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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT

Introduced By: Representative Thomas Winfield

Date Introduced: March 17, 2017

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-14-2 of the General Laws in Chapter 42-14 entitled "Department  
2 of Business Regulation" is hereby amended to read as follows:

3 **42-14-2. Functions of department.**

4 (a) It shall be the function of the department of business regulation:

5 (1) To regulate and control banking and insurance, foreign surety companies, sale of  
6 securities, building and loan associations, fraternal benefit and beneficiary societies;

7 (2) To regulate and control the manufacture, transportation, possession, and sale of  
8 alcoholic beverages;

9 (3) To license and regulate the manufacture and sale of articles of bedding, upholstered  
10 furniture, and filling materials;

11 (4) To regulate the licensing of compassion centers, licensed cultivators, and cooperative  
12 cultivations pursuant to chapter 28.6 of title 21 of the general laws; and

13 (5) To assess and regulate the qualifications and professional conduct of trustees named  
14 in any instrument creating a trust pursuant to chapter 14.7 of title 42.

15 (b) Whenever any hearing is required or permitted to be held pursuant to law or  
16 regulation of the department of business regulation, and whenever no statutory provision exists  
17 providing that notice be given to interested parties prior to the hearing, no such hearing shall be  
18 held without notice in writing being given at least ten (10) days prior to such hearing to all  
19 interested parties. For purposes of this section, an "interested party" shall be deemed to include

1 the party subject to regulation hereunder, the Rhode Island consumers' council, and any party  
2 entitled to appear at the hearing. Notice to the party that will be subject to regulation, the Rhode  
3 Island consumers' council [Repealed] and any party who has made known his or her intention to  
4 appear at the hearing shall be sufficient if it be in writing and mailed, first class mail, to the party  
5 at his or her regular business address. Notice to the general public shall be sufficient hereunder if  
6 it be by publication in a newspaper of general circulation in the municipality affected by the  
7 regulation.

8 SECTION 2. Title 42 of the General Laws entitled "STATE AFFAIRS AND  
9 GOVERNMENT" is hereby amended by adding thereto the following chapter:

10 CHAPTER 14.7

11 DEPARTMENT OF BUSINESS REGULATION - TRUSTEES

12 **42-14.7-1. Trustee evaluation, assessment and certification.**

13 (a) The director of business regulation shall promulgate rules and regulations requiring all  
14 trustees named in any instrument creating a trust to undergo an evaluation, assessment and  
15 certification process regarding the trustee's qualifications to act in such capacity.

16 (b) Nothing in this chapter shall, by implication or otherwise, in any manner affect any  
17 trust that is subject to the jurisdiction of any court proceeding.

18 **42-14.7-2. Trustee training.**

19 (a) The director of business regulation shall provide training to trustees related to their  
20 duties. Such training shall include, but not be limited to:

21 (1) Introduction to the general laws that govern the roles of trustees and responsibilities to  
22 the protected person or beneficiary;

23 (2) An overview of the fiduciary duties of a trustee;

24 (3) An explanation of the reasons why an individual would create a trust;

25 (4) An explanation of the definitions of key words in the trust document such as  
26 revocable, irrevocable, testamentary, or special needs trust;

27 (5) A review of the importance of the trust document in making decisions;

28 (6) An explanation of what to do if the trust document is unclear or if there is  
29 disagreement;

30 (7) Instructions for how to recognize which actions require court approval and which do  
31 not;

32 (8) Practical tools for tracking diverse duties, tracking timelines, and record keeping  
33 duties;

34 (9) Clear instructions regarding expectations regarding ethical behavior of trustees;

1           (10) Tips on the use of legal representation, meeting court expectations and working with  
2 advocates and caregivers involved with a protected beneficiary; and

3           (11) An explanation of what to do if the role as trustee is too burdensome.

4           (b) Upon the successful completion of the training required pursuant to subsection (a) of  
5 this section, the director of business regulation shall issue a certificate to the trustee, in form and  
6 substance promulgated by the director, that the trustee is certified as competent to act in such  
7 capacity and has fulfilled the requirements for certification.

8           **42-14.7-3. Trustee plan.**

9           A trustee shall be required to furnish a plan to the director of business regulation, in form  
10 and substance as required by the director, summarizing how the trustee shall administer the trust.

11           **42-14.7-4. Trustee beneficiary ombudsman.**

12           (a) The director of business regulation shall designate an existing staff member as a  
13 "trustee beneficiary ombudsman", who shall report directly to the director.

14           (b) The trustee beneficiary ombudsman shall advocate for trust beneficiaries subject to  
15 the provisions of this chapter, and provide trust beneficiaries with appropriate resources to assist  
16 them in connection with their position. The director of business regulation shall inform, or require  
17 the trustee to inform, trust beneficiaries of the availability of the trustee beneficiary ombudsman,  
18 including contact information. The trustee beneficiary ombudsman may assist a trust beneficiary  
19 who is a resident of the state regardless of where the trust was created or is administered.

20           **42-14.7-5. Severability.**

21           If any provision of this chapter or the application of this chapter to any person or  
22 circumstances if deemed invalid, that invalidity does not affect other provisions or applications of  
23 the chapter which can be given effect without the invalid provision or application, and to this end  
24 the provisions of this chapter are declared to be severable.

25           SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO STATE AFFAIRS AND GOVERNMENT

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- 1           This act would require the department of business regulation to establish a certification
- 2   and training process with respect to trustees named in an instrument creating a trust.
- 3           This act would take effect upon passage.

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