

SENATE BILL 262

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2003 Regular Session
(3r1456)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senators Garagiola and Giannetti**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Estates and Trusts - Lawful Investments - Corporate ~~Fiduciaries~~**
3 **~~Closed-End Investment Companies~~ Fiduciary**

4 FOR the purpose of authorizing a corporate fiduciary to invest in securities of, or
5 interests in, ~~certain a~~ closed-end management type investment ~~companies~~
6 company or investment ~~trusts~~ trust registered under the federal Investment
7 Company Act of 1940 under certain circumstances; making a stylistic change;
8 and generally relating to lawful investments ~~for fiduciaries~~ by a corporate
9 fiduciary.

10 BY repealing and reenacting, with amendments,
11 Article - Estates and Trusts
12 Section 15-106
13 Annotated Code of Maryland
14 (2001 Replacement Volume and 2002 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Estates and Trusts**

4 15-106.

5 (a) The following investments shall be lawful investments for any person:

6 (1) Debentures issued by federal intermediate credit banks or by banks
7 for cooperatives;

8 (2) Bonds issued by federal land banks or by the Federal Home Loan
9 Bank Board;

10 (3) Mortgages, bonds, or notes secured by a mortgage or deed of trust, or
11 debentures issued by the Federal Housing Administration;

12 (4) Obligations of national mortgage associations;

13 (5) Shares, free-share accounts, certificates of deposit, or investment
14 certificates of any insured financial institution, as defined in § 13-301(h) of this
15 article;

16 (6) Bonds or other obligations issued by a housing authority pursuant to
17 the provisions of Article 44A of the Code, or issued by any public housing authority or
18 agency in the United States, when such bonds or other obligations are secured by a
19 pledge of annual contributions to be paid by the United States or any agency of the
20 United States;

21 (7) Obligations issued or guaranteed by the International Bank for
22 Reconstruction and Development;

23 (8) Obligations issued or guaranteed by the African Development Bank;

24 (9) Obligations issued or guaranteed by the International Finance
25 Corporation; or

26 (10) United States government obligations, whether invested in directly,
27 or in the form of securities of, or other interests in, any open-end or closed-end
28 management type investment company or investment trust registered under the
29 provisions of the federal Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq.,
30 if:

31 (i) The portfolio of the open-end or closed-end management type
32 investment company or investment trust is limited to direct obligations of the United
33 States government and to repurchase agreements fully collateralized by United
34 States government obligations; and

1 (ii) The open-end or closed-end management type investment
2 company or investment trust takes delivery of that collateral, either directly or
3 through an authorized custodian.

4 (b) (1) In this subsection, "affiliate" has the meaning stated in 12 U.S.C. §
5 1841.

6 (2) A trust company in its fiduciary capacity may deposit in the trust
7 company or in a financial institution that is an affiliate of the trust company funds
8 awaiting investment or distribution unless the agreement or instrument that gives
9 the trust company investment authority provides to the contrary.

10 (3) A trust company in its fiduciary capacity may purchase bonds of the
11 State or of any political subdivision of the State underwritten in whole or in part by
12 the trust company or a financial institution that is an affiliate of the trust company
13 unless the agreement or instrument that gives the trust company investment
14 authority provides to the contrary.

15 (c) (1) Subject to the provisions of paragraph (2) of this subsection, a
16 corporate fiduciary may invest and reinvest fiduciary funds and other funds over
17 which the corporate fiduciary has investment discretion in securities of, or other
18 interests in, a no-load open-end OR CLOSED-END management type investment
19 company[,] or investment trust registered under the provisions of the federal
20 Investment Company Act of 1940 that does not impose a contingent deferred sales
21 charge or distribution charge on that investment or reinvestment.

22 (2) The provisions of paragraph (1) of this subsection apply even if the
23 corporate fiduciary or an affiliate of the corporate fiduciary provides services as
24 investment adviser or manager, sponsor, distributor, custodian, transfer agent,
25 registrar, or similar related services to the investment company or investment trust
26 and receives reasonable compensation for those services if:

27 (i) The investment is authorized by the agreement or instrument
28 that gives the corporate fiduciary investment authority, or by court order; or

29 (ii) The corporate fiduciary discloses to its principal or, if the assets
30 are held in trust, to any current income beneficiaries of the trust:

31 1. The services provided by the corporate fiduciary or its
32 affiliate to the investment company or investment trust; and

33 2. The rate, formula, or other method by which compensation
34 paid to the corporate fiduciary or its affiliate is determined.

35 (d) Any person holding a mortgage or other lien on property may exchange it,
36 prior or subsequent to maturity, for any other lawful investment.

37 (e) This section shall not be construed as relieving any person from any duty
38 of exercising reasonable care in selecting securities.

1 (f) No general, local, or special law which is inconsistent with this section
2 shall have any effect.

3 (g) This section shall not be construed to make unlawful any investment not
4 listed in this section.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 ~~October~~ June 1, 2003.