

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0559.02 Yelana Love x2295

HOUSE BILL 24-1351

HOUSE SPONSORSHIP

Amabile and Lindstedt, Clifford, English, Lieder

SENATE SPONSORSHIP

Lundeen and Priola,

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE CONTINUATION OF FUNCTIONS RELATED TO
102 BANKING, AND, IN CONNECTION THEREWITH, IMPLEMENTING
103 THE RECOMMENDATIONS IN THE 2023 SUNSET REPORT FROM
104 THE DEPARTMENT OF REGULATORY AGENCIES FOR THE DIVISION
105 OF BANKING AND THE BANKING BOARD.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sunset Process - House Business Affairs and Labor Committee. The bill implements the recommendations in the 2023 sunset

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

report by the department of regulatory agencies by:

- Continuing the division of banking and the banking board (board) for 9 years, until 2033 (**sections 1 through 3** of the bill);
- Authorizing a credit union to purchase the assets and liabilities of a state bank (**section 9**);
- Amending the board composition by repealing the requirement that 2 members represent state banks with less than \$150 million in total assets and instead require 2 members to represent state banks in the fortieth percentile based on total asset size (**section 2**);
- Extending the authority for the board and the state bank commissioner to share information regarding state bank and trust company compliance with money laundering and other financial crime laws with the United States secretary of the treasury and agencies specified (**sections 6 and 7**);
- Clarifying that any change of any executive officer, director, or other person who is responsible for the management, control, or operations of a state bank or trust company must be reported to the board within 60 days after the change (**sections 4 and 10**);
- Modernizing the penalty for failing to report a change of any executive officer, director, or other person who is responsible for the management, control, or operations of a state bank or trust company to the board (**sections 5 and 10**);
- Modernizing the board's authority to issue civil money penalties (**sections 8 and 11**);
- Clarifying that a trust company may discontinue its trust business if it provides evidence of its release and discharge of all trust-related obligations prior to surrendering its trust charter (**section 12**);
- Codifying requirements related to the review of fiduciary accounts to ensure that the assets are appropriate for the accounts as described in the trust agreement and requiring the board to adopt a rule to clarify what "appropriate" means in this context (**section 13**); and
- Making technical amendments to the "Colorado Banking Code" to remove gender-specific language; replace the term "data processing center" with the more modern terms "information technology function" and "third-party service provider", as applicable; repeal requirements that certain reports must be mailed; and repeal the requirement that a charter application be filed in triplicate (**sections 14 through 40**).

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 11-102-101, **amend**
3 (2) and (3) as follows:

4 **11-102-101. Division of banking - creation - repeal of article**
5 **- subject to review.** (2) The administrative head of the division ~~shall be~~
6 IS the commissioner of banking, who ~~shall be~~ IS the state bank
7 commissioner appointed and serving as provided by law, and the deputies
8 and employees of the commissioner ~~shall also be~~ ARE deputies and
9 employees of the division of banking. ~~hereby created.~~ The bank
10 commissioner, at the time of ~~his or her~~ appointment, ~~shall~~ MUST be
11 experienced in the theory and practice of the business and regulation of
12 financial services institutions under the jurisdiction of the banking board.

13 (3) (a) ~~The provisions of section 24-34-104, C.R.S., concerning~~
14 ~~the termination schedule for regulatory bodies of the state unless extended~~
15 ~~as provided in that section, are applicable to the division of banking~~
16 ~~created by this section.~~

17 (b) This ~~article~~ ARTICLE 102 is repealed, effective September 1,
18 ~~2024~~ 2033. BEFORE THE REPEAL, THIS ARTICLE 102 IS SCHEDULED FOR
19 REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

20 **SECTION 2.** In Colorado Revised Statutes, 11-102-103, **amend**
21 (1)(a) and (6); and **repeal** (12) as follows:

22 **11-102-103. Banking board.** (1) There is established in the
23 division a banking board, which consists of nine members appointed by
24 the governor, with the consent of the senate, as follows:

25 (a) Five members who during their tenure are, and must remain,
26 executive officers of state banks, each of whom must have not less than

1 five years' practical experience as an active executive officer of a bank.
2 At least two of such members ~~shall~~ MUST, AT THE TIME OF THEIR
3 APPOINTMENT, represent banks ~~having less than one hundred fifty million~~
4 ~~dollars in total assets at the time of their appointment~~ IN THE FORTIETH
5 PERCENTILE OF STATE BANKS BASED ON TOTAL ASSET SIZE.

6 (6) The banking board shall meet at least once in each calendar
7 month. The chair of the banking board may call additional meetings of the
8 banking board upon at least seventy-two hours' notice to all members of
9 the banking board and shall do so upon the request of two members. All
10 members of the banking board are subject to immediate call in the event
11 of an emergency. Four members of the banking board constitutes a
12 quorum, and action taken by a majority of those present at any meeting
13 at which a quorum is present is the action of the banking board. Upon the
14 affirmative vote of a majority of those present at any meeting at which a
15 quorum is present, one or more members may be authorized to conduct
16 any hearing required under this code. In the event that less than a quorum
17 of the banking board is present during the conduct of the hearing, at least
18 a quorum of the banking board shall read the entire record before voting
19 thereon. ~~No~~ A member shall NOT participate in a proceeding before the
20 banking board when any corporation, partnership, or unincorporated
21 association of which the member is, or was at any time in the preceding
22 twelve months, a director, officer, partner, employee, member, or
23 stockholder is a party to such proceedings. A member may disqualify
24 ~~himself or herself~~ ONESELF from participating in a proceeding for any
25 other cause deemed by the member to be sufficient.

26 (12) ~~This section is repealed, effective September 1, 2024.~~

27 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **repeal**

1 (25)(a)(III); and **add** (34)(a)(IX) as follows:

2 **24-34-104. General assembly review of regulatory agencies**
3 **and functions for repeal, continuation, or reestablishment - legislative**
4 **declaration - repeal.** (25) (a) The following agencies, functions, or both,
5 are scheduled for repeal on September 1, 2024:

6 (III) ~~The division of banking and the banking board created in~~
7 ~~article 102 of title 11;~~

8 (34) (a) The following agencies, functions, or both, are scheduled
9 for repeal on September 1, 2033:

10 (IX) THE DIVISION OF BANKING AND THE BANKING BOARD
11 CREATED IN ARTICLE 102 OF TITLE 11.

12 **SECTION 4.** In Colorado Revised Statutes, 11-102-303, **amend**
13 (9) as follows:

14 **11-102-303. Bank reports to banking board - requirements for**
15 **acquiring control - penalty - rules - definitions.** (9) ~~If any~~ A state bank
16 changes any executive officer, director, or other person who, directly or
17 indirectly, is responsible for the management, control, or operations of the
18 state bank, such changes shall be ~~promptly~~ reported to the banking board
19 WITHIN SIXTY DAYS, and the state bank shall provide such information
20 concerning such person as may be requested by the banking board on
21 such forms as the banking board may require, including information about
22 the reasons for termination from any prior employment and whether such
23 person was charged or convicted of any civil or criminal offenses
24 enumerated in subsection (8) of this section. ~~No civil liability shall arise~~
25 ~~for any~~ A state bank, its directors, executive officers, employees, or
26 agents, or other persons ARE IMMUNE FROM CIVIL LIABILITY due to
27 compliance with the requirements of this subsection (9). The purpose of

1 such information is to inform the banking board of the qualifications of
2 such person as they may affect the safety and soundness of the state bank.
3 The information shall be treated as confidential under this code. ~~Any~~ A
4 bank that fails to comply with this subsection (9) ~~shall be~~ IS required to
5 pay a penalty in an amount set by the banking board by rule, which
6 penalty ~~shall~~ MUST not exceed twenty-five dollars per day, and such
7 penalty shall be deposited in the general fund. The banking board, for
8 valid reasons and good cause, may waive such penalty.

9 **SECTION 5.** In Colorado Revised Statutes, 11-102-303, **amend**
10 (8) and (9) as follows:

11 **11-102-303. Bank reports to banking board - requirements for**
12 **acquiring control - penalty - rules - definitions.** (8) Any person who
13 becomes a director, executive officer, or other person who, directly or
14 indirectly, is responsible for the management, control, or operations of a
15 state bank shall within ninety days thereafter file a report with the
16 banking board containing: A statement describing any civil or criminal
17 offenses affecting such person's qualification to serve in such capacity
18 with respect to which such person has been found guilty or liable by any
19 federal or state court or federal or state regulatory agency; such
20 biographical information as the banking board requires; and such other
21 information as the banking board requires pursuant to its rules. If any
22 statement contained in such report subsequently becomes inaccurate or
23 misleading in any way, such person shall file an amended report within
24 thirty days after the date on which the statement in the report first
25 becomes inaccurate or misleading. ~~Any~~ A person who fails to comply
26 with this subsection (8) shall be required by the banking board to pay a
27 penalty in an amount set by the banking board by rule, which penalty ~~shall~~

1 MUST not exceed ~~twenty-five~~ ONE HUNDRED dollars per day, and such
2 penalty shall be deposited in the general fund. The banking board, for
3 valid reasons and good cause, may waive such penalty.

4 (9) If ~~any~~ A state bank changes any executive officer, director, or
5 other person who, directly or indirectly, is responsible for the
6 management, control, or operations of the state bank, such changes shall
7 be promptly reported to the banking board, and the state bank shall
8 provide such information concerning such person as may be requested by
9 the banking board on such forms as the banking board may require,
10 including information about the reasons for termination from any prior
11 employment and whether such person was charged or convicted of any
12 civil or criminal offenses enumerated in subsection (8) of this section. ~~No~~
13 ~~civil liability shall arise for any~~ A state bank, its directors, executive
14 officers, employees, or agents, or other persons ARE IMMUNE FROM CIVIL
15 LIABILITY due to compliance with the requirements of this subsection (9).
16 The purpose of such information is to inform the banking board of the
17 qualifications of such person as they may affect the safety and soundness
18 of the state bank. The information shall be treated as confidential under
19 this code. ~~Any~~ A bank that fails to comply with this subsection (9) ~~shall~~
20 ~~be~~ IS required to pay a penalty in an amount set by the banking board by
21 rule, which penalty ~~shall~~ MUST not exceed ~~twenty-five~~ ONE HUNDRED
22 dollars per day, and such penalty shall be deposited in the general fund.
23 The banking board, for valid reasons and good cause, may waive such
24 penalty.

25 **SECTION 6.** In Colorado Revised Statutes, 11-102-305, **amend**
26 (1)(a)(IV) as follows:

27 **11-102-305. Records.** (1) (a) Information from the records of the

1 division shall be revealed only to members of the banking board, except
2 as follows:

3 (IV) Subject to subsection (1.5) of this section, the commissioner
4 may exchange information obtained from money transmitters, STATE
5 BANKS, AND TRUST COMPANIES with the United States secretary of the
6 treasury, the secretary's designees, the United States attorney general, the
7 attorney general's designee, or other state or United States territorial
8 regulatory agencies pertaining to the condition of money transmitters or
9 compliance with federal money laundering and other financial crimes
10 laws, including, but not limited to, the FEDERAL "Bank Secrecy Act", 12
11 U.S.C. SEC. 1951 ET SEQ., AS AMENDED; the FEDERAL "Right to Financial
12 Privacy Act of 1978", 12 U.S.C. SEC. 3401 ET SEQ., AS AMENDED; the
13 FEDERAL "Money Laundering Control Act of 1986", 12 U.S.C. SECS. 1956
14 AND 1957, AS AMENDED; and the FEDERAL "Annunzio-Wylie Anti-Money
15 Laundering Act", 12 U.S.C. SEC. 1811 ET SEQ., AS AMENDED.

16 **SECTION 7.** In Colorado Revised Statutes, 11-102-306, **amend**
17 (2)(c) as follows:

18 **11-102-306. Information confidential.** (2) The banking board,
19 the commissioner, and their designees may exchange information with the
20 United States comptroller of the currency, the federal deposit insurance
21 corporation, the board of governors of the federal reserve system, the
22 consumer financial protection bureau, the federal home loan bank in
23 which an institution is a member or is making an application to become
24 a member, the executive director of the department of regulatory
25 agencies, the division of financial services, and banking or financial
26 institution regulatory agencies of other states or United States territories,
27 subject to any confidentiality agreement entered into between the banking

1 board or the commissioner and the United States comptroller of the
2 currency, the federal deposit insurance corporation, the board of
3 governors of the federal reserve system, the consumer financial protection
4 bureau, regulatory agencies of other states or United States territories, or
5 the federal home loan bank in which an institution is a member or is
6 making an application to become a member. In addition, the banking
7 board, the commissioner, and their designees may exchange information
8 obtained by the banking board relating to:

9 (c) The activities of money transmitters, STATE BANKS, AND TRUST
10 COMPANIES pertaining to compliance with federal money laundering and
11 other financial crimes laws, including the FEDERAL "Bank Secrecy Act",
12 12 U.S.C. SEC. 1951 ET SEQ., AS AMENDED; the FEDERAL "Right to
13 Financial Privacy Act of 1978", 12 U.S.C. SEC. 3401 ET SEQ., AS
14 AMENDED; the FEDERAL "Money Laundering Control Act of 1986", 12
15 U.S.C. SECS. 1956 AND 1957, AS AMENDED; and the FEDERAL
16 "Annunzio-Wylie Anti-Money Laundering Act", 12 U.S.C. SEC. 1811 ET
17 SEQ., AS AMENDED, with the United States secretary of the treasury or the
18 secretary's designees.

19 **SECTION 8.** In Colorado Revised Statutes, 11-102-503, **amend**
20 (1)(a)(I) introductory portion, (1)(a)(I)(B), and (3) as follows:

21 **11-102-503. Assessment of civil money penalties by banking**
22 **board.** (1) (a) (I) After notice and a hearing as provided in article 4 of
23 title 24 ~~C.R.S.~~, and after making a determination that no other appropriate
24 governmental agency has taken similar action against such person for the
25 same act or practice, the banking board may assess against and collect a
26 civil penalty from:

27 (B) ~~Any~~ A state bank that, or any executive officer, director,

1 employee, agent, or other person participating in the conduct of the affairs
2 of such bank who, violates or knowingly permits any person to violate
3 any of the provisions of this code or any rule promulgated pursuant to this
4 code or engages or participates in any unsafe or unsound practice in
5 connection with a bank. The civil money penalty ~~shall~~ MUST not exceed
6 ~~one~~ FIVE thousand dollars per day for each day such violation continues.
7 This provision shall include, but not be limited to, the following
8 violations: Making, or causing to be made, delinquent payment of
9 assessments under section 11-102-401; submitting, or causing to be
10 submitted, delinquent reports, including but not limited to call reports; or
11 knowingly submitting, or causing to be submitted, to the banking board
12 any report or statement that contains materially false or misleading
13 information.

14 (3) The banking board shall have authority to determine the
15 amount of any civil money penalty assessed against any executive officer,
16 director, employee, agent, or other person participating in the affairs of
17 a bank, except as expressly limited by this code. In determining the
18 amount of the civil money penalty to be assessed, the banking board shall
19 consider the good faith of the person assessed, the gravity of the violation,
20 any previous violations by the person assessed, the nature and extent of
21 any past violations, and such other matters as the banking board may
22 deem appropriate; except that the civil money penalty ~~shall be not more~~
23 ~~than one~~ MUST NOT EXCEED FIVE thousand dollars per day for each day the
24 person assessed remains in violation.

25 **SECTION 9.** In Colorado Revised Statutes, 11-103-709, **amend**
26 (1), (3), (4), and (6) as follows:

27 **11-103-709. Sale of all assets of bank, branch, or department.**

1 (1) Any state bank may sell to any other bank OR CREDIT UNION all, or
2 substantially all, of the selling bank's assets and business, or all, or
3 substantially all, of the assets and business of any department or branch
4 of the selling bank.

5 (3) The agreement of purchase and sale shall be authorized and
6 approved by the banking board and by the vote of a majority of the
7 stockholders of the purchasing BANK OR THE MAJORITY OF THE BOARD OF
8 DIRECTORS OF THE PURCHASING CREDIT UNION and THE selling ~~banks~~
9 BANK at meetings called for the purpose in like manner as meetings to
10 approve mergers are called, and filed with the commissioner,
11 accompanied by evidence of such stockholders' OR DIRECTORS' approval
12 in like manner as agreements of merger are filed. After such approval is
13 given by the stockholders OR DIRECTORS, a notice of such sale shall be
14 published once a week for three successive weeks in a newspaper of
15 general circulation in the county in which the selling bank has its
16 principal office. Proof of such publication shall be filed with the division.

17 (4) Notwithstanding any term of the agreement, or of ~~his or her~~ A
18 DEPOSITOR'S contract of deposit, any depositor whose business is thus
19 sold has the right, upon payment of any indebtedness owing by the
20 depositor to the bank, to withdraw ~~his or her~~ THE DEPOSITOR'S deposit in
21 full on demand after such sale unless, by dealing with the purchasing
22 bank with knowledge of the purchase, the depositor ratifies the transfer.

23 (6) No right against, or obligation of, the selling bank, in respect
24 of the assets or business sold, shall be released or impaired by the sale
25 until one year ~~from~~ AFTER the last date of publication of the notice,
26 pursuant to subsection (3) of this section, but, after the expiration of such
27 year, no action shall be brought against the selling bank on account of any

1 deposit, obligation, trust, or asset transferred to or liability assumed by the
2 purchasing bank OR CREDIT UNION.

3 **SECTION 10.** In Colorado Revised Statutes, 11-109-402, **amend**
4 (4)(a), (5), and (6) as follows:

5 **11-109-402. Reports to the banking board and to the**
6 **commissioner - penalty - rules.** (4) (a) Every trust company shall make
7 and file with the commissioner not less than three reports during each
8 calendar year according to the form that may be prescribed by ~~him~~ THE
9 COMMISSIONER, verified by the oath of either the president, the
10 vice-president, the cashier, or the secretary and attested by the signature
11 of three or more of the directors. Each such report ~~shall~~ MUST exhibit in
12 detail, as may be required by the commissioner, the resources and
13 liabilities of the trust company at the close of business on the date
14 specified by the commissioner.

15 (5) Any person who becomes a director, executive officer, or
16 other person who, directly or indirectly, is responsible for the
17 management, control, or operations of a trust company shall within ninety
18 days thereafter file a report with the banking board containing: A
19 statement describing any civil or criminal offenses affecting such person's
20 qualification to serve in such capacity with respect to which such person
21 has been found guilty or liable by any federal or state court or federal or
22 state regulatory agency; such biographical information as the banking
23 board shall require; and such other information as the banking board shall
24 require pursuant to its rules. If any statement contained in such report
25 subsequently becomes inaccurate or misleading in any way, such person
26 shall file an amended report within thirty days after the date on which the
27 statement in the report first becomes inaccurate or misleading. ~~Any A~~

1 person who fails to comply with this subsection (5) shall be required by
2 the banking board to pay a penalty in an amount set by the banking board
3 by rule, which ~~shall~~ MUST not exceed ~~twenty-five~~ ONE HUNDRED dollars
4 per day, and such penalties shall be deposited in the general fund. The
5 banking board, for valid reasons and good cause, may waive such penalty.

6 (6) If ~~any~~ A trust company changes any executive officer, director,
7 or other person who, directly or indirectly, is responsible for the
8 management, control, or operations of the trust company, such changes
9 shall be ~~promptly~~ reported to the banking board WITHIN SIXTY DAYS, and
10 the trust company shall provide such information concerning such person
11 as may be requested by the banking board on such forms as the banking
12 board may require, including information about the reasons for
13 termination from any prior employment and whether such person was
14 charged or convicted of any civil or criminal offenses enumerated in
15 subsection (5) of this section. ~~No civil liability shall arise for any~~ A trust
16 company, its directors, executive officers, employees, or agents, or any
17 other persons ARE IMMUNE FROM CIVIL LIABILITY due to compliance with
18 the requirements of this subsection (6). The purpose of such information
19 is to inform the banking board of the qualifications of such person as they
20 may affect the safety and soundness of the trust company. The
21 information shall be treated as confidential under this ~~article~~. ~~Any~~
22 ARTICLE 109. A trust company that fails to comply with this subsection (6)
23 shall be required by the banking board to pay a penalty in an amount set
24 by the banking board by rule, which ~~shall~~ MUST not exceed ~~twenty-five~~
25 ONE HUNDRED dollars per day, and such penalties shall be deposited in the
26 general fund. The banking board, for valid reasons and good cause, may
27 waive such penalty.

1 **SECTION 11.** In Colorado Revised Statutes, 11-109-602, **amend**
2 (1)(a)(I) introductory portion, (1)(a)(I)(B), and (3) as follows:

3 **11-109-602. Assessment of civil money penalties by banking**
4 **board.** (1) (a) (I) After notice and a hearing as provided in article 4 of
5 title 24 C.R.S., and after making a determination that no other appropriate
6 governmental agency has taken similar action against such person for the
7 same act or practice, the banking board may assess against and collect a
8 civil penalty from:

9 (B) ~~Any~~ A trust company that, or any executive officer, director,
10 employee, agent, or other person participating in the conduct of the affairs
11 of such trust company who, violates or knowingly permits any person to
12 violate any of the provisions of this ~~article~~ ARTICLE 109 or any rule
13 promulgated pursuant to this ~~article~~, ARTICLE 109 or engages or
14 participates in any unsafe or unsound practice in connection with a trust
15 company. The civil money penalty ~~shall~~ MUST not exceed ~~one~~ FIVE
16 thousand dollars per day for each day such violation continues. This
17 provision shall include, but not be limited to, the following violations:
18 Making, or causing to be made, delinquent payment of assessments under
19 this section; submitting, or causing to be submitted, delinquent reports,
20 including but not limited to call reports; or knowingly submitting, or
21 causing to be submitted, to the banking board any report or statement that
22 contains materially false or misleading information.

23 (3) The banking board ~~shall have authority to~~ MAY determine the
24 amount of any civil money penalty assessed against any executive officer,
25 director, employee, agent, or other person participating in the affairs of
26 a trust company, except as expressly limited by this ~~article~~ ARTICLE 109.
27 In determining the amount of the civil money penalty to be assessed, the

1 banking board shall consider the good faith of the person assessed, the
2 gravity of the violation, any previous violations by the person assessed,
3 the nature and extent of any past violations, and such other matters as the
4 banking board may deem appropriate; except that the civil money penalty
5 ~~shall be not more than one~~ MUST NOT EXCEED FIVE thousand dollars per
6 day for each day the person assessed remains in violation.

7 **SECTION 12.** In Colorado Revised Statutes, 11-109-701, **amend**
8 (1) and (2)(c) as follows:

9 **11-109-701. Discontinuance of trust business - voluntary**
10 **liquidation and dissolution.** (1) A trust company may discontinue its
11 trust business upon furnishing to the banking board satisfactory evidence
12 of its release and discharge from all TRUST-RELATED obligations and
13 trusts that it has undertaken or that have been imposed by law.
14 Thereupon, the banking board shall cancel the charter, and such trust
15 company shall not be permitted to use the word "trust" in its name or in
16 connection with its business.

17 (2) (c) Any unclaimed distribution to a stockholder or depositor
18 shall be held until ninety days after the final distribution and then
19 transmitted to the banking board. Such unclaimed ~~funds~~ MONEY shall be
20 held by the banking board for six years and, unless sooner claimed by the
21 person entitled thereto, shall be transferred to the treasury of the county
22 in which the trust company is located. The county treasurer and ~~his~~ THE
23 COUNTY TREASURER'S successors shall hold such money in trust for a
24 period of six years, unless the money is sooner paid out to the beneficial
25 owner. Any money remaining in the fund six years after such money is
26 paid into the treasury of the county, for the recovery of which no action
27 is pending, shall be transferred to the general fund of the county, and all

1 rights of the beneficial owners therein to recover such money shall be
2 forever barred.

3 **SECTION 13.** In Colorado Revised Statutes, **add** 11-109-908 as
4 follows:

5 **11-109-908. Fiduciary accounts - duties of trust companies -**
6 **rules.** (1) BEFORE ACCEPTING A FIDUCIARY ACCOUNT, A TRUST COMPANY
7 SHALL REVIEW THE PROSPECTIVE ACCOUNT TO DETERMINE WHETHER THE
8 TRUST COMPANY CAN PROPERLY ADMINISTER THE ACCOUNT.

9 (2) UPON THE ACCEPTANCE OF A FIDUCIARY ACCOUNT FOR WHICH
10 A TRUST COMPANY HAS INVESTMENT DISCRETION, THE TRUST COMPANY
11 SHALL CONDUCT A PROMPT REVIEW OF ALL ASSETS OF THE ACCOUNT TO
12 EVALUATE WHETHER THE ASSETS ARE APPROPRIATE FOR THE ACCOUNT.

13 (3) AT LEAST ONCE DURING EVERY CALENDAR YEAR, A TRUST
14 COMPANY SHALL CONDUCT A REVIEW OF ALL ASSETS OF EACH FIDUCIARY
15 ACCOUNT FOR WHICH THE TRUST COMPANY HAS INVESTMENT DISCRETION
16 TO EVALUATE WHETHER THE ASSETS ARE APPROPRIATE, INDIVIDUALLY
17 AND COLLECTIVELY, FOR THE ACCOUNT.

18 (4) THE BOARD SHALL PROMULGATE RULES REGARDING WHAT
19 ASSETS ARE APPROPRIATE FOR PURPOSES OF SUBSECTIONS (2) AND (3) OF
20 THIS SECTION.

21 **SECTION 14.** In Colorado Revised Statutes, 11-101-401, **amend**
22 (2) as follows:

23 **11-101-401. Definitions.** As used in this code, unless the context
24 otherwise requires:

25 (2) "Account overline" means a banking transaction pursuant to
26 which an account holder debits ~~his~~ THE ACCOUNT HOLDER'S existing
27 demand or savings account even though such debit may create or extend

1 a negative balance to be covered by an extension of credit or would create
2 a negative balance but for an extension of credit to such account by the
3 Colorado bank.

4 **SECTION 15.** In Colorado Revised Statutes, 11-102-301, **amend**
5 (1), (2), and (3)(a) as follows:

6 **11-102-301. Examinations and examiner's reports.** (1) The
7 commissioner shall examine the books and records of every state bank as
8 often as deemed advisable and, to the extent required by the banking
9 board, shall make and file in ~~his or her~~ THE COMMISSIONER'S office a
10 correct report in detail disclosing the results of such examination. ~~and~~
11 ~~shall mail a copy of such report to the bank examined.~~

12 (2) The commissioner shall examine, as often as deemed advisable
13 and to the extent required by the banking board, any ~~electronic data~~
14 ~~processing centers~~ INFORMATION TECHNOLOGY FUNCTIONS of a state bank
15 or ~~any electronic data processing centers that serve~~ A THIRD PARTY
16 SERVING a state bank, without regard to the location of the ~~electronic data~~
17 ~~processing center~~ FUNCTIONS OR THIRD PARTY; AND shall make and file
18 in ~~his or her~~ THE COMMISSIONER'S office a correct report in detail
19 disclosing the results of such examination. ~~and shall mail a copy of such~~
20 ~~report to the data processing centers examined and the state bank that they~~
21 ~~serve.~~

22 (3) (a) ~~The commissioner, if he or she~~ IF THE COMMISSIONER
23 deems it necessary or if required by the banking board, THE
24 COMMISSIONER may examine the books and records of the controlling
25 shareholder of a state bank and any affiliated entities of the controlling
26 shareholder, as well as any relationship among the controlling shareholder
27 and its affiliated entities, for the purpose of determining the safety and

1 soundness of the state bank.

2 **SECTION 16.** In Colorado Revised Statutes, **amend** 11-102-502
3 as follows:

4 **11-102-502. Exemption from liability - when.** ~~No~~ A PERSON
5 WHO IS A member of the banking board or AN officer or employee of the
6 division ~~shall be~~ IS NOT liable in any civil action for damages for any act
7 done or omitted in good faith in performing the functions of ~~his or her~~
8 THE PERSON'S office.

9 **SECTION 17.** In Colorado Revised Statutes, 11-102-505, **amend**
10 (2) as follows:

11 **11-102-505. Removal of director, officer, or other person.**

12 (2) Whenever the banking board determines that an executive officer,
13 director, employee, agent, or other person participating in the conduct of
14 the affairs of a state bank, by conduct or practice with respect to another
15 bank or business institution that results in substantial financial loss or
16 other damage, has evidenced either personal dishonesty or a willful or
17 continuing disregard for such state bank's safety and soundness, and, in
18 addition, has evidenced unfitness to continue such person's relationship
19 with the state bank, the banking board may serve upon such person a
20 written notice of its intention to remove ~~him or her~~ THE PERSON from
21 office or to prohibit the person's further participation in any manner in the
22 conduct of the affairs of any Colorado state-chartered bank or trust
23 company.

24 **SECTION 18.** In Colorado Revised Statutes, 11-103-203, **amend**
25 (3), (6), and (8) as follows:

26 **11-103-203. Liability of shareholders.** (3) Any shareholder of
27 any state bank who has transferred ~~his or her~~ THE SHAREHOLDER'S shares

1 or caused such transfer to appear on the books of the bank within sixty
2 days immediately preceding the capital inadequacy of such bank, or who
3 has made such transfer with knowledge of such impending capital
4 inadequacy, ~~shall be~~ IS liable to the same extent that the transferee or
5 subsequent transferee fails to meet such liability. This section shall not be
6 construed to affect in any way any recourse that such shareholder might
7 otherwise have against those in whose names such shares appear upon the
8 books of the bank at the time of such capital inadequacy.

9 (6) If such shareholder thereafter deposits with the banking board
10 an amount of money equal to double the amount of the par value of ~~his or~~
11 ~~her~~ THE STAKEHOLDER'S shares, to be held by the banking board as
12 security for the shareholder's liability under this section, then the banking
13 board shall execute and file with such county clerk and recorder a release
14 of such lien and, upon completing the liquidation of such bank, shall
15 return to such shareholder any excess of such deposit, if such
16 shareholder's ultimate liability shall prove to be less than the amount so
17 deposited with the banking board; and in all cases where the liability of
18 the shareholder has been satisfied, either as the result of litigation or
19 otherwise, such liens so filed shall be released by the banking board. The
20 expense of filing and recording such liens and releases ~~thereof~~ OF THE
21 LIENS shall be paid out of any assets of the bank in the possession of the
22 banking board.

23 (8) ~~No~~ A stockholder of a state bank shall NOT set off against ~~his~~
24 ~~or her stockholder~~ THE STOCKHOLDER'S liability any claim ~~he or she~~ THE
25 STOCKHOLDER may have as a depositor in or creditor of any insolvent
26 bank.

27 **SECTION 19.** In Colorado Revised Statutes, **amend** 11-103-301

1 as follows:

2 **11-103-301. Incorporators.** Five or more individual
3 incorporators of a de novo bank or organizers of a converting bank
4 desiring to organize or convert to a state bank must file with the banking
5 board ~~in triplicate~~, an application for charter on the form prescribed
6 therefor and together with all other documents required by section
7 11-103-303, all of which instruments shall be duly signed by each of the
8 incorporators or organizers and sworn to before an officer authorized by
9 the laws of this state to administer oaths. A majority of the incorporators
10 must be residents of the state and citizens of the United States. Each
11 incorporator of a de novo bank shall, prior to the filing of said
12 application, subscribe and pay in full in cash for stock having a par value
13 of not less than one percent of the minimum capital and paid-in surplus
14 requirements.

15 **SECTION 20.** In Colorado Revised Statutes, 11-103-303, **amend**
16 (1)(b) as follows:

17 **11-103-303. Application for de novo charter or charter**
18 **conversion.** (1) After the capital stock has been fully subscribed, the
19 incorporators may apply to the banking board for a de novo bank charter.
20 The incorporators or organizers of the converting bank must submit to the
21 banking board the following:

22 (b) An application for a charter in such form and containing such
23 information as the banking board requires, including but not limited to the
24 following: The name, business and residence address, and business and
25 professional affiliations of each director and executive officer; the name,
26 residence, citizenship, and occupation of each subscriber or shareholder
27 and the number of shares for which ~~he or she~~ THE SUBSCRIBER OR

1 SHAREHOLDER has subscribed or owns directly or indirectly; the past and
2 present connection with any bank, other than as a customer, on terms
3 generally available to the public of each director and each subscriber or
4 shareholder to more than five percent of the capital stock, including
5 beneficial interests; the amount to be borrowed and from whom borrowed
6 on any stock issued to a subscriber to or shareholder of more than five
7 percent of the capital stock; the address at which the converting bank's
8 main office and existing branches are located or the address at which the
9 de novo state bank proposes to do business or, if such address is not
10 known, the area within a radius of one-half mile in which the proposed
11 bank is to be located and the community that it proposes to serve; a
12 statement that all the proposed bylaws have been attached as an exhibit
13 to the application; and such other information as the banking board may
14 reasonably require to enable it to determine whether a charter should be
15 issued. The proposed bylaws must be attached to the application as an
16 exhibit.

17 **SECTION 21.** In Colorado Revised Statutes, 11-103-304, **amend**
18 (2) as follows:

19 **11-103-304. Procedure for granting or denying charter.** (2) If
20 the commissioner determines that any of the requirements in subsection
21 (1) of this section have not been met in any respect, ~~he or she~~ THE
22 COMMISSIONER shall notify the applicant of such deficiencies and of
23 corrective measures deemed appropriate. Within six months after the
24 filing of an application for charter, and prior to the hearing prescribed in
25 subsection (3) of this section, the commissioner shall report to the
26 banking board that the applicant has met all of the requirements of
27 subsection (1) of this section, if such be the case, or shall report which

1 requirements have been met and which have not been met, together with
2 the circumstances respecting such deficiencies. This report shall be
3 introduced by the banking board into the record of the hearing on such
4 application.

5 **SECTION 22.** In Colorado Revised Statutes, 11-103-402, **amend**
6 (2) as follows:

7 **11-103-402. First meetings of stockholders - director's oath -**
8 **bylaws.** (2) Every director of a state bank shall take and subscribe to an
9 oath before a disinterested notary public that the director will, insofar as
10 the duty devolves upon ~~him or her~~ THE DIRECTOR, diligently and honestly
11 administer the affairs of the bank and that ~~he or she~~ THE DIRECTOR will
12 not knowingly violate nor willingly permit to be violated any provision
13 of the law.

14 **SECTION 23.** In Colorado Revised Statutes, 11-103-403, **amend**
15 (3) as follows:

16 **11-103-403. Stockholders' meetings - voting trusts -**
17 **preemptive right - transfer of stock - rules.** (3) A stockholder
18 authorized to vote may, by means of a proxy executed in writing, appoint
19 a representative to cast ~~his or her~~ THE SHAREHOLDER'S vote. The banking
20 board may promulgate rules governing proxies and the solicitation
21 thereof.

22 **SECTION 24.** In Colorado Revised Statutes, 11-103-501, **amend**
23 (1) and (5) as follows:

24 **11-103-501. Directors and officers.** (1) The affairs of a state
25 bank shall be managed by a board of directors, which shall exercise its
26 powers and be responsible for the discharge of its duties. The number of
27 directors, not fewer than three nor more than twenty-five, shall be as fixed

1 by the bylaws, and the number so fixed shall be the board, regardless of
2 vacancies. At least three-fourths of the directors shall be citizens of the
3 United States, and a majority shall be residents of this state. A director
4 need not own shares. ~~No~~ A director may NOT serve who has been
5 convicted of fraud involving any financial institution or of a felony, but
6 the banking board may waive this provision regarding a felony if it
7 determines that the particular felony does not jeopardize the person's
8 ability to act as a director. A director who is disqualified may be removed
9 by the board of directors or by the banking board. ~~No~~ AN action taken by
10 a director prior to ~~his or her~~ THE DIRECTOR'S resignation or removal shall
11 ~~be~~ IS NOT subject to attack on the ground of ~~his or her~~ THE DIRECTOR'S
12 disqualification.

13 (5) A director may be removed by the stockholders at a meeting.
14 Where cumulative voting for directors is provided in the charter, ~~no~~ A
15 director shall NOT be removed unless the votes cast against a motion for
16 ~~his or her~~ THE DIRECTOR'S removal are less than the total number of
17 shares outstanding divided by the number of authorized directors, but all
18 of the directors shall be removed if a majority of the outstanding shares
19 approves a motion for the removal of all.

20 **SECTION 25.** In Colorado Revised Statutes, 11-103-801, **amend**
21 (3) as follows:

22 **11-103-801. Voluntary liquidation and dissolution.** (3) Any
23 unclaimed distribution to a stockholder or depositor shall be held until
24 ninety days after the final distribution and then transmitted to the banking
25 board. Such unclaimed funds shall be held by the banking board for six
26 years and, unless sooner claimed by the person entitled thereto, shall be
27 transferred to the treasury of the county in which the bank is located. The

1 county treasurer and ~~his~~ THE COUNTY TREASURER'S successors shall hold
2 such money in trust for a period of six years, unless the same shall be
3 sooner paid out to the beneficial owner thereof or a suit is instituted to
4 recover such money or a portion thereof. Any money remaining in said
5 fund six years after the same is paid into the treasury of the county, for the
6 recovery of which no action is pending, shall be transferred to the general
7 fund of the county, and all rights of the former beneficial owners therein
8 to recover the same shall be forever barred.

9 **SECTION 26.** In Colorado Revised Statutes, 11-103-802, **amend**
10 (2)(a) and (3)(e) as follows:

11 **11-103-802. Involuntary liquidation by banking board -**
12 **reorganization.** (2) (a) The commissioner, upon order of the banking
13 board, shall take possession by posting upon the premises a notice
14 reciting that the commissioner is assuming possession pursuant to this
15 code and the time, not earlier than the posting of the notice, when ~~his or~~
16 ~~her~~ possession ~~shall be~~ IS deemed to commence. A copy of the notice
17 shall be filed in the district court in and for the county in which the bank
18 is located. The commissioner shall notify the federal reserve bank of the
19 district of taking possession of any state bank that is a member of the
20 federal reserve system and shall notify the federal deposit insurance
21 corporation of taking possession of any state bank that is a member of the
22 federal deposit insurance corporation.

23 (3) (e) If the commissioner determines to reorganize the state bank
24 or if the banking board, after staying its liquidation, orders such
25 reorganization, the commissioner, after according a hearing to all
26 interested persons, shall enter an order proposing a reorganization plan.
27 A copy of the plan shall be sent to each depositor and creditor who shall

1 not receive payment of ~~his or her~~ THE DEPOSITOR'S OR CREDITOR'S claim
2 in full under the plan, together with notice that, unless within fifteen days
3 the plan is disapproved in writing by persons holding one-third or more
4 of the aggregate amount of such claims, the commissioner will proceed
5 to effect the reorganization. A department, agency, or political
6 subdivision of this state holding a claim that will not be paid in full is
7 authorized to participate as any other creditor.

8 **SECTION 27.** In Colorado Revised Statutes, 11-103-804, **amend**
9 (2), (7)(a), and (11) as follows:

10 **11-103-804. Liquidation by commissioner - procedure.**

11 (2) Within six months after the commencement of liquidation, the
12 commissioner may ~~by his or her election~~, ELECT TO terminate any
13 executory contract for services or advertising to which the state bank is
14 a party or any obligation of the bank as a lessee. A lessor who receives at
15 least sixty days' notice of the commissioner's election to terminate the
16 lease shall have no claim for rent, other than rent accrued to the date of
17 termination, nor for damages for such termination.

18 (7) Within six months after the last day specified in the notice for
19 the filing of claims, or within such longer period as may be allowed by
20 the court in which notice of possession has been filed, the commissioner
21 shall:

22 (a) Reject any claim if ~~he or she~~ THE COMMISSIONER doubts the
23 validity ~~thereof~~ OF THE CLAIM;

24 (11) Unclaimed ~~funds~~ MONEY remaining after completion of the
25 liquidation shall be retained for six years by the commissioner unless
26 sooner claimed by the owner. At the expiration of such period, the
27 remaining sum shall be transferred to the treasury of the county in which

1 the bank is located. The county treasurer and ~~his or her~~ THE COUNTY
2 TREASURER'S successors shall hold such money in trust for a period of six
3 years, unless the same is sooner paid out to the beneficial owner or
4 owners thereof or a suit is instituted to recover such money or a portion
5 ~~thereof~~ OF THE MONEY. Any money remaining in said fund six years after
6 the same is paid into the treasury of the county, for the recovery of which
7 no action is pending, shall be transferred to the general fund of the
8 county, and all rights of the former beneficial owners therein to recover
9 the same shall be forever barred.

10 **SECTION 28.** In Colorado Revised Statutes, 11-105-101, **amend**
11 (7) as follows:

12 **11-105-101. Branch banks and practices prohibited.** (7) ~~No~~
13 AN officer, director, employee, or agent of a state bank shall NOT
14 KNOWINGLY maintain, or authorize the maintenance of, any account of the
15 bank in a manner that ~~to his or her knowledge,~~ does not conform to the
16 requirements prescribed by this code or by the commissioner or the
17 banking board.

18 **SECTION 29.** In Colorado Revised Statutes, 11-105-104, **amend**
19 (1) as follows:

20 **11-105-104. Minor or institutional deposits.** (1) A bank may
21 operate a deposit account for a minor with the same effect upon its
22 liability as if the minor were of full age unless ~~such~~ THE minor's guardian
23 or conservator files with the bank a certified copy of the order of a
24 Colorado court having jurisdiction appointing ~~him or her~~ THE GUARDIAN
25 OR CONSERVATOR and directs otherwise.

26 **SECTION 30.** In Colorado Revised Statutes, 11-105-405, **amend**
27 (2)(b) as follows:

1 **11-105-405. Signature guaranty.** (2) A bank guaranteeing the
2 signature of a person on any document warrants to any person relying on
3 such guaranty only that:

4 (b) The signer is the holder or the signer has purported authority
5 to sign in the name of the holder; except that, if the holder purports to act
6 as a fiduciary, as "fiduciary" is defined either in this code or in article 1
7 of title 15, ~~C.R.S.~~, or if the holder's name is signed by a person purporting
8 to act on the holder's behalf as such a fiduciary, the bank warrants that
9 ~~such~~ THE holder or ~~such~~ person ~~so~~ signing as ~~such~~ fiduciary is in fact the
10 fiduciary ~~he or she purports~~ PURPORTED to be and warrants that the bank
11 has no actual knowledge that ~~such~~ THE fiduciary is committing a breach
12 of ~~such~~ THE fiduciary's obligation as ~~such~~ THE fiduciary in signing ~~such~~
13 THE document and that it has no knowledge of ~~such~~ facts that its action
14 in guaranteeing the signature amounts to bad faith; and

15 **SECTION 31.** In Colorado Revised Statutes, **amend** 11-107-101
16 as follows:

17 **11-107-101. Unauthorized conduct of banking business.** It is
18 a criminal offense for any person not authorized to carry on a banking
19 business under this code, falsely and with intent to defraud, to act as a
20 bank or to represent that ~~he or she~~ THE PERSON is or is acting for a bank
21 or to use an artificial or corporate name that is the name of a bank.

22 **SECTION 32.** In Colorado Revised Statutes, **amend** 11-107-102
23 as follows:

24 **11-107-102. Receipt of deposits while insolvent.** It is a criminal
25 offense if a state bank receives any deposit while insolvent or an officer,
26 director, or employee knows or, in the proper performance of ~~his or her~~
27 THE OFFICER'S, DIRECTOR'S, OR EMPLOYEE'S duty, should know of such

1 insolvency and receives or authorizes the receipt of such deposit or if
2 such state bank or person has knowingly concealed or misstated material
3 facts regarding the insolvency of the state bank from or to the banking
4 board, commissioner, or division of banking.

5 **SECTION 33.** In Colorado Revised Statutes, 11-107-108, **amend**
6 (2) and (3) as follows:

7 **11-107-108. Unlawful acts or omissions - penalties.** (2) An
8 officer, director, employee, agent, or attorney of a state bank shall be
9 HELD criminally responsible for an act or omission of the institution
10 declared to be a criminal offense by this code if, knowing that such act or
11 omission is a criminal offense, ~~he or she~~ THE PERSON participates in
12 authorizing, executing, ratifying, or concealing such act or in authorizing
13 or ratifying such omission or, having a duty to take the required action,
14 omits to do so.

15 (3) Unless otherwise provided in this code, it is ~~no~~ NOT A defense
16 to a criminal prosecution under this code that the defendant did not know
17 the facts establishing the criminal character of the act or omission
18 charged, if the defendant could and should have known such facts in the
19 proper performance of ~~his or her~~ THE DEFENDANT'S duty.

20 **SECTION 34.** In Colorado Revised Statutes, 11-109-104, **amend**
21 (7) and (8)(a) as follows:

22 **11-109-104. Powers - banking board - commissioner.** (7) The
23 commissioner shall examine, as often as deemed advisable and to the
24 extent required by the banking board, any ~~electronic data processing~~
25 ~~centers~~ INFORMATION TECHNOLOGY FUNCTION of a trust company or ~~any~~
26 ~~electronic data processing centers that serve a trust company~~ A
27 THIRD-PARTY PROVIDER, AS APPLICABLE, without regard to the location of

1 the ~~electronic data processing center~~; FUNCTION OR THIRD-PARTY
2 PROVIDER, AND shall make and file in the commissioner's office a correct
3 report in detail disclosing the results of ~~such~~ THE examination. ~~and shall~~
4 ~~mail a copy of such report to the data processing centers examined and~~
5 ~~the trust company that they serve.~~

6 (8) (a) The commissioner, if ~~he or she~~ THE COMMISSIONER deems
7 it necessary or if required by the banking board, may examine the books
8 and records of the controlling shareholder of a trust company and any
9 affiliated entities of the controlling shareholder for the purpose of
10 determining the safety and soundness of the trust company. If the
11 controlling shareholder or affiliate's records are located outside this state,
12 the controlling shareholder or affiliate shall either make them available
13 to the commissioner at a convenient location within this state or pay the
14 reasonable and necessary expenses for the commissioner or the
15 commissioner's representative to examine them at the place where they
16 are located. The commissioner may designate representatives, including
17 comparable officials of the state in which the records are located, to
18 inspect them on the commissioner's behalf. If a controlling shareholder
19 or affiliate refuses to permit the commissioner to make an examination,
20 the banking board may fine such controlling shareholder or affiliate an
21 amount not to exceed one thousand dollars for each day any such refusal
22 continues. In lieu of any examination required by this subsection (8), the
23 commissioner may accept an audit for the previous fiscal year prepared
24 by an independent certified public accountant, independent registered
25 accountant, or other independent qualified person. If the commissioner
26 accepts an audit prepared by such independent person, ~~no~~ THE costs
27 ~~thereof~~ OF THE AUDIT shall NOT be borne by the commissioner, and all

1 costs of such audit shall remain the obligation of the controlling
2 shareholder or affiliate.

3 **SECTION 35.** In Colorado Revised Statutes, **amend** 11-109-601
4 as follows:

5 **11-109-601. Penalty for noncompliance with the law.** It is
6 unlawful for any person to carry on or conduct in this state a trust
7 company business, or to advertise or hold ~~himself or herself~~ ONESELF out
8 as being engaged in or doing a trust company business or to use the word
9 "trust" or words "trust company" in connection with a business unless
10 such person has complied with the provisions of this article 109 or other
11 laws of this state specifically authorizing a fiduciary or trust business.
12 ~~Any~~ A person who violates this section commits a class 2 misdemeanor.

13 **SECTION 36.** In Colorado Revised Statutes, 11-109-604, **amend**
14 (1) introductory portion, (2), and (3) as follows:

15 **11-109-604. Removal of director, officer, or other person.**

16 (1) The banking board may serve any executive officer, director,
17 employee, agent, or other person participating in the conduct of the affairs
18 of a trust company with a written notice of its intention to remove ~~him or~~
19 ~~her~~ THE PERSON from office whenever the banking board determines:

20 (2) Whenever the banking board determines that an executive
21 officer, director, employee, agent, or other person participating in the
22 conduct of the affairs of a trust company, by conduct or practice with
23 respect to another trust company or business institution that results in
24 substantial financial loss or other damage, has evidenced either personal
25 dishonesty or a willful or continuing disregard for the trust company's
26 safety and soundness, and, in addition, has evidenced unfitness to
27 continue ~~his or her~~ THE PERSON'S relationship with the trust company, the

1 banking board may serve upon the person a written notice of its intention
2 to remove ~~him or her~~ THE PERSON from office or to prohibit such person's
3 further participation in any manner in the conduct of the affairs of any
4 Colorado state-chartered trust company or bank.

5 (3) A notice of intention to remove a director, executive officer,
6 or other person from office or to prohibit such person's participation in
7 the conduct of the affairs of a trust company ~~shall~~ MUST contain a
8 statement of the facts constituting grounds for removal and ~~shall~~ MUST fix
9 a time and place at which a hearing shall be held thereon. Such hearing
10 shall be fixed for a date not earlier than thirty days nor later than sixty
11 days after the date of service of such notice, unless an earlier or a later
12 date is set by the banking board at the request of such director or
13 executive officer or other person and for good cause shown. Unless such
14 director, executive officer, or other person appears at the hearing in
15 person or by a duly authorized representative, ~~he or she~~ THE PERSON shall
16 be deemed to have consented to the issuance of an order of removal or
17 prohibition as specified in the notice issued pursuant to subsection (1) or
18 (2) of this section. In the event of such consent or, if, upon the record
19 made at any such hearing, the banking board finds that any of the grounds
20 specified in such notice have been established, the banking board may
21 issue such orders of suspension or removal from office as it may deem
22 appropriate. Any such order shall become effective at the expiration of
23 thirty days after service upon such trust company and the director,
24 executive officer, or other person concerned except in the case of an order
25 issued upon consent, which shall become effective at the time specified
26 therein. Such order ~~shall remain~~ REMAINS effective and enforceable
27 except to such extent as it is stayed, modified, terminated, or set aside by

1 action of the banking board or a reviewing court.

2 **SECTION 37.** In Colorado Revised Statutes, 11-109-605, **amend**
3 (1) as follows:

4 **11-109-605. Suspension of director, officer, or other person.**

5 (1) The banking board may suspend an executive officer, director,
6 employee, agent, or other person participating in the conduct of the affairs
7 of a trust company who becomes ineligible to hold ~~his or her~~ THE
8 PERSON'S position, or who after receipt of an order of the banking board
9 to cease and desist violates this ~~article~~ ARTICLE 109 or a lawful rule or
10 order issued ~~thereunder~~ UNDER THIS ARTICLE 109, or who is dishonest, or
11 who is reckless or grossly incompetent in the conduct of trust business,
12 or who may be subject to removal under section 11-109-604. It ~~shall be~~
13 IS a criminal offense for any such person, after receipt of a suspension
14 order, to perform any duty or exercise any power of any trust company
15 until the banking board vacates such suspension order. A suspension
16 order ~~shall~~ MUST specify the grounds thereof. A copy of the order shall be
17 sent to the trust company concerned and to each member of its board of
18 directors.

19 **SECTION 38.** In Colorado Revised Statutes, **amend** 11-109-607
20 as follows:

21 **11-109-607. Receipt of deposits while insolvent.** It is a criminal
22 offense if a trust company receives any deposit while insolvent or an
23 officer, director, or employee knows, or in the proper performance of ~~his~~
24 ~~or her~~ THE OFFICER'S, DIRECTOR'S, OR EMPLOYEE'S duty should know, of
25 such insolvency and receives or authorizes the receipt of such deposit,
26 and if such trust company or person has knowingly concealed or
27 misstated material facts regarding the insolvency of the trust company

1 from or to the banking board, commissioner, or division of banking.

2 **SECTION 39.** In Colorado Revised Statutes, 11-109-702, **amend**
3 (2)(b) as follows:

4 **11-109-702. Involuntary liquidation.** (2) (b) When the banking
5 board has taken possession of a trust company, the commissioner ~~shall be~~
6 ~~IS~~ vested with the full and exclusive power of control, including the
7 power to stop or to limit the payment of ~~its~~ THE TRUST COMPANY'S
8 obligations; to employ any necessary assistants, including legal counsel,
9 after possession of the trust company has been taken; to execute any
10 instrument in the name of the trust company; to commence, defend, and
11 conduct in ~~its~~ THE TRUST COMPANY'S name any action or proceeding to
12 which it may be a party; to terminate ~~his or her~~ THE COMMISSIONER'S
13 possession by restoring the trust company to its board of directors and
14 stockholders upon conditions prescribed by the banking board; and to
15 reopen a closed trust company or liquidate the trust company in
16 accordance with this ~~article~~ ARTICLE 109. As soon as practicable after the
17 banking board takes possession, the commissioner shall make an
18 inventory of the assets and file a copy thereof with the court in which the
19 notice of possession was filed.

20 **SECTION 40.** In Colorado Revised Statutes, 11-109-704, **amend**
21 (1) introductory portion, (1)(c), and (10) as follows:

22 **11-109-704. Liquidation by commissioner - procedure.** (1) In
23 liquidating a trust company, the commissioner may exercise any power
24 of the trust company and shall ~~have the duty to~~ collect all assets, debts,
25 and claims belonging to the trust company. Unless the commissioner
26 obtains the approval of the court in which notice of possession has been
27 filed by petition setting forth the material facts and upon such notice to

1 the officers, directors, or stockholders in such form as the court may
2 require, the commissioner shall not:

3 (c) Make any payment on any claim, other than a claim upon an
4 obligation incurred by the commissioner, before preparing and filing a
5 schedule of ~~his or her~~ THE COMMISSIONER'S determinations in accordance
6 with this ~~article~~ ARTICLE 109.

7 (10) Unclaimed funds remaining after final distribution has been
8 made by the commissioner shall be retained for six years by the
9 commissioner unless sooner claimed by the owner. At the expiration of
10 such period, the remaining sum shall be transferred to the treasury of the
11 county in which the trust company is located. The county treasurer and ~~his~~
12 ~~or her~~ THE COUNTY TREASURER'S successors shall hold such money in
13 trust for a period of six years, unless the money is sooner paid out to the
14 beneficial owner or owners or a suit is instituted to recover such money
15 or a portion thereof. Any money remaining in the fund six years after such
16 money is paid into the treasury of the county, for the recovery of which
17 no action is pending, shall be transferred to the general fund of the
18 county, and all rights of the former beneficial owners of such money to
19 recover the money shall be forever barred.

20 **SECTION 41. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly; except
23 that, if a referendum petition is filed pursuant to section 1 (3) of article V
24 of the state constitution against this act or an item, section, or part of this
25 act within such period, then the act, item, section, or part will not take
26 effect unless approved by the people at the general election to be held in

1 November 2024 and, in such case, will take effect on the date of the
2 official declaration of the vote thereon by the governor.