

## CHAPTER 318

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**FINANCIAL INSTITUTIONS**


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SENATE BILL 08-033

BY SENATOR(S) Shaffer, and Taylor;  
also REPRESENTATIVE(S) Stephens, and Garza-Hicks.

**AN ACT****CONCERNING PRIVATE FAMILY TRUST COMPANIES.***Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Article 109 of title 11, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 10**  
**PRIVATE FAMILY TRUST COMPANIES**

**11-109-1001. Definitions.** AS USED IN THIS PART 10, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "APPLICANT" MEANS A PRIVATE FAMILY TRUST COMPANY OR PROPOSED PRIVATE TRUST COMPANY THAT IS APPLYING FOR AN EXEMPTION FROM ONE OR MORE PROVISIONS OF THIS ARTICLE PURSUANT TO SECTION 11-109-1003.

(2) "CONTROL" MEANS THAT:

(a) A PERSON DIRECTLY OR INDIRECTLY, OR ACTING THROUGH ONE OR MORE PERSONS, OWNS, CONTROLS, OR HAS POWER TO VOTE TWENTY-FIVE PERCENT OR MORE OF THE VOTING SECURITIES OF A PRIVATE FAMILY TRUST COMPANY; OR

(b) A PERSON CONTROLS IN ANY MANNER THE ELECTION OF A MAJORITY OF THE DIRECTORS, MANAGERS, OR TRUSTEES OF A PRIVATE FAMILY TRUST COMPANY.

(3) (a) "FAMILY MEMBER" MEANS:

(I) ANY INDIVIDUAL WHO IS RELATED WITHIN THE FOURTH DEGREE OF AFFINITY

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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.*

OR CONSANGUINITY TO EACH INDIVIDUAL WHO OWNS AN INTEREST IN THE PRIVATE FAMILY TRUST COMPANY, REFERRED TO IN THIS SUBSECTION (3) AS THE "INDIVIDUAL FAMILY MEMBER";

(II) A SOLE PROPRIETORSHIP, PARTNERSHIP, JOINT VENTURE, ASSOCIATION, TRUST, ESTATE, BUSINESS TRUST, OR OTHER COMPANY OR CHARITABLE ORGANIZATION THAT IS AT LEAST EIGHTY PERCENT OWNED, DIRECTLY OR INDIRECTLY, BY ONE OR MORE INDIVIDUAL FAMILY MEMBERS AND HAS NO OTHER OWNERS OTHER THAN EMPLOYEE-OWNERS, AS DESCRIBED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH (a), OR THAT EXCLUSIVELY BENEFITS AN INDIVIDUAL FAMILY MEMBER; OR

(III) ANY INDIVIDUAL WHO IS AN EMPLOYEE OF AND OWNS A MINORITY INTEREST IN AN ENTITY DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a).

(b) IN DETERMINING WHETHER AN INDIVIDUAL IS A "FAMILY MEMBER" FOR THE PURPOSES OF THIS ARTICLE:

(I) IF MORE THAN ONE PERSON CONTROLS A PRIVATE FAMILY TRUST COMPANY OR ESTABLISHES A TRUST OR CORPORATION THAT CONTROLS A PRIVATE FAMILY TRUST COMPANY, ALL INDIVIDUALS WHO CONTROL THE PRIVATE FAMILY TRUST COMPANY MUST BE RELATED WITHIN THE SECOND DEGREE OF AFFINITY OR CONSANGUINITY;

(II) AN INDIVIDUAL SHALL BE DEEMED TO BE RELATED TO ANOTHER INDIVIDUAL IF HE OR SHE IS MARRIED TO, IS AN ANCESTOR OF, OR IS A DESCENDANT OF ANY ANCESTOR OF THE OTHER INDIVIDUAL.

(c) ADOPTED CHILDREN AND STEPCHILDREN SHALL BE TREATED THE SAME AS NATURAL CHILDREN FOR THE PURPOSE OF DETERMINING ANCESTORS AND DESCENDANTS.

(4) "PRIVATE FAMILY TRUST COMPANY" MEANS A TRUST COMPANY THAT IS PROHIBITED FROM TRANSACTING BUSINESS WITH THE GENERAL PUBLIC, IS EXCLUSIVELY OWNED BY ONE PERSON OR BY FAMILY MEMBERS, AND IS AUTHORIZED TO APPLY TO THE BANKING BOARD FOR AN EXEMPTION FROM CERTAIN PROVISIONS OF THIS ARTICLE PURSUANT TO SECTION 11-109-1003.

(5)(a) "TRANSACTING BUSINESS WITH THE GENERAL PUBLIC" MEANS CONDUCTING ANY SALES, SOLICITATIONS, ARRANGEMENTS, AGREEMENTS, OR TRANSACTIONS TO PROVIDE A TRUST OR OTHER BUSINESS SERVICE, REGARDLESS OF WHETHER THE CONDUCT IS PERFORMED FOR A FEE, COMMISSION, OR OTHER TYPE OF REMUNERATION, WITH ANY PERSON WHO IS NOT A FAMILY MEMBER.

(b) PURSUANT TO SECTION 11-102-104 (18) (a), THE BANKING BOARD HAS THE POWER TO DEFINE CIRCUMSTANCES THAT DO NOT CONSTITUTE TRANSACTING BUSINESS WITH THE GENERAL PUBLIC FOR THE PURPOSES OF THIS PART 10.

**11-109-1002. Compliance - prohibited transactions - certification - remedies.**

(1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 11-109-1003, A PRIVATE FAMILY TRUST COMPANY:

(a) SHALL COMPLY WITH THE PROVISIONS OF THIS ARTICLE;

(b) SHALL NOT TRANSACT BUSINESS WITH THE GENERAL PUBLIC;

(c) SHALL NOT MARKET OR ADVERTISE IN ANY WAY AND SHALL NOT HOLD ITSELF OUT AS PROVIDING SERVICES TO ANY PERSONS OTHER THAN FAMILY MEMBERS; AND

(d) SHALL PROVIDE SERVICES, DIRECTLY OR INDIRECTLY, ONLY TO FAMILY MEMBERS.

(2) PURSUANT TO SECTION 11-102-104 (18) (d) (III), A PRIVATE FAMILY TRUST COMPANY SHALL ANNUALLY SUBMIT TO THE BANKING BOARD A CERTIFICATION CONFIRMING THAT THE COMPANY IS COMPLYING WITH THE PROVISIONS OF THIS ARTICLE, EXCEPT FOR THOSE PROVISIONS FOR WHICH THE PRIVATE FAMILY TRUST COMPANY HAS RECEIVED AN EXEMPTION FROM THE BANKING BOARD PURSUANT TO SECTION 11-109-1003.

(3) IF A PRIVATE FAMILY TRUST COMPANY FAILS TO COMPLY WITH ONE OR MORE PROVISIONS OF THIS ARTICLE FOR WHICH THE PRIVATE FAMILY TRUST COMPANY DOES NOT POSSESS AN EXEMPTION PURSUANT TO SECTION 11-109-1003 OR ANY ORDER ISSUED BY THE BANKING BOARD CONSISTENT WITH THIS ARTICLE, THE BANKING BOARD MAY:

(a) INSTITUTE ANY ACTION OR REMEDY PRESCRIBED BY THIS ARTICLE OR ANY APPLICABLE RULE PROMULGATED BY THE BANKING BOARD; OR

(b) REVOKE THE CHARTER OF THE PRIVATE FAMILY TRUST COMPANY.

**11-109-1003. Exemptions from compliance - applications - investigations.**

(1) A PRIVATE FAMILY TRUST COMPANY MAY BE EXEMPTED FROM COMPLIANCE WITH ONE OR MORE PROVISIONS OF THIS ARTICLE AS SPECIFIED IN RULES ADOPTED BY THE BANKING BOARD PURSUANT TO SECTION 11-102-104 (18) (c).

(2) AN APPLICANT MAY SUBMIT TO THE BANKING BOARD AN APPLICATION REQUESTING THAT THE BANKING BOARD, PURSUANT TO SECTION 11-102-104 (18) (b), GRANT THE APPLICANT A WHOLE OR PARTIAL EXEMPTION FROM COMPLIANCE WITH ONE OR MORE PROVISIONS OF THIS ARTICLE. THE APPLICATION SHALL BE SUBMITTED ON THE STANDARD APPLICATION FORM DEVELOPED BY THE BANKING BOARD PURSUANT TO SECTION 11-102-104 (18) (d) (I) (A) AND SHALL INCLUDE:

(a) A NONREFUNDABLE APPLICATION FEE IN AN AMOUNT TO BE DETERMINED BY THE BANKING BOARD PURSUANT TO SECTION 11-102-104 (18) (d) (I) (B);

(b) THE APPLICANT'S FINANCIAL STATEMENTS AS OF THE END OF THE MOST RECENT QUARTER OF THE CALENDAR YEAR AND THE MOST RECENT CALENDAR OR FISCAL YEAR END;

(c) A STATEMENT OF THE REASON FOR WHICH THE APPLICANT IS REQUESTING THE EXEMPTION;

(d) A STATEMENT THAT THE APPLICANT:

(I) IS NOT CURRENTLY TRANSACTING BUSINESS WITH THE GENERAL PUBLIC;

(II) WILL NOT TRANSACT BUSINESS WITH THE GENERAL PUBLIC;

(III) WILL NOT MARKET OR ADVERTISE IN ANY WAY AND WILL NOT HOLD ITSELF OUT AS PROVIDING SERVICES TO ANY PERSONS OTHER THAN FAMILY MEMBERS; AND

(IV) WILL PROVIDE SERVICES, DIRECTLY OR INDIRECTLY, ONLY TO FAMILY MEMBERS;

(e) THE CURRENT STREET MAILING ADDRESS AND PHONE NUMBER OF THE PHYSICAL LOCATION IN THIS STATE AT WHICH THE APPLICANT WILL MAINTAIN ITS FINANCIAL RECORDS;

(f) A LIST OF THE SPECIFIC PROVISIONS OF THIS ARTICLE FOR WHICH THE APPLICANT IS REQUESTING AN EXEMPTION; AND

(g) ANY OTHER INFORMATION REQUESTED BY THE BANKING BOARD.

(3) UPON RECEIPT OF AN APPLICATION SUBMITTED BY AN APPLICANT PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE BANKING BOARD MAY:

(a) GRANT THE EXEMPTION WHOLLY OR IN PART;

(b) AT THE EXPENSE OF THE APPLICANT, INVESTIGATE THE APPLICANT IN CONNECTION WITH THE REQUEST; OR

(c) REQUEST THAT THE APPLICANT SUBMIT ADDITIONAL INFORMATION TO ALLOW THE BANKING BOARD TO MAKE AN INFORMED DECISION.

(4) UNLESS AN APPLICATION SUBMITTED BY AN APPLICANT PURSUANT TO SUBSECTION (2) OF THIS SECTION PRESENTS NOVEL OR UNUSUAL QUESTIONS, THE BANKING BOARD SHALL EITHER APPROVE THE APPLICATION AND GRANT THE EXEMPTION WHOLLY OR IN PART OR SET A DATE FOR A HEARING CONCERNING THE APPLICATION NO LATER THAN SIXTY-ONE DAYS AFTER:

(a) THE BANKING BOARD RECEIVES THE APPLICATION; OR

(b) IN THE EVENT THAT THE BANKING BOARD REQUESTS ADDITIONAL INFORMATION PURSUANT TO PARAGRAPH (c) OF SUBSECTION (3) OF THIS SECTION, THE BANKING BOARD RECEIVES THE ADDITIONAL INFORMATION.

(5) THE BANKING BOARD MAY GRANT A WHOLE OR PARTIAL EXEMPTION TO AN APPLICANT ONLY IF THE BANKING BOARD DETERMINES THAT THE APPLICANT DOES NOT AND WILL NOT TRANSACT BUSINESS WITH THE GENERAL PUBLIC.

(6) IN GRANTING A WHOLE OR PARTIAL EXEMPTION PURSUANT TO THIS SECTION, THE BANKING BOARD MAY, IN ITS DISCRETION, ATTACH ANY CONDITIONS OR LIMITATIONS TO THE EXEMPTION THAT ARE CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE.

**11-109-1004. Private family trust company names.** (1) THE NAME OF A PRIVATE FAMILY TRUST COMPANY SHALL NOT BE DECEPTIVELY SIMILAR TO THE

NAME OF ANOTHER TRUST COMPANY OR PRIVATE FAMILY TRUST COMPANY.

(2) THE NAME OF A PRIVATE FAMILY TRUST COMPANY SHALL INCLUDE THE WORDS "PRIVATE" AND "FAMILY".

**11-109-1005. Change of control.** (1) A PERSON WHO CONTROLS A PRIVATE FAMILY TRUST COMPANY MAY SELL OR OTHERWISE TRANSFER CONTROL OF THE COMPANY THIRTY DAYS AFTER PROVIDING TO THE BANKING BOARD WRITTEN NOTICE OF HIS OR HER INTENT TO TRANSFER CONTROL OF THE COMPANY. THE NOTICE SHALL BE IN SUCH FORM AS THE BANKING BOARD MAY REQUIRE PURSUANT TO SECTION 11-102-104 (18) (d) (IV).

(2) IF A PERSON TRANSFERS CONTROL OF A PRIVATE FAMILY TRUST COMPANY PURSUANT TO SUBSECTION (1) OF THIS SECTION TO ANOTHER PERSON TO WHOM HE OR SHE IS RELATED WITHIN THE SECOND DEGREE OF AFFINITY OR CONSANGUINITY, ANY EXEMPTIONS THAT HAVE BEEN GRANTED TO THE PRIVATE FAMILY TRUST COMPANY BY THE BANKING BOARD PURSUANT TO SECTION 11-109-1003 SHALL REMAIN EFFECTIVE.

(3) IF A PERSON TRANSFERS CONTROL OF A PRIVATE FAMILY TRUST COMPANY PURSUANT TO SUBSECTION (1) OF THIS SECTION TO ANOTHER PERSON TO WHOM HE OR SHE IS NOT RELATED WITHIN THE SECOND DEGREE OF AFFINITY OR CONSANGUINITY, ANY EXEMPTIONS THAT HAVE BEEN GRANTED TO THE PRIVATE FAMILY TRUST COMPANY BY THE BANKING BOARD PURSUANT TO SECTION 11-109-1003 SHALL BE REVOKED UPON THE DATE THAT THE TRANSFER BECOMES EFFECTIVE. IF THE PERSON TO WHOM CONTROL OF THE PRIVATE FAMILY TRUST COMPANY IS TRANSFERRED WISHES TO RETAIN AN EXEMPTION THAT HAS BEEN GRANTED BY THE BANKING BOARD TO THE COMPANY PRIOR TO THE TRANSFER, HE OR SHE MUST SUBMIT AN APPLICATION FOR THE EXEMPTION PURSUANT TO SECTION 11-109-1003.

**11-109-1006. Revocation of exemption - notice - hearing.** (1) THE BANKING BOARD, IN ACCORDANCE WITH RULES PROMULGATED PURSUANT TO SECTION 11-102-104 (18) (d) (II), MAY REVOKE AN EXEMPTION GRANTED TO A PRIVATE FAMILY TRUST COMPANY PURSUANT TO SECTION 11-109-1003, WHICH ALSO SUBJECTS THE PRIVATE FAMILY TRUST COMPANY TO ADDITIONAL SECURITIES REGULATIONS.

(2)(a) IF THE BANKING BOARD RESOLVES TO REVOKE AN EXEMPTION GRANTED TO A PRIVATE FAMILY TRUST COMPANY PURSUANT TO SUBSECTION (1) OF THIS SECTION, IT SHALL NOTIFY THE PRIVATE FAMILY TRUST COMPANY IN WRITING OF THE REVOCATION. THE NOTICE SHALL STATE WITH REASONABLE CERTAINTY THE REASON FOR THE REVOCATION AND THE EFFECTIVE DATE OF THE REVOCATION. THE EFFECTIVE DATE SHALL BE NO LESS THAN TEN DAYS AFTER THE DATE THAT THE NOTICE IS MAILED OR DELIVERED TO THE PRIVATE FAMILY TRUST COMPANY.

(b) THE EXEMPTION REVOCATION SHALL BECOME EFFECTIVE UPON THE EFFECTIVE DATE, AS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (2), UNLESS THE PRIVATE FAMILY TRUST COMPANY SUBMITS A WRITTEN REQUEST, BEFORE THE EFFECTIVE DATE, THAT THE BANKING BOARD HOLD A HEARING ON THE MATTER PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(3) (a) IF A PRIVATE FAMILY TRUST COMPANY, UPON RECEIVING NOTICE OF A REVOCATION, TIMELY REQUESTS A HEARING OF THE BANKING BOARD AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, THE BANKING BOARD SHALL CONDUCT A HEARING. AT THE HEARING, THE BANKING BOARD SHALL GRANT THE PRIVATE FAMILY TRUST COMPANY A REASONABLE OPPORTUNITY TO STATE THE REASON OR REASONS WHY THE EXEMPTION SHOULD NOT BE REVOKED. AT THE CONCLUSION OF THE HEARING, THE BANKING BOARD SHALL IMMEDIATELY UPHOLD OR WITHDRAW THE REVOCATION.

(b) IF, UPON THE CONCLUSION OF A HEARING GRANTED TO A PRIVATE FAMILY TRUST COMPANY PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), THE BANKING BOARD UPHOLDS A REVOCATION OF AN EXEMPTION, THE EFFECTIVE DATE OF THE UPHOLD REVOCATION SHALL BE TEN DAYS AFTER THE DATE OF THE HEARING. THE DECISION OF THE BANKING BOARD TO UPHOLD A REVOCATION SHALL BE FINAL AND NOT SUBJECT TO FURTHER APPEALS BY THE PRIVATE FAMILY TRUST COMPANY OR ANY OTHER PARTY.

**11-109-1007. Conversion to a public trust company.** (1) UPON SATISFACTION OF THE CONDITIONS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, AND EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (3) TO (5) OF THIS SECTION, A PRIVATE FAMILY TRUST COMPANY MAY TERMINATE ITS STATUS AS A PRIVATE FAMILY TRUST COMPANY, CONVERT ITSELF TO A PUBLIC TRUST COMPANY, AND BEGIN TRANSACTING BUSINESS WITH THE GENERAL PUBLIC IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

(2) A PRIVATE FAMILY TRUST COMPANY THAT INTENDS TO TERMINATE ITS STATUS AS A PRIVATE FAMILY TRUST COMPANY, CONVERT ITSELF TO A PUBLIC TRUST COMPANY, AND BEGIN TRANSACTING BUSINESS WITH THE GENERAL PUBLIC SHALL SUBMIT NOTICE OF ITS INTENT IN WRITING TO THE BANKING BOARD IN A MANNER PRESCRIBED BY RULE OF THE BANKING BOARD ADOPTED PURSUANT TO SECTION 11-102-104 (18) (d) (V). EXCEPT AS DESCRIBED IN SUBSECTIONS (3) TO (5) OF THIS SECTION, THE COMPANY MAY BEGIN TRANSACTING BUSINESS WITH THE GENERAL PUBLIC THIRTY-ONE DAYS AFTER APPROVAL BY THE BANKING BOARD.

(3) UPON RECEIPT OF A NOTICE OF INTENT SUBMITTED BY A PRIVATE FAMILY TRUST COMPANY PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE BANKING BOARD MAY:

(a) AT THE EXPENSE OF THE PRIVATE FAMILY TRUST COMPANY, INVESTIGATE THE PRIVATE FAMILY TRUST COMPANY IN CONNECTION WITH THE REQUEST;

(b) REQUEST THAT THE PRIVATE FAMILY TRUST COMPANY SUBMIT ADDITIONAL INFORMATION TO ALLOW THE BANKING BOARD TO MAKE AN INFORMED DECISION;

(c) ORDER THE COMPANY TO REFRAIN FROM TRANSACTING BUSINESS WITH THE GENERAL PUBLIC AS DESCRIBED IN SUBSECTION (4) OF THIS SECTION; OR

(d) SPECIFY A DATE UPON WHICH THE COMPANY MAY BEGIN TRANSACTING BUSINESS WITH THE GENERAL PUBLIC AS DESCRIBED IN SUBSECTION (5) OF THIS SECTION.

(4) THE BANKING BOARD SHALL ORDER A COMPANY THAT HAS PROVIDED A NOTICE OF INTENT PURSUANT TO SUBSECTION (2) OF THIS SECTION TO REFRAIN FROM TRANSACTING BUSINESS WITH THE GENERAL PUBLIC IF THE BANKING BOARD DETERMINES THAT:

(a) THE COMPANY LACKS ADEQUATE FINANCIAL RESOURCES TO UNDERTAKE THE PROPOSED CONVERSION WITHOUT ADVERSELY AFFECTING THE COMPANY'S SAFETY OR SOUNDNESS;

(b) THE TRANSACTION OF BUSINESS WITH THE GENERAL PUBLIC BY THE COMPANY WOULD BE CONTRARY TO THE PUBLIC INTEREST; OR

(c) THE COMPANY WILL NOT BE IN COMPLIANCE, WHEN IT COMMENCES BUSINESS WITH THE GENERAL PUBLIC, WITH ANY PROVISION OF THIS ARTICLE FOR WHICH THE COMPANY HAS BEEN GRANTED AN EXEMPTION PURSUANT TO SECTION 11-109-1003.

(5) A PRIVATE FAMILY TRUST COMPANY THAT SUBMITTED A NOTICE OF INTENT AND HAS BEEN ORDERED BY THE BANKING BOARD TO REFRAIN FROM TRANSACTING BUSINESS WITH THE GENERAL PUBLIC PURSUANT TO SUBSECTION (4) OF THIS SECTION SHALL NOT BEGIN TRANSACTING BUSINESS WITH THE GENERAL PUBLIC UNTIL SUCH DATE AS THE BANKING BOARD SPECIFIES THAT THE COMPANY MAY BEGIN TO TRANSACT BUSINESS WITH THE GENERAL PUBLIC.

**SECTION 2.** 11-102-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**11-102-104. Powers and duties of banking board.** (18) (a) AS DESCRIBED IN SECTION 11-109-1001 (5) (b), THE BANKING BOARD MAY DEFINE CIRCUMSTANCES THAT DO NOT CONSTITUTE TRANSACTING BUSINESS WITH THE PUBLIC FOR THE PURPOSES OF PART 10 OF ARTICLE 109 OF THIS TITLE.

(b) AS DESCRIBED IN SECTION 11-109-1003, THE BANKING BOARD MAY GRANT A WHOLE OR PARTIAL EXEMPTION TO A PRIVATE FAMILY TRUST COMPANY OR PROPOSED PRIVATE FAMILY TRUST COMPANY FROM COMPLIANCE WITH ONE OR MORE PROVISIONS OF ARTICLE 109 OF THIS TITLE ONLY IF THE BANKING BOARD DETERMINES THAT THE PRIVATE FAMILY TRUST COMPANY OR PROPOSED PRIVATE FAMILY TRUST COMPANY DOES NOT AND WILL NOT TRANSACT BUSINESS WITH THE GENERAL PUBLIC.

(c) FOR THE PURPOSES OF SECTION 11-109-1003, THE BANKING BOARD SHALL PROMULGATE RULES SPECIFYING THE PROVISIONS OF ARTICLE 109 OF THIS TITLE WHICH A PRIVATE FAMILY TRUST COMPANY OR PROPOSED PRIVATE FAMILY TRUST COMPANY MAY OR MAY NOT REQUEST AN EXEMPTION FROM COMPLIANCE.

(d) THE BANKING BOARD SHALL PROMULGATE RULES TO ESTABLISH:

(I) PROCEDURES BY WHICH A PRIVATE FAMILY TRUST COMPANY OR PROPOSED PRIVATE FAMILY TRUST COMPANY MAY REQUEST AN EXEMPTION FROM COMPLIANCE WITH ONE OR MORE PROVISIONS OF ARTICLE 109 OF THIS TITLE PURSUANT TO SECTION 11-109-1003. THE PROCEDURES SHALL INCLUDE:

(A) THE CREATION OF A STANDARD APPLICATION FORM TO BE USED BY A PRIVATE FAMILY TRUST COMPANY OR PROPOSED PRIVATE FAMILY TRUST COMPANY IN REQUESTING AN EXEMPTION; AND

(B) THE DESIGNATION OF AN APPLICATION FEE TO BE SUBMITTED BY A PRIVATE FAMILY TRUST COMPANY WITH EACH APPLICATION.

(II) CONDITIONS UNDER WHICH THE BANKING BOARD MAY REVOKE AN EXEMPTION GRANTED TO A PRIVATE FAMILY TRUST COMPANY OR PROPOSED PRIVATE FAMILY TRUST COMPANY PURSUANT TO SECTION 11-109-1003. THE CONDITIONS, AT A MINIMUM, SHALL INCLUDE THE FOLLOWING ACTS OR FAILURES TO ACT BY THE PRIVATE FAMILY TRUST COMPANY:

(A) MAKING A FALSE STATEMENT ON ANY DOCUMENT REQUIRED TO BE FILED PURSUANT TO ARTICLE 109 OF THIS TITLE OR BY ANY RULE PROMULGATED BY THE BANKING BOARD;

(B) FAILING TO SUBMIT TO OR COOPERATE WITH AN INVESTIGATION INITIATED BY THE BANKING BOARD PURSUANT TO SECTION 11-109-1003 (3) (b);

(C) WITHHOLDING ANY INFORMATION FROM THE BANKING BOARD OR THE COMMISSIONER; OR

(D) VIOLATING ANY PROVISION OF ARTICLE 109 OF THIS TITLE FOR WHICH THE PRIVATE FAMILY TRUST COMPANY DOES NOT POSSESS AN EXEMPTION GRANTED BY THE BANKING BOARD PURSUANT TO SECTION 11-109-1003.

(III) PROCEDURES BY WHICH A PRIVATE FAMILY TRUST COMPANY, PURSUANT TO SECTION 11-109-1002 (2), IS TO CERTIFY THAT IT IS COMPLYING WITH THE PROVISIONS OF ARTICLE 109 OF THIS TITLE, EXCEPT FOR THOSE PROVISIONS FOR WHICH THE PRIVATE FAMILY TRUST COMPANY HAS RECEIVED AN EXEMPTION FROM THE BANKING BOARD PURSUANT TO SECTION 11-109-1003.

(IV) PROCEDURES BY WHICH A PERSON WHO WANTS TO TRANSFER CONTROL OF A PRIVATE FAMILY TRUST COMPANY PURSUANT TO SECTION 11-109-1005 IS TO PROVIDE TO THE BANKING BOARD WRITTEN NOTICE OF HIS OR HER INTENT TO TRANSFER CONTROL OF THE COMPANY. THE PROCEDURES SHALL INCLUDE MINIMUM REQUIREMENTS FOR THE FORM OF THE NOTICE OF INTENT.

(V) PROCEDURES BY WHICH A PRIVATE FAMILY TRUST COMPANY THAT INTENDS TO TERMINATE ITS STATUS AS A PRIVATE FAMILY TRUST COMPANY, CONVERT ITSELF TO A PUBLIC TRUST COMPANY, AND START TRANSACTING BUSINESS WITH THE GENERAL PUBLIC PURSUANT TO SECTION 11-109-1007 IS TO SUBMIT NOTICE OF ITS INTENT IN WRITING TO THE BANKING BOARD. THE PROCEDURES SHALL INCLUDE:

(A) THE CREATION OF A FORM TO BE USED BY A PRIVATE FAMILY TRUST COMPANY FOR THIS PURPOSE THAT REQUIRES THE INCLUSION OF THE NAME OF THE PRIVATE FAMILY TRUST COMPANY; AN ACKNOWLEDGMENT THAT ANY EXEMPTION GRANTED BY THE BANKING BOARD PURSUANT TO SECTION 11-109-1003 OR OTHERWISE APPLICABLE TO THE PRIVATE FAMILY TRUST COMPANY WILL BECOME INAPPLICABLE UPON THE TERMINATION OF THE COMPANY'S STATUS AS A PRIVATE FAMILY TRUST

COMPANY; AND THE NAME UNDER WHICH THE COMPANY WILL TRANSACT BUSINESS WITH THE GENERAL PUBLIC.

(B) THE DESIGNATION OF A FEE THAT THE PRIVATE FAMILY TRUST COMPANY SHALL BE REQUIRED TO SUBMIT TO THE BANKING BOARD UPON SUBMISSION OF THE FORM.

**SECTION 3.** 11-109-907, Colorado Revised Statutes, is amended to read:

**11-109-907. Extensions of credit.** (1) A trust company, INCLUDING A PRIVATE FAMILY TRUST COMPANY AS DEFINED IN SECTION 11-109-1001, shall not make any loans or extensions of credit except as provided in subsection (2) of this section.

(2) A trust company, INCLUDING A PRIVATE FAMILY TRUST COMPANY AS DEFINED IN SECTION 11-109-1001, may:

(a) Make a loan or extend credit to its officers, directors, and employees if such loan or credit is adequately secured and does not involve more than the normal risk of default or present other unfavorable features. Any loan or extension of credit in excess of twenty-five thousand dollars shall be subject to prior approval by the banking board.

(b) Establish with one or more broker-dealers margin accounts in its name as fiduciary or custodian for the benefit of the owners or beneficiaries of such accounts.

**SECTION 4. 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: May 28, 2008