

Senate Engrossed

State of Arizona  
Senate  
Forty-fifth Legislature  
First Regular Session  
2001

CHAPTER 120

# SENATE BILL 1294

AN ACT

AMENDING SECTIONS 6-851, 6-856 AND 6-868, ARIZONA REVISED STATUTES; RELATING TO TRUST COMPANIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 6-851, Arizona Revised Statutes, is amended to  
3 read:

4 6-851. Definitions

5 A. In this chapter, unless the context otherwise requires:

6 1. "Superintendent" means the state superintendent of banks.

7 2. "Trust business" means the holding out by a person to the public  
8 at large by advertising, solicitation or other means that such person is  
9 available to act as a fiduciary in this state and accepting and undertaking  
10 to perform the duties as such fiduciary in the regular course of his  
11 business.

12 3. "Trust company" means a corporation holding a certificate issued  
13 under this article.

14 B. In this article, unless the context otherwise requires:

15 1. "Agent" means a person who receives compensation to regularly  
16 perform services specifically related to the conduct of the trust business.

17 2. "ASSET" MEANS ANY PROPERTY OR PROPERTY RIGHT HELD BY A LICENSEE FOR  
18 THE BENEFIT OF ANOTHER.

19 ~~2.~~ 3. "Capital" means the total of outstanding common stock, preferred  
20 stock and surplus and undivided profits.

21 ~~3.~~ 4. "Certificate" means a certificate of authority issued under the  
22 provisions of this chapter to engage in trust business.

23 ~~4.~~ 5. "Contingency plan" means a document stating a trust company's  
24 means of conducting business and preserving records in the event of any power  
25 outage, flood or other physical emergency.

26 6. "DISCRETIONARY ASSETS" MEANS THOSE ASSETS IN WHICH THE TRUST  
27 COMPANY HAS THE UNILATERAL AUTHORITY TO DETERMINE INVESTMENT STRATEGIES AND  
28 EXECUTE INVESTMENT TRANSACTIONS WITHOUT SEEKING THE CONCURRENCE, APPROVAL OR  
29 AUTHORITY FROM THE CUSTOMER OR ANY OTHER EXTERNAL PARTY.

30 ~~5.~~ 7. "Fiduciary" means a personal representative, administrator,  
31 guardian, conservator, trustee, agent or other person who acts in a fiduciary  
32 capacity and who is not exempt by section 6-852.

33 ~~6.~~ 8. "Impaired" or "insolvent" means the trust company does not  
34 possess assets that are at least equal to liabilities, required reserves and  
35 total issued and outstanding capital.

36 ~~7.~~ 9. "Liquid capital" means capital in the form of certificates of  
37 deposit issued by banks, savings banks or savings and loan associations doing  
38 business in this state and insured by the federal deposit insurance  
39 corporation or any successor institution or direct obligations of the United  
40 States government with maturity of not more than five years.

41 10. "NONDISCRETIONARY ASSETS" MEANS THOSE ASSETS IN WHICH THE TRUST  
42 COMPANY MUST OBTAIN FROM THE CUSTOMER, BROKER OR INVESTMENT ADVISOR SPECIFIC  
43 DIRECTION AND INSTRUCTIONS REGARDING BOTH INVESTMENT STRATEGIES AND  
44 INVESTMENT EXECUTIONS.

1           8- 11. "Surplus" means the total amount paid by shareholders in excess  
2 of the par or stated value of the shares of capital stock of a trust business  
3 in consideration for the shares.

4           Sec. 2. Section 6-856, Arizona Revised Statutes, is amended to read:  
5           6-856. Minimum capital; dividends; other requirements

6           A. In order to obtain a certificate, a trust company shall have not  
7 less than five hundred thousand dollars of liquid capital. ~~The trust company~~  
8 ~~shall notify the superintendent of the form in which and location where the~~  
9 ~~liquid capital is held and its date of maturity.~~ THE TRUST COMPANY SHALL  
10 HAVE ADDITIONAL CAPITAL IN THE FOLLOWING AMOUNTS:

11           1. FOR EACH SEVEN HUNDRED FIFTY MILLION DOLLARS OF NONDISCRETIONARY  
12 ASSETS, AN ADDITIONAL TWO HUNDRED FIFTY THOUSAND DOLLARS OF CAPITAL.

13           2. FOR EACH TWO HUNDRED FIFTY MILLION DOLLARS OF DISCRETIONARY ASSETS,  
14 AN ADDITIONAL TWO HUNDRED FIFTY THOUSAND DOLLARS OF CAPITAL.

15           3. FOR A TRUST COMPANY WHOSE MOST RECENT COMPOSITE RATING FROM THE  
16 SUPERINTENDENT WAS FOUR AS DEFINED IN THE REVISED UNIFORM INTERAGENCY TRUST  
17 RATING SYSTEM AS PUBLISHED IN THE FEDERAL REGISTER VOLUME 63, NUMBER 197,  
18 OCTOBER 13, 1998, PAGES 54704 THROUGH 54711, AN ADDITIONAL TWO HUNDRED FIFTY  
19 THOUSAND DOLLARS OF CAPITAL.

20           4. FOR A TRUST COMPANY WHOSE MOST RECENT COMPOSITE RATING FROM THE  
21 SUPERINTENDENT WAS FIVE AS DEFINED IN THE REVISED UNIFORM INTERAGENCY TRUST  
22 RATING SYSTEM AS PUBLISHED IN THE FEDERAL REGISTER VOLUME 63, NUMBER 197,  
23 OCTOBER 13, 1998, PAGES 54704 THROUGH 54711, AN ADDITIONAL FIVE HUNDRED  
24 THOUSAND DOLLARS OF CAPITAL.

25           B. A MINIMUM OF ONE-HALF OF THE ADDITIONAL CAPITAL REQUIRED UNDER  
26 SUBSECTION A, PARAGRAPHS 1 AND 2 OF THIS SECTION SHALL CONSIST OF LIQUID  
27 CAPITAL. ALL OF THE ADDITIONAL CAPITAL REQUIRED UNDER SUBSECTION A,  
28 PARAGRAPH 3 OR 4 OF THIS SECTION SHALL CONSIST OF LIQUID CAPITAL.

29           C. THE TRUST COMPANY SHALL NOTIFY THE SUPERINTENDENT OF THE FORM IN  
30 WHICH AND LOCATION WHERE THE LIQUID CAPITAL IS HELD AND ITS DATE OF MATURITY.

31           D. A TRUST COMPANY THAT HAS A CERTIFICATE ISSUED BEFORE JUNE 30, 2001  
32 HAS UNTIL DECEMBER 31, 2002 TO COMPLY WITH THE ADDITIONAL CAPITAL  
33 REQUIREMENTS PRESCRIBED IN SUBSECTION A OF THIS SECTION.

34           E. THE SUPERINTENDENT MAY REDUCE THE AMOUNT OF THE ADDITIONAL CAPITAL  
35 REQUIREMENT PRESCRIBED IN SUBSECTION A OF THIS SECTION IF THE SUPERINTENDENT  
36 DETERMINES THAT THE TRUST COMPANY IS A SUBSIDIARY OF A FINANCIAL INSTITUTION  
37 OR FINANCIAL HOLDING COMPANY THAT IS CAPABLE OF PROVIDING SUFFICIENT SUPPORT.

38           ~~B.~~ F. A trust company ~~which~~ THAT has been issued a certificate by the  
39 superintendent shall maintain capital in the amount required under subsection  
40 A of this section.

41           ~~C.~~ G. A trust company may declare a dividend to be paid from net  
42 profits. A dividend shall not be declared, credited or paid if there is an  
43 impairment of the liquid capital. A trust company that proposes dividends  
44 in a calendar year that are more than the net profit for the same calendar

1 year shall obtain the superintendent's approval before declaring the  
2 dividends.

3 ~~D.~~ H. Notwithstanding subsection A of this section, a trust company  
4 that accepts monies to be held in a savings account or time deposit  
5 prescribed in section 6-882 shall comply with all of the rules and  
6 requirements necessary to obtain and maintain insurance issued by the federal  
7 deposit insurance corporation or its successor.

8 Sec. 3. Section 6-868, Arizona Revised Statutes, is amended to read:  
9 6-868. Fidelity bond requirements

10 A. A trust company doing business under this chapter shall obtain and  
11 maintain a fidelity bond, naming the trust company as obligee, in the  
12 following amounts:

Trust assets (Market value)	Fidelity bond amounts
15 less than \$3,000,000	\$500,000
16 \$3,000,000 to \$4,999,999	\$525,000
17 \$5,000,000 to \$7,499,999	\$550,000
18 \$7,500,000 to \$9,999,999	\$575,000
19 \$10,000,000 to \$14,999,999	\$600,000
20 \$15,000,000 to \$19,999,999	\$650,000
21 \$20,000,000 to \$24,999,999	\$700,000
22 \$25,000,000 to \$34,999,999	\$750,000
23 \$35,000,000 to \$49,999,999	\$850,000
24 \$50,000,000 to \$74,999,999	\$950,000
25 \$75,000,000 to \$99,999,999	\$1,000,000
26 \$100,000,000 to \$149,999,999	\$1,250,000
27 \$150,000,000 to \$249,999,999	\$1,600,000
28 \$250,000,000 to \$499,999,999	\$2,100,000
29 \$500,000,000 to \$999,999,999	\$2,400,000
30 \$1,000,000,000 to \$2,000,000,000	\$4,400,000
31 <del>over \$2,000,000,000</del> \$2,000,000,001	
32 TO \$3,000,000,000	\$6,000,000
33 FOR EVERY \$1,000,000,000 OVER	
34 \$3,000,000,000	\$1,000,000

35 B. The trust company shall file a signed copy of its bond with the  
36 superintendent, and the bond remains a part of the department's records. The  
37 bond company shall not cancel the bond for failure to pay the premium unless  
38 the bond company files a written notice with the department at least thirty  
39 days before canceling the bond. The bond company shall not cancel the bond  
40 for any other reason unless the bond company files a written notice with the  
41 department at least forty-five days before canceling the bond.

42 C. The bond may contain a deductible clause not to exceed fifteen per  
43 cent of the face amount of the bond. If the deductible exceeds fifteen per  
44 cent of the face amount of the bond, the deductible clause must be approved  
45 by the superintendent.

Passed the House April 10, 20 01,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate March 7, 20 01,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
11 day of April, 20 01,

at 11:03 o'clock A M.

[Signature]  
Secretary to the Governor

Approved this 16 day of

April, 20 01,

at 3:04 o'clock P M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 17 day of April, 20 01,

at 10:55 o'clock A M.  
[Signature]  
Secretary of State

S.B. 1294