

**Sec. 2. EFFECTIVE DATE.**

Section 1 is effective the day after final enactment.

Approved April 25, 1984

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**CHAPTER 506 — H.F.No. 1352**

*An act relating to financial institutions; allowing banks and trust companies to establish trust service offices at the location of other banks; proposing new law coded in Minnesota Statutes, chapter 48.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

**Section 1. [48.475] TRUST SERVICE OFFICES.**

Subdivision 1. AUTHORIZATION. Any trust company organized under the laws of this state and any state bank which is permitted to exercise trust powers under the provisions of Minnesota Statutes, sections 48.37 to 48.47 may, after completing the notification procedure required by this subdivision, establish and maintain a trust service office at any office in this state of any other state or national bank. Any state bank may, after completing the notification procedure required by this subdivision, permit any trust company organized under the laws of this state or any state bank which is permitted to exercise trust powers under the provisions of sections 48.37 to 48.47 or any national bank in this state which is authorized to exercise trust powers to establish and maintain a trust service office at any of its banking offices.

Any trust company or state bank permitted to exercise trust powers and a state bank at which a trust service office is to be established pursuant to this act shall jointly file, on forms provided by the commissioner, a notification of intent to establish a trust service office. The notification shall be accompanied by a filing fee of \$100 payable to the commissioner, to be deposited in the general fund of the state. No trust service office shall be established pursuant to this act if disallowed by order of the commissioner within 45 days of the filing of a complete and acceptable notification of intent to establish a trust service office. Any proceedings for judicial review of an order of the commissioner to disallow the establishment of a trust service office under this act shall be conducted pursuant to the provisions of the Administrative Procedure Act relating to judicial review of agency decisions, sections 14.63 to 14.69, and the scope of judicial review in such proceedings shall be as provided therein.

Subd. 2. SERVICES PERMITTED. Any trust company or bank which establishes a trust service office under subdivision 1 may conduct at the office any trust business and business incidental thereto which it is permitted to conduct at

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its principal office, but it may not accept deposits except as incidental to trust business.

**Subd. 3. GENERAL REQUIREMENTS.** If the bank at which a trust service office is to be established has exercised trust powers, then the trust company or bank which is establishing the trust service office shall enter into an agreement respecting those fiduciary powers to which the trust company or bank shall succeed and shall file the agreement with the commissioner. The trust company or bank which is establishing a trust service office under subdivision 1 shall publish a notice of the filing in the form prescribed by the commissioner in a newspaper published in the municipality in which the trust service office is to be located, and if there is no such newspaper, then at the county seat of the county in which the trust service office is to be located. The notice shall be published once and proof of publication shall be filed with the commissioner immediately after publication of the notice of filing. After filing and publication, the trust company or bank establishing the trust service office shall, as of the date the office first opens for business, and without further authorization of any kind, succeed to and be substituted for the bank at which the trust service office is located as to all fiduciary powers, rights, duties, privileges, and liabilities of the bank in its capacity as fiduciary for all estates, trusts, conservatorships, guardianships, and other fiduciary relationships of which the bank is then serving as fiduciary, except as may be otherwise specified in the agreement between the bank and the trust company or bank which has established the trust service office. The trust company or bank which has established the trust service office shall also be deemed named as fiduciary in all writings, including, but not limited to, wills, trusts, court orders, and similar documents and instruments, naming the bank at which the trust service office is located signed before the date the trust service office first opens for business, unless expressly negated by the writing or otherwise specified in the agreement between the trust company or bank and the bank at which the trust service office is located. On the effective date of the substitution, the bank at which the trust service office has been established shall be released and absolved from all fiduciary duties and obligations under the writings and shall discontinue its exercise of trust powers on all matters not specifically retained by the agreement. This subdivision does not absolve the bank from liabilities arising out of any breach of fiduciary duty or obligation occurring prior to the date the trust service office first opens for business. This subdivision does not affect the authority, duties, or obligations of a bank with respect to relationships which may be established without trust powers, whether the relationships arise before or after the establishment of the trust service office.

**Subd. 4. SUPERVISION.** Every trust company or state bank permitted to exercise trust powers establishing and operating one or more trust service offices pursuant to this act shall at all times maintain records acceptable to the commissioner regarding transactions originating at such trust service offices and

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available at its principal office for examination pursuant to sections 46.04 and 46.05.

Subd. 5. NATIONAL BANKS; REQUIREMENTS. If a trust service office is established by a national bank at the banking office of another national bank, then the agreement respecting fiduciary powers required by subdivision 3 shall be filed with the comptroller of the currency of the United States and the notice required by subdivision 3 shall be in the form prescribed by the comptroller of the currency.

Subd. 6. NOTICE OF SUBSTITUTIONS; DENIAL OF SUBSTITUTION. Not less than 60 days prior to the effective date of the proposed substitution under subdivision 3 or 5, the parties to the substitution shall send written notice of the proposed substitution to each co-fiduciary, each surviving settlor of a trust, each conservatee or ward under a conservatorship or guardianship, each person who alone or in conjunction with others has the power to remove the fiduciary being substituted, and each adult beneficiary currently receiving or entitled to receive a distribution of principal or income from a trust or estate with respect to which the substitution is to be effected. Intentional failure to send the notice to any party at the party's current address as shown on the fiduciary's records shall render ineffective the substitution of fiduciaries with respect to the fiduciary relationship, but an unintentional failure to give notice shall not impair the validity or effect of any substitution of fiduciaries under subdivision 3 or 5. A trust company or bank which is substituted or about to be substituted as fiduciary with respect to a trust, estate, conservatorship, or guardianship under subdivision 3 or 5 may be removed as fiduciary, or the substitution may be denied, upon petition by a co-fiduciary, by a beneficiary of a trust or estate, by the settlor of a trust or on behalf of a conservatee or ward under a conservatorship or guardianship if the trust company or bank files a written consent to its removal or a written declination to act, or if the court having jurisdiction over the fiduciary relationship, upon notice and hearing, approves the petition as in the best interests of the petitioner and all other parties interested in the trust, estate, conservatorship, or guardianship. This subdivision applies in addition to any applicable provision for removal of a fiduciary or appointment of a successor fiduciary in any other statute or in the instrument creating the fiduciary relationship.

Approved April 25, 1984

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#### CHAPTER 507 — H.F.No. 1405

*An act relating to state monuments; adding the "Monument to the Living" in Ramsey County to the list of state monuments; amending Minnesota Statutes 1982, section 138.585, by adding a subdivision.*

Changes or additions are indicated by underline, deletions by ~~strikeout~~.