

\*\*\* DRAFT - NOT YET FILED \*\*\*

1301:1-1-04

**Designations and names that include "bank," "banker," "banking," or "trust".**

- (A) The prohibitions in section 1101.15 of the Revised Code apply to all names and designations under which business is done in this state, including legal names, fictitious names, trade names, trade marks, and service marks, and to all business forms, including corporations, partnerships, limited liability companies, and sole proprietorships.
- (B) The prohibitions in section 1101.15 of the Revised Code apply to all names or designations that include "bank," "banker," "banking", or "trust" whether as standalone words, compound words, fanciful words, words with prefixes or suffixes, or words with extensions, such as ".com" or ".org".
- (C)
  - (1) A designation or name that includes "bank," "banker," or "banking" is likely to mislead the public if, in the opinion of the superintendent of financial institutions, the listener or reader would reasonably understand the designation or name as the designation or name of a bank, without regard to whether there is, has been, or may be a bank by the designation or name being used.
  - (2) The superintendent may determine a name that includes "bank," "banker," or "banking" is not likely to mislead the public, i.e., the listener or reader would not reasonably understand the designation or name as the designation or name of a bank, in any of the following circumstances:
    - (a) If, in the opinion of the superintendent, the designation or name, on its face, clearly identifies the user as something other than a bank;
    - (b) If, in the opinion of the superintendent, the use of "bank," "banker," or "banking" in the designation or name merely indicates an association or affiliation with one or more banks or bankers, a geographic reference, or the proper name of a natural person;
    - (c) If, in the opinion of the superintendent, the designation or name, on its face, is one that is commonly understood not to involve financial services or activities, such as "food bank," "blood bank," or "eye bank";
    - (d) If, in the case of a company that controls one or more banks, the

designation or name, on its face, includes the designation or name of a bank the company controls at the time the company uses the designation or name that includes "bank," "banker," or "banking" and something more that distinguishes the designation or name of the company from the designation or name of the bank.

- (3) In determining whether a designation or name that includes "bank," "banker," or "banking" is not likely to mislead the public, it is not relevant whether the user of the designation or name is operating for profit or not.

(D)

- (1) A designation or name that includes "trust" is likely to mislead the public if, in the opinion of the superintendent of financial institutions, the listener or reader would reasonably understand the designation or name as the designation or name of either a person engaged in trust business or a bona fide trust, without regard to whether there is, has been, or may be a person engaged in trust business or a bona fide trust by the designation or name being used.
- (2) The superintendent may determine a name that includes "trust" is not likely to mislead the public, i.e., the listener or reader would not reasonably understand the designation or name as the designation or name of a either a person engaged in trust business or a bona fide trust, in any of the following circumstances:
  - (a) If, in the opinion of the superintendent, the designation or name, on its face, clearly identifies the user as something other than a person engaged in trust business or a bona fide trust;
  - (b) If, in the opinion of the superintendent, the use of "trust" in the designation or name merely indicates an association or affiliation with one or more persons engaged in trust business or bona fide trusts, a geographic reference, or the proper name of a natural person;
  - (c) If, in the case of a company that controls one or more persons engaged in trust business or bona fide trusts, the designation or name, on its face, includes the designation or name of a person authorized to engage in trust business or a bona fide trust the company controls at the time the company uses the designation or name that includes "trust" and something more that distinguishes the designation or name of the company from the designation or name of the person authorized engage in trust business or bona fide trust;

- (d) If, in the opinion of the superintendent, use of "trust" in the designation or name, on its face, is one that is commonly understood not to involve fiduciary activities, trust business, or bona fide trusts.
  - (3) It may not be likely to mislead the public for a bank, savings association, or savings bank that engages in trust business through a subsidiary, rather than directly, to use a designation or name that includes "trust," if the subsidiary is a person authorized to engage in trust business.
  - (4) In determining whether a designation or name that includes "trust" is not likely to mislead the public, it is not relevant whether the user of the designation or name is operating for profit or not.
- (E) A determination by the superintendent under section 1101.15 of the Revised Code that a designation or name is not likely to mislead the public:
- (1) Is merely a determination for the purposes of section 1101.15 of the Revised Code, i.e., to protect the public from misunderstanding the designation or name is that of a bank, someone engaged in trust business, or a bona fide trust when it is not;
  - (2) Is not a determination of any of the following:
    - (a) The designation or name is not misleading for any other purpose;
    - (b) The person using the name or designation is not misrepresenting itself as a bank, person authorized to engage in trust business, or a trust;
    - (c) The person using the designation or name is not subject to other licensing requirements before engaging in its business in this state;
  - (3) Is not an opinion on the availability of the name or designation, an authorization to use the name or designation, or protection for the user against any lawful claims of persons or entities having superior rights in the same or a similar name or designation.
- (F) A determination by the superintendent under section 1101.15 of the Revised Code that a designation or name is not likely to mislead the public does not extend to any other variation on the designation or name.

(G) Division (A) of section 1101.15 of the Revised Code does not prohibit a savings bank or savings and loan association doing business under authority granted by the division of financial institutions or the savings bank or savings and loan association chartering authority of another state or country or a federal savings association doing business in this state under a designation or name that includes "bank," "banker," or "banking."

Five Year Review (FYR) Dates:

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Certification

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Date

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Statutory Authority:	1121.03
Rule Amplifies:	1101.15
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