

MAINE STATE LEGISLATURE

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N I N E T Y - S E C O N D L E G I S L A T U R E

Legislative Document

No. 63

H. P. 183

House of Representatives, January 23, 1945.

Referred to Committee on Banks and Banking. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Perkins of Boothbay Harbor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-FIVE

AN ACT to Regulate Trust Investments.

Be it enacted by the People of the State of Maine, as follows:

R. S., c. 147, §§ 17-A-17-D, additional. Chapter 147 of the revised statutes is hereby amended by adding thereto 4 new sections to be numbered 17-A to 17-D to read as follows:

'Sec. 17-A. Fiduciary to exercise prudence. In acquiring, investing, reinvesting, exchanging, retaining, selling and managing property for the benefit of another, a fiduciary shall exercise the judgment and care under the circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard, a fiduciary is authorized to acquire and retain every kind of property, real, personal or mixed, and every kind of investment, specifically including but not by way of limitation, bonds, debentures and other corporate obligations, and stocks, preferred or common, which men of prudence, discretion and intelligence acquire or retain for their own account, and within the limitations of the foregoing standard, a fiduciary may retain property acquired, without

limitation as to time and without regard to its suitability for original purchase.

Sec. 17-B. Exception. Nothing contained in the provisions of sections 17-A to 17-D, inclusive, shall be construed as authorizing any departure from, or variation of, the express terms or limitations set forth in any will, agreement, court order or other instrument creating or defining the fiduciary's duties and powers, but the terms "legal investment" or "authorized investment" or words of similar import, as used in any such instrument, shall be taken to mean any investment which is permitted by the terms of section 17-A.

Sec. 17-C. Power of court not restricted. Nothing contained in the provisions of sections 17-A to 17-D, inclusive, shall be construed as restricting the power of a court of proper jurisdiction to permit a fiduciary to deviate from the terms of any will, agreement or other instrument relating to the acquisition, investment, reinvestment, exchange, retention, sale or management of fiduciary property.

Sec. 17-D. Application of §§ 17-A-17-D. The provisions of sections 17-A to 17-D, inclusive, shall govern fiduciaries acting under wills, agreements, court orders and other instruments now existing or hereafter made.'