WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992

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ENROLLED

Com. Sub. for

HOUSE BILL No. 4050

(By Delegates Rutledge + Carper)

— ● —

Passed .... Feb. 26, ... 1992

In Effect ...Ninety Days From... Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4050

(By Delegates Rutledge and Carper)

[Passed February 26, 1992; in effect ninety days from passage.]

AN ACT to amend article six, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nine, relating to investment of fiduciary assets by a bank or trust company in mutual funds; permitting investments in mutual fund companies which receive other services by the bank or trust company; and investments of fiduciary assets in time deposits of the bank or trust company.

Be it enacted by the Legislature of West Virginia:

That article six, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section nine, to read as follows:

ARTICLE 6. INVESTMENTS BY FIDUCIARIES.

§44-6-9. Investment of trust assets in mutual funds; investments in mutual fund companies otherwise served by the bank; investment of trust assets in time deposits.

1   (a) A bank or trust company qualified and acting in
2   a fiduciary capacity in this state may, in the exercise
3   of its investment discretion or at the direction of another

4   person authorized to direct investment of funds held by
5   the bank or trust company as fiduciary, invest and
6   reinvest trust assets in mutual funds which are the
7   securities of an open-end or closed-end management
8   investment company or investment trust registered
9   under the Investment Company Act of 1940 (15 U.S.C.
10 Section 80a-1, et seq.), as amended: *Provided,* That the
11 portfolio of such investment company or investment
12 trust does not consist of investments prohibited by the
13 governing fiduciary instrument.

14   (b) The fact that a bank or trust company or an
15 affiliate of the same provides services to an investment
16 company or investment trust, including, but not limited
17 to, services as an investment advisor, custodian, transfer
18 agent, registrar, sponsor, distributor, manager or
19 otherwise, and is receiving reasonable compensation for
20 those services, does not preclude such bank or trust
21 company from investing or reinvesting in mutual funds
22 which are the securities of the open-end or closed-end
23 management investment trust registered under the
24 Investment Company Act of 1940 (15 U.S.C. Section 80a-
25 1, et seq.), as amended. Such bank or trust company or
26 affiliate thereof is entitled to receive fiduciary fees with
27 respect to such assets. For such services the bank or
28 trust company or affiliate thereof shall also be entitled
29 to the normal fiduciary fee.

30   (c) A bank or trust company qualified and acting in
31 a fiduciary capacity in this state may, in the exercise
32 of its investment discretion or at the direction of another
33 person authorized to direct investment of funds held by
34 the bank or trust company as fiduciary, invest and
35 reinvest trust assets in time deposits, including certif-
36 icates of deposit, of the bank or trust company in
37 accordance with the provisions of subdivision (f), section
38 two, of this article: *Provided,* That such investments are
39 authorized by the governing fiduciary instrument.

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

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Chairman Senate Committee

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Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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The within _is approved_ this the _5th_ day of _March_, 1992.

Governor