# WEST VIRGINIA CODE: §31I-1-4

**§31I-1-4. Organization; minimum capital requirements; notice to State Auditor; control; application for license.**

(a) No person other than a corporation or limited liability company organized under the laws of this state to engage exclusively in the private trust business shall act as a private trust company or licensed private trust company.

(b) A licensed private trust company that has one designated relative may not be organized or operated with an owners' capital account of less than $250,000. The minimum capital account is $350,000 if two designated relatives of the licensed private trust company are named in the application for a license or in the annual license renewal. The minimum capital account is $450,000 if three designated relatives of the licensed private trust company are named in the application for a license or in the annual license renewal. A private trust company may not be organized or operated with a capital account of less than $250,000.

(c) No person shall engage in business as a private trust company or licensed private trust company without first giving written notice to the State Auditor. The notice shall identify at least one designated relative for any private trust company, and up to three designated relatives for any licensed private trust company, whose relationship to other individuals determines whether the individuals are family members. The notice shall identify the location of the principal office and additional office, if any, within this state. The notice shall be accompanied by an operating plan and such other books, records, documents, or information as the State Auditor may require. The notice shall also certify that:

(1) All provisions of law have been complied with;

(2) The private trust company or licensed private trust company is formed for no other reason than to engage in the private trust business;

(3) Family members have subscribed for capital stock, surplus, and a reserve for operation in an amount equal to or in excess of $250,000; and

(4) The private trust company or licensed private trust company is serving or will serve as trustee for one or more trusts having an aggregate of at least $50,000,000 in trust assets as further specified in §31I-1-10 of this code.

(d) All of the capital stock, membership interests, or other equity interests of a private trust company or licensed private trust company shall be and shall remain owned by, and under the voting control of, family members, including any spouses, trusts, stock corporations, limited partnerships, limited liability companies, or estates that qualify under §31I-1-3(9)(B) through (E) of this code of one or more families.

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(e) An applicant seeking to operate as a licensed private trust company must file an application with the State Auditor on forms prescribed by the State Auditor, accompanied by a nonrefundable $10,000 application fee to be deposited into a special account in the State Treasury to be known as the Private Trust Company Application Fund. Expenditures from the fund shall be for the purpose of the State Auditor administering this article. Expenditures are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq*. of this code and upon fulfillment of the provisions of §11B-2-1 *et seq*. of this code: *Provided*, That for the fiscal year ending June 30, 2024, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature. The application to operate as a licensed private trust company must also contain or be accompanied by:

(1) The name of the proposed licensed private trust company;

(2) A copy of the articles of incorporation or articles of organization and the bylaws or operating agreement of the proposed licensed private trust company;

(3) The physical address and mailing address of the proposed licensed private trust company, which must be located in this state;

(4) A statement describing in detail the services that will be provided to family members by the proposed licensed private trust company;

(5) The name and biographical information of each individual who will initially serve as a director, officer, manager, or member acting in a managerial capacity of the proposed licensed private trust company;

(6) The name and biographical information of each individual who owns or has the ability or power to directly or indirectly vote at least 10 percent or more of the outstanding shares, membership interest, or membership units of the proposed licensed private trust company;

(7) The names of the designated relatives;

(8) The amount of the initial capital account of the proposed licensed private trust company and the form in which the capital was paid and will be maintained;

(9) The type and amount of bonds or insurance that will be procured and maintained on directors, officers, managers, or members acting in a managerial capacity or employees pursuant to §31I-1-12 of this code;

(10) A statement signed by the applicant, or by the individual signing on behalf of the proposed licensed private trust company, under penalty of perjury, affirming that the following statements are true:

(A) The proposed licensed private trust company is not currently transacting business with the general public;

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(B) No director, officer, manager, or member served as a director, officer, or manager, or acted in a managerial capacity, for a trust company or any other financial institution that had a license issued under the financial institutions codes or by the Federal Government or any other state, the District of Columbia, a territory of the United States, or a foreign country that was suspended or revoked within the 10 years preceding the date of the application;

(C) No director, officer, manager, or member acting in a managerial capacity has been convicted of, or pled guilty or nolo contendere, regardless of whether adjudication of guilt is entered by the court, to a violation of the financial institutions codes, or other similar state or federal laws or related rules, or to a crime involving fraud, misrepresentation, or moral turpitude;

(D) No director, officer, manager, or member acting in a managerial capacity has had a professional license suspended or revoked within the 10 years preceding the date of the application;

(E) All information contained in the application is true and correct to the best knowledge of the individual signing the application on behalf of the proposed licensed private trust company; and

(11) Any other additional information reasonably required by the State Auditor.

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