ENROLLED

SENATE BILL NO. 231

(By Mr. [Signature])

PASSED [Signature] 1955

In Effect 90 Days from Passage

Filed in the Office of the Secretary of State of West Virginia

D. Pitt O'Brien
SECRETARY OF STATE
AN ACT to amend and reenact section two, article six, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to securities in which fiduciaries may invest trust funds.

Be it enacted by the Legislature of West Virginia:

That section two, article six, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 2. In What Securities Fiduciaries May Invest

2 Trust Funds.—Any executor, administrator, guardian, curator, committee, trustee, or other fiduciary whose duty it may be to loan or invest money intrusted to him as
such, may without any order of any court, invest the
same or any part thereof in any of the following securi-
ties, and without liability for any loss resulting from in-
vestments therein: Provided, That such fiduciary shall
exercise the judgment and care under the circumstances
then prevailing which men 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
bonds issued under the federal farm loan act;
(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 such
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 such 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 the ninth of May of the year one thousand nine hundred seventeen;
(e) In bonds and negotiable notes secured by first mortgage or first trust deed upon improved real estate in this state where the amount secured by such mortgage or trust deed shall not at the time of making the same exceed eighty per cent of the assessed value, or fifty per cent of the appraised value as determined by wholly disinterested and independent appraisers, whichever value shall be the higher, of the real estate covered by such mortgage or trust deed, and when such 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 such 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 interest may appear: Provided,
That the rate of interest upon the above enumerated securities in this subsection (e), in which such investment may be made, shall not be less than two per cent, nor more than seven per cent, per annum;
(f) In savings accounts and time deposits of bank or trust companies to the extent that such deposits are insured by the federal deposit insurance corporation, or by any other similar federal instrumentality that may be hereafter created, provided there shall be such an instrumentality in existence and available for the purpose, or, by bonds of solvent surety companies: Provided, That the rate of interest upon such savings accounts or time deposits shall not be less than the rate paid other depositors in such bank or trust company;
(g) In shares of state building and loan associations, or federal savings and loan associations, to the extent that such 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 shall be such an instrumentality in existence and available for the purpose, or by bonds of solvent surety companies: *Provided*, That the dividend rate upon such shares shall not be less than the rate paid to other shareholders in such associations.

(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 such 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 men of prudence, discretion and intelligence acquire or retain for their own account: *Provided and upon conditions, however*, That: (1) no investment shall be made pursuant to the provisions of this subsection (h) which, at the time such investment shall be made, will cause the aggregate market value thereof to exceed
thirty-five per cent of the aggregate market value at that
time of all of the property of the fund held by such
fiduciary; (2) no bonds, debentures, notes, equipment
trust obligations or other evidence of indebtedness of
such corporations shall be purchased under authority of
this subsection (h) unless such obligations, if other than
issues of a common carrier subject to the provisions of
section 20a of the interstate commerce act as amended,
shall be obligations issued, guaranteed or assumed by
corporations which have any securities currently regis-
tered with the securities and exchange commission; and
(3) no common or preferred stocks, other than bank and
insurance company stocks, shall be purchased under
authority of this subsection (h) unless currently fully
listed and registered upon an exchange registered with
the securities and exchange commission as a national
securities exchange. No sale or other liquidation of any
investment shall be required solely because of any change
in the relative market value of those investments made
eligible by this subsection (h) and those made eligible
by the preceding paragraphs of this section. In determin-
ing the aggregate market value of the property of a fund and the percentage of a fund to be invested under the provisions of this subsection, a fiduciary may rely upon published market quotations as to those investments for which such 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, unless otherwise ordered by a court having jurisdiction of the matter, as hereinafter provided, or unless the instrument under which the trust was created shall direct that a change of investment be made, and any such fiduciary shall not be liable for any loss that may occur by depreciation of such securities.

This section shall 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 such court is hereby given 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 any such special direction shall be legal, and no executor, administrator, guardian, curator, committee, trustee or other fiduciary, shall be held for any loss resulting in any such case.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 16th day of March, 1955.

Governor.