

IC 30

TITLE 30. TRUSTS AND FIDUCIARIES

IC 30-1

**ARTICLE 1. SALES OF SECURITIES AND
INVESTMENTS BY FIDUCIARIES**

IC 30-1-1

Repealed

(Repealed by Acts 1971, P.L.416, SEC.8.)

IC 30-1-2

Chapter 2. Sales of Securities

IC 30-1-2-1

Stocks; bonds; securities

Sec. 1. Whenever any trust, or any decedent's estate, or any property subject to the control of any executor, administrator, trustee, guardian or other fiduciary shall consist, in whole or in part, of the corporate stock, bonds or other securities of any corporation, public or private, which the fiduciary is required or authorized to sell, and which are listed or admitted to trading on the New York Stock Exchange, the New York Curb Exchange, the Chicago Stock Exchange, or the San Francisco Stock Exchange, or which are securities which are obligations of the government of the United States, such securities may be sold by such fiduciary under the direction of the proper court for cash at the market price of such securities at the time of sale, whether such price be more or less than the appraised or inventory value of such securities. Such sale may be without notice and without any requirement for the reappraisal of such securities.

(Formerly: Acts 1947, c.351, s.1.)

IC 30-1-2-2

Securities not listed; terms

Sec. 2. Whenever any decedent's estate or any property subject to the control of any executor, administrator, or guardian, shall consist, in whole or in part, of securities of any corporation, public or private, which the fiduciary is required or authorized to sell and which are not listed or admitted to trade on one (1) of the exchanges enumerated in section 1 of this chapter, such securities may be sold by such fiduciary in the same manner and upon the same terms as other personal property of a decedent's estate or guardianship may be sold.

(Formerly: Acts 1947, c.351, s.2.) As amended by Acts 1982, P.L.171, SEC.86.

IC 30-1-3

Repealed

(Repealed by Acts 1971, P.L.416, SEC.8.)

IC 30-1-4

Chapter 4. Investments in Inter-American Development Bank Securities

IC 30-1-4-1

Eligible investments

Sec. 1. (a) Obligations issued by or for the Inter-American Development Bank or the African Development Bank are declared to be eligible investments for all funds authorized by law to be invested by any and all of the following:

(1) Any financial institution (as defined in IC 28-1-1-3).

(2) Individual or corporate fiduciaries.

(3) Fraternal beneficiary societies (as defined in IC 27-11-1-11).

(b) Nothing in this section may be construed to change any limitations as to amounts which may be invested in obligations of any one (1) obligor as may be imposed by laws regulating the investments of the various financial institutions, industrial loan and investment companies, and trust funds.

(Formerly: Acts 1963(ss), c.14, s.1.) As amended by Acts 1982, P.L.171, SEC.87; P.L.49-1988, SEC.3.

IC 30-1-5

Chapter 5. Other Investments by Fiduciaries

IC 30-1-5-1

Securities; insurance

Sec. 1. Every executor, administrator, guardian, trustee, receiver or other fiduciary shall have the power, in such capacity, to invest in the following:

(1) Obligations issued pursuant to the provisions of the Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.), as in effect on December 31, 1990, and in obligations issued by the FSLIC Resolution Fund.

(2) Life, endowment, or annuity contracts of legal reserve life insurance companies duly licensed by the insurance commissioner for the state of Indiana to transact business within the state. The purchase of contracts authorized by this subdivision shall be limited, however, to executors or the successors to their powers when specifically authorized by will, to guardians on authorization of the court having probate jurisdiction over the guardianship, and to trustees. Such contracts may be issued on the life or lives of a protected person or persons, a beneficiary or beneficiaries of a trust fund, or according to the terms of a will, or upon the life or lives of persons in whom the protected person or beneficiary has an insurable interest. Life or endowment or annuity contracts may be purchased by trustees in the absence of an express prohibition against such purchase contained in the instrument creating the trust. The trustee may expend trust income and principal to pay annual premiums for contracts authorized by this subsection subject to limitations that are:

(A) imposed by the court having probate jurisdiction over the trust; or

(B) expressly authorized in the trust instrument.

In the absence of express provision in the trust instrument to the contrary, the trustee, as trustee, shall possess all the incidents of ownership in contracts so issued and the trustee as trustee, or the beneficiary or beneficiaries of the trust shall be the beneficiary or beneficiaries of such contracts.

(3) Obligations of the federal government, or any federal agency or instrumentality, whenever a governing instrument or order directs, requires, authorizes, or permits investment in such obligations, either directly or in the form of securities of, or other interests in, any open end management type investment company or investment trust registered under the provisions of the Investment Company Act of 1940 (15 U.S.C. 80a et seq.), as in effect on December 31, 1990. However, the portfolio of the investment company or investment trust must be limited to obligations of the federal government or any federal agency or instrumentality, and to repurchase agreements fully collateralized by such obligations to which obligations the

investment company or investment trust takes delivery either directly or through an authorized custodian.

(Formerly: Acts 1941, c.149, s.1; Acts 1943, c.250, s.1; Acts 1969, c.160, s.1.) As amended by P.L.280-1987, SEC.3; P.L.33-1989, SEC.84; P.L.8-1991, SEC.33; P.L.252-2001, SEC.29.

IC 30-1-6

Chapter 6. Oil, Gas, and Mineral Leases

IC 30-1-6-1

Administrators, executors, and guardians; powers to execute leases; term; jurisdiction; sale of leases; petition

Sec. 1. Administrators and executors of estates of deceased persons and guardians of the estates of persons under eighteen (18) years of age and incapacitated persons (as defined in IC 29-3-1-7.5) are authorized to execute oil and gas, coal, or other mining leases upon the lands belonging to the estates of the deceased persons, or of persons under eighteen (18) years of age or incapacitated persons, for a term not to exceed ten (10) years and as long thereafter as oil, gas, coal or other minerals may be produced in paying quantities, upon compliance with this chapter. The court having probate jurisdiction in the county in which the guardianship or administration proceedings are pending shall have jurisdiction to order the sale for execution and delivery of a lease or leases upon the filing of a petition alleging that the estate of the deceased person or the estate of a person under eighteen (18) years of age or a protected person is the owner of the lands described in the petition, and that the lands have a probable value for oil and gas, coal or other mining purposes, stating the probable value of the proposed lease, and that the estate of the deceased person or of the protected person is not financially able or that it is impractical for the estate to explore and develop the land for oil and gas, coal, or other minerals, and that it is to the best interest of the estate to lease the lands. The petition shall be verified by the administrator, executor, or guardian, and if it involves lands belonging to the estate of deceased persons, the petition shall set forth the names and post office addresses of the heirs of the deceased persons. If the will of any deceased person empowers the executor to sell oil, and gas, coal, or other mineral leases upon the lands of the testator, it shall not be necessary for the executor, or the administrator with the will annexed, to comply with this chapter. The word "land" or "lands" includes any oil, gas, coal, or other mineral rights or interests in lands which may be leasable.

(Formerly: Acts 1943, c.270, s.1; Acts 1973, P.L.264, SEC.5.) As amended by Acts 1982, P.L.171, SEC.88; P.L.33-1989, SEC.85.

IC 30-1-6-2

Sale of leases; order of court; notice; royalties; bonus

Sec. 2. Upon the filing of a petition under section 1 of this chapter, the court in its discretion and upon showing of benefit to the estate of the decedent or protected person shall make an order authorizing and directing the administrator, executor, or guardian to sell a lease upon the lands for oil, and gas, coal, or other mining purposes. The sale may be either public or private as the court may direct and upon notice as may be fixed by the court in its order of sale. Should the court determine from the petition that the sale price of the lease would not be sufficient to justify the giving of notice of

sale, the court may order the lease sold without notice. Any sale of oil, and gas, coal leases, or other mineral rights under this chapter shall be on a royalty basis and bonus if any. The bonus shall be payable in cash at the time of the execution and delivery of the lease or on terms as the court shall deem just and proper. Where an estate is solvent, no administrator or executor may lease land as provided in this chapter unless the administrator or executor is joined in the lease by the heirs, or their guardians if the heirs are under the age of eighteen (18) years or incapacitated, of the deceased person whose estate is being administered. If the lands to be leased are situated in any other county than that in which the probate proceeding is pending, then the notices of sale, if any are to be given, shall be published and posted in the county of the location of the lands.

(Formerly: Acts 1943, c.270, s.2; Acts 1973, P.L.264, SEC.6.) As amended by Acts 1982, P.L.171, SEC.89; P.L.33-1989, SEC.86.

IC 30-1-6-3

Bidding; report; hearing; endorsement

Sec. 3. In compliance with the terms of the order for the sale of said oil and gas, coal, or other mineral lease, said administrator, executor, or guardian shall offer said lease for sale and sell the same to the highest bidder upon such terms and conditions as the court shall order and shall thereupon file a report of sale showing the land upon which said lease was sold, the term of years thereof, the name of the purchaser, and the amount for which the same was sold, and attach to the return a copy of the form of lease proposed to be executed, which report shall thereupon, without further notice, be heard by the court having probate jurisdiction and if the court finds that said sale was properly conducted as herein provided, and that the price bid for said lease was not disproportionate to the value thereof, said sale shall be confirmed and said administrator, executor or guardian authorized and directed to execute and deliver said lease, and when said lease is executed the judge shall indorse his approval thereon.

(Formerly: Acts 1943, c.270, s.3.)

IC 30-1-6-4

Consolidating with adjoining land; joint development

Sec. 4. Every guardian, executor, or administrator shall have the power, upon approval by the court wherein the guardianship is pending, to execute agreements consolidating the lands of the protected person or of the estate covered by an oil and gas mining lease that has been executed, or which may be executed, or any part thereof, with other adjoining land for the purpose of joint development and operation of the entire consolidated premises as a unit, to the end that the protected person or estate shall share proportionately in the royalty on oil, gas and casinghead gas produced from the consolidated tract.

(Formerly: Acts 1943, c.270, s.4.) As amended by P.L.33-1989, SEC.87.

IC 30-1-6-5

Acts conclusive; disaffirmance denied

Sec. 5. Acts of guardians under this chapter are conclusive upon the protected person and any future disaffirmance is denied.

(Formerly: Acts 1943, c.270, s.5.) As amended by P.L.33-1989, SEC.88.

IC 30-1-7

Chapter 7. Mining Contracts Executed by Guardians

IC 30-1-7-1

Guardians of minors and incapacitated persons; option contracts for exploring

Sec. 1. Guardians of the estates of persons under the age of eighteen (18) years and incapacitated persons (as defined in IC 29-3-1-7.5) owning real estate in any county in Indiana in which coal and other solid minerals are being explored for, developed, recovered, marketed, or found by mining or other methods are authorized with the consent of the court to enter into option contracts with prospective mining operators for the purpose of exploring and testing the land for coal and other solid minerals, with tools, machinery, and appliances and for the purchase of the real estate and mineral deposits on terms, conditions, and considerations as the guardian shall consider to be for the best interest of the protected person's estate. All options for exploring, testing, and sale must be made with the consent of the court having probate jurisdiction in the county as provided in this chapter.

(Formerly: Acts 1943, c.105, s.1; Acts 1973, P.L.264, SEC.7.) As amended by P.L.33-1989, SEC.89.

IC 30-1-7-2

Petition to execute options; prospectus

Sec. 2. Guardians of the estates of persons under the age of eighteen (18) years and incapacitated persons are authorized to petition the court having probate jurisdiction in the county in which the guardianship is pending for authority to execute the options under section 1 of this chapter. The petition shall be verified and set forth the name of the person, firm, limited liability company, or corporation to whom it is proposed to give the option. It shall also set forth a prospectus as to the probable existence of minerals, their probable value, the amount to be paid for the option, the length of time the option is to continue, a copy of the proposed option, and a copy of the proposed lease or deed which is to be executed in the event the option is exercised.

(Formerly: Acts 1943, c.105, s.2; Acts 1973, P.L.264, SEC.8.) As amended by P.L.33-1989, SEC.90; P.L.8-1993, SEC.462.

IC 30-1-7-3

Hearing; order of court

Sec. 3. Upon the filing of such petition, the court shall proceed to hear and determine the same either in term time or vacation. If the court, after being duly advised in the premises, finds that the execution of said option to purchase would be to the best interests of the ward's estate and that said option is in proper form and that the price to be paid for said option and for the interest to be acquired if the option is exercised is not less than the established price being paid in the area; the court may thereupon enter an order authorizing

said guardian to sign and execute said option and lease or deed, in the event the option is exercised, for and upon behalf of his ward.
(Formerly: Acts 1943, c.105, s.3.)

IC 30-1-7-4

Binding and conclusive; disaffirmance

Sec. 4. Said option and the deed or lease, as the case may be, in the event the option is exercised, shall be binding and conclusive upon the ward for the respective term thereof and the right of disaffirmance is hereby denied.

(Formerly: Acts 1943, c.105, s.4.)

IC 30-1-8

Chapter 8. Common Trust Funds

IC 30-1-8-1

Definitions

Sec. 1. The words and phrases used in this chapter shall be construed as follows:

(a) "Fiduciary" shall mean a bank or trust company undertaking to act alone or jointly with others primarily for the benefit of another in all matters connected with its undertaking and includes trustee, executor, administrator, personal representative, registrar of stocks and bonds, guardian of estates, assignee, receiver, managing agent and any other similar capacity.

(b) "Regulations" shall mean the regulations promulgated by the board of governors of the federal reserve system and the comptroller of currency in conformity with the federal Internal Revenue Code, as such regulations now exist or as they may be hereafter amended.

(c) "Participating interest" shall mean a proportionate undivided interest in all assets of the common trust fund for the time being, acquired by a fiduciary for cash, or in exchange for other assets.

(d) Words imputing the masculine gender shall be applied to and include all persons and corporations.

(Formerly: Acts 1949, c.70, s.1; Acts 1965, c.409, s.1.) As amended by Acts 1982, P.L.171, SEC.90.

IC 30-1-8-2

Establishment; conformity with Internal Revenue Code

Sec. 2. Any Indiana bank or trust company or any national bank, qualified to act as fiduciary in this state, may establish common trust funds in conformity with the provisions of Section 584 of the Internal Revenue Code, and the regulations promulgated thereunder, pertaining to the collective investment and reinvestment of trust funds by such banks and companies as fiduciaries or co-fiduciaries, and may lawfully purchase with funds which it holds for investment as such fiduciary or co-fiduciary participating interests in such common trust funds, if:

(1) such investment is not prohibited by the instrument or judgment creating such fiduciary relationship; and

(2) in any case where it is a co-fiduciary, the bank or trust company procures the written consent of its co-fiduciary to such investment. Such consent is hereby authorized.

(Formerly: Acts 1949, c.70, s.2.) As amended by P.L.2-1987, SEC.44.

IC 30-1-8-3

Written plans; rights of participants

Sec. 3. Each common trust fund administered by such bank shall be established and maintained in accordance with a written plan approved by a resolution of its board of directors and by competent legal counsel, which shall contain provisions not inconsistent with said regulations as to the manner in which the fund is to be operated,

and define the rights of participants therein.

(Formerly: Acts 1949, c.70, s.3.)

IC 30-1-8-4

Participation; proportionate interest

Sec. 4. Each fiduciary investment placed in every such common trust fund shall participate on the basis of a proportionate interest in all of the assets and income of the fund, and may be evidenced in writing or otherwise at the option of the bank administering the fund, but not in any form which purports to be negotiable or assignable.

(Formerly: Acts 1949, c.70, s.4.)

IC 30-1-8-5

Governing laws and regulations

Sec. 5. Investment and reinvestment of the money paid into every such fund shall be made, retained and disposed of in accordance with the laws of this state governing trustees, and with said regulations of the Board of Governors of the Federal Reserve System.

(Formerly: Acts 1949, c.70, s.5.)

IC 30-1-8-6

Repealed

(Repealed by P.L.80-1989, SEC.18.)

IC 30-1-8-7

Common trust funds for funds held by other bank, trust company, or affiliate as fiduciary

Sec. 7. Any:

(1) Indiana bank or trust company; or

(2) national bank qualified to act as fiduciary and whose principal place of business is in Indiana;

may establish and maintain one (1) or more common trust funds in accordance with section 2 of this chapter for the funds held by the bank or trust company or any other bank or trust company, including an affiliate, in its capacity as administrator, executor, guardian, or trustee under will or trust agreement.

(Formerly: Acts 1973, P.L.292, SEC.1.) As amended by P.L.280-1987, SEC.4; P.L.238-2005, SEC.16.

IC 30-1-9

Chapter 9. Resulting Trusts and Powers

IC 30-1-9-1

Repealed

(Repealed by Acts 1971, P.L.416, SEC.8.)

IC 30-1-9-2

Repealed

(Repealed by Acts 1971, P.L.416, SEC.8.)

IC 30-1-9-3

Repealed

(Repealed by Acts 1971, P.L.416, SEC.8.)

IC 30-1-9-4

Repealed

(Repealed by Acts 1971, P.L.416, SEC.8.)

IC 30-1-9-5

Repealed

(Repealed by Acts 1971, P.L.416, SEC.8.)

IC 30-1-9-6

Resulting trust

Sec. 6. When a conveyance for a valuable consideration is made to one (1) person, and the consideration therefor paid by another, no use or trust shall result in favor of the latter; but the title shall vest in the former, subject to the provisions of the next two (2) sections.

(Formerly: Acts 1852, IRS, c.113, s.6.)

IC 30-1-9-7

Repealed

(Repealed by P.L.144-1994, SEC.4.)

IC 30-1-9-8

Resulting trust; absolute conveyance without consent

Sec. 8. The provisions of the section next before the last, shall not extend to cases where the alienee shall have taken an absolute conveyance in his own name, without the consent of the person with whose money the consideration was paid; or where such alienee, in violation of some trust, shall have purchased the land with moneys not his own; or where it shall be made to appear that, by agreement, and without any fraudulent intent, the party to whom the conveyance was made, or in whom the title shall vest, was to hold the land or some interest therein in trust for the party paying the purchase-money or some part thereof.

(Formerly: Acts 1852, IRS, c.113, s.8.)

IC 30-1-9-9

Repealed

(Repealed by Acts 1971, P.L.416, SEC.8.)

IC 30-1-9-10

Repealed

(Repealed by Acts 1971, P.L.416, SEC.8.)

IC 30-1-9-11

Repealed

(Repealed by Acts 1971, P.L.416, SEC.8.)

IC 30-1-9-12

Repealed

(Repealed by Acts 1971, P.L.416, SEC.8.)

IC 30-1-9-13

Repealed

(Repealed by Acts 1971, P.L.416, SEC.8.)

IC 30-1-9-14

Reserving absolute power of revocation

Sec. 14. A grantor of lands reserving an absolute power of revocation, shall be deemed an absolute owner, as regards creditors and purchasers.

(Formerly: Acts 1852, IRS, c.113, s.14.)

IC 30-1-9-15

Disposition more extensive than power

Sec. 15. No disposition by virtue of a power, shall be void on the ground that it is more extensive than was authorized by the power. But every estate or trust so created, so far as embraced by the terms of the power, shall be valid.

(Formerly: Acts 1852, IRS, c.113, s.15.)

IC 30-1-9-16

Repealed

(Repealed by Acts 1975, P.L.111, SEC.13.)

IC 30-1-9-17

Revocation

Sec. 17. (a) Every power, beneficial or in trust, shall be irrevocable, unless an authority to revoke it is reserved in the instrument creating the same.

(b) This section does not apply to any power of attorney, regardless of when the power of attorney was created.

(Formerly: Acts 1852, IRS, c.113, s.17.) As amended by Acts 1982, P.L.178, SEC.1.

IC 30-1-9-18

Sale of lands; mortgage or conveyance

Sec. 18. Where a power to sell lands shall be given to the grantee, in any mortgage or other conveyance intended to secure the payment of money, the power shall be deemed a part of the security, and shall vest in any person who shall become entitled to the money so secured to be paid.

(Formerly: Acts 1852, 1RS, c.113, s.18.)

IC 30-1-9-19

Power of attorney; conveyances

Sec. 19. The provisions of this chapter relative to powers, shall not extend to a simple power of attorney to convey lands, in the name and for the benefit of the owner.

(Formerly: Acts 1852, 1RS, c.113, s.17a.) As amended by Acts 1982, P.L.171, SEC.91.