

**§ 58-5-90. Deposits held in trust by Commissioner or Treasurer.**

(a) Deposits by Domestic Company. – The Commissioner or the Treasurer, in that officer's official capacity, shall take and hold in trust deposits made by any domestic insurance company for the benefit of all of the insurer's policyholders and for the purpose of complying with the laws of any other state to enable the company to do business in that state. The company making the deposits is entitled to the income thereof, and may, from time to time, with the consent of the Commissioner or Treasurer, and when not forbidden by the law under which the deposit was made, change in whole or in part the securities which compose the deposit for other solvent securities of equal par value. Upon request of any domestic insurance company the Commissioner or the Treasurer may return to the company the whole or any portion of the securities of the company held by the officer on deposit, when the officer is satisfied that the deposits are subject to no liability and are no longer required to be held by any provision of law or purpose of the original deposit.

(b) Deposits by Foreign or Alien Company. – The Commissioner or Treasurer, in that respective officer's official capacity, shall take and hold in trust deposits made by any foreign or alien insurance company for the benefit of the holders of all insurance contracts of the company who are citizens or residents of this State or who hold policies issued upon property in this State in accordance with G.S. 58-5-70. The Commissioner or Treasurer may return to the trustees or other representatives authorized for that purpose any deposit made by a foreign or alien insurance company, when it appears that the company has ceased to do business in the State and is under no obligation to policyholders or other persons in the State for whose benefit the deposit was made.

(c) Action to Enforce or Terminate the Trust. – An insurance company which has made a deposit in this State pursuant to Articles 1 through 64 of this Chapter, or its trustees or resident managers in the United States, or the Commissioner, or any creditor of the company, may at any time bring an action in the Superior Court of Wake County against the State and other parties properly joined therein, to enforce, administer, or terminate the trust created by the deposit. The process in this action shall be served on the officer of the State having the deposit, who shall appear and answer in behalf of the State and perform such orders and judgments as the court may make in such action. (1899, c. 54, s. 17; 1901, c. 391, s. 2; 1903, c. 438, s. 1; c. 536, s. 4; Rev., s. 4709; C.S., s. 6313; 1945, c. 384; 1991, c. 720, s. 4; 2005-215, s. 4.)