

P.L. 1997, CHAPTER 245, *approved September 9, 1997*
Senate, No. 2063 (*First Reprint*)

1 **AN ACT** concerning certain trust powers of certain not-for-profit
2 corporations and amending P.L.1948, c.67.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 213 of P.L.1948, c.67 (C.17:9A-213) is amended to
8 read as follows:

9 213. Limitations on exercise of powers.

10 ¹(a)¹ Except as otherwise provided by law, only a banking
11 institution shall exercise within this State any of the powers
12 enumerated in paragraph (4) of section 24 of P.L.1948, c.67
13 (C.17:9A-24), paragraphs (4), (5) and (13) of section 25 of P.L.1948,
14 c.67 (C.17:9A-25), and paragraphs (1) and (5) of section 26 of
15 P.L.1948, c.67 (C.17:9A-26), and except as otherwise provided in this
16 section, no corporation other than a qualified bank shall exercise
17 within this State any of the powers specified in paragraphs (3), (4),
18 (5), (6), (7), (8) and (9) of section 28 of P.L.1948, c.67 (C.17:9A-28),
19 provided that no corporation organized prior to March 24, 1899,
20 authorized to exercise all or any of the powers specified in paragraph
21 (13) of section 25 of P.L.1948, c.67 (C.17:9A-25) or in paragraph (3)
22 of section 28 of P.L.1948, c.67 (C.17:9A-28), shall be prohibited
23 from exercising such powers, and further provided that if, prior to the
24 effective date of this amendatory act, a not-for-profit corporation was
25 exercising any of the powers specified in paragraph (6) or (9) of
26 section 28 of P.L.1948, c.67 (C.17:9A-28) as trustee ¹[over trusts and
27 funds in which that corporation had an interest] of a trust created to
28 administer insurance programs¹, that corporation shall not be
29 prohibited, on and after the effective date of this act, from exercising
30 the powers specified in paragraph (6) or (9) of section 28 of P.L.1948,
31 c.67 (C.17:9A-28) over ¹[trusts and funds in which that corporation

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SSM committee amendments adopted June 12, 1997.

1 has an interest] the trust¹ , and further provided that no qualified
2 corporation, as hereinafter defined, shall be prohibited from exercising
3 all or any of the powers specified in paragraph (3) of section 28 of
4 P.L.1948, c.67 (C.17:9A-28), or in paragraph (13) of section 25 of
5 P.L.1948, c.67 (C.17:9A-25). A qualified corporation shall mean a
6 domestic corporation or a foreign corporation authorized to transact
7 business in this State and registered with the Department of Banking
8 and Insurance which (a) has such capital, surplus and undivided profits
9 as may be fixed by the Commissioner of Banking and Insurance
10 commensurate with the nature and volume of its business; (b) has
11 adequate vault or other safe keeping facilities for the safeguarding of
12 stocks and other securities received, processed or otherwise held for
13 the account of customers; and (c) is adequately insured, as may be
14 provided by regulation, to protect its customers and the holders or
15 transferees of securities issued by its customers.

16 ¹(b) Notwithstanding the provisions of subsection (a) of this
17 section to the contrary, a qualified educational institution shall not be
18 prohibited from exercising the powers specified in paragraphs (6) and
19 (9) of section 28 of P.L.1948, c.67 (C.17:9A-28) as trustee of funds
20 in which the qualified educational institution has a qualifying interest.
21 For the purposes of this subsection, a "qualified educational
22 institution" means a not-for-profit corporation which is operated
23 pursuant to Title 15A of the New Jersey Statutes (C.15A:1-1 et seq.)
24 and which is organized and operated exclusively for educational
25 purposes, is exempt from federal income taxation pursuant to
26 paragraph (3) of subsection (c) of section 501 or section 115 of the
27 Internal Revenue Code of 1986, 26 U.S.C. §501(c)(3) and 26 U.S.C.
28 §115, and has registered with the department pursuant to this section.
29 A "qualified interest" means the interest of the qualified educational
30 institution as an income beneficiary, a principal beneficiary of a trust,
31 or both, which is a charitable remainder trust, charitable lead trust or
32 a pooled income fund, as those terms are commonly used under the
33 Internal Revenue Code, or a similar split interest trust, and in which
34 the qualified educational institution is entitled to receive at least 51%
35 of the income of the trust or 51% of the principal.

36 (c) Each qualified educational institution shall:

37 (1) have unrestricted net assets (as defined by the Statement of
38 Financial Accounting Standard (SFAS) No. 117, "Financial Statement
39 of Not-for-Profit") in an amount fixed by the commissioner
40 commensurate with the volume of its trust operations;

41 (2) provide for adequate vault or other safe-keeping facilities for
42 the safeguarding of stocks and other securities held for their trust
43 accounts;

44 (3) be adequately insured, as required by regulation;

45 (4) have officers or other employees determined by the
46 commissioner to possess the qualifications, experience and character

1 required for the duties and responsibilities for which they will be
 2 responsible in administering and investing the assets of the trusts: and

3 (5) have available competent legal counsel to advise and pass upon
 4 trust matters whenever necessary.

5 (d)¹ A qualified corporation ¹and qualified educational institution¹
 6 shall be subject to any regulations which may be adopted by the
 7 Commissioner of Banking and Insurance and subject to examination
 8 by the Department of Banking and Insurance ¹to ensure compliance
 9 with those regulations¹, the cost of which shall be paid by the qualified
 10 corporation ¹[, to ensure compliance with any such regulations] or
 11 qualified educational institution¹. The Commissioner of Banking and
 12 Insurance may require ¹[such]¹ qualified corporations ¹and qualified
 13 educational institutions¹ to file ¹[such] any¹ reports ¹[as from time to
 14 time he] the commissioner¹ deems necessary to [enable him to] ¹
 15 determine compliance with any regulations which may be issued ¹[by
 16 him]¹ and to pay fees set by regulation for filing ¹[such] those¹ reports
 17 and for registering with the Department of Banking and Insurance .

18 ¹(e) All moneys, securities and other properties held by a qualified
 19 educational institution in trust pursuant to this section shall be kept
 20 separate and apart from the moneys, securities and other property
 21 belonging to the qualified educational institution. The requirements
 22 of this subsection shall be satisfied as long as the qualified educational
 23 institution maintains at all times records that show the name of the
 24 party on whose account the moneys, securities and other property are
 25 held. All moneys, securities and other property held by a qualified
 26 educational institution in trust pursuant to this section shall not be
 27 liable for the debts and obligations of the qualified educational
 28 institution.

29 (f) Subsections (c) and (d) of this section shall not apply to any
 30 qualified educational institution that was acting as a trustee prior to
 31 1983, that holds in unrestricted assets an amount equal to ten times all
 32 assets under trust management and that has over \$100 million under
 33 trust management.¹

34 (cf: P.L.1989, c.262, s.1)

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36 2. This act shall take effect immediately ¹but the amendments to
 37 subsection (d) of section 213 of P.L.1948, c. 61 (C.17:9A-213)
 38 contained in section 1 of this act shall remain inoperative until the
 39 180th day after enactment¹.

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44 Concerns certain trust powers of certain not-for-profit corporations.