

**CHAPTER 8****DUTIES AND POWERS OF TRUSTEE****§801. Duty to administer trust**

Upon acceptance of a trusteeship, the trustee shall administer the trust in good faith, in accordance with its terms and purposes and the interests of the beneficiaries and in accordance with this Code. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**SECTION HISTORY**

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF).

**§802. Duty of loyalty**

**1. Interests of beneficiaries.** A trustee shall administer the trust solely in the interests of the beneficiaries.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**2. Voidable transaction; exceptions.** Subject to the rights of persons dealing with or assisting the trustee as provided in section 1012, a sale, encumbrance or other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account or that is otherwise affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless:

A. The transaction was authorized by the terms of the trust; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

B. The transaction was approved by the court; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

C. The beneficiary did not commence a judicial proceeding within the time allowed by section 1005; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

D. The beneficiary consented to the trustee's conduct, ratified the transaction, or released the trustee in compliance with section 1009; or [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

E. The transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming trustee. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**3. Transaction presumed affected by conflict.** A sale, encumbrance or other transaction involving the investment or management of trust property is presumed to be affected by a conflict between personal and fiduciary interests if it is entered into by the trustee with:

A. The trustee's spouse; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

B. The trustee's descendants, siblings or parents, or their spouses; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

C. An agent or attorney of the trustee; or [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

D. A corporation or other person or enterprise in which the trustee, or a person that owns a significant interest in the trustee, has an interest that might affect the trustee's best judgment. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]  
[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**4. Transaction between trustee and beneficiary.** A transaction between a trustee and a beneficiary that does not concern trust property but that occurs during the existence of the trust or while the trustee retains significant influence over the beneficiary and from which the trustee obtains an advantage beyond the normal commercial advantage for such a transaction is voidable by the beneficiary unless the trustee establishes that the transaction was fair to the beneficiary. A transfer or obligation is not voidable under this section against a person who took property from the trustee in good faith for a reasonably equivalent value or against any subsequent transferee or obligee. [PL 2005, c. 184, §15 (AMD).]

**5. Opportunity belonging to trust.** A transaction not concerning trust property in which the trustee engages in the trustee's individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the trust. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**6. Investment.** An investment by a trustee in securities of an investment company or investment trust to which the trustee, or its affiliate, provides services in a capacity other than as trustee is not presumed to be affected by a conflict between personal and fiduciary interests if the investment otherwise complies with the prudent investor rule of chapter 9. In addition to its compensation for acting as trustee, the trustee may be compensated by the investment company or investment trust for providing those services out of fees charged to the trust. If the trustee receives compensation from the investment company or investment trust for providing investment advisory or investment management services, the trustee at least annually shall notify the persons entitled under section 813 to receive a copy of the trustee's annual report of the rate and method by which that compensation was determined. [PL 2005, c. 184, §15 (AMD).]

**7. Act in best interests of beneficiaries.** In voting shares of stock or in exercising powers of control over similar interests in other forms of enterprise, the trustee shall act in the best interests of the beneficiaries. If the trust is the sole owner of a corporation or other form of enterprise, the trustee shall elect or appoint directors or other managers who will manage the corporation or enterprise in the best interests of the beneficiaries. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**8. Transactions not precluded.** This section does not preclude the following transactions, if fair to the beneficiaries:

A. An agreement between a trustee and a beneficiary relating to the appointment or compensation of the trustee; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

B. Payment of reasonable compensation to the trustee; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

C. A transaction between a trust and another trust or a decedent's estate, a conservatorship or a guardianship of which the trustee is a fiduciary or in which a beneficiary has an interest; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

D. A deposit of trust money in a regulated financial service institution operated by the trustee; or [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

E. An advance by the trustee of money for the protection of the trust. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]  
[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**9. Appointment of special fiduciary.** The court may appoint a special fiduciary to make a decision with respect to any proposed transaction that might violate this section if entered into by the trustee.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**SECTION HISTORY**

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF). PL 2005, c. 184, §15 (AMD).

**§803. Impartiality**

If a trust has 2 or more beneficiaries, the trustee shall act impartially in investing, managing and distributing the trust property, giving due regard to the beneficiaries' respective interests. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**SECTION HISTORY**

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF).

**§804. Prudent administration**

A trustee shall administer the trust as a prudent person would, by considering the purposes, terms, distributional requirements and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill and caution. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**SECTION HISTORY**

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF).

**§805. Costs of administration**

In administering a trust, the trustee may incur only costs that are reasonable in relation to the trust property, the purposes of the trust and the skills of the trustee. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**SECTION HISTORY**

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF).

**§806. Trustee's skills**

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, shall use those special skills or expertise. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**SECTION HISTORY**

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF).

**§807. Delegation by trustee**

**1. Delegation.** A trustee may delegate duties and powers that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill and caution in:

- A. Selecting an agent; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]
- B. Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]
- C. Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**2. Agent's duty to trust.** In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**3. Liability of trustee.** A trustee who complies with subsection 1 is not liable to the beneficiaries or to the trust for an action of the agent to whom the function was delegated.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**4. Agent submits to jurisdiction.** By accepting a delegation of powers or duties from the trustee of a trust that is subject to the law of this State, an agent submits to the jurisdiction of the courts of this State.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**5. Review of agent.** Upon petition of a qualified beneficiary, after notice to all qualified beneficiaries, the trustee and the agent of the trustee, the court may review the employment of any agent by the trustee and the reasonableness of the agent's compensation. Any agent who is found to have received excess compensation from a trust may be ordered to make appropriate refunds.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

#### SECTION HISTORY

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF).

#### §808. Powers to direct

**(REPEALED)**

#### SECTION HISTORY

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF). PL 2019, c. 301, §7 (RP).

#### §809. Control and protection of trust property

A trustee shall take reasonable steps to take control of and protect the trust property. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

#### SECTION HISTORY

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF).

#### §810. Record keeping and identification of trust property

**1. Adequate records of administration.** A trustee shall keep adequate records of the administration of the trust.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**2. Separation of property.** A trustee shall keep trust property separate from the trustee's own property.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**3. Interest of trust, records.** Except as otherwise provided in subsection 4, a trustee not subject to federal or state banking regulation shall cause the trust property to be designated so that the interest of the trust, to the extent feasible, appears in records maintained by a party other than a trustee or beneficiary to whom the trustee has delivered the property.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**4. Two or more trusts.** If the trustee maintains records clearly indicating the respective interests, a trustee may invest as a whole the property of 2 or more separate trusts.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

#### SECTION HISTORY

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF).

**§811. Enforcement and defense of claims**

A trustee shall take reasonable steps to enforce claims of the trust and to defend claims against the trust. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

## SECTION HISTORY

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF).

**§812. Collecting trust property**

A trustee shall take reasonable steps: [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**1. Compel delivery.** To compel a former trustee or other person to deliver trust property to the trustee; and

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**2. Redress breach.** To redress a breach of trust known to the trustee to have been committed by a former trustee.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

## SECTION HISTORY

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF).

**§813. Duty to inform and report**

**1. Inform beneficiaries.** A trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests. Unless a request is unreasonable under the circumstances, a trustee shall promptly respond to a qualified beneficiary's request for that trustee's reports and other information reasonably related to the administration of the trust.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**2. Information.** A trustee:

A. Upon request of a beneficiary, shall promptly furnish to the beneficiary a copy of the trust instrument; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

B. Within 60 days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address and telephone number; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

C. Within 60 days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument and of the right to a trustee's report as provided in subsection 3; and [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

D. Shall notify the qualified beneficiaries in advance of any change in the method or rate of the trustee's compensation. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]  
[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**3. Report.** A trustee shall send to the distributees or permissible distributees of trust income or principal, and to other qualified beneficiaries who request it, at least annually and at the termination of the trust, a report of the trust property, liabilities, receipts and disbursements, including the source and amount of the trustee's compensation, a listing of the trust assets and, if feasible, their respective market values and tax bases. Upon a vacancy in a trusteeship, unless a cotrustee remains in office, a report must be sent to the qualified beneficiaries by the former trustee. A personal representative of a deceased

trustee or a conservator of the estate or, if no conservator has been appointed, a guardian of an incapacitated trustee may send qualified beneficiaries a report on behalf of a deceased or incapacitated trustee.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**4. Waiver.** A beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section. A beneficiary, with respect to future reports and other information, may withdraw a waiver previously given.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**5. Applicable date.** Subsection 2, paragraphs B and C apply only to a trustee who accepts a trusteeship on or after July 1, 2005, to an irrevocable trust created on or after July 1, 2005 and to a revocable trust that becomes irrevocable on or after July 1, 2005.

[PL 2005, c. 184, §16 (NEW).]

**6. Duty to settlor of revocable trust.** During the lifetime of the settlor of a revocable trust, whether or not the settlor has capacity to revoke the trust, the trustee's duties under this section are owed exclusively to the settlor and the trustee has no duty to provide information or reports to distributees, permissible distributees or qualified beneficiaries. If the settlor lacks capacity to revoke the trust, a trustee may satisfy the trustee's duties under this section by providing information and reports to any one or more of the following in the order of preference listed:

A. The person or persons designated by the settlor in the trust to receive information and reports on the settlor's behalf; [PL 2011, c. 42, §7 (NEW).]

B. The settlor's spouse or registered domestic partner under Title 22, section 2710; [PL 2011, c. 42, §7 (NEW).]

C. The settlor's agent under a durable power of attorney; [PL 2011, c. 42, §7 (NEW).]

D. The settlor's court-appointed conservator; or [PL 2011, c. 42, §7 (NEW).]

E. The settlor's court-appointed guardian. [PL 2011, c. 42, §7 (NEW).]

If the settlor lacks capacity to revoke the trust and there are no persons listed in this subsection to whom the trustee may provide information and reports, the trustee shall satisfy its duties under this section by providing information and reports to the qualified beneficiaries.

[PL 2017, c. 349, §2 (AMD).]

## SECTION HISTORY

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF). PL 2005, c. 184, §16 (AMD). PL 2011, c. 42, §7 (AMD). PL 2017, c. 349, §2 (AMD).

### §814. Discretionary powers; tax savings

**1. Discretionary power; interests of beneficiaries.** Notwithstanding the breadth of discretion granted to a trustee in the terms of the trust, including the use of such terms as "absolute," "sole" or "uncontrolled," the trustee shall exercise a discretionary power in good faith and in accordance with the terms and purposes of the trust. A trustee's power to make distributions is discretionary notwithstanding terms of the trust providing that the trustee "shall" make distributions exercising a discretionary power, with or without standards.

[PL 2005, c. 184, §17 (AMD).]

**2. Discretionary distributions.** Subject to subsection 4, and unless the terms of the trust expressly indicate that a rule in this subsection does not apply:

A. A person other than a settlor who is a beneficiary and trustee of a trust that confers on the trustee a power to make discretionary distributions to or for the trustee's personal benefit may exercise the power only in accordance with an ascertainable standard; and [PL 2005, c. 184, §18 (AMD).]

B. A trustee may not exercise a power to make discretionary distributions to satisfy a legal obligation of support that the trustee personally owes another person. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]  
[PL 2005, c. 184, §18 (AMD).]

**3. Cotrustees; special fiduciary.** A power whose exercise is limited or prohibited by subsection 2 may be exercised by a majority of the remaining trustees whose exercise of the power is not so limited or prohibited. If the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with authority to exercise the power.  
[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**4. Exceptions.** Subsection 2 does not apply to:

A. A power held by the settlor's spouse who is the trustee of a trust for which a marital deduction, as defined in the federal Internal Revenue Code of 1986, Section 2056(b)(5) or 2523(e), as in effect on July 1, 2005, or as later amended, was previously allowed; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

B. Any trust during any period that the trust may be revoked or amended by its settlor; or [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

C. A trust if contributions to the trust qualify for the annual exclusion under the federal Internal Revenue Code of 1986, Section 2503(c) as in effect on July 1, 2005, or as later amended. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]  
[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

#### SECTION HISTORY

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF). PL 2005, c. 184, §17 (AMD). PL 2005, c. 184, §18 (AMD).

#### §815. General powers of trustee

**1. General powers.** A trustee, without authorization by the court, may exercise:

A. Powers conferred by the terms of the trust; and [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

B. Except as limited by the terms of the trust:

(1) All powers over the trust property that an unmarried competent owner has over individually owned property;

(2) Any other powers appropriate to achieve the proper investment, management and distribution of the trust property; and

(3) Any other powers conferred by this Code. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**2. Subject to fiduciary duties.** The exercise of a power is subject to the fiduciary duties prescribed by this chapter.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

#### SECTION HISTORY

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF).

#### §816. Specific powers of trustee

Without limiting the authority conferred by section 815, a trustee may: [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**1. Collect trust property.** Collect trust property and accept or reject additions to the trust property from a settlor or any other person;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**2. Acquire or sell property.** Acquire or sell property, for cash or on credit, at public or private sale;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**3. Change character of trust property.** Exchange, partition or otherwise change the character of trust property;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**4. Deposit trust money.** Deposit trust money in an account in a regulated financial service institution;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**5. Borrow money; pledge trust property.** Borrow money, with or without security, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**6. Continue business or enterprise.** With respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members or property owners, including merging, dissolving or otherwise changing the form of business organization or contributing additional capital;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**7. Exercise rights of owner.** With respect to stocks or other securities, exercise the rights of an absolute owner, including the right to:

A. Vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

B. Hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

C. Pay calls, assessments and other sums chargeable or accruing against the securities, and sell or exercise stock subscription or conversion rights; and [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

D. Deposit the securities with a depository or other regulated financial service institution; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**8. Improvements.** With respect to an interest in real property, construct or make ordinary or extraordinary repairs to, alterations to or improvements in buildings or other structures, demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop land, dedicate land to public use or grant public or private easements and make or vacate plats and adjust boundaries; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**9. Enter into lease.** Enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a period within or extending beyond the duration of the trust;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**10. Grant or acquire option.** Grant an option involving a sale, lease or other disposition of trust property or acquire an option for the acquisition of property, including an option exercisable beyond the duration of the trust, and exercise an option so acquired;



[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**11. Insure.** Insure the property of the trust against damage or loss and insure the trustee, the trustee's agents and beneficiaries against liability arising from the administration of the trust;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**12. Abandon or decline administration.** Abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**13. Liability for violation of environmental law.** With respect to possible liability for violation of environmental law:

A. Inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

B. Take action to prevent, abate or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

C. Decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

D. Compromise claims against the trust that may be asserted for an alleged violation of environmental law; and [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

E. Pay the expense of any inspection, review, abatement or remedial action to comply with environmental law; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]  
[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**14. Claims against trust.** Pay or contest any claim, settle a claim by or against the trust and release, in whole or in part, a claim belonging to the trust;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**15. Pay expenses of administration.** Pay taxes, assessments, compensation of the trustee and of employees and agents of the trust and other expenses incurred in the administration of the trust;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**16. Taxes.** Exercise elections with respect to federal, state and local taxes;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**17. Trustee compensation and benefits.** Select a mode of payment under any employee benefit or retirement plan, annuity or life insurance payable to the trustee; exercise rights under those instruments, including exercise of the right to indemnification for expenses and against liabilities; and take appropriate action to collect the proceeds;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**18. Loans.** Make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances; the trustee has a lien on future distributions for repayment of those loans;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**19. Guarantee loans.** Pledge trust property to guarantee loans made by others to the beneficiary;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**20. Appoint trustee in another jurisdiction.** Appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the appointing trustee, require that the appointed trustee furnish security and remove any trustee so appointed;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**21. Beneficiary under legal disability or incapacitated.** Pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by:

A. Paying it to the beneficiary's conservator or, if the beneficiary does not have a conservator, the beneficiary's guardian; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

B. Paying it to the beneficiary's custodian under Title 33, chapter 32, which is the Maine Uniform Transfers to Minors Act, or to a custodial trustee under the laws of another state, and, for that purpose, creating a custodianship or custodial trust; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

C. If the trustee does not know of a conservator, guardian, custodian or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf; or [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

D. Managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution; [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**22. Distribution, division or termination.** On distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes and adjust for resulting differences in valuation;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**23. Resolution of dispute.** Resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration or other procedure for alternative dispute resolution;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**24. Prosecute or defend.** Prosecute or defend an action, claim or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**25. Contracts and other instruments.** Sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers; and

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**26. Wind up administration and distribute.** On termination of the trust, exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

## SECTION HISTORY

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF).

### §817. Distribution upon termination

**1. Proposed distribution.** Upon termination or partial termination of a trust, the trustee may send to the beneficiaries a proposal for distribution. The right of any beneficiary to object to the proposed

distribution terminates if the beneficiary does not notify the trustee of an objection within 30 days after the proposal was sent but only if the proposal informed the beneficiary of the right to object and of the time allowed for objection.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**2. Distribution; reasonable reserve.** Upon the occurrence of an event terminating or partially terminating a trust, the trustee shall proceed expeditiously to distribute the trust property to the persons entitled to it, subject to the right of the trustee to retain a reasonable reserve for the payment of debts, expenses and taxes.

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

**3. Release from liability invalid.** A release by a beneficiary of a trustee from liability for breach of trust is invalid to the extent:

A. It was induced by improper conduct of the trustee; or [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

B. The beneficiary, at the time of the release, did not know of the beneficiary's rights or of the material facts relating to the breach. [PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

[PL 2003, c. 618, Pt. A, §1 (NEW); PL 2003, c. 618, Pt. A, §2 (AFF).]

#### SECTION HISTORY

PL 2003, c. 618, §A1 (NEW). PL 2003, c. 618, §A2 (AFF).

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