

CHAPTER 1012
PROBATE LAW CHANGES
S.F. 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.

Approved March 23, 1992