

HOUSE No. 1043

By Mr. Nangle of Lowell, petition of David M. Nangle relative to the investment powers of trust departments of banking institutions. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO THE INVESTMENT POWERS OF TRUST DEPARTMENTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Paragraph 11 of section 3 of chapter 167G, as appearing in the
2 2004 Official Edition, is hereby amended by striking out said para-
3 graph and inserting in place thereof the following new paragraph:
4 11. Any association or corporation authorized to do a banking
5 business and to exercise trust powers in the commonwealth while
6 acting as a fiduciary is authorized, in the absence of an express pro-
7 vision to the contrary in the instrument, judgment, decree or order
8 creating a trust or other fiduciary relationship, to purchase for the
9 fiduciary estate, directly from underwriters or distributors or in the
10 secondary market, bonds, or other securities which are underwritten
11 or distributed by such association or corporation or an affiliate
12 thereof or by any syndicate which includes such association or cor-
13 poration or affiliate thereof or for which such association or corpora-
14 tion or any affiliate thereof acts as adviser, distributor, transfer agent,
15 placement agent, registrar, sponsor, manager, shareholder servicing
16 agent or custodian or in any other capacity for which it receives or
17 has received a fee or commission; provided, however, that (1)
18 nothing in this section shall affect the degree of prudence which is
19 required of fiduciaries generally under the common law of the com-
20 monwealth or the charging of reasonable compensation and (2) any
21 such bonds or securities so purchased shall have sufficient liquidity
22 and quality to satisfy the principles of fiduciary investment. As used
23 in this paragraph, "securities" includes, by way of illustration and
24 not limitation, shares in a private investment fund (including a pri-

25 vate investment fund organized as a limited partnership, a limited
26 liability company, a statutory or common law business trust, or a real
27 estate investment trust), joint venture or other general or limited
28 partnership, or an open-end or closed-end management type invest-
29 ment or investment trust registered under the Investment Company
30 Act of 1940. Any such association or corporation purchasing bonds
31 or securities pursuant to this paragraph shall, in any written commu-
32 nication or account statement reflecting such purchase, disclose the
33 fact that it or an affiliate may have an interest in the underwriting or
34 distribution of such bonds or securities and any capacities in which it
35 or an affiliate acts for the issuer of such securities. Any such associa-
36 tion or corporation purchasing securities of an investment company
37 pursuant to this paragraph shall disclose the provision of the stated
38 services, and the receipt of compensation for such services, annually
39 by mailing a statement or letter describing the same, to the last
40 known address of each person to whom statements for the fiduciary
41 estate are rendered.