

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 443
SENATE BILL 820

AN ACT TO AUTHORIZE CORPORATIONS EXERCISING FIDUCIARY POWERS
TO CHARGE A FEE FOR THE AUTOMATED SHORT-TERM INVESTMENT
OF CASH HELD IN FIDUCIARY ACCOUNTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 36A-63 reads as rewritten:

"§ 36A-63. Funds held by a ~~bank~~ corporation exercising fiduciary powers awaiting investment or distribution.

(a) Funds held in a fiduciary capacity by a ~~bank~~ bank, trust company, savings and loan association, or other corporation authorized to exercise the powers of a fiduciary, awaiting investment or distribution shall not be held uninvested or undistributed any longer than is reasonable for the proper management of the account. A corporation acting in a fiduciary capacity has complied with this requirement if such funds awaiting investment or distribution in excess of one thousand dollars (\$1,000) are invested or distributed within 30 days of receipt or accumulation thereof.

(b) Funds held in ~~trust~~ a fiduciary capacity by a bank, awaiting investment or distribution may, unless prohibited by the instrument creating the ~~trust~~ fiduciary relationship, be deposited in the commercial or savings or other department of the bank, provided that it shall first set aside under control of the trust department as collateral security, such securities as may be found listed in G.S. 142-34 as being eligible for the investment of the sinking funds of the State of North Carolina equal in market value of such deposited funds, or readily marketable commercial bonds having not less than a recognized 'A' rating equal to one hundred and twenty-five percent (125%) of the funds so deposited.

The securities so deposited or securities substituted therefor as collateral in the trust department by the commercial or savings or other department (as well as the deposit of cash in the commercial or savings or other department by the trust department) shall be held pursuant to the provisions of G.S. 53-43(6).

If such funds are deposited in a bank insured under the provisions of the Federal Deposit Insurance Corporation, the above collateral security will be required only for that portion of uninvested balances of each trust which are not fully insured under the provisions of that corporation.

(c) Funds held in a fiduciary capacity by a corporate fiduciary awaiting investment or distribution may, unless prohibited by the instrument creating the fiduciary relationship, be invested in short-term, trust-quality investment vehicles, through the medium of a collective investment fund or otherwise.

(d) In addition to any other compensation to which it may be entitled under G.S. 28A-23-3, 32-50, 34-12, 35A-1269, or under any other authority, a corporation acting in a fiduciary capacity shall be allowed to charge a fee for the temporary investment of funds held awaiting investment or distribution, which fee may be calculated upon the amount of such funds actually invested and upon the income produced thereby. The fee authorized by this subsection shall not exceed twelve percent (12%) of the income produced by such investment. A corporation acting in a fiduciary capacity has complied with its duty to disclose fees and practices in connection with the investment of fiduciary funds awaiting investment or distribution if the corporation's periodic statements set forth the method of computing such fees."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 26th day of June, 1989.