

SENATE FILE 2219
BY COMMITTEE ON JUDICIARY
Substitute 2/24 (p. 492)
(SUCCESSOR TO SSB 2045)

Passed Senate, Date 3/19/92 (p. 614) Passed House, Date 3/1/92 (p. 612)

Vote: Ayes 47 Nays 0 Vote: Ayes 95 Nays 0

Approved March 23, 1992
Substitutes for H.F. 2409

A BILL FOR

1 An Act relating to probate law changes regarding certain
2 investments by fiduciaries, the definition of fiduciary, and
3 the bonding requirements for banks and trust companies.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2219

1 Section 1. Section 633.123, subsection 2, Code Supplement
2 1991, is amended by adding the following new unnumbered
3 paragraphs:

4 NEW UNNUMBERED PARAGRAPH. Notwithstanding any other
5 provision of law, a bank or trust company acting as a
6 fiduciary, in addition to other investments authorized by law
7 for the investment of funds by a fiduciary or by the
8 instrument governing the fiduciary and in the exercise of its
9 investment discretion or at the direction of another person
10 authorized to direct investment of funds held by the
11 fiduciary, may invest and reinvest in the securities of an
12 open-end or closed-end management investment company or
13 investment trust registered under the federal Investment
14 Company Act of 1940, 15 U.S.C. § 80a-1 et seq. Investment
15 under this paragraph is allowed so long as the portfolio of
16 the investment company or investment trust consists
17 substantially of investments not otherwise prohibited by this
18 section or by the governing instrument.

19 NEW UNNUMBERED PARAGRAPH. A bank or trust company acting
20 as a fiduciary is not precluded from investing or reinvesting
21 in the securities of an open-end or closed-end management
22 investment trust registered under the federal Investment
23 Company Act of 1940, 15 U.S.C. § 80a-1 et seq. merely because
24 the bank or trust company or an affiliate of the bank or trust
25 company provides services such as investment advisor,
26 custodian, transfer agent, registrar, sponsor, distributor, or
27 manager to the investment company or investment trust and
28 receives a reasonable fee for the services.

29 Sec. 2. Section 633.126, subsection 2, Code 1991, is
30 amended to read as follows:

31 2. "Fiduciary", for the purposes of this section and
32 sections 633.127 to 633.129, means acting in any of the
33 following capacities, namely: Testamentary testamentary
34 trustee appointed by any court, trustee under any written
35 agreement, declaration or instrument of trust, executor,

1 administrator, guardian, or conservator, custodian under
2 chapter 565B, or other capacity permitted under any state or
3 federal law or regulation governing collective investment
4 funds maintained by a bank or trust company.

5 Sec. 3. Section 633.175, Code Supplement 1991, is amended
6 to read as follows:

7 633.175 WAIVER OF BOND BY COURT.

8 The court may, for good cause shown, may exempt any
9 fiduciary from giving bond, if the court finds that the
10 interests of creditors and distributees will not thereby be
11 prejudiced. However, the court, except as provided in section
12 633.172, subsection 2, shall not exempt a conservator from
13 giving bond in a conservatorship with total assets of more
14 than ten thousand dollars, excluding real property, unless it
15 is a voluntary conservatorship in which the petitioner is
16 eighteen years of age or older and has waived bond in the
17 petition.

18

EXPLANATION

19 This bill provides that a bank or trust company acting as a
20 fiduciary may invest or reinvest funds held in a fiduciary
21 capacity in securities held by investment companies or
22 investment trusts, even if the bank or trust or an affiliate
23 of the bank or trust provides services for a fee to the
24 investment company or trust. The bill also provides that the
25 definition of fiduciary includes acting in the capacity of a
26 custodian under the uniform transfers to minors Act or in a
27 capacity authorized by any state or federal law governing
28 collective investments by banks or trust companies. Finally,
29 the bill provides explicitly that section 633.175 regarding
30 waiver of a fiduciary bond by the court does not affect the
31 provision in section 633.172, subsection 2, that banks and
32 trust companies are not usually required to provide a bond.

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GROUSTAL, CH.
PATE
HORN 1-28-92

SSB 2045
JUDICIARY Now

SENATE FILE 2219
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON STURGEON)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

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7 for the investment of funds by a fiduciary or by the
8 instrument governing the fiduciary and in the exercise of its
9 investment discretion or at the direction of another person
10 authorized to direct investment of funds held by the
11 fiduciary, may invest and reinvest in the securities of an
12 open-end or closed-end management investment company or
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15 under this paragraph is allowed so long as the portfolio of
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26 custodian, transfer agent, registrar, sponsor, distributor, or
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35 agreement, declaration or instrument of trust, executor,

2045

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13 giving bond in a conservatorship with total assets of more
14 than ten thousand dollars, excluding real property, unless it
15 is a voluntary conservatorship in which the petitioner is
16 eighteen years of age or older and has waived bond in the
17 petition.

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20 fiduciary may invest or reinvest funds held in a fiduciary
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23 of the bank or trust provides services for a fee to the
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26 custodian under the uniform transfers to minors Act or in a
27 capacity authorized by any state or federal law governing
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30 waiver of a fiduciary bond by the court does not affect the
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32 trust companies are not usually required to provide a bond.

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SENATE FILE 2219

AN ACT

RELATING TO PROBATE LAW CHANGES REGARDING CERTAIN INVESTMENTS
BY FIDUCIARIES, THE DEFINITION OF FIDUCIARY, AND THE
BONDING REQUIREMENTS FOR BANKS AND TRUST COMPANIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 633.123, subsection 2, Code Supplement 1991, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any other provision of law, a bank or trust company acting as a fiduciary, in addition to other investments authorized by law for the investment of funds by a fiduciary or by the instrument governing the fiduciary and in the exercise of its investment discretion or at the direction of another person authorized to direct investment of funds held by the fiduciary, may invest and reinvest in the securities of an open-end or closed-end management investment company or investment trust registered under the federal Investment

Company Act of 1940, 15 U.S.C. § 80a-1 et seq. Investment under this paragraph is allowed so long as the portfolio of the investment company or investment trust consists substantially of investments not otherwise prohibited by this section or by the governing instrument.

NEW UNNUMBERED PARAGRAPH. A bank or trust company acting as a fiduciary is not precluded from investing or reinvesting in the securities of an open-end or closed-end management investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq. merely because the bank or trust company or an affiliate of the bank or trust company provides services such as investment advisor, custodian, transfer agent, registrar, sponsor, distributor, or manager to the investment company or investment trust and receives a reasonable fee for the services.

Sec. 2. Section 633.126, subsection 2, Code 1991, is amended to read as follows:

2. "Fiduciary", for the purposes of this section and sections 633.127 to 633.129, means acting in any of the following capacities, namely: Testamentary testamentary trustee appointed by any court, trustee under any written agreement, declaration or instrument of trust, executor, administrator, guardian, or conservator, custodian under chapter 565B, or other capacity permitted under any state or federal law or regulation governing collective investment funds maintained by a bank or trust company.

Sec. 3. Section 633.175, Code Supplement 1991, is amended to read as follows:

633.175 WAIVER OF BOND BY COURT.

The court may, for good cause shown, may exempt any fiduciary from giving bond, if the court finds that the interests of creditors and distributees will not thereby be prejudiced. However, the court, except as provided in section 633.172, subsection 2, shall not exempt a conservator from giving bond in a conservatorship with total assets of more

than ten thousand dollars, excluding real property, unless it is a voluntary conservatorship in which the petitioner is eighteen years of age or older and has waived bond in the petition.

MICHAEL E. GRONSTAL
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2219, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved March 23, 1992

TERRY E. BRANSTAD
Governor