

IN THE SENATE

SENATE BILL NO. 1314

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO TRUST INSTITUTIONS; AMENDING SECTION 26-3205, IDAHO CODE, TO
2 PROVIDE THAT CERTAIN PERSONS ACTING AS A TRUSTEE SHALL NOT REQUIRE A
3 CHARTER.
4

5 Be It Enacted by the Legislature of the State of Idaho:

6 SECTION 1. That Section 26-3205, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 26-3205. ACTIVITIES NOT REQUIRING A CHARTER. Notwithstanding any
9 other provision of this act, a person does not engage in the trust business or
10 in any other business in a manner requiring a charter under this act, or in an
11 unauthorized trust activity by:

12 (1) Acting in a manner authorized by law and in the scope of authority
13 as an agent of a trust institution with respect to an activity which is not an
14 unauthorized trust activity;

15 (2) Obtaining trust business as a result of an existing attorney-client
16 relationship or certified public accountant-client relationship;

17 (3) Acting as trustee under a deed of trust delivered only as security
18 for the payment of money or for the performance of another act;

19 (4) Receiving and distributing rents and proceeds of sale as a licensed
20 real estate broker on behalf of a principal in a manner authorized by the
21 Idaho real estate commission;

22 (5) Engaging in a securities transaction or providing an investment ad-
23 visory service as a licensed and registered broker-dealer, investment ad-
24 visor or registered representative thereof, provided the activity is regu-
25 lated by the Idaho department of finance or the securities and exchange com-
26 mission;

27 (6) Engaging in the sale and administration of an insurance product by
28 an insurance company or agent licensed by the Idaho department of insurance
29 to the extent that the activity is regulated by the Idaho department of in-
30 surance;

31 (7) Engaging in the lawful sale of prepaid funeral contracts under a
32 permit issued by the Idaho board of morticians or engaging in the lawful
33 business of a perpetual care cemetery under the Idaho endowment care ceme-
34 tery act;

35 (8) Acting as trustee under a voting trust as provided by the Idaho
36 business corporation act;

37 (9) Acting as trustee by a public, private, or independent institution
38 of higher education or a university system, including its affiliated founda-
39 tions or corporations, with respect to endowment funds or other funds owned,
40 controlled, provided to or otherwise made available to such institution with
41 respect to its educational or research purposes;

- 1 (10) Engaging in other activities expressly excluded from the applica-
2 tion of this act, by rule of the director;
- 3 (11) Acting as a fiduciary for relatives;
- 4 (12) Provided the company is a trust institution and is not barred by or-
5 der of the director from engaging in a trust business in this state pursuant
6 to section 26-3603(2), Idaho Code:
- 7 (a) Marketing or soliciting in this state through the mails, telephone,
8 any electronic means or in person with respect to acting or proposing to
9 act as a fiduciary outside of this state;
- 10 (b) Delivering money or other intangible assets and receiving the same
11 from a client or other person in this state; or
- 12 (c) Accepting or executing outside of this state a trust of any client
13 or otherwise acting as a fiduciary outside of this state for any client;
- 14 (13) Acting pursuant to court appointment as:
- 15 (a) A personal representative of a decedent's estate; or
- 16 (b) A guardian or conservator of an estate;
- 17 (14) Acting as a trustee, but only if such person is an individual and
18 does not engage in the trust business as defined in section 26-3203(30),
19 Idaho Code.