

poration or corporations, the earnings of the predecessor or constituent corporations shall be consolidated so as to ascertain whether the *net profit* requirements of this clause (3) have been satisfied *and the dividend requirements of this clause (3) shall be satisfied by payment of the required dividends by any predecessor or constituent corporation.*

Section 3. This act shall take effect immediately.

APPROVED—The 28th day of February, A. D. 1956.

GEORGE M. LEADER

No. 368

AN ACT

Amending the act of May twenty-six, one thousand nine hundred forty-nine (Pamphlet Laws 1823), 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 making further provision respecting the qualification of common stock for investment where there is a predecessor or constituent corporation, and by changing the requirements of an interest bearing deposit.

Fiduciaries  
Investment Act of  
1949.

Subsection (a),  
section 9, act of  
May 26, 1949,  
P. L. 1823,  
amended June 19,  
1953, P. L. 284,  
further amended.

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

Section 1. Subsection (a) of section nine, act of May twenty-six, one thousand nine hundred forty-nine (Pamphlet Laws 1823), known as the "Fiduciaries Investment Act of 1949," amended June nineteen, one thousand nine hundred fifty-three (Pamphlet Laws 284), is amended to read:

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 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 *net profit* requirements of this section have been satisfied, *and the dividend requirements of this section shall be satisfied by payment of the required dividends by any predecessor or constituent corporation.*

“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 preference 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.

\* \* \* \* \*

Section 12, act of  
May 26, 1949,  
P. L. 1828,  
amended.

Section 2. Section twelve of the act is amended to read:

Section 12. Interest-Bearing Deposit.—An interest-bearing deposit in any bank, bank and trust company, savings bank, or national banking association, located within the Commonwealth, shall be an authorized investment if—

(1) not in the commercial department of a corporate fiduciary of the estate or trust to which the funds belong;

(2) the maturity date or the permissible date of withdrawal does not exceed one year from the date of the deposit or any renewal thereof; and

(3) the aggregate of such deposits does not exceed [one thousand five hundred] *five thousand* dollars, *except that in the case of a mutual savings bank the aggregate does not exceed the amount which is fully insured by the Federal Deposit Insurance Corporation, pursuant to the Act of Congress of June sixteenth, one thousand nine hundred thirty-three (48 Stat 168), and its supplements and amendments, heretofore or hereafter enacted.*

Effective date.

Section 3. This act shall take effect January one, one thousand nine hundred fifty-six.

APPROVED—The 28th day of February, A. D. 1956.

GEORGE M. LEADER