

No. 56

AN ACT

To amend subsection (a) of section 9 of the act, approved the twenty-sixth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1828), entitled "An act concerning the investment powers and duties of guardians, committees, trustees, and other fiduciaries, except personal representatives, and prescribing the nature and kind of investments which may be made and retained by such fiduciaries," by authorizing investments in common stocks of investment companies meeting certain qualifications and eliminating the requirement that stock must be listed on an exchange as to the stock of investment companies.

"Fiduciaries
Investment Act
of 1949."

Subsection (a)
of section 9, act
of May 26, 1949,
P. L. 1828, as
last amended by
act of August 24,
1951, P. L.
1410, further
amended.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subsection (a) of section 9 of the act, approved the twenty-sixth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1828), entitled "An act concerning the investment powers and duties of guardians, committees, trustees, and other fiduciaries, except personal representatives, and prescribing the nature and kind of investments which may be made and retained by such fiduciaries," as last amended by the act, approved the twenty-fourth day of August, one thousand nine hundred fifty-one (Pamphlet Laws 1410), is hereby *further amended to read as follows:

Section 9. Stocks.—

(a) Preferred and Common Stock. Preferred and common stock of any corporation organized under the laws of the United States or of any commonwealth or state thereof, or of the District of Columbia, shall be an authorized investment if—

(1) purchased in the exercise of that degree of 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 to be derived therefrom as well as the probable safety of their capital;

(2) in the case of preferred stock, the corporation issuing the stock has earned a net profit in eight of the preceding ten fiscal years, as reflected in its statements, and during each of the preceding ten fiscal years has paid dividends in the specified amounts upon all its preferred stock, if any, outstanding during such year;

(3) in the case of common stock, the corporation issuing the stock has earned a net profit in twelve of the preceding sixteen fiscal years, as reflected in its statements, and during each of the preceding sixteen

* "further" omitted in original.

fiscal years has paid dividends in the specified amounts upon all its preferred stock, if any, outstanding during said year and in each of at least twelve of the preceding sixteen fiscal years has paid dividends in some amount upon all its common stock, if any, outstanding during such year; *and*

(4) in the case of any stock other than stock of a bank or insurance company or of an investment company (as hereinafter defined), the stock is listed or traded (or if unlisted or not entitled to trading privileges, shall be eligible for listing, and application for such listing shall have been made) on the New York Stock Exchange or any other exchange approved by the Secretary of Banking.

No investment in common stock shall be made which, at that time, would cause the market value of the investments in common stocks to exceed one-third of the market value of the estate, not including in such market value the value of any participation in a common trust fund. No sale or other liquidation of any investment shall be required solely because of any change in market values whereby the percentages of stocks hereinabove set forth are exceeded. In determining the market value of an estate, a fiduciary may rely upon published market quotations as to those investments for which such quotations are available and upon such valuations of other property as in his best judgment seem fair and reasonable according to available information.

When a corporation has acquired a substantial part of its property, within sixteen years immediately preceding the investment, by consolidation or merger or by the purchase of a substantial part of the property of any other corporation or corporations, the earnings of the predecessor or constituent corporations shall be consolidated so as to ascertain whether the requirements of this section have been satisfied.

“Corporation” as used in this section shall include a voluntary association, a joint-stock association or company, a business trust, a Massachusetts trust, a common-law trust, and any other organization organized and existing for any lawful purpose and which, like a corporation, continues to exist notwithstanding changes in the personnel of its members or participants, and conducts its affairs through a committee, a board, or some other group acting in a representative capacity.

“Investment Company” as used in this section shall mean a corporation (as defined in this section) which is registered as an investment company under the Federal Investment Company Act of 1940, as from time to time amended, and which has no preferred stock, bonds, loans or any other outstanding securities having prefer-

ence or priority as to assets or earnings over its common stock and which shall have net assets of not less than ten million dollars (\$10,000,000) at the date of purchase.

“Common Stock” as used in this section shall include the stock certificates, certificates of beneficial interests or trust participation certificates issued by any corporation or unincorporated association included under the definition of “corporation” in the preceding paragraph.

Act effective
immediately.

Section 2. The provisions of this act shall become effective immediately upon final enactment.

APPROVED—The 19th day of June, A. D. 1953.

JOHN S. FINE

No. 57

AN ACT

To amend the act, approved the twenty-eighth day of April, one thousand nine hundred thirty-seven (Pamphlet Laws 417), entitled “An act relating to milk and the products thereof; creating a Milk Control Commission; establishing its jurisdiction, powers and duties; regulating the production, transportation, manufacturing, processing, storage, distribution, delivery and sale of milk and certain products thereof; providing for the licensing of milk dealers and the payment of fees therefor; requiring milk dealers to file bonds to secure payment for milk to producers and certain milk dealers; authorizing the holding of hearings and the issuance of subpoenas by the commission; conferring jurisdiction upon courts to punish contempts and to prohibit violations of this act and of rules, regulations and orders of the commission; authorizing the commission to adopt rules, regulations and orders, and to enter into interstate and Federal compacts; requiring persons who weigh, measure, sample or test milk to procure permits or certificates, to take examinations, to pay fees therefor, to furnish certain notices, records and statements, and to use certain methods of weighing, measuring, sampling and testing; authorizing the commission to examine the business, papers and premises of milk dealers and producers, requiring the keeping of records and the filing of reports by milk dealers, and permitting, with limitations, the use of information obtained thereby, authorizing the commission to fix prices for milk and certain milk products subject to the approval of the Governor, and conferring certain powers upon the Governor with respect thereto; providing for appeals to the courts from decisions of the commission, and for the burden of proof upon such appeals; prescribing penalties, fines and imprisonment for violations of this act and rules, regulations and orders of the commission; defining perjury; defining remedies; repealing legislation supplied and superseded by this act, and saving rights, duties and proceedings thereunder; and making appropriations,” by increasing the annual license fees on milk dealers.

“Milk Control
Law.”

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows: