

**§138. Custody and servicing of securities; investment of trust funds; exceptions; prorations**

The Treasurer of State, with the approval of the Commissioner of Administrative and Financial Services, the Superintendent of Financial Institutions and the Attorney General, shall invest all permanent funds held in trust by the State in such securities as are legal investments for savings banks under Title 9-B, except as provided in chapter 161. For purposes of this section, those investments include, without limitation, shares of an investment company registered under the federal Investment Company Act of 1940, whose shares are registered under the United States Securities Act of 1933, only if the investments of the investment company are limited to obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States or repurchase agreements secured by obligations of the United States or any agency or instrumentality, corporate or otherwise, of the United States. This section does not apply to the fund of the Employees' Retirement System or the fund arising from the lands reserved for public uses. [PL 1993, c. 651, §2 (AMD); PL 2001, c. 44, §11 (AMD); PL 2001, c. 44, §14 (AFF).]

The investments need not be segregated to the separate trust funds and the earnings of the investments must be prorated according to the principal amounts of the several trusts. The identity of each separate trust fund must be maintained. [PL 1991, c. 780, Pt. Y, §10 (AMD).]

The Treasurer of State, with the approval of the Commissioner of Administrative and Financial Services, the Superintendent of Financial Institutions and the Attorney General, has the power to enter into contracts or agreements approved by the Governor with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and servicing of the securities belonging to the permanent trust funds of this State. Such services must consist of the safekeeping of those securities, collection of interest and dividends, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by such funds, and any other fiscal service that is normally covered in a custodial contract or agreement. In performing services under any such contract or agreement, the contracting bank has all of the powers and duties prescribed for trust companies by Title 9-B, section 473. [PL 1997, c. 398, Pt. L, §1 (AMD); PL 2001, c. 44, §11 (AMD); PL 2001, c. 44, §14 (AFF).]

The Treasurer of State is empowered to arrange for the payment for such services, either by cash payments to be charged pro rata to the income of such trust funds, or by an agreement for a compensating deposit balance with the bank in question, in lieu of such cash payment, or by some combination of both methods of payment. The contracting bank shall give assurance of proper safeguards that are usual to such contracts and shall furnish insurance protection satisfactory to both parties. [PL 1991, c. 780, Pt. Y, §10 (AMD).]

The Treasurer of State is empowered to withdraw or deposit securities from or with the custodian as circumstances may require, all withdrawal orders or delivery instructions to bear the approval in writing of the Superintendent of Financial Institutions and that of either or both the Attorney General and the Commissioner of Administrative and Financial Services. [PL 1991, c. 780, Pt. Y, §10 (AMD); PL 2001, c. 44, §11 (AMD); PL 2001, c. 44, §14 (AFF).]

The Treasurer of State shall review the extent to which the assets of any permanent funds held in trust by the State are invested in the stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company, as defined in section 1957, subsection 1, paragraph C. The Treasurer of State shall, in accordance with sound investment criteria and consistent with fiduciary obligations, divest any such holdings and may not invest any assets in any such stocks, securities or other obligations. Divestment pursuant to this paragraph must be complete by January 1, 2026. Nothing in this paragraph precludes de minimis exposure of any permanent funds held in trust by the State to the stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company. [PL 2021, c. 231, §2 (NEW).]

The Treasurer of State shall review the extent to which the assets of any permanent funds held in trust by the State are invested in the stocks, securities or other obligations of any corporation or company or any subsidiary, affiliate or parent of any company that owns or operates prisons for profit. The Treasurer of State shall, in accordance with sound investment criteria and consistent with fiduciary obligations, divest any such holdings and may not invest any assets in any such stocks, securities or other obligations. Nothing in this section precludes de minimis exposure of any permanent funds held in trust by the State to the stocks, securities or other obligations of any corporation or company or any subsidiary, affiliate or parent of any company that owns or operates prisons for profit. [PL 2021, c. 234, §1 (NEW).]

#### SECTION HISTORY

PL 1971, c. 181, §§1-3 (AMD). PL 1973, c. 585, §§11,14 (AMD). PL 1973, c. 733, §§1,2 (AMD). PL 1973, c. 788, §12 (AMD). PL 1975, c. 771, §41 (AMD). PL 1977, c. 78, §7 (AMD). PL 1979, c. 127, §20 (AMD). PL 1985, c. 785, §§A7-9 (AMD). PL 1987, c. 247, §2 (AMD). PL 1991, c. 780, §Y10 (AMD). PL 1993, c. 651, §2 (AMD). PL 1997, c. 398, §L1 (AMD). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF). PL 2021, c. 231, §2 (AMD). PL 2021, c. 234, §1 (AMD).

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