

§ 53-163.1. Funds held by a trust institution awaiting investment or distribution.

(a) Funds held in a fiduciary capacity by a trust institution awaiting investment or distribution shall not be held uninvested or undistributed any longer than is reasonable for the proper management of the account. A trust institution has complied with this requirement if such funds awaiting investment or distribution in excess of one thousand dollars (\$1,000) are invested or distributed within 30 days of receipt or accumulation thereof.

(b) Funds held in a fiduciary capacity by a depository institution, awaiting investment or distribution may, unless prohibited by the instrument creating the fiduciary relationship, be deposited in the commercial or savings or other department of the depository institution, provided that it shall first set aside under control of the trust department as collateral security, the classes of securities listed in G.S. 159-30(c) as being eligible for the investment of funds by local governments and public authorities equal in market value of such deposited funds, or readily marketable commercial bonds having not less than a recognized "A" rating equal to one hundred and twenty-five percent (125%) of the funds so deposited.

The securities so deposited or securities substituted therefor as collateral in the trust department by the commercial or savings or other department (as well as the deposit of cash in the commercial or savings or other department by the trust department) shall be held pursuant to the provisions of G.S. 53-163.3.

If such funds are deposited in a depository institution insured under the provisions of the Federal Deposit Insurance Act, the above collateral security will be required only for that portion of uninvested balances of each trust which are not fully insured under the provisions of that act.

(c) Funds held in a fiduciary capacity by a trust institution awaiting investment or distribution may, unless prohibited by the instrument creating the fiduciary relationship, be invested in short-term, trust-quality investment vehicles, through the medium of a collective investment fund or otherwise.

(d) In addition to any other compensation to which it may be entitled under statutes governing the compensation of personal representatives, guardians, or other fiduciaries, or under any other authority, a trust institution shall be allowed to charge a fee for the temporary investment of funds held awaiting investment or distribution, which fee may be calculated upon the amount of such funds actually invested and upon the income produced thereby. The fee authorized by this subsection shall not exceed twelve percent (12%) of the income produced by such investment. A trust institution has complied with its duty to disclose fees and practices in connection with the investment of fiduciary funds awaiting investment or distribution if the trust institution's periodic account statements set forth the method of computing such fees. (1939, c. 197, s. 4; 1963, c. 243, ss. 1, 2; 1977, c. 502, s. 2; 1989, c. 443; 2004-139, s. 5; 2005-192, s. 1; 2011-339, s. 7; 2012-56, s. 9.)