ENROLLED

Committee Substitute for

HOUSE BILL No. 1838

(By Delegates Moore and McNeely)

Passed March 8, 1986

In Effect Ninety days from Passage
AN ACT to amend and reenact section twelve, article eight, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section two, article six, chapter forty-four of said code, all relating to authorizing investments in the African Development Bank by insurers and fiduciaries.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 33. INSURANCE.

ARTICLE 8. INVESTMENTS.

§33-8-12. Insured building and savings and loan shares; obligations of International Bank, Asian Development Bank or African Development Bank.

1 Subject to the limits set forth in sections five and six
of this article, an insurer may invest in shares of insured
state chartered building and loan associations and
federal savings and loan associations, if such shares are
insured by the federal savings and loan insurance
corporation and may invest in obligations issued or
guaranteed by the “International Bank for Reconstruc-
tion and Development” or by the “Asian Development
Bank” or the “African Development Bank.”

CHAPTER 44. ADMINISTRATION OF ESTATES
AND TRUSTS.

ARTICLE 6. INVESTMENTS BY FIDUCIARIES.

§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 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 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,
but not by way of limitation, bonds or debentures issued
under the “Federal Farm Loan Act,” debentures issues
by “Banks for Cooperatives” under the “Farm Credit
Act of One Thousand Nine Hundred Thirty-Three,” 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 Devel-
opment” 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 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 obliga-
tions of any county, district, school district or independ-
ent 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 day
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
where the amount secured by such mortgage or trust
deed shall 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 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 mortgager 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 subdivision (e), in
which such investments may be made, shall not be less
than three and one-half percent per annum nor greater
than the maximum rate of interest “which such bonds or
negotiable notes may bear under applicable law:
Provided further, That the provisions herein establishing
a minimum rate of interest shall not apply to invest-
ments 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 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, however, That the dividend rate upon such shares shall not be less than the rate paid to other shareholders in such association;

(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 one thousand nine hundred forty, 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 subdivision (h) which, at the time such investment shall be 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 such 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 (h)
may be reinvested in any securities of the type described
in this subdivision (h).

(2) No bonds, debentures, notes, equipment trust
obligations or other evidence of indebtedness of such
corporations shall be purchased under authority of this
subdivision (h) unless such obligations, if other than
issues of a common carrier subject to the provisions of
section twenty-a of the "Interstate Commerce Act," as
amended, shall be obligations issued, guaranteed or
assumed by corporations which have any securities
currently registered with the securities and exchange
commission.

(3) No common or preferred stocks, other than bank
and insurance company stocks, shall be purchased under
authority of this subdivision (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 subdivision (h) 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 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, 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 such 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
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 accor-
dance with any such special direction shall be legal, and
no executor, administrator, guardian, curator, commit-
tee, 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.

Bruce C. Wilson
Chairman Senate Committee

Floyd Fuller
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Jill C. Hall
Clerk of the Senate

Donald L. Kong
Clerk of the House of Delegates

Doug Tognazzini
President of the Senate

Joseph P. Altobello
Speaker of the House of Delegates

The within........................................... this the 26th
day of ........................................... , 1986.

Ruth Arnold
Governor
PRESENTED TO THE
GOVERNOR
Date 3/20/66
Time 4:32 p.m.