CHAPTER 5

Nominee Registration of Securities Held by Corporate Fiduciaries

**SECTION 35‑5‑10.** Bank and trust company fiduciaries may register and hold securities for nominees.

 Any bank or trust company incorporated under the laws of this State or any national bank located in this State may, when acting in any fiduciary capacity whether as sole fiduciary or as a co‑fiduciary, register and hold, in the name of a nominee or nominees thereof, any stocks, bonds or other securities held in such fiduciary capacity, if when acting as co‑fiduciary it secures the consent of its co‑fiduciaries, who are hereby authorized to give such consent; provided that:

 (1) The records of the fiduciary or fiduciaries and all accounts rendered by it or them shall at all times clearly show the ownership of the securities so registered.

 (2) Such securities shall at all times be kept separate and apart from the assets of such bank, trust company or national bank.

 (3) The bank, trust company or national bank shall be liable for any loss resulting from any acts or omissions to act of such nominee, in connection with the securities so held by such nominee, to the same extent as if such securities had been held in the fiduciary’s own name as fiduciary.

HISTORY: 1962 Code Section 62‑431; 1959 (51) 376.

CROSS REFERENCES

Banks and banking generally, see Sections 34‑3‑10 et seq.

Investment securities under the Uniform Commercial Code, see Sections 36‑8‑101 et seq.

RESEARCH REFERENCES

Treatises and Practice Aids

Bogert ‑ the Law of Trusts and Trustees Section 596, Duty to Earmark and Separate Trust Property.

**SECTION 35‑5‑20.** Registration on request of principal or unincorporated fiduciary.

 Any bank or trust company incorporated under the laws of this State or any national bank located in this State may, when acting as agent, custodian or attorney in fact, upon the request of the principal, including unincorporated fiduciaries, register stocks, bonds or other securities held in such capacity in the name of a nominee or nominees of such corporate fiduciary; provided, that such bank, trust company or national bank shall not deliver or redeliver any such stocks, bonds or other securities to such unincorporated fiduciary or principal who has caused any stocks, bonds or other securities to be so registered in the name of the nominee of such bank, trust company or national bank without first causing such stocks, bonds or other securities to be registered in the name of such unincorporated fiduciary or principal as such. Any sale or transfer of such stocks, bonds or other securities made by such bank, trust company or national bank at the direction of such principal, or unincorporated fiduciary shall not be construed to be delivered or redelivered but any such bank, trust company or national bank or any nominee or nominees in whose name such securities shall be registered shall be deemed to have fully discharged its, his or their responsibilities if any such bonds, stocks or other securities are sold or transferred in accordance with the direction of the principal or unincorporated fiduciary making such deposit, and the proceeds of such sale or transfer accounted for and delivered to such unincorporated fiduciary or principal.

HISTORY: 1962 Code Section 62‑432; 1959 (51) 376.

**SECTION 35‑5‑30.** Corporations, registrars or transfer agents shall not be liable for registrations and transfers authorized by nominees.

 No domestic or foreign corporation or the registrar or transfer agent of any corporation shall be liable for registering or causing to be registered on the books of such corporation any stock or stocks, bond or bonds or other securities in the name of any nominee of such bank, trust company or national bank or for transferring or causing to be transferred on the books of any such corporation any stock or stocks, bond or bonds or other securities theretofore registered by such corporation in the name of any nominee or nominees of such bank, trust company or national bank as provided in this chapter when the transfer is made upon the authorization of such nominee.

HISTORY: 1962 Code Section 62‑433; 1959 (51) 376.

**SECTION 35‑5‑40.** Prohibition of registration by instrument creating fiduciary relationship.

 The provisions of this chapter shall apply to any bank, trust company or national bank located in this State acting in a fiduciary capacity whether such fiduciary capacity arose before or is created after the effective date of this chapter, unless registration as provided in this chapter is prohibited by the will, judgment, decree or any other instrument creating the fiduciary relationship.

HISTORY: 1962 Code Section 62‑434; 1959 (51) 376.

RESEARCH REFERENCES

Treatises and Practice Aids

Bogert ‑ the Law of Trusts and Trustees Section 596, Duty to Earmark and Separate Trust Property.