

LEGISLATIVE HISTORY CHECKLIST

NJSA: 17:9A-213

(Investment companies--
permit certain
corporations to act as
non-bank transfer agents)

LAWS OF: 1985

CHAPTER: 267

Bill No: S2893

Sponsor(s): Mc Manimon

Date Introduced: May 2, 1985

Committee: Assembly: -----

Senate: Labor, Industry and Professions

Amended during passage: Yes Substituted for A3658 (attached)

Date of Passage: Assembly: June 27, 1985

Senate: May 13, 1985

Date of Approval: August 2, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

See:

Okla. Stat. Tit. 6 Sec. 1002 (1984)
Wis. Stat. Sec. 223.12 (1982) -- noted by Mark Goldfuss, attorney, Merrill-
Lynch, Princeton)

8-2-85

[OFFICIAL COPY REPRINT]

SENATE, No. 2893**STATE OF NEW JERSEY**

INTRODUCED MAY 2, 1985

By Senator McMANIMON

Referred to Committee on Labor, Industry and Professions

AN ACT to amend "An act concerning banking and banking institutions (Revision of 1948)," approved April 29, 1948 (P. L. 1948, c. 67).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 213 of P. L. 1948, c. 67 (C. 17:9A-213) is amended to
2 read as follows:

3 213. Limitations on exercise of powers.

4 Except as otherwise provided by law, only a banking institution
5 shall exercise within this State any of the powers enumerated in
6 paragraph (4) of section 24 (C. 17:9A-24), paragraphs (4), (5)
7 and (13) of section 25 (C. 17:9A-25), and paragraphs (1) and (5)
8 of section 26 (C. 17:9A-26), and except as otherwise provided in
9 this section, no corporation other than a qualified bank shall exer-
10 cise within this State any of the powers specified in paragraphs
11 (3), (4), (5), (6), (7), (8) and (9) of section 28 (C. 17:9A-28),
12 provided that no corporation organized prior to March 24, 1899,
13 authorized to exercise all or any of the powers specified in para-
14 graph (1) of section 25 (C. 17:9A-25) or in paragraph (3) of
15 section 28 (C. 17:9A-28), shall be prohibited from exercising such
16 powers, and further provided that no qualified corporation, as
17 hereinafter defined, which was organized pursuant to the laws
18 of this State prior to January 1, 1972, or which was authorized
19 to transact business in this State prior to January 1, 1972, and
20 which was organized expressly to exercise all or any of the
21 powers specified in paragraph (3) of section 28 (C. 17:9A-28), or

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted May 6, 1985.

22 in paragraph (13) of section 25 (C. 17:9A-25), shall be prohibited
 23 from exercising such powers, *and further provided that a qualified*
 24 *corporation as herein defined may be organized after the effective*
 25 *date of this 1985 amendatory act to exercise, and may exercise, all or*
 26 *any of the powers specified in paragraph (3) of section 28 of P. L.*
 27 *1948, c. 67 (C. 17:9A-28) or in paragraph (13) of section 25 of P. L.*
 28 *1948, c. 67 (C. 17:9A-25) for or on behalf of an investment com-*
 29 *pany* ***[as defined in the "Investment Company Act of 1940," 54**
 30 *Stat. 789 (15 U. S. C. § 89a-1 et seq.).]* *or a unit investment trust**
 31 *if the qualified corporation is wholly owned by, or controlled by,*
 31A *or is under common control, either directly or indirectly, with an*
 32 *investment* ***[adviser]*** *adviser* or principal underwriter* ***[for]***
 33 *of* the investment company, or a depositor* ***[of securities]*** *or*
 34 *principal underwriter* of the* *unit* investment* ***[company]***
 35 *trust*, or for or on behalf of any affiliated corporation. For the*
 36 *purposes of this 1985 amendatory act, "affiliated corporation" means*
 37 *a corporation which is wholly owned by, or controlled by, or is under*
 38 *common control, either directly or indirectly, with a corporation*
 39 *which wholly owns or controls or is under common control, either*
 40 *directly or indirectly, with the qualified corporation which is to*
 41 *exercise the powers specified in paragraph (3) of section 28 of P. L.*
 42 *1948, c. 67 (C. 17:9A-28) or in paragraph (13) of section 25 of P. L.*
 43 *1948, c. 67 (C. 17:9A-25)*, and the terms "investment company,"*
 44 *"investment adviser," "principal underwriter," and "unit invest-*
 45 *ment trust" shall have the same meaning as is set forth in the*
 46 *"Investment Company Act of 1940," 54 Stat. 789 (15 U. S. C. § 80a-1*
 47 *et seq.)*. A qualified corporation shall mean a domestic corporation*
 47A *or a foreign corporation authorized to transact business in this*
 47B *State which (a) has such capital, surplus and undivided profits as*
 47C *may be fixed by the Commissioner of Banking commensurate with*
 47D *the nature and volume of its business; (b) has adequate vault or*
 48 *other safe keeping facilities for the safeguarding of stocks and other*
 49 *securities received, processed or otherwise held for the account of*
 50 *customers; and (c) is adequately insured, as may be provided by*
 51 *regulation, to protect its customers and the holders or transferees*
 52 *of securities issued by its customers.**

53 A qualified corporation shall be subject to any regulations which
 54 may be adopted by the Commissioner of Banking and subject to
 55 examination by the Department of Banking to ensure compliance
 56 with any such regulations. The Commissioner of Banking may
 57 require such qualified corporations to file such reports as from time
 58 to time he deems necessary to enable him to determine compliance
 59 with any regulations which may be issued by him.

1 2. This act shall take effect immediately.

STATEMENT

This bill permits certain corporations to operate as nonbank transfer and fiscal agents for investment companies. In addition, the bill permits a nonNew Jersey corporation to act as its own transfer agent in this State through an affiliated entity. Any such corporate transfer agent would, of course, be required to operate as a "qualified corporation," as that term presently is used under New Jersey law, subject to the oversight of the Commissioner of Banking.

In this regard, in 1973 the New Jersey Legislature added a provision that permits certain "qualified" nonbanking corporations organized prior to 1972 to serve as transfer and fiscal agents, subject to substantial regulation by the Commissioner of Banking. Presently, only two states—Oklahoma and Wisconsin, have a blanket prohibition against any nonbanking corporation acting as transfer agent for another corporation.

52893 (1985)

ASSEMBLY, No. 3658

STATE OF NEW JERSEY

INTRODUCED MAY 13, 1985

By Assemblymen BOCCHINI, PATERO and WATSON

AN ACT to amend "An act concerning banking and banking institutions (Revision of 1948)," approved April 29, 1948 (P. L. 1948, c. 67).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 213 of P. L. 1948, c. 67 (C. 17:9A-213) is amended
2 to read as follows:

3 213. Limitations on exercise of powers.

4 Except as otherwise provided by law, only a banking institution
5 shall exercise within this State any of the powers enumerated in
6 paragraph (4) of section 24 (C. 17:9A-24), paragraphs (4), (5)
7 and (13) of section 25 (C. 17:9A-25), and paragraphs (1) and (5)
8 of section 26 (C. 17:9A-26), and except as otherwise provided in
9 this section, no corporation other than a qualified bank shall exer-
10 cise within this State any of the powers specified in paragraphs
11 (3), (4), (5), (6), (7), (8) and (9) of section 28 (C. 17:9A-28),
12 provided that no corporation organized prior to March 24, 1899,
13 authorized to exercise all or any of the powers specified in para-
14 graph (13) of section 25 (C. 17:9A-25) or in paragraph (3) of
15 section 28 (C. 17:9A-28), shall be prohibited from exercising such
16 powers, and further provided that no qualified corporation, as
17 hereinafter defined, which was organized pursuant to the laws
18 of this State prior to January 1, 1972, or which was authorized
19 to transact business in this State prior to January 1, 1972, and
20 which was organized expressly to exercise all or any of the
21 powers specified in paragraph (3) of section 28 (C. 17:9A-28), or

Matter printed in italics *thus* is new matter.

22 in paragraph (13) of section 25 (C. 17:9A-25), shall be prohibited
 23 from exercising such powers, *and further provided that a qualified*
 24 *corporation as hereinafter defined may be organized after the ef-*
 25 *fective date of this 1985 amendatory act to exercise, and may exer-*
 26 *cise, all or any of the powers specified in paragraph (3) of section*
 27 *28 of P. L. 1948, c. 67 (C. 17:9A-28) or in paragraph (13) of sec-*
 28 *tion 25 of P. L. 1948, c. 67 (C. 17:9A-25) for or on behalf of an in-*
 29 *vestment company or a unit investment trust if the qualified corpo-*
 30 *ration is wholly owned by, or controlled by, or is under common*
 31 *control, either directly or indirectly, with an investment adviser*
 32 *or principal underwriter of the investment company, or a depositor*
 33 *or principal underwriter of the unit investment trust, or for or on*
 34 *behalf of any affiliated corporation. For the purposes of this 1985*
 35 *amendatory act, "affiliated corporation" means a corporation which*
 36 *is wholly owned by, or controlled by, or is under common control,*
 37 *either directly or indirectly, with a corporation which wholly owns*
 38 *or controls or is under common control, either directly or indirectly,*
 39 *with the qualified corporation which is to exercise the powers speci-*
 40 *fied in paragraph (3) of section 28 of P. L. 1948, c. 67 (C. 17:9A-28)*
 41 *or in paragraph (13) of section 25 of P. L. 1948, c. 67 C. 17:9A-25),*
 42 *and the terms "investment company," "investment adviser," "princi-*
 43 *pal underwriter," "and "unit investment trust" shall have the same*
 44 *meaning as is set forth in the "Investment Company Act of 1940,"*
 45 *54 Stat. 789 (15 U. S. C. § 80a-1 et seq.). A qualified corporation*
 46 shall mean a domestic corporation or a foreign corporation au-
 47 thorized to transact business in this State which (a) has such capi-
 48 tal, surplus and undivided profits as may be fixed by the Commis-
 49 sioner of Banking commensurate with the nature and volume of
 50 its business; (b) has adequate vault or other safekeeping facilities
 51 for the safeguarding of stocks and other securities received, proc-
 52 essed or otherwise held for the account of customers; and (c) is
 53 adequately insured, as may be provided by regulation, to protect
 54 its customers and the holders or transferees of securities issued
 55 by its customers.

56 A qualified corporation shall be subject to any regulations which
 57 may be adopted by the Commissioner of Banking and subject to
 58 examination by the Department of Banking to ensure compliance
 59 with any such regulations. The Commissioner of Banking may
 60 require such qualified corporations to file such reports as from time
 61 to time he deems necessary to enable him to determine compliance
 62 with any regulations which may be issued by him.

1 2. This act shall take effect immediately.

STATEMENT

This bill, amending section 213 of the Banking Act of 1948, would permit the organization of a qualified corporation under that section to act as transfer agent or fiscal agent on behalf of an investment company or a unit investment trust if the qualified corporation is wholly owned by, or is controlled by, or is under common control, either directly or indirectly, with an investment adviser or principal underwriter of the investment company, or a depositor of securities or principal underwriter of the unit investment trust. In addition, the qualified corporation could act as transfer agent or fiscal agent for or on behalf of any affiliated corporation.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

SENATE, No. 2893

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 6, 1985

This bill, amending section 213 of the Banking Act of 1948, would permit the organization of a qualified corporation under that section to act as transfer agent or fiscal agent on behalf of an investment company or a unit investment trust if the qualified corporation is wholly owned by, or is controlled by, or is under common control, either directly or indirectly, with an investment adviser or principal underwriter of the investment company, or a depositor of securities or principal underwriter of the unit investment trust. In addition, the qualified corporation could act as transfer agent or fiscal agent for or on behalf of any affiliated corporation.

For the purposes of this amendatory act, the term "affiliated corporation" is defined as a corporation which is wholly owned by, or controlled by, or is under common control, either directly or indirectly, with a corporation which wholly owns or controls, or is under common control with the qualified corporation. The terms "investment company," "investment adviser," "principal underwriter," and "unit investment trust" have the same meaning as set forth in the federal "Investment Company Act of 1940." While the term "depositor" is not defined in federal law in connection with a unit investment trust, it is the intent of the Legislature that in the context of this amendatory act, "depositor" means, as the term is used normally in the securities industry, the person who deposits securities with the trustee of the unit investment trust.

The purpose of this legislation is to let certain entities act as qualified corporations to perform the roles of fiscal agent and transfer agents only on behalf of investment companies and unit investment trusts with which they are affiliated through a parent corporation. At present, banks are granted authority under New Jersey law to perform duties as fiscal agents and transfer agents; section 213 of the Banking Act does, however permit certain qualified corporations which are subject to the regulation of the Commissioner of Banking to act in this capacity. This bill would permit subsidiaries of brokerage houses to act as qualified corporations to perform duties as transfer agents and fiscal agents for investment companies and unit investment trusts.

Other bills signed by Kean include:

A-2102, sponsored by Assemblyman Alan Karcher, D-Middlesex, to revise the law concerning the resubmission of a Sunday closing law referendum in Hudson County. The bill changes the number of signatures required on a petition from 10 percent of the registered voters of the county to 2,500 and reduces from three years to two years the time period to resubmit the question.

S-2529, sponsored by Senator Daniel Dalton, D-Camden, to exempt from the State sales tax the sale of machinery, apparatus, equipment, building materials or structures used directly and primarily for cogeneration.

AJR-76, sponsored by Assemblyman Robert Hollenbeck, D-Bergen, to designate the new beneficial insect laboratory in Trenton as the Phillip Alampi Laboratory.

A-3375, sponsored by Assemblyman John Doyle, D-Ocean, to replace the 1,000-hour requirement for licensing as a cosmetologist-hairstylist if the person completes a vocational school program in cosmetology which has been approved by the State Board of Education.

A-1642, sponsored by Assemblyman Michael Adubato, D-Essex, to increase from \$200 to \$500 the amount of a bail bond certificate that may be issued by an automobile club or association.

S-2893, sponsored by Senator Francis McManimon, D-Mercer, to permit a corporation to act as a transfer agent of mutual funds for its own affiliates.

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