501C.0901 INVESTMENT AND MANAGEMENT OF TRUST ASSETS.

Subdivision 1. **Prudent investor rule.** (a) Except as otherwise provided in paragraph (b), a trustee who invests and manages trust assets shall comply with the prudent investor rule set forth in this section.

(b) The prudent investor rule, a default rule, may be expanded, restricted, eliminated, or otherwise altered by the trust instrument. A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the trust instrument.

Subd. 2. **Standard of care; portfolio strategy; risk and return objectives.** (a) A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

(b) A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(c) The circumstances that a trustee may consider in making investment decisions include, without limitation, the following:

(1) general economic conditions;

(2) the possible effect of inflation;

(3) the expected tax consequences of investment decisions or strategies;

(4) the role that each investment or course of action plays within the overall trust portfolio;

(5) the expected total return from income and the appreciation of capital;

(6) other resources of the beneficiaries known to the trustee, including earning capacity;

(7) needs for liquidity, regularity of income, and preservation or appreciation of capital; and

(8) an asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries if consistent with the trustee's duty of impartiality.

(d) A trustee may invest in any kind of property or type of investment consistent with the standards of this section.

(e) A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise.

Subd. 3. **Diversification.** A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

Subd. 4. **Duties at inception of trusteeship.** Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the trust, and with the requirements of this section.

Subd. 5. **Investment costs.** In investing and managing trust assets, a trustee may only incur costs that are appropriate and reasonable in relation to the assets, the purposes of the trust, and the skills of the trustee.

Subd. 6. **Reviewing compliance.** Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight. The prudent investor rule is a test of conduct and not of resulting performance.

Subd. 7. **Language invoking standard.** The following terms or comparable language in the trust instrument, unless otherwise limited or modified, authorizes any investment or strategy permitted under this section: "investments permissible by law for investment of trust funds," "legal investments," "authorized investments," "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital," "prudent man rule," "prudent trustee rule," "prudent person rule," and "prudent investor rule."

Subd. 8. **Disposal of property.** Unless the trust instrument or a court order specifically directs otherwise, a trustee need not dispose of any property, real, personal, or mixed, or any kind of investment, in the trust, however acquired, until the trustee determines in the exercise of a sound discretion that it is advisable to dispose of the property. Nothing in this subdivision excuses the trustee from the duty to exercise discretion at reasonable intervals and to determine at those intervals the advisability of retaining or disposing of property.

Subd. 9. **No limitation on powers of court.** This section does not restrict the power of a court of proper jurisdiction to permit a trustee to deviate from the terms of a will, agreement, court order, or other instrument relating to the acquisition, investment, reinvestment, exchange, retention, sale, or management of trust property.

Subd. 10. **Investment companies.** (a) In the absence of an express prohibition in the trust instrument, the trustee may acquire and retain securities of any open-end or closed-end management type investment company or investment trust registered under the Federal Investment Company Act of 1940. The fact that a trustee that is a banking institution, as defined in section 48.01, subdivision 2, or any affiliate of a trustee that is a banking institution, is providing services to the investment company or trust as investment advisor, sponsor, broker, distributor, custodian, transfer agent, registrar, or otherwise, and receiving compensation for the services shall not preclude the trustee from investing in the securities of that investment company or trust. A trustee that is a banking institution shall disclose to all current income beneficiaries of the trust the rate, formula, and method of the compensation.

(b) This subdivision does not alter the degree of care and judgment required of trustees under this section.

Subd. 11. **Application to existing trusts.** This section applies to trusts existing on and created after January 1, 1997. As applied to trusts existing on January 1, 1997, this section governs only decisions or actions occurring after that date.

Subd. 12. **Short title.** This section may be cited as the "Minnesota Prudent Investor Act."

History: *2015 c 5 art 9 s 1*