

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 24-1351

BY REPRESENTATIVE(S) Amabile and Lindstedt, Clifford, English, Lieder, Bacon, Boesenecker, Duran, Jodeh, Kipp, Mabrey, McCormick, Rutinel, Titone, Vigil, Bird, Daugherty, Joseph, Lindsay, Mauro, Ricks, Snyder, Valdez, McCluskie;
also SENATOR(S) Lundeen and Priola, Liston, Michaelson Jenet.

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

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

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

11-102-101. Division of banking - creation - repeal of article - subject to review. (2) The administrative head of the division ~~shall be~~ **IS** the commissioner of banking, who ~~shall be~~ **IS** the state bank commissioner appointed and serving as provided by law, and the deputies and employees of the commissioner ~~shall also be~~ **ARE** deputies and employees of the

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

division of banking. ~~hereby created~~. The bank commissioner, at the time of his or her appointment, ~~shall~~ MUST be experienced in the theory and practice of the business and regulation of financial services institutions under the jurisdiction of the banking board.

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

(b) ~~This article~~ ARTICLE 102 is repealed, effective September 1, 2024 2033.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

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

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

(a) Five members who during their tenure are, and must remain, executive officers of state banks, each of whom must have not less than five years' practical experience as an active executive officer of a bank. At least two of such members ~~shall~~ MUST, AT THE TIME OF THEIR APPOINTMENT, represent banks ~~having less than one hundred fifty million dollars in total assets at the time of their appointment~~ IN THE FORTIETH PERCENTILE OF STATE BANKS BASED ON TOTAL ASSET SIZE.

(6) The banking board shall meet at least once in each calendar month. The chair of the banking board may call additional meetings of the banking board upon at least seventy-two hours' notice to all members of the banking board and shall do so upon the request of two members. All members of the banking board are subject to immediate call in the event of an emergency. Four members of the banking board constitutes a quorum, and action taken by a majority of those present at any meeting at which a quorum is present is the action of the banking board. Upon the affirmative vote of a majority of those present at any meeting at which a quorum is present, one or more members may be authorized to conduct any hearing required under this code. In the event that less than a quorum of the banking

board is present during the conduct of the hearing, at least a quorum of the banking board shall read the entire record before voting thereon. ~~No~~ A member shall NOT participate in a proceeding before the banking board when any corporation, partnership, or unincorporated association of which the member is, or was at any time in the preceding twelve months, a director, officer, partner, employee, member, or stockholder is a party to such proceedings. A member may disqualify ~~himself or herself~~ ONESELF from participating in a proceeding for any other cause deemed by the member to be sufficient.

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

SECTION 3. In Colorado Revised Statutes, 24-34-104, **repeal** (25)(a)(III); and **add** (34)(a)(XII) as follows:

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

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

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

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

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

11-102-303. Bank reports to banking board - requirements for acquiring control - penalty - rules - definitions. (9) If ~~any~~ A state bank changes any executive officer, director, or other person who, directly or indirectly, is responsible for the management, control, or operations of the state bank, such changes shall be ~~promptly~~ reported to the banking board WITHIN SIXTY DAYS, and the state bank shall provide such information concerning such person as may be requested by the banking board on such forms as the banking board may require, including information about the

reasons for termination from any prior employment and whether such person was charged or convicted of any civil or criminal offenses enumerated in subsection (8) of this section. ~~No civil liability shall arise for any~~ A state bank, its directors, executive officers, employees, or agents, or other persons ARE IMMUNE FROM CIVIL LIABILITY due to compliance with the requirements of this subsection (9). The purpose of such information is to inform the banking board of the qualifications of such person as they may affect the safety and soundness of the state bank. The information shall be treated as confidential under this code. ~~Any~~ A bank that fails to comply with this subsection (9) ~~shall be~~ IS required to pay a penalty in an amount set by the banking board by rule, which penalty ~~shall~~ MUST not exceed twenty-five dollars per day, and such penalty shall be deposited in the general fund. The banking board, for valid reasons and good cause, may waive such penalty.

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

11-102-303. Bank reports to banking board - requirements for acquiring control - penalty - rules - definitions. (8) Any person who becomes a director, executive officer, or other person who, directly or indirectly, is responsible for the management, control, or operations of a state bank shall within ninety days thereafter file a report with the banking board containing: A statement describing any civil or criminal offenses affecting such person's qualification to serve in such capacity with respect to which such person has been found guilty or liable by any federal or state court or federal or state regulatory agency; such biographical information as the banking board requires; and such other information as the banking board requires pursuant to its rules. If any statement contained in such report subsequently becomes inaccurate or misleading in any way, such person shall file an amended report within thirty days after the date on which the statement in the report first becomes inaccurate or misleading. ~~Any~~ A person who fails to comply with this subsection (8) shall be required by the banking board to pay a penalty in an amount set by the banking board by rule, which penalty ~~shall~~ MUST not exceed ~~twenty-five~~ ONE HUNDRED dollars per day, and such penalty shall be deposited in the general fund. The banking board, for valid reasons and good cause, may waive such penalty.

(9) If ~~any~~ A state bank changes any executive officer, director, or other person who, directly or indirectly, is responsible for the management, control, or operations of the state bank, such changes shall be promptly

reported to the banking board, and the state bank shall provide such information concerning such person as may be requested by the banking board on such forms as the banking board may require, including information about the reasons for termination from any prior employment and whether such person was charged or convicted of any civil or criminal offenses enumerated in subsection (8) of this section. ~~No civil liability shall arise for any~~ A state bank, its directors, executive officers, employees, or agents, or other persons ARE IMMUNE FROM CIVIL LIABILITY due to compliance with the requirements of this subsection (9). The purpose of such information is to inform the banking board of the qualifications of such person as they may affect the safety and soundness of the state bank. The information shall be treated as confidential under this code. ~~Any~~ A bank that fails to comply with this subsection (9) ~~shall be~~ IS required to pay a penalty in an amount set by the banking board by rule, which penalty ~~shall~~ MUST not exceed ~~twenty-five~~ ONE HUNDRED dollars per day, and such penalty shall be deposited in the general fund. The banking board, for valid reasons and good cause, may waive such penalty.

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

11-102-305. Records. (1) (a) Information from the records of the division shall be revealed only to members of the banking board, except as follows:

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

SECTION 7. In Colorado Revised Statutes, 11-102-306, **amend**

(2)(c) as follows:

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

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

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

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

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

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

SECTION 9. In Colorado Revised Statutes, 11-109-402, **amend** (4)(a), (5), and (6) as follows:

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

(5) Any person who becomes a director, executive officer, or other person who, directly or indirectly, is responsible for the management, control, or operations of a trust company shall within ninety days thereafter file a report with the banking board containing: A statement describing any civil or criminal offenses affecting such person's qualification to serve in such capacity with respect to which such person has been found guilty or liable by any federal or state court or federal or state regulatory agency; such biographical information as the banking board shall require; and such other information as the banking board shall require pursuant to its rules. If any statement contained in such report subsequently becomes inaccurate or misleading in any way, such person shall file an amended report within thirty days after the date on which the statement in the report first becomes inaccurate or misleading. ~~Any~~ A person who fails to comply with this subsection (5) shall be required by the banking board to pay a penalty in an amount set by the banking board by rule, which ~~shall~~ MUST not exceed ~~twenty-five~~ ONE HUNDRED dollars per day, and such penalties shall be deposited in the general fund. The banking board, for valid reasons and good cause, may waive such penalty.

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

SECTION 10. In Colorado Revised Statutes, 11-109-602, **amend** (1)(a)(I) introductory portion, (1)(a)(I)(B), and (3) as follows:

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

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

(3) The banking board ~~shall have authority to~~ MAY determine the amount of any civil money penalty assessed against any executive officer, director, employee, agent, or other person participating in the affairs of a trust company, except as expressly limited by this ~~article~~ ARTICLE 109. In determining the amount of the civil money penalty to be assessed, the banking board shall consider the good faith of the person assessed, the gravity of the violation, any previous violations by the person assessed, the nature and extent of any past violations, and such other matters as the banking board may deem appropriate; except that the civil money penalty ~~shall be not more than one~~ MUST NOT EXCEED FIVE thousand dollars per day for each day the person assessed remains in violation.

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

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

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

SECTION 12. In Colorado Revised Statutes, **add** 11-109-908 as follows:

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

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

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

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

SECTION 13. In Colorado Revised Statutes, 11-101-401, **amend** (2) as follows:

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

(2) "Account overline" means a banking transaction pursuant to which an account holder debits ~~his~~ THE ACCOUNT HOLDER'S existing demand or savings account even though such debit may create or extend a negative balance to be covered by an extension of credit or would create a negative balance but for an extension of credit to such account by the Colorado bank.

SECTION 14. In Colorado Revised Statutes, 11-102-301, **amend** (1), (2), and (3)(a) as follows:

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

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

(3) (a) ~~The commissioner, if he or she~~ IF THE COMMISSIONER deems it necessary or if required by the banking board, THE COMMISSIONER may examine the books and records of the controlling shareholder of a state bank and any affiliated entities of the controlling shareholder, as well as any

relationship among the controlling shareholder and its affiliated entities, for the purpose of determining the safety and soundness of the state bank.

SECTION 15. In Colorado Revised Statutes, **amend** 11-102-502 as follows:

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

SECTION 16. In Colorado Revised Statutes, 11-102-505, **amend** (2) as follows:

11-102-505. Removal of director, officer, or other person. (2) Whenever the banking board determines that an executive officer, director, employee, agent, or other person participating in the conduct of the affairs of a state bank, by conduct or practice with respect to another bank or business institution that results in substantial financial loss or other damage, has evidenced either personal dishonesty or a willful or continuing disregard for such state bank's safety and soundness, and, in addition, has evidenced unfitness to continue such person's relationship with the state bank, the banking board may serve upon such person a written notice of its intention to remove ~~him or her~~ THE PERSON from office or to prohibit the person's further participation in any manner in the conduct of the affairs of any Colorado state-chartered bank or trust company.

SECTION 17. In Colorado Revised Statutes, 11-103-203, **amend** (3), (6), and (8) as follows:

11-103-203. Liability of shareholders. (3) Any shareholder of any state bank who has transferred ~~his or her~~ THE SHAREHOLDER'S shares or caused such transfer to appear on the books of the bank within sixty days immediately preceding the capital inadequacy of such bank, or who has made such transfer with knowledge of such impending capital inadequacy, ~~shall be~~ IS liable to the same extent that the transferee or subsequent transferee fails to meet such liability. This section shall not be construed to affect in any way any recourse that such shareholder might otherwise have against those in whose names such shares appear upon the books of the

bank at the time of such capital inadequacy.

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

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

SECTION 18. In Colorado Revised Statutes, **amend** 11-103-301 as follows:

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

SECTION 19. In Colorado Revised Statutes, 11-103-303, **amend** (1)(b) as follows:

11-103-303. Application for de novo charter or charter

conversion. (1) After the capital stock has been fully subscribed, the incorporators may apply to the banking board for a de novo bank charter. The incorporators or organizers of the converting bank must submit to the banking board the following:

(b) An application for a charter in such form and containing such information as the banking board requires, including but not limited to the following: The name, business and residence address, and business and professional affiliations of each director and executive officer; the name, residence, citizenship, and occupation of each subscriber or shareholder and the number of shares for which ~~he or she~~ THE SUBSCRIBER OR SHAREHOLDER has subscribed or owns directly or indirectly; the past and present connection with any bank, other than as a customer, on terms generally available to the public of each director and each subscriber or shareholder to more than five percent of the capital stock, including beneficial interests; the amount to be borrowed and from whom borrowed on any stock issued to a subscriber to or shareholder of more than five percent of the capital stock; the address at which the converting bank's main office and existing branches are located or the address at which the de novo state bank proposes to do business or, if such address is not known, the area within a radius of one-half mile in which the proposed bank is to be located and the community that it proposes to serve; a statement that all the proposed bylaws have been attached as an exhibit to the application; and such other information as the banking board may reasonably require to enable it to determine whether a charter should be issued. The proposed bylaws must be attached to the application as an exhibit.

SECTION 20. In Colorado Revised Statutes, 11-103-304, **amend** (2) as follows:

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

respecting such deficiencies. This report shall be introduced by the banking board into the record of the hearing on such application.

SECTION 21. In Colorado Revised Statutes, 11-103-402, **amend** (2) as follows:

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

SECTION 22. In Colorado Revised Statutes, 11-103-403, **amend** (3) as follows:

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

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

11-103-501. Directors and officers. (1) The affairs of a state bank shall be managed by a board of directors, which shall exercise its powers and be responsible for the discharge of its duties. The number of directors, not fewer than three nor more than twenty-five, shall be as fixed by the bylaws, and the number so fixed shall be the board, regardless of vacancies. At least three-fourths of the directors shall be citizens of the United States, and a majority shall be residents of this state. A director need not own shares. ~~No~~ A director may NOT serve who has been convicted of fraud involving any financial institution or of a felony, but the banking board may waive this provision regarding a felony if it determines that the particular felony does not jeopardize the person's ability to act as a director. A director who is disqualified may be removed by the board of directors or by the banking board. ~~No~~ AN action taken by a director prior to ~~his or her~~ THE DIRECTOR'S resignation or removal ~~shall be~~ IS NOT subject to attack on the

ground of ~~his or her~~ THE DIRECTOR'S disqualification.

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

SECTION 24. In Colorado Revised Statutes, 11-103-801, **amend** (3) as follows:

11-103-801. Voluntary liquidation and dissolution. (3) Any unclaimed distribution to a stockholder or depositor shall be held until ninety days after the final distribution and then transmitted to the banking board. Such unclaimed funds shall be held by the banking board for six years and, unless sooner claimed by the person entitled thereto, shall be transferred to the treasury of the county in which the bank is located. The county treasurer and ~~his~~ THE COUNTY TREASURER'S successors shall hold such money in trust for a period of six years, unless the same shall be sooner paid out to the beneficial owner thereof or a suit is instituted to recover such money or a portion thereof. Any money remaining in said fund six years after the same is paid into the treasury of the county, for the recovery of which no action is pending, shall be transferred to the general fund of the county, and all rights of the former beneficial owners therein to recover the same shall be forever barred.

SECTION 25. In Colorado Revised Statutes, 11-103-802, **amend** (2)(a) and (3)(e) as follows:

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

and shall notify the federal deposit insurance corporation of taking possession of any state bank that is a member of the federal deposit insurance corporation.

(3) (e) If the commissioner determines to reorganize the state bank or if the banking board, after staying its liquidation, orders such reorganization, the commissioner, after according a hearing to all interested persons, shall enter an order proposing a reorganization plan. A copy of the plan shall be sent to each depositor and creditor who shall not receive payment of ~~his or her~~ THE DEPOSITOR'S OR CREDITOR'S claim in full under the plan, together with notice that, unless within fifteen days the plan is disapproved in writing by persons holding one-third or more of the aggregate amount of such claims, the commissioner will proceed to effect the reorganization. A department, agency, or political subdivision of this state holding a claim that will not be paid in full is authorized to participate as any other creditor.

SECTION 26. In Colorado Revised Statutes, 11-103-804, **amend** (2), (7)(a), and (11) as follows:

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

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

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

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

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

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

SECTION 27. In Colorado Revised Statutes, 11-105-101, **amend** (7) as follows:

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

SECTION 28. In Colorado Revised Statutes, 11-105-104, **amend** (1) as follows:

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

SECTION 29. In Colorado Revised Statutes, 11-105-405, **amend** (2)(b) as follows:

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

(b) The signer is the holder or the signer has purported authority to sign in the name of the holder; except that, if the holder purports to act as a fiduciary, as "fiduciary" is defined either in this code or in article 1 of title 15, ~~C.R.S.~~, or if the holder's name is signed by a person purporting to act on the holder's behalf as such a fiduciary, the bank warrants that ~~such~~ THE

holder or ~~such~~ person ~~so~~ signing as ~~such~~ fiduciary is in fact the fiduciary ~~he~~ or ~~she~~ purports PURPORTED to be and warrants that the bank has no actual knowledge that ~~such~~ THE fiduciary is committing a breach of ~~such~~ THE fiduciary's obligation as ~~such~~ THE fiduciary in signing ~~such~~ THE document and that it has no knowledge of ~~such~~ facts that its action in guaranteeing the signature amounts to bad faith; and

SECTION 30. In Colorado Revised Statutes, **amend** 11-107-101 as follows:

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

SECTION 31. In Colorado Revised Statutes, **amend** 11-107-102 as follows:

11-107-102. Receipt of deposits while insolvent. It is a criminal offense if a state bank receives any deposit while insolvent or an officer, director, or employee knows or, in the proper performance of ~~his or her~~ THE OFFICER'S, DIRECTOR'S, OR EMPLOYEE'S duty, should know of such insolvency and receives or authorizes the receipt of such deposit or if such state bank or person has knowingly concealed or misstated material facts regarding the insolvency of the state bank from or to the banking board, commissioner, or division of banking.

SECTION 32. In Colorado Revised Statutes, 11-107-108, **amend** (2) and (3) as follows:

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

(3) Unless otherwise provided in this code, it is ~~no~~ NOT A defense to

a criminal prosecution under this code that the defendant did not know the facts establishing the criminal character of the act or omission charged, if the defendant could and should have known such facts in the proper performance of ~~his or her~~ THE DEFENDANT'S duty.

SECTION 33. In Colorado Revised Statutes, 11-109-104, **amend** (7) and (8)(a) as follows:

11-109-104. Powers - banking board - commissioner. (7) The commissioner shall examine, as often as deemed advisable and to the extent required by the banking board, any ~~electronic data processing centers~~ INFORMATION TECHNOLOGY FUNCTION of a trust company or ~~any electronic data processing centers that serve a trust company~~ A THIRD-PARTY PROVIDER, AS APPLICABLE, without regard to the location of the ~~electronic data processing center~~; FUNCTION OR THIRD-PARTY PROVIDER, AND shall make and file in the commissioner's office a correct report in detail disclosing the results of ~~such~~ THE examination. ~~and shall mail a copy of such report to the data processing centers examined and the trust company that they serve.~~

(8) (a) The commissioner, if ~~he or she~~ THE COMMISSIONER deems it necessary or if required by the banking board, may examine the books and records of the controlling shareholder of a trust company and any affiliated entities of the controlling shareholder for the purpose of determining the safety and soundness of the trust company. If the controlling shareholder or affiliate's records are located outside this state, the controlling shareholder or affiliate shall either make them available to the commissioner at a convenient location within this state or pay the reasonable and necessary expenses for the commissioner or the commissioner's representative to examine them at the place where they are located. The commissioner may designate representatives, including comparable officials of the state in which the records are located, to inspect them on the commissioner's behalf. If a controlling shareholder or affiliate refuses to permit the commissioner to make an examination, the banking board may fine such controlling shareholder or affiliate an amount not to exceed one thousand dollars for each day any such refusal continues. In lieu of any examination required by this subsection (8), the commissioner may accept an audit for the previous fiscal year prepared by an independent certified public accountant, independent registered accountant, or other independent qualified person. If the commissioner accepts an audit prepared by such independent person,

~~no~~ THE costs ~~thereof~~ OF THE AUDIT shall NOT be borne by the commissioner, and all costs of such audit shall remain the obligation of the controlling shareholder or affiliate.

SECTION 34. In Colorado Revised Statutes, **amend** 11-109-601 as follows:

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

SECTION 35. In Colorado Revised Statutes, 11-109-604, **amend** (1) introductory portion, (2), and (3) as follows:

11-109-604. Removal of director, officer, or other person.
(1) The banking board may serve any executive officer, director, employee, agent, or other person participating in the conduct of the affairs of a trust company with a written notice of its intention to remove ~~him or her~~ THE PERSON from office whenever the banking board determines:

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

(3) A notice of intention to remove a director, executive officer, or other person from office or to prohibit such person's participation in the

conduct of the affairs of a trust company ~~shall~~ MUST contain a statement of the facts constituting grounds for removal and ~~shall~~ MUST fix a time and place at which a hearing shall be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the banking board at the request of such director or executive officer or other person and for good cause shown. Unless such director, executive officer, or other person appears at the hearing in person or by a duly authorized representative, ~~he or she~~ THE PERSON shall be deemed to have consented to the issuance of an order of removal or prohibition as specified in the notice issued pursuant to subsection (1) or (2) of this section. In the event of such consent or, if, upon the record made at any such hearing, the banking board finds that any of the grounds specified in such notice have been established, the banking board may issue such orders of suspension or removal from office as it may deem appropriate. Any such order shall become effective at the expiration of thirty days after service upon such trust company and the director, executive officer, or other person concerned except in the case of an order issued upon consent, which shall become effective at the time specified therein. Such order ~~shall remain~~ REMAINS effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the banking board or a reviewing court.

SECTION 36. In Colorado Revised Statutes, 11-109-605, **amend** (1) as follows:

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

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

SECTION 37. In Colorado Revised Statutes, **amend** 11-109-607 as follows:

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

SECTION 38. In Colorado Revised Statutes, 11-109-702, **amend** (2)(b) as follows:

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

SECTION 39. In Colorado Revised Statutes, 11-109-704, **amend** (1) introductory portion, (1)(c), and (10) as follows:

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

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

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

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

SECTION 40. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

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

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO