

SENATE STATE MANAGEMENT, INVESTMENT AND
FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

SENATE, No. 2063

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 12, 1997

The Senate State Management, Investment and Financial Institutions Committee reports favorably and with committee amendments Senate Bill No. 2063.

This bill, as amended, provides that certain not-for-profit corporations may exercise certain trust powers as a trustee of a trust created to administer insurance programs and that qualified educational institution may exercise certain trust powers as trustee over trusts and funds in which it has a qualifying interest. The bill defines a qualified educational institution as a not-for-profit corporation which is operated pursuant to Title 15A of the New Jersey Statutes (C.15A:1-1 et seq.) and which is organized and operated exclusively for educational purposes, is exempt from federal income taxation pursuant to paragraph (3) of subsection (c) of section 501 or section 115 of the Internal Revenue Code of 1986, 26 U.S.C. §501(c)(3) and 26 U.S.C. §115, and has registered with the department pursuant to this section. A qualifying interest is defined as the interest of the qualified educational institution as an income beneficiary, a principal beneficiary of a trust, or both, which is a charitable remainder trust, charitable lead trust or a pooled income fund, as those terms are commonly used under the Internal Revenue Code, or a similar split interest trust, and in which the qualified educational institution is entitled to receive at least 51% of the income of the trust or 51% of the principal.

In addition the bill requires each qualified educational institution to:

- (1) have unrestricted net assets (as defined by the Statement of Financial Accounting Standard (SFAS) No. 117, "Financial Statement of Not-for-Profit") in an amount fixed by the commissioner commensurate with the volume of its trust operations;
- (2) provide for adequate vault or other safe-keeping facilities for the safeguarding of stocks and other securities held for their trust accounts;
- (3) be adequately insured, as required by regulation;

(4) have officers or other employees determined by the commissioner to possess the qualifications, experience and character required for the duties and responsibilities for which they will be responsible in administering and investing the assets of the trusts: and

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

The bill provides regulatory authority over qualified educational institution.

The bill further requires qualified educational institutions to meet the fiduciary standards applicable to banks regarding the moneys, securities and other properties held in trust and provides that the moneys, securities and property held in trust shall not be liable for the debts and obligations of the qualified educational institution.

Finally, the bill provides an exemption from the provisions of subsections (c) and (d) for a qualified educational institutions that was acting as trustee prior to 1983, holds in unrestricted assets an amount equal to ten times all assets under trust management and has over \$100 million under trust management.

As amended, Senate, No. 2063 is identical to Assembly, No. 2929 (1R).

COMMITTEE AMENDMENTS

The amendments to the bill allow certain not-for-profit corporations acting as trustee of a trust created to administer insurance programs and to qualified educational institutions that have a qualifying interest in the trusts under management to exercise trust powers. The amendments also define qualifying educational institution and qualifying interest and provide for the regulation of qualifying educational institutions by the Department of Banking and Insurance. Furthermore, the amendments require certain protections for the assets under management and require that qualifying educational institutions that act as trustee meet the same fiduciary standards as banks. Finally, the amendments provide that the assets under trust management are protected from creditors of the institution, and provide an exemption from some of the requirements for certain qualified educational institutions. The amendments to subsection (d) of section 213 of P.L.1948, c.61 (17:9A-213) contained in section 1 of the bill are not to take effect until the 180th day after enactment.