

TITLE 26
BANKS AND BANKING

CHAPTER 35
TRUST INSTITUTIONS -- STATE TRUST COMPANY ORGANIZATION -- GENERAL
PROVISIONS

26-3501. PREREQUISITE TO ENGAGING IN TRUST BUSINESS. (1) A corporation duly organized for the purpose of engaging in the trust business may apply for a charter to operate as a state trust company. A state trust company may perform any act as a fiduciary or engage in any trust business within or without this state.

(2) A bank having the power to engage in the trust business, which is organized under the laws of this state or authorized to do business in this state, and which is chartered under the provisions of the Idaho bank act to engage in banking business in the state of Idaho, may apply for a charter from the director authorizing it to operate a trust department.

(3) To the extent not inconsistent with specific provisions of this chapter, and in the discretion of the director, provisions of the Idaho bank act regarding organization, operation and closing of banks shall apply to applicants for a charter under this chapter and to state trust companies.

[26-3501, added 2000, ch. 288, sec. 11, p. 985.]

26-3502. APPLICATION FOR CHARTER. An application for a state trust company or trust department charter shall be in writing and in such form as the director shall prescribe, verified under oath and supported by such information, data and records as the director may require.

[26-3502, added 2000, ch. 288, sec. 11, p. 985.]

26-3503. APPLICATION FEE. A reasonable application fee, as set by the director, shall be paid to the department with respect to each application for a charter under this chapter at the time the application is filed.

[26-3503, added 2000, ch. 288, sec. 11, p. 985.]

26-3504. MINIMUM CAPITAL. (1) A charter shall not be issued to a corporation applying for a state trust company charter having a paid-in capital of less than one million five hundred thousand dollars (\$1,500,000).

(2) A charter to operate a trust department shall not be issued to a bank unless the capital of the bank is in an amount of not less than one million five hundred thousand dollars (\$1,500,000), in addition to its statutory required minimum capital for a bank charter required by section 26-205, Idaho Code.

(3) Subject to subsection (4) of this section, a state trust company or state bank shall at all times maintain capital in at least the amount required under subsections (1) and (2) of this section.

(4) The director may require additional capital for a proposed or existing state trust company or state bank or, on application in the exercise of discretion consistent with protecting safety and soundness, reduce the amount of minimum capital required for a proposed or existing state trust company or state bank.

[26-3504, added 2000, ch. 288, sec. 11, p. 986.]

26-3505. ISSUANCE OF CHARTER. Upon the filing of an application the director shall make or cause to be made an investigation and examination of the facts concerning the applicant and shall issue a charter if he finds:

(1) The applicant is a corporation having powers and purposes to engage in the trust business, organized under the laws of this state or authorized to do business in this state as a foreign corporation; and

(2) The applicant has complied with all of the applicable provisions of this act; and

(3) The ability and integrity of the persons involved in the management of the applicant's business are such as to demonstrate that it will be operated in a sound and lawful manner; and

(4) The applicant has adequate facilities to engage in trust business.

[26-3505, added 2000, ch. 288, sec. 11, p. 986.]

26-3506. RECORDS -- PRESERVATION OF RECORDS. A state trust company or trust department shall keep and use in its business any books, accounts and records which will enable the director to determine whether the trust institution is complying with the provisions of this act and the rules and orders of the director. The director may by rule or order provide which books, accounts and records shall be kept, and the periods of time and the manner in which they shall be preserved.

[26-3506, added 2000, ch. 288, sec. 11, p. 986.]

26-3507. DISCLOSURE OF INFORMATION. A state trust company or trust department, its officers and employees, shall not disclose information to any person concerning the existence, condition, management and administration of any trust of which it is the trustee except as such disclosure:

(1) Is specifically authorized by the terms of the trust or upon the direction of the trustor;

(2) Is determined by an officer of the state trust institution to be necessary for the proper administration of such trust;

(3) Is required by a court of competent jurisdiction;

(4) Is made, in the case of an irrevocable trust, to or upon the instructions of any beneficiary thereunder whether or not presently entitled to receive benefits from the trust;

(5) Is made to the director or to any state or federal regulatory or insuring agency lawfully requiring such disclosure;

(6) Is required by title 15, Idaho Code.

[26-3507, added 2000, ch. 288, sec. 11, p. 986.]

26-3508. TRUST FUNDS. (1) All moneys received by a state trust company as a fiduciary on trust business within this state shall be deposited in a bank, in a specially designated account or accounts, shall not be commingled with any funds of the state trust company and shall remain on deposit until disbursed or invested in accordance with the powers and duties of the state trust company in its capacity as fiduciary.

(2) A bank which is chartered by the director to operate a trust department shall establish and maintain a trust department in which separate books and records for each trust or estate shall be maintained. All property held by the bank as a fiduciary shall be segregated from and unmingled with other property of the bank; provided, cash held by the bank as a fiduciary may be deposited to the credit of the bank as such fiduciary in time or demand deposit accounts with itself, or may be deposited in time or demand deposit ac-

counts with any other bank in this state so long as said bank or banks are insured by the federal deposit insurance corporation. Property held by a bank as a fiduciary may be held in the name of nominees of the bank whether the bank is the sole fiduciary or acting with others, but the bank shall be responsible for the acts of any such nominee.

[26-3508, added 2000, ch. 288, sec. 11, p. 987.]

26-3509. LOANS TO DIRECTORS, OFFICERS OR EMPLOYEES PROHIBITED -- LOANS TO AFFILIATES OR SUBSIDIARIES PROHIBITED. (1) A state trust company or bank having a trust department shall not make any loan to any director, officer or employee of the trust institution or to any affiliate or subsidiary corporation or to any director, officer or employee of an affiliate or subsidiary corporation from its trust funds. A state trust company or bank having a trust department shall not permit any director, officer, employee, affiliate or subsidiary corporation to become indebted to it in any manner out of its trust funds unless specifically authorized to do so by the terms of the trust.

(2) This section shall not prevent the maintenance by a state trust company of its trust funds in time or demand deposits in an affiliate which is a bank, or a trust department of a bank from maintaining its trust funds in the bank in accordance with section 26-3508, Idaho Code.

[26-3509, added 2000, ch. 288, sec. 11, p. 987.]

26-3510. CLOSING OF TRUST UNDULY DELAYED. If, as a result of an examination, the director finds that the closing of any trust by a state trust company has been unreasonably delayed, the director may initiate proceedings in a court of competent jurisdiction to require the state trust institution to perform its duties in closing the trust.

[26-3510, added 2000, ch. 288, sec. 11, p. 987.]