

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 1276
HOUSE BILL 1054

AN ACT TO REWRITE G.S. 36-47, RELATING TO ESTABLISHMENT OF COMMON TRUST FUNDS.

The General Assembly of North Carolina enacts:

Section 1. Section 36-47 of the General Statutes is hereby rewritten to read as follows:

"§ 36-47. **Establishment of common trust funds.** — (a) Any bank or trust company duly authorized to act as a fiduciary in this State may establish and maintain one or more common trust funds for the collective investment of funds held in a fiduciary capacity by such bank or trust company hereafter referred to as the 'maintaining bank'. The maintaining bank may include for the purposes of collective investment in such common trust fund or funds established and maintained by it, funds held in a fiduciary capacity by any other bank or trust company duly authorized to act as a fiduciary, wherever located, which other bank or trust company is hereinafter referred to as the 'participating bank'.

Provided however, that the relationship between the maintaining bank and the participating bank is (1) the maintaining bank owns, controls or is affiliated with the participating bank or (2) a bank-holding company owns, controls or is affiliated with both the maintaining bank and the participating bank.

For the purposes of this act, a bank or trust company shall be considered to be owned, controlled or affiliated if 25% or more of any class of its voting stock is owned by a bank or bank-holding company or if 25% or more of any class of its voting stock is owned by one person or no more than ten persons who are the same person or persons who own 25% or more of any class of the voting stock of the maintaining bank.

Such common trust funds may include a fund composed solely of funds held under an agency agreement in which the bank or trust company assumes investment discretion and assumes fiduciary responsibility.

(b) Such bank or trust company may invest the funds held by it in any fiduciary capacity in one or more common trust funds, provided (1) such investment is not prohibited by the instrument, judgment, decree or order creating such fiduciary relationship or amendment thereof; (2) in the case of co-fiduciaries the written consent of the co-fiduciary is obtained by the bank or trust company; and (3) that the bank has no interest in the assets of the common trust fund other than as a fiduciary."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.