

CHAPTER 501

USES AND TRUSTS

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501.125 KINDS OF PROPERTY A TRUSTEE MAY ACQUIRE.

Subdivision 1. **General properties and investments.** (a) A trustee is authorized to invest in every kind of real or personal property and every kind of investment, specifically including, but not by way of limitation, bonds, debentures and other individual or corporate obligations, mutual funds, and corporate stocks that a prudent person would invest in having in mind the preservation of the trust estate and the amount and regularity of the income derived. In considering an investment, a trustee shall exercise the care, skill, and judgment under the circumstances then prevailing that a person of ordinary prudence would exercise in the management of the person's own property; and shall consider the role that the investment plays within the trust's overall portfolio of assets. If the trustee has greater skills than a person of ordinary prudence or is named trustee by representing that the trustee has greater skills than a person of ordinary prudence, the trustee is under a duty to use those skills.

(b) Among the factors to be considered by a trustee in determining the prudence of a particular investment are the following:

(1) the probable income of the trust as well as the probable safety of the capital of the trust;

(2) the composition of the portfolio of the trust with regard to diversification;

(3) the length of the term of investments of the trust;

(4) the duration of the trust;

(5) the liquidity and current return of the trust's portfolio relative to the anticipated cash requirements of the trust;

(6) other assets of the beneficiary or beneficiaries, known to the trustees, including earning capacity;

(7) the relative interests of income and remainder beneficiaries; and

(8) the tax consequences.

(c) If a trustee is a national banking association or holds a certificate under section 48.37 or if a trustee retains or employs an investment advisor registered under the Investment Advisors Act of 1940, an investment which is otherwise prudent is not imprudent solely because it is in new, unproven, untried, or other enterprises with a potential for a significant growth or in a limited partnership or commingled fund investing in these enterprises.

Subd. 1a. [Repealed, 1987 c 210 s 5]

[For text of subds 2 to 6, see M.S.1986]

History: 1987 c 210 s 1

501.155 EMPLOYEES AND AGENTS OF TRUSTEE.

Unless otherwise provided in the instrument, a trustee may employ attorneys, accountants, investment advisors, agents, or other persons, even if they are associated with the trustee, to advise or assist the trustee in the performance of duties. The trustee may act without independent investigation upon their recommendations or, instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary, except that:

(1) the trustee may not delegate all of the trustee's duties;

(2) the employment does not relieve the trustee of liability for the acts of a person that, if done by the trustee, would result in liability to the trustee; and

(3) the employment does not relieve the trustee of the duty to select and retain a person with reasonable care.

History: 1987 c 210 s 2

501.35 MAY APPLY TO COURT FOR INSTRUCTIONS.

Any trustee of an express trust by will or other written instrument whose appointment has been confirmed, or any beneficiary of that trust, may petition the court then having jurisdiction of the trust as a proceeding in rem, and any trustee of an express trust by will or other written instrument whose appointment has not been confirmed, or any beneficiary of that trust, may petition the district or county court of the county in which the unconfirmed trustee resides or has a place of business, for instructions in the administration of the trust, for the confirmation of any action taken by the trustee, for a construction of the trust instrument, or upon or after the filing of any account, for the settlement and allowance thereof. Upon the filing of the petition, the court shall make an order fixing a time and place for hearing it, unless hearing has been waived in writing by the beneficiaries of the trust then in being. Notice of hearing shall be given by publishing a copy of the order one time in a legal newspaper of the county at least 20 days before the date of the hearing, and by mailing a copy of it to each beneficiary of the trust then in being, at each beneficiary's last known address, at least ten days before the date of the hearing or in any other manner as the court orders. If the court deems further notice necessary, it shall be given in the manner specified in the order. At the hearing the court shall make such order as it deems appropriate. The order shall be final and conclusive as to all matters determined by it and binding in rem upon the trust estate and upon the interests of all beneficiaries, vested or contingent, even though unascertained or not in being, except that appeal may be taken in the manner provided in the rules of appellate procedure.

History: 1987 c 346 s 16

501.66 ENUMERATED POWERS OF TRUSTEE.

[For text of subs 1 to 6, see M.S.1986]

Subd. 6a. [Repealed, 1987 c 210 s 5]

[For text of subs 7 to 27, see M.S.1986]

Subd. 28. The trustee may employ attorneys, accountants, investment advisors, agents or other persons, even if they are associated with the trustee, to advise or assist the trustee in the performance of duties; to act without independent investigation upon their recommendations; and instead of acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary.

[For text of subs 29 to 33, see M.S.1986]

History: 1987 c 210 s 3