

§ 53-363. Private trust companies.

(a) The following definitions apply in this Subpart:

- (1) "Designated relative" means the individual required to be named in the application under G.S. 53-364(a)(5) requesting an exemption from certain provisions of this Act pursuant to G.S. 53-364.
- (2) "Family member" means the designated relative and
 - a. Any individual within the fifth degree of lineal kinship to the designated relative computed in accordance with G.S. 104A-1;
 - b. Any individual within the ninth degree of collateral kinship to the designated relative computed in accordance with G.S. 104A-1;
 - c. The spouse of the designated relative and of any individual qualifying as a family member under sub-subdivision a. and b. of this subdivision;
 - d. A company controlled by one or more family members;
 - e. A trust established by (i) a family member or (ii) an individual who is not a family member if income or principal of the trust could be distributed currently to or for the benefit of a family member;
 - f. The estate of a family member; or
 - g. A charitable foundation or other charitable entity created by a family member.

For purposes of this subdivision, a legally adopted individual shall be treated as a natural child of the adoptive parents.

- (3) "Transact business with the general public" means to engage in any sales, solicitations, arrangements, agreements, or transactions to provide trust business services, whether or not for a fee, commission, or other type of remuneration, to more than 35 persons who are not family members, except that rules, orders, or declaratory rulings of the Commissioner may provide for other circumstances in which a State trust company either does or does not transact business with the general public. For the purposes of this subdivision, an estate, a trust, or any other legal entity having multiple beneficiaries or owners shall be deemed to constitute one person.

(b) A private trust company engaging in trust business in this State shall comply with all provisions of this Article applicable to a State trust company unless expressly exempted from a provision of this Article by the Commissioner pursuant to this section or prior to the enactment of this Article. However, notwithstanding G.S. 53-352(a), the holders of the equity securities of a private trust company may by unanimous agreement limit the authority of its board of directors; restrict, enlarge, or modify the rights or duties of particular directors; or allocate to an individual or group other than the board of directors some or all of the duties of a board of directors. A private trust company shall notify the Commissioner of the adoption of any agreement affecting the authority of the board of directors within 48 hours and shall provide such information as the Commissioner requests about the agreement. To the extent that an individual or group other than the board of directors is vested with the authority of the board of directors under this section, that individual or group shall be deemed to be acting as the board of directors in the exercise of that authority for all purposes of this Chapter.

(c) A private trust company or proposed private trust company may request in writing that it be exempted from specified provisions of G.S. 53-333(b), 53-337(a), 53-339, 53-340, 53-341, 53-342, 53-345, 53-346, and 53-394(b). The Commissioner may grant the exemption request in whole or in part. The Commissioner also may issue rules, orders, or declaratory

rulings granting exemptions to all private trust companies, or to private trust companies that meet specified conditions.

(d) The Commissioner may examine or investigate the private trust company or proposed private trust company in connection with the application for exemption. Unless the application presents novel or unusual questions, the Commissioner shall approve or deny the application for exemption no later than the sixty-first day after the date the Commissioner considers the application complete and accepted for filing. The Commissioner may require the submission of additional information in order to make an informed decision to approve or reject the proposed exemption.

(e) Any exemption granted under the provisions of this section may be made subject to conditions or limitations imposed by the Commissioner consistent with this Subpart, and those conditions or limitations shall be included in an order.

(f) Rules, orders, or declaratory rulings of the Commissioner may provide for other circumstances that justify exemption from specific provisions of this Article, specifying the provisions of this Act that are subject to the exemption request, and establishing procedures and requirements for obtaining, maintaining, or revoking exemptions. (2001-263, s. 1; 2011-339, ss. 13, 14.)