
By: **Senators Garagiola and Giannetti**
Introduced and read first time: January 30, 2003
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of authorizing a corporate fiduciary to invest in securities of, or
5 interests in, certain closed-end investment companies or investment trusts
6 registered under the federal Investment Company Act of 1940; and generally
7 relating to lawful investments for fiduciaries.

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

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

15 **Article - Estates and Trusts**

16 15-106.

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

18 (1) Debentures issued by federal intermediate credit banks or by banks
19 for cooperatives;

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

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

24 (4) Obligations of national mortgage associations;

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

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

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

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

12 (9) Obligations issued or guaranteed by the International Finance
13 Corporation; or

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

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

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

26 (b) (1) In this subsection, "affiliate" has the meaning stated in 12 U.S.C. §
27 1841.

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

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

37 (c) (1) Subject to the provisions of paragraph (2) of this subsection, a
38 corporate fiduciary may invest and reinvest fiduciary funds and other funds over
39 which the corporate fiduciary has investment discretion in securities of, or other

1 interests in, a no-load open-end OR CLOSED-END management type investment
2 company[,] or investment trust registered under the provisions of the federal
3 Investment Company Act of 1940 that does not impose a contingent deferred sales
4 charge or distribution charge on that investment or reinvestment.

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

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

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

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

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

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

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

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

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

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2003.