

Substituted for SF 2255  
3-13-96  
(P.776)

FEB 27 1996  
Place On Calendar

HOUSE FILE 2365  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 650)  
(COMPANION TO SF 2255)

Passed House, Date 3-11-96 (P.612) Passed Senate, Date 3/13/96 (P.777)  
Vote: Ayes 95 Nays 0 Vote: Ayes 48 Nays 0  
Approved March 20, 1996

A BILL FOR

1 An Act relating to the authority of fiduciaries under the probate  
2 code to invest in open-end or closed-end management investment  
3 companies or investment trusts.

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

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HF 2365

1 Section 1. Section 412.4, Code 1995, is amended to read as  
2 follows:

3 412.4 LEGAL RESERVE INSURANCE.

4 The council, board of waterworks trustees, or other board  
5 or commission, whichever is authorized by law to manage and  
6 operate any such waterworks, or other municipally owned and  
7 operated public utility, shall have the right and power to  
8 contract with any legal reserve insurance company, authorized  
9 to conduct its business in the state, or any bank located in  
10 Iowa having trust powers for the investment of funds  
11 contributed to an annuity or pension system, for the payment  
12 of the pensions or annuities provided in such pension or  
13 annuity retirement system, and may pay the premiums or make  
14 the contribution of such contract out of the fund provided in  
15 section 412.2. Funds contributed to a bank pursuant to such a  
16 contract shall be invested in the manner prescribed in section  
17 633.123 or 633.123A, and may be commingled with and invested  
18 as a part of a common or master fund managed for the benefit  
19 of more than one public utility.

20 Sec. 2. Section 633.123, subsection 2, unnumbered  
21 paragraphs 3 and 4, Code 1995, are amended by striking the  
22 paragraphs.

23 Sec. 3. NEW SECTION. 633.123A INVESTMENTS IN INVESTMENT  
24 COMPANIES AND INVESTMENT TRUSTS.

25 1. Notwithstanding any other provision of law, a bank or  
26 trust company acting as a fiduciary, in addition to other  
27 investments authorized by law for the investment of funds by a  
28 fiduciary or by the instrument governing the fiduciary and in  
29 the exercise of its investment discretion or at the direction  
30 of another person authorized to direct investment of funds  
31 held by the fiduciary, may invest and reinvest such funds in  
32 the securities of an open-end or closed-end management  
33 investment company or investment trust registered under the  
34 federal Investment Company Act of 1940, 15 U.S.C. § 80a-1 et  
35 seq. Investment and reinvestment under this section is

1 allowed as long as the portfolio of such investment company or  
2 investment trust consists substantially of investments not  
3 otherwise prohibited by section 633.123 or by the governing  
4 instrument.

5 Investment and reinvestment under this section is not  
6 precluded merely because the bank or trust company or an  
7 affiliate of the bank or trust company provides the services  
8 of an investment advisor, custodian, transfer agent,  
9 registrar, sponsor, distributor, or manager to the investment  
10 company or investment trust and receives a reasonable fee for  
11 the services.

12 2. This section is applicable to all fiduciaries whether  
13 the will, agreement, or other instrument under which they are  
14 acting now exists on or before the effective date of this  
15 section.

16 EXPLANATION

17 This bill creates a new section 633.123A which provides  
18 that all fiduciaries may invest and reinvest in open-end and  
19 closed-end management investment companies and investment  
20 trusts registered under the federal Investment Company Act of  
21 1940. Investment and reinvestment under this section is  
22 allowed so long as the portfolio of such investment company or  
23 investment trust consists substantially of investments not  
24 otherwise prohibited by section 633.123 or by the governing  
25 instrument. Currently, such authority is provided in section  
26 633.123, the model Prudent Person Investment Act, and is  
27 limited to fiduciaries acting under the jurisdiction of the  
28 court.

29 Section 412.4 is amended to conform with the creation of  
30 the new section.

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HSB 650

JUDICIARY

Succeeded By

HOUSE FILE SF / CF 2365

BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY CHAIR-  
PERSON HURLEY)

DINKLA  
LAMBERTI  
MORELAND

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

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6 operate any such waterworks, or other municipally owned and  
7 operated public utility, shall have the right and power to  
8 contract with any legal reserve insurance company, authorized  
9 to conduct its business in the state, or any bank located in  
10 Iowa having trust powers for the investment of funds  
11 contributed to an annuity or pension system, for the payment  
12 of the pensions or annuities provided in such pension or  
13 annuity retirement system, and may pay the premiums or make  
14 the contribution of such contract out of the fund provided in  
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28 fiduciary or by the instrument governing the fiduciary and in  
29 the exercise of its investment discretion or at the direction  
30 of another person authorized to direct investment of funds  
31 held by the fiduciary, may invest and reinvest such funds in  
32 the securities of an open-end or closed-end management  
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34 federal Investment Company Act of 1940, 15 U.S.C. § 80a-1 et  
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1 allowed as long as the portfolio of such investment company or  
2 investment trust consists substantially of investments not  
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5 Investment and reinvestment under this section is not  
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8 of an investment advisor, custodian, transfer agent,  
9 registrar, sponsor, distributor, or manager to the investment  
10 company or investment trust and receives a reasonable fee for  
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12 2. This section is applicable to all fiduciaries whether  
13 the will, agreement, or other instrument under which they are  
14 acting now exists on or before the effective date of this  
15 section.

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HOUSE FILE 2365

AN ACT

RELATING TO THE AUTHORITY OF FIDUCIARIES UNDER THE PROBATE  
CODE TO INVEST IN OPEN-END OR CLOSED-END MANAGEMENT INVESTMENT  
COMPANIES OR INVESTMENT TRUSTS.

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

Section 1. Section 412.4, Code 1995, is amended to read as follows:

412.4 LEGAL RESERVE INSURANCE.

The council, board of waterworks trustees, or other board or commission, whichever is authorized by law to manage and operate any such waterworks, or other municipally owned and operated public utility, shall have the right and power to contract with any legal reserve insurance company, authorized to conduct its business in the state, or any bank located in Iowa having trust powers for the investment of funds contributed to an annuity or pension system, for the payment of the pensions or annuities provided in such pension or

annuity retirement system, and may pay the premiums or make the contribution of such contract out of the fund provided in section 412.2. Funds contributed to a bank pursuant to such a contract shall be invested in the manner prescribed in section 633.123 or 633.123A, and may be commingled with and invested as a part of a common or master fund managed for the benefit of more than one public utility.

Sec. 2. Section 633.123, subsection 2, unnumbered paragraphs 3 and 4, Code 1995, are amended by striking the paragraphs.

Sec. 3. NEW SECTION. 633.123A INVESTMENTS IN INVESTMENT COMPANIES AND INVESTMENT TRUSTS.

1. 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 such funds 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 and reinvestment under this section is allowed as long as the portfolio of such investment company or investment trust consists substantially of investments not otherwise prohibited by section 633.123 or by the governing instrument.

Investment and reinvestment under this section is not precluded merely because the bank or trust company or an affiliate of the bank or trust company provides the services of an 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.

2. This section is applicable to all fiduciaries whether the will, agreement, or other instrument under which they are acting now exists on or before the effective date of this section.

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RON J. CORBETT  
Speaker of the House

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LEONARD L. BOSWELL  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2365, Seventy-sixth General Assembly.

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ELIZABETH ISAACSON  
Chief Clerk of the House

Approved *Elizabeth Isaacson*, 1996

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TERRY E. BRANSTAD  
Governor