

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1955

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**ENROLLED**

SENATE BILL NO. 231

(By Mr. Martin)

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PASSED March 17 1955

In Effect 90 days for Passage



Filed in the Office of the Secretary of State  
of West Virginia. MAR 17 1955

D. PITT O'BRIEN  
SECRETARY OF STATE

**ENROLLED**

**Senate Bill No. 231**

(By MR. MARTIN)

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[Passed March 12, 1955; in effect ninety days from passage.]

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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 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

5 such, may without any order of any court, invest the  
6 same or any part thereof in any of the following securi-  
7 ties, and without liability for any loss resulting from in-  
8 vestments therein: *Provided*, That such fiduciary shall  
9 exercise the judgment and care under the circumstances  
10 then prevailing which men of prudence, discretion and  
11 intelligence exercise in the management of their own  
12 affairs, not in regard to speculation, but in regard to the  
13 permanent disposition of their funds, considering the  
14 probable income as well as the probable safety of their  
15 capital:

16 (a) In bonds or interest-bearing notes or obligations  
17 of the United States, or those for which the faith of the  
18 United States is distinctly pledged to provide for the  
19 payment of the principal and interest thereof, including  
20 bonds issued under the federal farm loan act;

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

23 (c) In bonds of any state of the United States which  
24 has not within ten years previous to the making of such  
25 investment defaulted in the payment of any part of

26 either principal or interest on any of its bonds issued by  
27 authority of the legislature of such state;

28 (d) In the bonds or interest-bearing notes or obliga-  
29 tions of any county, district, school district or independent  
30 school district, municipality, or any other political divi-  
31 sion of this state that have been issued pursuant to the  
32 authority of any law of this state, since the ninth of May  
33 of the year one thousand nine hundred seventeen;

34 (e) In bonds and negotiable notes secured by first  
35 mortgage or first trust deed upon improved real estate  
36 in this state where the amount secured by such mort-  
37 gage or trust deed shall not at the time of making the  
38 same exceed eighty per cent of the assessed value, or  
39 fifty per cent of the appraised value as determined by  
40 wholly disinterested and independent appraisers, which-  
41 ever value shall be the higher, of the real estate covered  
42 by such mortgage or trust deed, and when such mortgage  
43 or trust deed is accompanied by a satisfactory abstract  
44 of title, certificate of title, or title insurance policy, show-  
45 ing good title in the mortgagor when making such mort-  
46 gage or trust deed, and by a fire insurance policy in an

47 old line company with loss, if any, payable to the mort-  
48 gagee or trustee as his interest may appear: *Provided*,  
49 That the rate of interest upon the above enumerated  
50 securities in this subsection (e), in which such invest-  
51 ment may be made, shall not be less than two per cent,  
52 nor more than seven per cent, per annum;

53 (f) In savings accounts and time deposits of bank or  
54 trust companies to the extent that such deposits are in-  
55 sured by the federal deposit insurance corporation, or  
56 by any other similar federal instrumentality that may be  
57 hereafter created, provided there shall be such an in-  
58 strumentality in existence and available for the purpose,  
59 or, by bonds of solvent surety companies: *Provided*, That  
60 the rate of interest upon such savings accounts or time  
61 deposits shall not be less than the rate paid other de-  
62 positors in such bank or trust company;

63 (g) In shares of state building and loan associations,  
64 or federal savings and loan associations, to the extent  
65 that such shares are insured by the Federal Savings and  
66 Loan Insurance Corporation, or by any other similar  
67 federal instrumentality that may be hereafter created,

68 provided that there shall be such an instrumentality in  
69 existence and available for the purpose, or by bonds of  
70 solvent surety companies: *Provided*, That the dividend  
71 rate upon such shares shall not be less than the rate  
72 paid to other shareholders in such associations.

73 (h) In other securities of corporations organized and  
74 existing under the laws of the United States or of the  
75 District of Columbia or any state of the United States  
76 including, but not by way of limitation, bonds, debentures,  
77 notes, equipment trust obligations or other evidences of indebtedness,  
78 and shares of common and preferred stocks of such corporations and securities of any  
79 open end or closed end management type investment company or investment trust registered under the Federal  
80 Investment Company Act of 1940, as from time to time  
81 amended, which men of prudence, discretion and intelligence acquire or retain for their own account: *Provided*  
82 *and upon conditions, however*, That: (1) no investment  
83 shall be made pursuant to the provisions of this subsection  
84 (h) which, at the time such investment shall be made, will  
85 cause the aggregate market value thereof to exceed

89 thirty-five per cent of the aggregate market value at that  
90 time of all of the property of the fund held by such  
91 fiduciary; (2) no bonds, debentures, notes, equipment  
92 trust obligations or other evidence of indebtedness of  
93 such corporations shall be purchased under authority of  
94 this subsection (h) unless such obligations, if other than  
95 issues of a common carrier subject to the provisions of  
96 section 20a of the interstate commerce act as amended,  
97 shall be obligations issued, guaranteed or assumed by  
98 corporations which have any securities currently regis-  
99 tered with the securities and exchange commission; and  
100 (3) no common or preferred stocks, other than bank and  
101 insurance company stocks, shall be purchased under  
102 authority of this subsection (h) unless currently fully  
103 listed and registered upon an exchange registered with  
104 the securities and exchange commission as a national  
105 securities exchange. No sale or other liquidation of any  
106 investment shall be required solely because of any change  
107 in the relative market value of those investments made  
108 eligible by this subsection (h) and those made eligible  
109 by the preceding paragraphs of this section. In determin-

110 ing the aggregate market value of the property of a fund  
111 and the percentage of a fund to be invested under the  
112 provisions of this subsection, a fiduciary may rely upon  
113 published market quotations as to those investments for  
114 which such quotations are available, and upon such valu-  
115 ations of other investments as in the fiduciary's best  
116 judgment seem fair and reasonable according to avail-  
117 able information.

118 Trust funds received by executors, administrators,  
119 guardians, curators, committees, trustees and other fidu-  
120 ciaries may be kept invested in the securities originally  
121 received by them, unless otherwise ordered by a court  
122 having jurisdiction of the matter, as hereinafter provided,  
123 or unless the instrument under which the trust was  
124 created shall direct that a change of investment be made,  
125 and any such fiduciary shall not be liable for any loss  
126 that may occur by depreciation of such securities.

127 This section shall not apply where the instrument  
128 creating the trust, or the last will and testament of any  
129 testator, or any court having jurisdiction of the matter,  
130 specially directs in what securities the trust funds shall

131 be invested, and every such court is hereby given power  
132 specially to direct by order or orders, from time to time,  
133 additional securities in which trust funds may be in-  
134 vested, and any investment thereof made in accordance  
135 with any such special direction shall be legal, and no  
136 executor, administrator, guardian, curator, committee,  
137 trustee or other fiduciary, shall be held for any loss re-  
138 sulting in any such case.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Signature]*  
Chairman Senate Committee

*[Signature]*  
Chairman House Committee

Originated in the Senate.

Takes effect 90 days from passage.

*[Signature]*  
Clerk of the Senate

*[Signature]*  
Clerk of the House of Delegates

*[Signature]*  
President of the Senate

*[Signature]*  
Speaker House of Delegates

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

*[Signature]*  
Governor.

Filed in the Office of the Secretary of State of West Virginia  
MAR 17 1955  
D. PITT O'BRIEN  
SECRETARY OF STATE