

Article - Estates and Trusts

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§15–102.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Beneficiary” means an ascertainable person who has a present or future interest in a trust estate.

(ii) “Beneficiary” includes:

1. If the beneficiary is a minor, the beneficiary’s natural or legal guardian; or

2. If the beneficiary is a disabled person, as defined in § 13-101 of this article, any person acting on behalf of the beneficiary under a guardianship, conservatorship, or committee.

(3) (i) “Fiduciary” means a trustee acting under a deed, will, declaration of trust or other instrument in the nature of a trust or appointed by a court, a committee or guardian of the property of a minor or a disabled person, whether the trust or estate be created or the appointment made prior or subsequent to the effective date of this subtitle.

(ii) “Fiduciary” does not include a receiver, trustee of a trust for the benefit of creditors, executor, administrator, or personal representative.

(b) (1) A fiduciary may perform the functions and duties enumerated in this section without application to, approval of, or ratification by a court.

(2) Except as expressly limited in the governing instrument, the powers of a fiduciary under this section are in addition to those derived from common law, statute, or the governing instrument.

(3) The powers listed in this section may be extended or limited by the appropriate court, and the court may also eliminate any limitation imposed by a court on a fiduciary.

(c) He may invest in, sell, mortgage, exchange, or lease any property, real or personal.

(d) He may borrow money for the purpose of protecting property and pledge property as security for the loan.

(e) He may effect a fair and reasonable compromise with any debtor, obligor, creditor or obligee, or extend or renew any obligation by or to the fiduciary estate.

(f) He may retain assets owned by the minor or disabled person, in the case of a guardian, or owned by the decedent or the grantor, in the case of a trustee or otherwise coming into the hands of the fiduciary pending distribution or liquidation, including those in which the fiduciary is personally interested or which are otherwise improper for trust investment.

(g) He may receive assets from any sources, including other fiduciaries.

(h) He may perform the contracts of the decedent or disabled person that continue as obligations of the fiduciary estate. In performing an enforceable contract to convey or lease land the fiduciary may execute and deliver a deed or conveyance for cash payment of all sums remaining due, or for the note of the purchaser for the sum remaining due secured by a mortgage or deed of trust on the land, as the contract may provide.

(i) He may satisfy written charitable pledges of the disabled person or decedent.

(j) He may deposit funds for the account of the fiduciary estate in checking accounts, in insured interest-bearing accounts, or in short-term loan arrangements.

(k) He may vote securities in person or by general or limited proxy, or enter into or participate in a voting trust or agreement of shareholder.

(l) He may insure the property of the fiduciary estate against damage, loss and liability, and himself, as fiduciary against liability in respect to third persons.

(m) He may pay taxes, assessments and other expenses incident to the administration of the fiduciary estate.

(n) He may sell or exercise stock subscription, conversion or option rights, consent to or oppose, directly or through a committee or other agent, the reorganization, consolidation, merger, dissolution or liquidation of a corporation or other business enterprises.

(o) He may employ for reasonable compensation agents, attorneys, auditors, investment advisors or other persons with special skills, to advise or assist the fiduciary in the performance of his administrative duties, but no attorney's fee in an amount exceeding \$50 shall be paid in a fiduciary estate administered under court jurisdiction unless the amount of the fee has been first approved by order of court.

(p) (1) Except as provided in the Maryland Rules, a fiduciary may prosecute, defend, or submit to arbitration any actions, claims, or proceedings in any jurisdiction for the protection of the fiduciary estate.

(2) The fiduciary may request criminal injuries compensation, restitution, or any other financial property interest of a beneficiary who is a victim of a crime.

(q) He may continue as or become a limited partner in any partnership or a

member in any limited liability company, including a single member limited liability company.

(r) He may incorporate any business or venture which forms a part of the fiduciary estate.

(s) He may convert a sole proprietorship the decedent was engaged in at the time of his death to a limited liability company.

(t) He may exercise options, rights and privileges contained in a life insurance policy, annuity, or endowment contract constituting property of the fiduciary estate, including the right to obtain the cash surrender value, convert a policy to another type of policy, revoke any mode of settlement, and pay any part or all of the premiums on the policy or contract.

(u) He may pay any valid claim.

(v) If any assets of the fiduciary estate are encumbered by mortgage, pledge, lien, or other security interest, he may pay the encumbrance or any part of it, renew, or extend an obligation secured by the encumbrance, or convey or transfer the assets to the creditor in satisfaction of his security interest, in whole or in part, if the act appears to be in the best interest of the fiduciary estate.

(w) He may release or terminate any mortgage or security interest, if the obligation secured by the mortgage or security interest has been fully satisfied.

(x) A guardian may exercise any inter vivos power which the minor or disabled person could have exercised under an instrument, including the power to sell, mortgage, or lease.

(y) He may hold a security in the name of a nominee or in other form without disclosure of the interest of the fiduciary estate, but the fiduciary shall be liable for a wrongful act of the nominee in connection with the security so held.

(z) (1) To comply with an environmental law, a fiduciary may:

(i) Inspect property held by the fiduciary, including any type of interest in a sole proprietorship, partnership, limited liability company, or corporation, and any assets owned by a sole proprietorship, partnership, limited liability company, or corporation, to determine compliance with an environmental law and respond to an actual or potential environmental liability relating to the property;

(ii) Before or after the initiation of a claim or a governmental enforcement action, take action necessary to prevent, abate, or otherwise remedy an actual or potential environmental liability that affects the fiduciary estate;

(iii) Settle or compromise at any time a claim against the fiduciary estate based on an alleged environmental liability that may be asserted by any person;

and

(iv) Pay from the fiduciary estate the costs of an inspection, review, study, abatement, response, cleanup, or other remedial action that involves an environmental liability.

(2) If a fiduciary acts prudently and in good faith, the fiduciary is not liable to a person with an interest in assets of the fiduciary estate for a decrease in the value of the assets for taking action under this subsection or otherwise taking action to comply with an environmental law or reporting requirement.

(3) Acceptance by the fiduciary of property or failure by the fiduciary to take action under this subsection does not imply that there is or may be any liability under an environmental law with respect to any property.

(aa) A fiduciary may donate a conservation easement on any real property, or consent to the donation of a conservation easement on any real property by a personal representative of an estate of which the fiduciary is a legatee, in order to obtain the benefit of the estate tax exclusion allowed under § 2031(c) of the United States Internal Revenue Code of 1986, as amended, if:

(1) The governing instrument authorizes or directs the donation of a conservation easement on the real property; or

(2) Each beneficiary who has an interest in the real property that would be affected by the conservation easement consents in writing to the donation.

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