



Ohio Revised Code

Section 2109.37 Investment of trust funds by fiduciary.

Effective: January 13, 2012

Legislation: Senate Bill 124 - 129th General Assembly

(A) Except as otherwise provided by law, including division (D) of this section, or by the instrument creating the trust, a fiduciary having funds belonging to a trust that are to be invested may invest them in the following:

(1) Bonds or other obligations of the United States or of this state;

(2) Bonds or other interest-bearing obligations of any county, municipal corporation, school district, or other legally constituted political taxing subdivision within the state, provided that the county, municipal corporation, school district, or other subdivision has not defaulted in the payment of the interest on any of its bonds or interest-bearing obligations, for more than one hundred twenty days during the ten years immediately preceding the investment by the fiduciary in the bonds or other obligations, and provided that the county, municipal corporation, school district, or other subdivision, is not, at the time of the investment, in default in the payment of principal or interest on any of its bonds or other interest-bearing obligations;

(3) Bonds or other interest-bearing obligations of any other state of the United States which, within twenty years prior to the making of that investment, has not defaulted for more than ninety days in the payment of principal or interest on any of its bonds or other interest-bearing obligations;

(4) Any bonds issued by or for federal land banks and any debentures issued by or for federal intermediate credit banks under the "Federal Farm Loan Act of 1916," 39 Stat. 360, 12 U.S.C.A. 641, as amended; or any debentures issued by or for banks for cooperatives under the "Farm Credit Act of 1933," 48 Stat. 257, 12 U.S.C.A. 131, as amended;

(5) Notes that are: (a) secured by a first mortgage on real property held in fee and located in the state, improved by a unit designed principally for residential use for not more than four families or by a combination of that dwelling unit and business property, the area designed or used for nonresidential purposes not to exceed fifty per cent of the total floor area; (b) secured by a first



mortgage on real property held in fee and located in the state, improved with a building designed for residential use for more than four families or with a building used primarily for business purposes, if the unpaid principal of the notes secured by that mortgage does not exceed ten per cent of the value of the estate or trust or does not exceed five thousand dollars, whichever is greater; or (c) secured by a first mortgage on an improved farm held in fee and located in the state, provided that the mortgage requires that the buildings on the mortgaged property shall be well insured against loss by fire, and so kept, for the benefit of the mortgagee, until the debt is paid, and provided that the unpaid principal of the notes secured by the mortgage shall not exceed fifty per cent of the fair value of the mortgaged real property at the time the investment is made, and the notes shall be payable not more than five years after the date on which the investment in them is made; except that the unpaid principal of the notes may equal sixty per cent of the fair value of the mortgaged real property at the time the investment is made, and may be payable over a period of fifteen years following the date of the investment by the fiduciary if regular installment payments are required sufficient to amortize four per cent or more of the principal of the outstanding notes per annum and if the unpaid principal and interest become due and payable at the option of the holder upon any default in the payment of any installment of interest or principal upon the notes, or of taxes, assessments, or insurance premiums upon the mortgaged premises or upon the failure to cure any such default within any grace period provided in the notes not exceeding ninety days in duration;

(6) Life, endowment, or annuity contracts of legal reserve life insurance companies regulated by sections 3907.01 to 3907.21, 3909.01 to 3909.17, 3911.01 to 3911.24, 3913.01 to 3913.10, 3915.01 to 3915.15, and 3917.01 to 3917.05 of the Revised Code, and licensed by the superintendent of insurance to transact business within the state, provided that the purchase of contracts authorized by this division shall be limited to executors or the successors to their powers when specifically authorized by will and to guardians and trustees, which contracts may be issued on the life of a ward, a beneficiary of a trust fund, or according to a will, or upon the life of a person in whom the ward or beneficiary has an insurable interest and the contracts shall be drawn by the insuring company so that the proceeds shall be the sole property of the person whose funds are so invested;

(7) Notes or bonds secured by mortgages and insured by the federal housing administrator or debentures issued by that administrator;

(8) Obligations issued by a federal home loan bank created under the "Federal Home Loan Bank Act



of 1932," 47 Stat. 725, 12 U.S.C.A. 1421, as amended;

(9) Shares and certificates or other evidences of deposits issued by a federal savings and loan association organized and incorporated under the "Home Owners' Loan Act of 1933," 48 Stat. 128, 12 U.S.C.A. 1461, as amended, to the extent and only to the extent that those shares or certificates or other evidences of deposits are insured pursuant to the "Financial Institutions Reform, Recovery, and Enforcement Act of 1989," 103 Stat. 183, 12 U.S.C.A. 1811, as amended;

(10) Bonds issued by the home owners' loan corporation created under the "Home Owners' Act of 1933," 48 Stat. 128, 12 U.S.C.A. 1461, as amended;

(11) Obligations issued by the national mortgage association created under the "National Housing Act," 48 Stat. 1246 (1934), 12 U.S.C.A. 1701, as amended;

(12) Shares and certificates or other evidences of deposits issued by a domestic savings and loan association organized under the laws of the state, which association has obtained insurance of accounts pursuant to the "Financial Institutions Reform, Recovery, and Enforcement Act of 1989," 103 Stat. 183, 12 U.S.C.A. 1811, as amended, or as may be otherwise provided by law, only to the extent that the evidences of deposits are insured under that act, as amended;

(13) Shares and certificates or other evidences of deposits issued by a domestic savings and loan association organized under the laws of the state, provided that no fiduciary may invest the deposits except with the approval of the probate court, and then in an amount not to exceed the amount that the fiduciary is permitted to invest under division (A)(12) of this section;

(14) In savings accounts in, or certificates or other evidences of deposits issued by, a national bank located in the state or a state bank located in and organized under the laws of the state or a state credit union located and organized under the laws of the state or a federal credit union located in the state by depositing the funds in the bank or credit union, and the national or state bank or the federal or state credit union when itself acting in a fiduciary capacity may deposit the funds in savings accounts in, or certificates or other evidences of deposits issued by, its own savings department or any bank subsidiary corporation owned or controlled by the bank holding company that owns or controls the national or state bank; provided that no deposit shall be made by any



fiduciary, individual or corporate, unless the deposits of the depository bank are insured by the federal deposit insurance corporation created under the "Federal Deposit Insurance Corporation Act of 1933," 48 Stat. 162, 12 U.S.C. 264, as amended, or provided that no deposit shall be made by any fiduciary, individual or corporate, unless the deposits of the depository credit union are insured by the national credit union administration created under the "Federal Credit Union Act of 1934," 48 Stat. 1216, 12 U.S.C. 1751, as amended, or the deposits of the depository credit union are insured by a share guaranty corporation as defined in Chapter 1761. of the Revised Code, and provided that the deposit of the funds of any one trust in those savings accounts in, or certificates or other evidences of deposits issued by, any one bank or credit union shall not exceed the sum insured under those acts, as amended, or under Chapter 1761. of the Revised Code;

(15) Obligations consisting of notes, bonds, debentures, or equipment trust certificates issued under an indenture that are the direct obligations, or in the case of equipment trust certificates are secured by direct obligations, of a railroad or industrial corporation, or a corporation engaged directly and primarily in the production, transportation, distribution, or sale of electricity or gas, or the operation of telephone or telegraph systems or waterworks, or in some combination of them; provided that the obligor corporation is one that is incorporated under the laws of the United States, any state, the District of Columbia, or foreign government, and the obligations are rated at the time of purchase in the highest or next highest classification established by at least two standard rating services selected from a list of the standard rating services that shall be prescribed by the superintendent of financial institutions; provided that every such list shall be certified by the superintendent to the clerk of each probate court in the state, and shall continue in effect until a different list is prescribed and certified as provided in this division;

(16) Obligations issued, assumed, or guaranteed by the international finance corporation or by the international bank for reconstruction and development, the Asian development bank, the inter-American development bank, the African development bank, or other similar development bank in which the president, as authorized by congress and on behalf of the United States, has accepted membership, provided that the obligations are rated at the time of purchase in the highest or next highest classification established by at least one standard rating service selected from a list of standard rating services that shall be prescribed by the superintendent of financial institutions;

(17) Securities of any investment company, as defined in and registered under sections 3 and 8 of



the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-3 and 80a-8, that are invested exclusively in forms of investment or in instruments that are fully collateralized by forms of investment in which the fiduciary is permitted to invest pursuant to divisions (A)(1) to (16) of this section, provided that, in addition to those forms of investment, the investment company may, for the purpose of reducing risk of loss or of stabilizing investment returns, engage in hedging transactions.

(B) No administrator or executor may invest funds belonging to an estate in any asset other than a direct obligation of the United States that has a maturity date not exceeding one year from the date of investment, or other than in a short-term investment fund that is invested exclusively in obligations of the United States or of its agencies, or primarily in those obligations and otherwise only in variable demand notes, corporate money market instruments including, but not limited to, commercial paper, or fully collateralized repurchase agreements or other evidences of indebtedness that are payable on demand or generally have a maturity date not exceeding ninety-one days from the date of investment, except with the approval of the probate court or with the permission of the instruments creating the trust.

(C)(1) In addition to the investments allowed by this section, a guardian or trustee, with the approval of the court, may invest funds belonging to the trust in productive real property located within the state, provided that neither the guardian nor the trustee nor any member of the family of either has any interest in the real property or in the proceeds of the purchase price. The title to any real property so purchased by a guardian shall be taken in the name of the ward.

(2) Notwithstanding the provisions of division (C)(1) of this section, the court may permit the funds to be used to purchase or acquire a home for the ward or an interest in a home for the ward in which a member of the ward's family may have an interest. After the filing of the petition by a guardian or a conservator for authority to purchase or acquire a home for the ward or an interest in a home for the ward in which a member of the ward's family may have an interest, the matter shall be set for a hearing before the probate court.

(D) If the fiduciary is a trustee appointed by and accountable to the probate court, the fiduciary shall invest the trust's assets pursuant to the requirements and standards set forth in the Ohio Uniform Prudent Investor Act.