

January 19, 1951.
Banks, Building and Loan.

House File 116
By KOSEK, MUNGER.

Passed House, Date
Vote: Ayes..... Nays.....
Passed Senate, Date
Vote: Ayes..... Nays.....
Approved

A BILL FOR

An Act to repeal sections six hundred eighty-two point twenty-three (682.23), six hundred eighty-two point twenty-four (682.24), and six hundred eighty-two point twenty-five (682.25), Code 1950, and to enact a substitute therefor relating to the investment, reinvestment, exchange, retention, sale and management of property held in trust by fiduciaries.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. That sections six hundred eighty-two point
2 twenty-three (682.23), six hundred eighty-two point twenty-
3 four (682.24), six hundred eighty-two point twenty-five
4 (682.25), Code 1950, be repealed and the following enacted in
5 lieu thereof:
6 "Section 682.23. (1) In acquiring, investing, rein-
7 vesting, exchanging, retaining, selling and managing property
8 for the benefit of another, a fiduciary shall exercise the
9 judgment and care under the circumstances then prevailing,
10 which men of prudence, discretion and intelligence exercise
11 in the management of their own affairs, not in regard to
12 speculation but in regard to the permanent disposition of
13 their funds, considering the probable income as well as the

14 probable safety of their capital. Within the limitations of
15 the foregoing standard, a fiduciary is authorized to acquire
16 and retain every kind of investment, specifically included
17 but not by way of limitations, bonds, debentures and other
18 corporate obligations, and stocks, preferred or common
19 and securities of any open-end or closed-end management
20 type investment company or investment trust registered under
21 the Federal Investment Company Act. of 1940, as from time
22 to time amended, which men of prudence, discretion and
23 intelligence acquire or retain for their own account, and
24 within the limitations of the foregoing standard, a fiduciary
25 may retain property properly acquired, without limitation
26 as to time and without regard to its suitability for original
27 purchase.

28 (2) Nothing contained in this Act shall be construed
29 as authorizing any departure from, or variation of, the
30 express terms or limitations set forth in any will,
31 agreement, court order or other instrument creating or
32 defining the fiduciary's duties and powers, but the terms
33 "legal investment" or "authorized investment" or words of
34 similar import, as used in any such instrument, shall be
35 taken to mean any investment which is permitted by the
36 terms of Paragraph (1) hereof.

37 (3) Nothing contained in this Act shall be construed
38 as restricting the power of a court of proper jurisdiction
39 to permit a fiduciary to deviate from the terms of any will,

40 agreement, or other instrument relating to the acquisition,
41 investment, reinvestment, exchange, retention, sale or
42 management of fiduciary property.

43 (4) The provisions of this Act shall govern fiduciaries
44 acting under wills, agreements, court orders and other
45 instruments now existing or hereafter made.

46 (5) Fiduciaries shall not so acquire property or
47 securities from themselves and corporate fiduciaries shall
48 not acquire such investments or securities from themselves,
49 their stockholders, directors, officers or employees.”

EXPLANATION OF H. F. 116

The “Prudent-Man Rule” or “Massachusetts Rule” now applies in 24 of the 48 states including our neighboring states of Minnesota, Illinois, Missouri and Kansas. It is now in the process of enactment in at least 12 additional states. The state of New York considered the bulwark of legal list states, has adopted the “Prudent-Man Rule” for a maximum investment of 35% in cash fiduciary account.

This rule makes legal for fiduciary investment the issues for which men of prudence, discretion and intelligence acquire or retain for their own account.