

## CHAPTER 150

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**FINANCIAL INSTITUTIONS**

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**HOUSE BILL 04-1226**

BY REPRESENTATIVE(S) White, Crane, Hoppe, Rippey, Schultheis, Weddig, and Williams T.;  
also SENATOR(S) Kester.

**AN ACT**

**CONCERNING THE AUTHORITY FOR A BANK TO UTILIZE A CERTIFICATE OF TRUST TO ESTABLISH A DEPOSIT ACCOUNT.**

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

**SECTION 1.** Part 1 of article 105 of title 11, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**11-105-111. Trust account - limited documentation required - certificate of trust.** (1) FOR ANY DEPOSIT ACCOUNT THAT IS OPENED WITH ANY BANK TRANSACTING BUSINESS IN THIS STATE BY ONE OR MORE PERSONS EXPRESSLY ACTING AS A TRUSTEE OR TRUSTEES FOR ONE OR MORE OTHER NAMED PERSON OR PERSONS PURSUANT TO OR PURPORTING TO BE PURSUANT TO A WRITTEN TRUST AGREEMENT, A TRUSTEE MAY PROVIDE THE BANK WITH A CERTIFICATE OF TRUST TO EVIDENCE THE TRUST RELATIONSHIP. THE CERTIFICATE OF TRUST SHALL BE AN AFFIDAVIT EXECUTED BY ANY TRUSTEE AND SHALL INCLUDE THE FOLLOWING:

- (a) THE NAME OF THE TRUST;
- (b) THE EFFECTIVE DATE OF THE TRUST;
- (c) THE NAME AND ADDRESS OF EACH TRUSTEE;
- (d) THE NAME OF EACH KNOWN SUCCESSOR TRUSTEE;
- (e) A STATEMENT THAT THE TRUSTEE HAS AUTHORITY OR THAT THE TRUSTEES HAVE AUTHORITY TO OPEN THE ACCOUNT ON BEHALF OF THE TRUST; AND
- (f) ANY OTHER INFORMATION THAT MAY BE REQUIRED BY THE BANK, INCLUDING

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

AN INDEMNIFICATION THAT IS ACCEPTABLE TO THE BANK.

(2) IF A BANK DECIDES TO ACCEPT A CERTIFICATE OF TRUST PURSUANT TO THIS SECTION, THE BANK MAY ADMINISTER THE ACCOUNT IN ACCORDANCE WITH THE CERTIFICATE OF TRUST WITHOUT REQUIRING RECEIPT OF A COPY OF THE WRITTEN TRUST AGREEMENT.

(3) IF A BANK DECIDES TO ACCEPT A CERTIFICATE OF TRUST PURSUANT TO THIS SECTION, UPON THE DEATH, RESIGNATION, OR ADJUDICATION OF INCOMPETENCE OF ALL NAMED TRUSTEES AND SUCCESSOR TRUSTEES NOTED ON THE CERTIFICATE OF TRUST, THE BANK MAY WITHHOLD DISPOSITION OF ANY FUNDS ON DEPOSIT IN THE ACCOUNT UNTIL RECEIPT OF ONE OF THE FOLLOWING:

(a) AN ORDER BY A COURT OF COMPETENT JURISDICTION DIRECTING THE DISPOSITION OF FUNDS;

(b) A NEWLY EXECUTED CERTIFICATE OF TRUST CREATED PURSUANT TO THIS SECTION FROM A PERSON ACTING OR PURPORTING TO ACT AS A NEWLY APPOINTED SUCCESSOR TRUSTEE UNDER THE SAME TRUST; OR

(c) OTHER DOCUMENTATION THAT ESTABLISHES TO THE SATISFACTION OF THE BANK THE MANNER IN WHICH THE FUNDS ARE TO BE ADMINISTERED OR DISTRIBUTED.

(4) IF A BANK DECIDES TO ACCEPT A CERTIFICATE OF TRUST PURSUANT TO THIS SECTION, THE BANK SHALL NOT BE LIABLE FOR ADMINISTERING THE ACCOUNT AS PROVIDED BY THE CERTIFICATE OF TRUST, EVEN IF THE CERTIFICATE OF TRUST IS CONTRARY TO THE TERMS OF THE WRITTEN TRUST AGREEMENT, UNLESS THE BANK HAS ACTUAL KNOWLEDGE THAT THE TERMS OF THE WRITTEN TRUST AGREEMENT ARE CONTRARY TO THE TERMS OF THE CERTIFICATE OF TRUST.

(5) NOTHING IN THIS SECTION SHALL OBLIGATE A BANK TO ESTABLISH A DEPOSIT ACCOUNT FOR A TRUSTEE WHO REFUSES TO FURNISH THE BANK WITH A COPY OF A WRITTEN TRUST AGREEMENT. IN ADDITION, NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT A BANK FROM REQUESTING ADDITIONAL INFORMATION IN ORDER TO ESTABLISH A DEPOSIT ACCOUNT FOR A TRUSTEE, INCLUDING A REQUEST THAT THE CERTIFICATE OF TRUST BE EXECUTED BY ALL TRUSTEES.

**SECTION 2. Effective date - applicability.** This act shall take effect July 1, 2004, and shall apply to banks operating on or after said date.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 13, 2004