

Topic: Statutory Business Trusts

Question by: Thomas B. Connolly

Jurisdiction: New Hampshire

Date: February 4, 2020

| Jurisdiction                    | Question(s)   |
|---------------------------------|---|
|                                 | <p>Our Legislature is currently considering a bill to establish statutory business trusts in New Hampshire.</p> <p>IF your jurisdiction currently has a statutory trust law, I would appreciate it if you could answer a few short questions about filing and reporting requirements for these entities.</p> <ol style="list-style-type: none"> <li>1. What requirements, if any, are there for the name of a statutory trust?</li> <li>2. Must the trust appoint and maintain a registered agent/office in the state (not the resident trustee)?</li> <li>3. Are there any annual reports or annual fees required?</li> <li>4. For what grounds, if any, can your office administratively dissolve a statutory trust?</li> <li>5. Citation to your statutory trust law:</li> </ol> |
| <b>Manitoba</b>                 |   |
| <b>Corporations<br/>Canada</b>  |   |
| <b>Alabama</b>                  |   |
| <b>Alaska</b>                   |   |
| <b>Arizona</b>                  |   |
| <b>Arkansas</b>                 |   |
| <b>California</b>               |   |
| <b>Colorado</b>                 |   |
| <b>Connecticut</b>              |   |
| <b>Delaware</b>                 |   |
| <b>District of<br/>Columbia</b> |   |
| <b>Florida</b>                  |   |
| <b>Georgia</b>                  |   |
| <b>Hawaii</b>                   |   |

| <b>Jurisdiction</b> | <b>Question(s)</b>  |
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| <b>Idaho</b>        |   |
| <b>Illinois</b>     |   |

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| <p><b>Indiana</b></p> | <ol style="list-style-type: none"> <li>1. What requirements, if any, are there for the name of a statutory trust? See below</li> <li>2. Must the trust appoint and maintain a registered agent/office in the state (not the resident trustee)? Yes</li> <li>3. Are there any annual reports or annual fees required? Yes biennial report like other business entities</li> <li>4. For what grounds, if any, can your office administratively dissolve a statutory trust? Same as corporations. Failure to maintain a registered agent/address, failure to pay biennial reports.</li> <li>5. Citation to your statutory trust law: IC 23-5-1. You can look it up at <a href="https://nam12.safelinks.protection.outlook.com/?url=www.in.gov%2Flegislative&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cd35a7d1f38ed458deab708d7a9c54d18%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637164537191938987&amp;data=mM6L340oZ4PNplcSS5%2BTcY5eQ2FNK6I98OFN3eFee7c%3D&amp;reserved=0&lt;https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.in.gov%2Flegislative&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cd35a7d1f38ed458deab708d7a9c54d18%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637164537191938987&amp;data=aZSHBDdIEJhqh0%2FPIWzbvY2coj5oqBfMKUrosJAGzNY%3D&amp;reserved=0&gt;">https://nam12.safelinks.protection.outlook.com/?url=www.in.gov%2Flegislative&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cd35a7d1f38ed458deab708d7a9c54d18%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637164537191938987&amp;data=mM6L340oZ4PNplcSS5%2BTcY5eQ2FNK6I98OFN3eFee7c%3D&amp;reserved=0&lt;https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.in.gov%2Flegislative&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cd35a7d1f38ed458deab708d7a9c54d18%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637164537191938987&amp;data=aZSHBDdIEJhqh0%2FPIWzbvY2coj5oqBfMKUrosJAGzNY%3D&amp;reserved=0&gt;</a>. Click the Code tab and enter the citation.</li> </ol> <p>IC 23-5-1-4 Required filings; recordation</p> <p>Sec. 4. (a) Any business trust, whether domestic or foreign, desiring to transact business in this state, shall file the following documents and information in the office of the secretary of state, on such forms, if any, as such secretary may prescribe:</p> <ol style="list-style-type: none"> <li>(1) An executed copy of the trust instrument by which the trust was created and of all amendments thereto or a true and correct copy thereof certified to be such by a trustee thereof before an official authorized to administer oaths or by a public official of another state, territory, or country in whose office an executed copy thereof is on file.</li> <li>(2) A verified list of the names and addresses of its trustees.</li> <li>(3) A balance sheet, certified by an independent certified or public accountant or firm of accountants as of the date no earlier than sixty (60) days prior to such date of filing, fairly and truly reflecting its assets and liabilities and specifically setting out its corpus and showing a net worth of not less than one thousand dollars (\$1,000). A foreign business trust shall also file a statement showing the same information required of a foreign corporation under IC 23-1-1&lt;<a href="https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Figa.in.gov%2Flegislative%2Fflaws%2F2019%2Fic%2Ftitles%2F023%2F%2323-1&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cd35a7d1f38ed458deab708d7a9c54d18%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637164537191938987&amp;data=9v5nR2vhKQTSZnlqe0f8zQ4euQWuxhrxf5oSzRzJuis%3D&amp;reserved=0&gt;">https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Figa.in.gov%2Flegislative%2Fflaws%2F2019%2Fic%2Ftitles%2F023%2F%2323-1&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cd35a7d1f38ed458deab708d7a9c54d18%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637164537191938987&amp;data=9v5nR2vhKQTSZnlqe0f8zQ4euQWuxhrxf5oSzRzJuis%3D&amp;reserved=0&gt;</a>.</li> <li>(4) The name and address of its registered agent as provided in IC 23-0.5-4&lt;<a href="https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Figa.in.gov%2Flegislative%2Fflaws%2F2019%2Fic%2Ftitles%2F023%2F%2323-0.5-4&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cd35a7d1f38ed458deab708d7a9c54d18%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637164537191938987&amp;data=j07HkAjtnlNagXCxSvxiRfWJWVfCfH7cxLCYxcm83M%3D&amp;reserved=0&gt;">https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Figa.in.gov%2Flegislative%2Fflaws%2F2019%2Fic%2Ftitles%2F023%2F%2323-1&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cd35a7d1f38ed458deab708d7a9c54d18%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637164537191938987&amp;data=j07HkAjtnlNagXCxSvxiRfWJWVfCfH7cxLCYxcm83M%3D&amp;reserved=0&gt;</a>.</li> </ol> <p>(b) A foreign business trust shall comply with and be subject to all the provisions of IC 23-1-1&lt;<a href="https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Figa.in.gov%2Flegislative%2Fflaws%2F2019%2Fic%2Ftitles%2F023%2F%2323-1&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cd35a7d1f38ed458deab708d7a9c54d18%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637164537191938987&amp;data=9v5nR2vhKQTSZnlqe0f8zQ4euQWuxhrxf5oSzRzJuis%3D&amp;reserved=0&gt;">https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Figa.in.gov%2Flegislative%2Fflaws%2F2019%2Fic%2Ftitles%2F023%2F%2323-1&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cd35a7d1f38ed458deab708d7a9c54d18%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637164537191938987&amp;data=9v5nR2vhKQTSZnlqe0f8zQ4euQWuxhrxf5oSzRzJuis%3D&amp;reserved=0&gt;</a>&gt; as though it were a foreign corporation. Before commencement of business in Indiana every trust, domestic or foreign, shall record in the office of the county recorder of the county in which the principal office of said business trust in this state is located a copy of the trust instrument duly bearing the file mark of the secretary of state. Formerly: Acts 1963, c.353, s.4. As amended by P.L.149-1986, SEC.48; P.L.34-1997, SEC.13; P.L.118-2017, SEC.48.</p> <p>IC 23-5-1-9 Applicability of general corporate laws</p> <p>Sec. 9. Business trusts and certificates of beneficial interests in business trusts are subject to all applicable provisions of law, relating to domestic and foreign corporations, respectively, with regard to the issuance and transfer of securities, merger into a domestic corporation, and the filing of required statements, reports and service of process. Formerly: Acts 1963, c.353, s.9. As amended by P.L.34-1987, SEC.330; P.L.80-1989, SEC.16; P.L.226-1989, SEC.4.</p> |

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| Iowa          |   |
| Kansas        |   |
| Kentucky      |   |
| Louisiana     | Currently, Louisiana does not have statutory business trusts.--thanks   |
| Maine         |   |
| Maryland      |   |
| Massachusetts |   |

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| <p><b>Michigan</b></p> | <ol style="list-style-type: none"> <li>1. What requirements, if any, are there for the name of a statutory trust?<br/>                     The same requirements that apply to foreign profit corporations. See MCL 450.1212&lt;<a href="https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flegislature.mi.gov%2Fdoc.aspx%3Fmcl-450-1212&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cb7658cd531144bfa774108d7ab2d0421%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637166082161284744&amp;reserved=0">https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flegislature.mi.gov%2Fdoc.aspx%3Fmcl-450-1212&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cb7658cd531144bfa774108d7ab2d0421%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637166082161284744&amp;reserved=0</a>&gt;(2). However, the word "trust" is usually restricted in its use in the name of an entity, but foreign business trusts or statutory trusts are an exception.</li> <li>1. Must the trust appoint and maintain a registered agent/office in the state (not the resident trustee)?<br/>                     Yes, see MCL 450.2015&lt;<a href="https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flegislature.mi.gov%2Fdoc.aspx%3Fmcl-450-2015&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cb7658cd531144bfa774108d7ab2d0421%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637166082161284744&amp;reserved=0">https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flegislature.mi.gov%2Fdoc.aspx%3Fmcl-450-2015&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cb7658cd531144bfa774108d7ab2d0421%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637166082161284744&amp;reserved=0</a>&gt;(d).</li> <li>1. Are there any annual reports or annual fees required?<br/>                     Yes, the same annual report that is required for foreign profit corporations. The fee is \$25.00.</li> <li>1. For what grounds, if any, can your office administratively dissolve a statutory trust?<br/>                     The same provisions that apply to revoking a certificate of authority for a foreign corporation that is transacting business in Michigan. See MCL 450.2041&lt;<a href="https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flegislature.mi.gov%2Fdoc.aspx%3Fmcl-450-2041&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cb7658cd531144bfa774108d7ab2d0421%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637166082161284744&amp;reserved=0">https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flegislature.mi.gov%2Fdoc.aspx%3Fmcl-450-2041&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cb7658cd531144bfa774108d7ab2d0421%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637166082161284744&amp;reserved=0</a>&gt; and MCL 450.2042&lt;<a href="https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flegislature.mi.gov%2Fdoc.aspx%3Fmcl-450-2042&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cb7658cd531144bfa774108d7ab2d0421%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637166082161284744&amp;reserved=0">https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flegislature.mi.gov%2Fdoc.aspx%3Fmcl-450-2042&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cb7658cd531144bfa774108d7ab2d0421%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637166082161284744&amp;reserved=0</a>&gt;.</li> <li>1. Citation to your statutory trust law:MCL 450.2014&lt;<a href="https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flegislature.mi.gov%2Fdoc.aspx%3Fmcl-450-2014&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cb7658cd531144bfa774108d7ab2d0421%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637166082161284744&amp;reserved=0">https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flegislature.mi.gov%2Fdoc.aspx%3Fmcl-450-2014&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cb7658cd531144bfa774108d7ab2d0421%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637166082161284744&amp;reserved=0</a>&gt;. It refers to MCL 450.2001 to 450.2055, which are sections of Chapter 10&lt;<a href="https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flegislature.mi.gov%2Fdoc.aspx%3Fmcl-284-1972-10&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cb7658cd531144bfa774108d7ab2d0421%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637166082161284744&amp;reserved=0">https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flegislature.mi.gov%2Fdoc.aspx%3Fmcl-284-1972-10&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cb7658cd531144bfa774108d7ab2d0421%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637166082161284744&amp;reserved=0</a>&gt; of the Michigan Business Corporation Act. MCL 450.2064&lt;<a href="https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flegislature.mi.gov%2Fdoc.aspx%3Fmcl-450-2064&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cb7658cd531144bfa774108d7ab2d0421%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637166082161284744&amp;reserved=0">https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flegislature.mi.gov%2Fdoc.aspx%3Fmcl-450-2064&amp;data=02%7C01%7Cpviverto%40azsos.gov%7Cb7658cd531144bfa774108d7ab2d0421%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637166082161284744&amp;reserved=0</a>&gt;.</li> </ol> |

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| <b>Minnesota</b>      |  |
| <b>Mississippi</b>    |  |
| <b>Missouri</b>       |  |
| <b>Montana</b>        |  |
| <b>Nebraska</b>       |  |
| <b>Nevada</b>         | <p>Below is a link to Nevada's statutes on business trusts, which address all of your questions, with the exception of question #4. We will only administratively dissolve a business trust by court order.</p> <p><a href="https://nam12.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.leg.state.nv.us%2FNRS%2FNRS-088A.html&amp;data=02%7C01%7Cpviverto%40azsos.gov%7C2665f61bf9ed4ecf07a708d7b63eef20%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637178253736720844&amp;sd=12lJGoa2ugcZifLpViqSNAS%2FCvT2zvZw7OimOHYqXn4%3D&amp;reserved=0">https://nam12.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.leg.state.nv.us%2FNRS%2FNRS-088A.html&amp;data=02%7C01%7Cpviverto%40azsos.gov%7C2665f61bf9ed4ecf07a708d7b63eef20%7Cb4494a03f26d475dba4139871e763531%7C1%7C0%7C637178253736720844&amp;sd=12lJGoa2ugcZifLpViqSNAS%2FCvT2zvZw7OimOHYqXn4%3D&amp;reserved=0</a></p> |
| <b>New Hampshire</b>  |  |
| <b>New Jersey</b>     |  |
| <b>New Mexico</b>     |  |
| <b>New York</b>       |  |
| <b>North Carolina</b> |  |
| <b>North Dakota</b>   |  |
| <b>Ohio</b>           |  |

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| <b>Oklahoma</b>       |   |
| <b>Oregon</b>         |   |
| <b>Pennsylvania</b>   | <ol style="list-style-type: none"> <li>1. What requirements, if any, are there for the name of a statutory trust? none really - "the proper name of a domestic business trust or registered foreign business trust shall not be required to contain a word or abbreviation indicating that it is a business trust." 15 Pa.C.S.A. ? 205. Otherwise, it must follow the general name rules at 15 Pa.C.S.A. ? 202 (be distinguishable, not contain certain protected words, etc.)</li> <li>2. Must the trust appoint and maintain a registered agent/office in the state (not the resident trustee)? No agent required. Pennsylvania is alone in the registration wilderness in that it does not require registered agents for any filing associations. It does require a registered office address for all filing entities. But that may be a commercial registered office provider. See 15 Pa.C.S.A. ? 9504 (relating to Registered office).</li> <li>3. Are there any annual reports or annual fees required? none</li> <li>4. For what grounds, if any, can your office administratively dissolve a statutory trust? none other than pursuant to a court order.</li> <li>5. Citation to your statutory trust law: Chapter 95 of Title 15 (15 Pa.C.S.A. ? 9501 - ? 9507) relating to Business Trusts</li> </ol> |
| <b>Rhode Island</b>   | Rhode Island does not have Statutory Business Trusts.   |
| <b>South Carolina</b> |   |
| <b>South Dakota</b>   |   |
| <b>Tennessee</b>      |   |
| <b>Texas</b>          |   |
| <b>Utah</b>           |   |

| Jurisdiction  | Question(s)  |
|---------------|--|
|               | <p>Our Legislature is currently considering a bill to establish statutory business trusts in New Hampshire.</p> <p>IF your jurisdiction currently has a statutory trust law, I would appreciate it if you could answer a few short questions about filing and reporting requirements for these entities.</p> <ol style="list-style-type: none"> <li>1. What requirements, if any, are there for the name of a statutory trust?</li> <li>2. Must the trust appoint and maintain a registered agent/office in the state (not the resident trustee)?</li> <li>3. Are there any annual reports or annual fees required?</li> <li>4. For what grounds, if any, can your office administratively dissolve a statutory trust?</li> <li>5. Citation to your statutory trust law:</li> </ol>  |
| Vermont       |  |
| Virginia      |  |
| Washington    |  |
| West Virginia |  |
| Wisconsin     |  |
| Wyoming       | <ol style="list-style-type: none"> <li>1. What requirements, if any, are there for the name of a statutory trust?</li> </ol> <p>A statutory trust name need not include the words "statutory trust." However, if a name does consist of the word "statutory" it must immediately precede the word "trust."</p> <ol style="list-style-type: none"> <li>2. Must the trust appoint and maintain a registered agent/office in the state (not the resident trustee)?</li> </ol> <p>Each statutory trust shall have and continuously maintain a registered agent/registered office.</p> <ol style="list-style-type: none"> <li>3. Are there any annual reports or annual fees required?</li> </ol> <p>An annual tax of one hundred dollars (\$100.00), is due on January 2 of each year. This tax is delinquent if not paid by February 1 and an additional one hundred dollars (\$100.00) is due (total of \$200.00).</p> <ol style="list-style-type: none"> <li>4. For what grounds, if any, can your office administratively dissolve a statutory trust?</li> </ol> <p>If a statutory trust fails to maintain a registered agent/registered office or pay the annual fee.</p> <ol style="list-style-type: none"> <li>5. Citation to your statutory trust law:</li> </ol> <p>W.S. 17-23-101 ? W.S. 17-23-302</p> |

**Additional comments:**

**Full text of email:**

Greetings from New Hampshire!

Our Legislature is currently considering a bill to establish statutory business trusts in New Hampshire.

IF your jurisdiction currently has a statutory trust law, I would appreciate it if you could answer a few short questions about filing and reporting requirements for these entities.

1. What requirements, if any, are there for the name of a statutory trust?
2. Must the trust appoint and maintain a registered agent/office in the state (not the resident trustee)?
3. Are there any annual reports or annual fees required?
4. For what grounds, if any, can your office administratively dissolve a statutory trust?
5. Citation to your statutory trust law:

Thank you!

Tom

[cid:20040218-100001]

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