trust created by a will, if the trust instrument requests or directs that a bond is not required of the trustee.

NEW SECTION. Section 6. Rights and duties. A foreign trust company acting as trustee, guardian, or conservator has the rights, authority, and duties that a natural person resident in this state duly acting as trustee, guardian, or conservator has under the laws of this state.

NEW SECTION. Section 7. Solicitation of business. A foreign trust company may not maintain an office within Montana, but it may solicit business within the state, and

1 for that purpose, it may employ persons residing in the
2 state if banking or trust associations or corporations
3 organized under the laws of this state or national banking
4 associations that maintain their principal offices in this
5 state may solicit business in the state in which the foreign
6 trust company maintains its principal office.

7 NEW SECTION. **Section 8.** Coordination instruction. If
8 House Bill No. 201 is passed and approved with amendments to
9 33-1-307 that delete subsection (3), then in [section 5 of
10 this act], the bracketed phrase relating to 32-1-307(3) is
11 void.

-End-

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 596

INTRODUCED BY WISEMAN

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING TRUST COMPANIES ORGANIZED IN ANOTHER STATE TO SERVE AS TRUSTEE, GUARDIAN, OR CONSERVATOR IN THIS STATE IF THE STATE IN WHICH THE TRUST COMPANY IS ORGANIZED GRANTS AUTHORITY TO SERVE IN SIMILAR FIDUCIARY CAPACITIES TO A TRUST COMPANY ORGANIZED IN MONTANA."

STATEMENT OF INTENT

A STATEMENT OF INTENT IS REQUIRED FOR THIS BILL BECAUSE [SECTION 7] AUTHORIZES THE DEPARTMENT OF COMMERCE TO ADOPT RULES REGULATING THE CONDUCT OF BUSINESS IN MONTANA BY FOREIGN TRUST COMPANIES. IT IS INTENDED THAT THE RULES ALLOW A FOREIGN TRUST COMPANY TO ESTABLISH BRANCHES OR OFFICES OF ANY SORT IN MONTANA OR TO SOLICIT BUSINESS IN MONTANA ONLY IF RECIPROCATING STATES WITHIN THE NINTH FEDERAL RESERVE DISTRICT GENERALLY PERMIT SUCH SOLICITATION.

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

NEW SECTION. Section 1. Definition of foreign trust company. (1) For the purposes of [sections 1 through 7], the term "foreign trust company" includes each banking and trust association or corporation organized under the laws of any

state other than Montana that has the power to act as trustee, guardian, or conservator and each national banking association that maintains its principal office in any state other than Montana that has been granted permission by the comptroller of the currency to act in a fiduciary capacity under the provisions of 12 U.S.C. 92a, as amended.

(2) A foreign trust company acting pursuant to [sections 1 through 7] is not a foreign corporation regulated by 32-1-103 or 32-1-402.

NEW SECTION. Section 2. Appointment of foreign trust companies. (1) A foreign trust company from a state offering reciprocity, as provided in subsection (2), may accept an appointment and act as:

(a) the trustee of any trust created by will, indenture, or other instrument by a person residing in this state, a corporation with its principal offices in this state, or a political entity located in this state;

(b) a guardian or conservator of the person, estate, or both person and estate of any resident of this state;

(c) an executor of the will or administrator of the estate of a decedent who was a resident of the state in which the foreign trust company maintains its principal office at the time of death, in ancillary probate proceedings in this state; and

(d) a guardian or conservator in ancillary proceedings

1 in this state with respect to the property of a resident of
2 the state in which the foreign trust company maintains its
3 principal office.

4 (2) A foreign trust company may accept appointments in
5 this state if banking or trust associations or corporations
6 organized under the laws of this state or national banking
7 associations that maintain their principal offices in this
8 state are permitted to act as trustees, guardians, or
9 conservators in the state in which the foreign trust company
10 maintains its principal office.

11 NEW SECTION. Section 3. Designation of attorney for
12 service of process. Before accepting an appointment or
13 acting as a trustee, guardian, or conservator, a foreign
14 trust company shall appoint the secretary of state as its
15 attorney for the service of all legal process in any action
16 or proceedings involving any acts or defaults by it as
17 trustee, guardian, or conservator. The appointment is
18 irrevocable. Service upon the secretary of state as attorney
19 is as valid and binding as if personal service were made
20 upon the foreign trust company.

21 NEW SECTION. Section 4. Service of process. Service of
22 process under [sections 1 through 7] may be made by
23 delivering a copy of the papers to be served to the
24 secretary of state personally or by filing a copy in the
25 secretary of state's office, accompanied by one additional

1 copy for each foreign trust company to be served. The
2 secretary of state shall, no later than the business day
3 following the date of service, mail to each served foreign
4 trust company, by certified mail, a copy of papers that were
5 served. The copies must be mailed to the address shown for
6 each foreign trust company in the records of the office of
7 the secretary of state.

8 NEW SECTION. Section 5. Bond. Before accepting an
9 appointment or acting as a trustee, guardian, or
10 conservator, a foreign trust company shall file a bond with
11 a court of competent jurisdiction in an amount as the court
12 directs, with sufficient sureties, conditioned on the
13 faithful discharge of its duties as trustee, guardian, or
14 conservator. In lieu of the bond, the foreign trust company
15 shall certify, in a manner acceptable to the department of
16 commerce, that the capital stock of the foreign trust
17 company is fully paid in cash, on deposit with an
18 appropriate bank, and is of a sufficient amount [to meet the
19 requirements of 32-1-307(3) for a trust company organized
20 under the laws of this state]. The deposit must be
21 maintained until the foreign trust company ceases to act as
22 trustee, guardian, or conservator under [sections 1 through
23 7]. A foreign trust company does not have to file a bond or
24 certify the deposit of its capital with respect to a trust,
25 created other than a trust created by a will, if the trust

1 instrument requests or directs that a bond is not required
2 of the trustee.

3 NEW SECTION. Section 6. Rights and duties. A foreign
4 trust company acting as trustee, guardian, or conservator
5 has the rights, authority, and duties that a natural person
6 resident in this state duly acting as trustee, guardian, or
7 conservator has under the laws of this state.

8 NEW SECTION. Section 7. Solicitation of business. A
9 foreign trust company may ~~not--maintain--an--office--within~~
10 ~~Montana--but--it--may--solicit--business--within--the--state--and~~
11 ~~for--that--purpose--it--may--employ--persons--residing--in--the~~
12 ~~state--if--banking--or--trust--associations--or--corporations~~
13 ~~organized--under--the--laws--of--this--state--or--national--banking~~
14 ~~associations--that--maintain--their--principal--offices--in--this~~
15 ~~state--may--solicit--business--in--the--state--in--which--the--foreign~~
16 ~~trust--company--maintains--its--principal--office~~ CONDUCT
17 BUSINESS IN MONTANA ONLY IN ACCORDANCE WITH RULES
18 PROMULGATED BY THE DEPARTMENT OF COMMERCE.

19 NEW SECTION. Section 8. Coordination instruction. If
20 House Bill No. 201 is passed and approved with amendments to
21 33-1-307 that delete subsection (3), then in [section 5 of
22 this act], the bracketed phrase relating to 32-1-307(3) is
23 void.

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state other than Montana that has the power to act as trustee, guardian, or conservator and each national banking association that maintains its principal office in any state other than Montana that has been granted permission by the comptroller of the currency to act in a fiduciary capacity under the provisions of 12 U.S.C. 92a, as amended.

(2) A foreign trust company acting pursuant to [sections 1 through 7] is not a foreign corporation regulated by 32-1-103 or 32-1-402.

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(b) a guardian or conservator of the person, estate, or both person and estate of any resident of this state;

(c) an executor of the will or administrator of the estate of a decedent who was a resident of the state in which the foreign trust company maintains its principal office at the time of death, in ancillary probate proceedings in this state; and

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instrument requests or directs that a bond is not required of the trustee.

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8 NEW SECTION. **Section 7. Solicitation of business.** A
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20 House Bill No. 201 is passed and approved with amendments to
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22 this act], the bracketed phrase relating to 32-1-307(3) is
23 void.

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