



## Ohio Revised Code

### Section 2109.371 Additional eligible investments.

Effective: January 13, 2012

Legislation: Senate Bill 124 - 129th General Assembly

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(A) In addition to those investments made eligible by section 2109.37 or 2109.372 of the Revised Code, investments may be made by a fiduciary other than a guardian under sections 5905.01 to 5905.19 of the Revised Code, and subject to the restriction placed on an administrator or executor by division (B) of section 2109.37 of the Revised Code, in any of the following kinds and classes of securities, provided that it may be lawfully sold in Ohio and investment is made only in those securities that would be acquired by prudent persons of discretion and intelligence in those matters who are seeking a reasonable income and the preservation of their capital:

(1) Securities of corporations organized and existing under the laws of the United States, the District of Columbia, any state of the United States, or any foreign government or state, including, but not limited to, bonds, debentures, notes, equipment trust obligations, or other evidences of indebtedness, and shares of common and preferred stocks of those corporations;

(2) Subject to division (C) of this section, collective investment funds established in accordance with section 1111.14 of the Revised Code or securities of any investment company, including any affiliated investment company, whether or not the fiduciary has invested other funds held by it in an agency or other nonfiduciary capacity in the securities of the same investment company or affiliated investment company. Those investments may be made regardless of the eligibility of the underlying assets held by the fund portfolios of the investment company.

(3) Bonds or other interest-bearing obligations of any state or territory of the United States, or of any county, city, village, school district, or other legally constituted political taxing subdivision of any state or territory of the United States, not otherwise eligible under division (A)(2) or (3) of section 2109.37 of the Revised Code, or of any foreign government;

(4) Debt or equity securities of foreign corporations that trade on recognized United States domiciled exchanges.



(B) No investment shall be made pursuant to this section that, at the time the investment is made, causes the aggregate market value of the investments, not made eligible by section 2109.37 or 2109.372 of the Revised Code, to exceed sixty per cent of the aggregate market value at that time of all the property of the fund held by the fiduciary. No sale or other liquidation of any investment shall be required solely because of any change in the relative market value of those investments made eligible by this section and those made eligible by section 2109.37 or 2109.372 of the Revised Code; provided that, in the event of a sale of investments authorized by this section, the proceeds from the sale may be reinvested in the kinds and classes of securities authorized by this section without regard to the percentage limitation provided in this division. In determining the aggregate market value of the property of a fund and the percentage of a fund to be invested under this section, a fiduciary may rely upon published market quotations as to those investments for which those quotations are available and upon the valuations of other investments that, in the fiduciary's best judgment, seem fair and reasonable according to available information.

(C)(1)(a) A fiduciary making an investment of trust funds in securities of an affiliated investment company, or a bank subsidiary corporation or other corporation owned or controlled by the bank holding company that owns or controls the fiduciary, may charge a reasonable fee for investment advisory, brokerage, transfer agency, registrar, management, or other similar services provided to an affiliated investment company. The fee may be in addition to the compensation to which the fiduciary is otherwise entitled to receive from the trust, provided that the fee is charged as a percentage of either asset value or income earned or actual amount charged and is disclosed at least annually by prospectus, account statement, or any other written means to all persons entitled to receive statements of account activity. The fiduciary shall disclose the relationship between the fiduciary and the affiliated investment company, at least annually by account statement, whether or not the fee is charged.

(b) A fiduciary making an investment of trust funds in securities of an affiliated investment company pursuant to division (A)(2) of this section shall, when providing any periodic account statements to the trust fund, report the net asset value of the shares comprising the investment of the trust funds in the affiliated investment company.

(c) If a fiduciary making an investment of trust funds in securities of an affiliated investment company pursuant to division (A)(2) of this section invests those funds in any mutual fund, the



fiduciary shall disclose, in at least ten-point boldface type, by prospectus, account statement, or any other written means to all persons entitled to receive statements of account activity, that the mutual fund is not insured or guaranteed by the federal deposit insurance corporation or by any other government-sponsored agency of the federal government or of this state.

(2) Unless the investment of trust funds in securities of an affiliated investment company can be made under the terms of the instrument creating the trust, an exception to the investment of trust funds in securities of an affiliated investment company may be filed with the probate court. Any exception filed pursuant to this division shall be signed by all persons who would, at the time the exception is filed, be permitted to file an exception to an account pursuant to section 2109.33 of the Revised Code and shall state that all of those persons request that the current investment of trust funds in securities of an affiliated investment company be terminated within a reasonable time. If the probate court determines that the exception complies with the requirements of this division, the probate court shall establish a schedule for disposing of any current investments in securities of an affiliated investment company, and the fiduciary shall cause the trust to dispose of the investments in accordance with the schedule. The fiduciary shall not be liable for any loss incurred by the trust as a result of complying with division (C)(2) of this section.

(D) As used in this section, "affiliated investment company" and "reasonable fee" have the same meanings as in division (E) of section 1111.13 of the Revised Code.