

Maine Revised Statutes
Title 18-B: TRUSTS
Chapter 8: DUTIES AND POWERS OF TRUSTEE

§816. SPECIFIC POWERS OF TRUSTEE

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

[2003, c. 618, Pt. A, §1 (NEW); 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;

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

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

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

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

[2003, c. 618, Pt. A, §1 (NEW); 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;

[2003, c. 618, Pt. A, §1 (NEW); 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;

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

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

[2003, c. 618, Pt. A, §1 (NEW); 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;

[2003, c. 618, Pt. A, §1 (NEW); 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;

[2003, c. 618, Pt. A, §1 (NEW); 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;

[2003, c. 618, Pt. A, §1 (NEW); 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;

[2003, c. 618, Pt. A, §1 (NEW); 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;

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

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

[2003, c. 618, Pt. A, §1 (NEW); 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;

[2003, c. 618, Pt. A, §1 (NEW); 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;

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

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

[2003, c. 618, Pt. A, §1 (NEW); 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;

[2003, c. 618, Pt. A, §1 (NEW); 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;

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

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

[2003, c. 618, Pt. A, §1 (NEW); 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;

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

[2003, c. 618, Pt. A, §1 (NEW); 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;

[2003, c. 618, Pt. A, §1 (NEW); 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;

[2003, c. 618, Pt. A, §1 (NEW); 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;

[2003, c. 618, Pt. A, §1 (NEW); 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

[2003, c. 618, Pt. A, §1 (NEW); 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.

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

SECTION HISTORY

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

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