WEST VIRGINIA CODE: §44-6-2

§44-6-2. In what securities fiduciaries may invest trust funds.

Any executor, administrator, guardian, curator, committee, trustee or other fiduciary whose duty it may be to loan or invest money entrusted to him or her as such, may, without any order of any court, invest the same or any part thereof in any of the following securities, and without liability for any loss resulting from investments therein: Provided, That except as otherwise provided in article six-c of this chapter, the fiduciary shall exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital:

(a) In bonds or interest-bearing notes or obligations of the United States, or those for which the faith of the United States is distinctly pledged to provide for the payment of the principal and interest thereof, including, but not by way of limitation, bonds or debentures issued under the "Farm Credit Act Amendments of 1986" (12 U. S. C. §2001 et. seq.), as amended, debentures issued by the Federal National Mortgage Association, securities issued by the Federal Home Loan Bank System; and in bonds, interest-bearing notes and obligations issued, guaranteed or assumed by the "International Bank for Reconstruction and Development" or by the "Inter-American Development Bank" or by the "Asian Development Bank" or by the "African Development Bank";

(b) In bonds or interest-bearing notes or obligations of this state;

(c) In bonds of any state of the United States which has not within ten years previous to the making of the investment defaulted in the payment of any part of either principal or interest on any of its bonds issued by authority of the Legislature of the state;

(d) In the bonds or interest-bearing notes or obligations of any county, district, school district or independent school district, municipality or any other political division of this state that have been issued pursuant to the authority of any law of this state, since May 9, 1917;

(e) In bonds and negotiable notes secured by first mortgage or first trust deed upon improved real estate where the amount secured by the mortgage or trust deed does not at the time of making the same exceed eighty percent of the assessed value, or sixty-six and two-thirds percent of the appraised value as determined by wholly disinterested and independent appraisers, whichever value is the higher, of the real estate covered by the mortgage or trust deed, and when the mortgage or trust deed is accompanied by a satisfactory abstract of title, certificate of title or title insurance policy, showing good title in the mortgagor when making the mortgage or trust deed, and by a fire insurance policy in an old line company with loss, if any, payable to the mortgagee or trustee as his or her interest

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may appear: Provided, That the rate of interest upon the above enumerated securities in this subdivision, in which the investments may be made, may not be less than three and one-half percent per annum nor greater than the maximum rate of interest which the bonds or negotiable notes may bear under applicable law: Provided, however, That the provisions herein establishing a minimum rate of interest do not apply to investments in force as of the effective date of this section;

(f) In savings accounts and time deposits of bank or trust companies to the extent that the deposits are insured by the Federal Deposit Insurance Corporation, or by any other similar federal instrumentality that may be hereafter created, if there is an instrumentality in existence and available for the purpose, or by bonds of solvent surety companies: Provided, That the rate of interest upon the savings accounts or time deposits may not be less than the rate paid other depositors in the bank or trust company;

(g) In shares of state building and loan associations, or federal savings and loan associations, to the extent that the shares are insured by the Federal Savings and Loan Insurance Corporation, or by any other similar federal instrumentality that may be hereafter created: Provided, That there is an instrumentality in existence and available for the purpose, or by bonds of solvent surety companies: Provided, however, That the dividend rate upon the shares may not be less than the rate paid to other shareholders in the associations; and

(h) In other securities of corporations organized and existing under the laws of the United States, or of the District of Columbia or any state of the United States, including, but not by way of limitation, bonds, debentures, notes, equipment trust obligations or other evidences of indebtedness and shares of common and preferred stocks of the corporations and securities of any open end or closed end management type investment company or investment trust registered under the "Federal Investment Company Act" of 1940, as from time to time amended, which persons of prudence, discretion and intelligence acquire or retain for their own account, as long as:

(1) An investment may not be made pursuant to the provisions of this subdivision which, at the time the investment is made, will cause the aggregate market value thereof to exceed fifty percent of the aggregate market value at that time of all of the property of the fund held by the fiduciary. Notwithstanding the aforesaid percentage limitation the cash proceeds of the sale of securities received or purchased by a fiduciary and made eligible by this subdivision may be reinvested in any securities of the type described in this subdivision;

(2) Bonds, debentures, notes, equipment trust obligations or other evidence of indebtedness of the corporations may not be purchased under authority of this subdivision unless the obligations, if other than issues of a common carrier subject to the provisions of section twenty-a of the "Interstate Commerce Act", as amended, are obligations issued, guaranteed or assumed by corporations which have any securities currently registered with the Securities and Exchange Commission; and

(3) Common or preferred stocks, other than bank and insurance company stocks, may not be

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purchased under authority of this subdivision unless currently fully listed and registered upon an exchange registered with the Securities and Exchange Commission as a national securities exchange. A sale or other liquidation of any investment may not be required solely because of any change in the relative market value of those investments made eligible by this subdivision and those made eligible by the preceding subdivisions of this section. In determining the aggregate market value of the property of a fund and the percentage of a fund to be invested under the provisions of this subdivision, a fiduciary may rely upon published market quotations as to those investments for which the quotations are available, and upon such valuations of other investments as in the fiduciary's best judgment seem fair and reasonable according to available information.

Trust funds received by executors, administrators, guardians, curators, committees, trustees and other fiduciaries may be kept invested in the securities originally received by them, or if the trust funds originally received were stock or securities of a bank, in shares of stock or other securities (and securities received as distributions in respect thereof) of a holding company subject to the federal Bank Holding Company Act of 1956, as amended, received upon conversion of, or in exchange for, shares of stock or other securities of the bank; unless otherwise ordered by a court having jurisdiction of the matter, as hereinafter provided, or unless the instrument under which the trust was created directs that a change of investment be made, and any such fiduciary is not liable for any loss that may occur by depreciation of the securities.

This section does not apply where the instrument creating the trust, or the last will and testament of any testator or any court having jurisdiction of the matter, specially directs in what securities the trust funds shall be invested, and every the court has power specially to direct by order or orders, from time to time, additional securities in which trust funds may be invested, and any investment thereof made in accordance with the special direction is legal, and no executor, administrator, guardian, curator, committee, trustee or other fiduciary may be held for any loss resulting in any such case.

This section does not apply to trusts or trustees.

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