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**By: Delegate Finifter**

Introduced and read first time: February 6, 1997

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts - Fiduciary Powers - Incorporation by Reference**

3 FOR the purpose of allowing the maker of a will or trust instrument to incorporate  
4 certain powers of fiduciaries in whole or in part in a will or trust instrument by  
5 reference to certain provisions of this Act; defining a certain term; authorizing a  
6 fiduciary upon whom a document confers any of the powers set forth in this Act to  
7 disclaim irrevocably the right to exercise any or all of the powers conferred; and  
8 generally relating to the incorporation of certain powers of fiduciaries into a will or  
9 trust instrument.

10 BY adding to

11 Article - Estates and Trusts  
12 Section 15-102.1  
13 Annotated Code of Maryland  
14 (1991 Replacement Volume and 1996 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Estates and Trusts**

18 15-102.1.

19 (A) THE FOLLOWING POWERS, IN ADDITION TO ALL OTHER POWERS  
20 GRANTED BY LAW, MAY BE INCORPORATED IN WHOLE OR IN PART IN ANY WILL OR  
21 TRUST INSTRUMENT BY SPECIFIC REFERENCE TO THIS SECTION:

22 (1) TO KEEP AND RETAIN ANY OR ALL INVESTMENTS AND PROPERTY,  
23 REAL, PERSONAL, OR MIXED, INCLUDING STOCK IN THE FIDUCIARY IF THE  
24 FIDUCIARY IS A CORPORATION, AS REGARDLESS OF THE CHARACTER OF THE  
25 INVESTMENTS AND PROPERTY; WHETHER THE INVESTMENTS AND PROPERTY  
26 WOULD BE AUTHORIZED BY LAW FOR INVESTMENT BY FIDUCIARIES, OR WHETHER  
27 A DISPROPORTIONATELY LARGE PART OF THE TRUST OR ESTATE REMAINS  
28 INVESTED IN ONE OR MORE TYPES OF PROPERTY, FOR THE TIME THAT THE  
29 FIDUCIARY DEEMS BEST, AND TO DISPOSE OF SUCH PROPERTY BY SALE,  
30 EXCHANGE, OR OTHERWISE AS AND WHEN THE FIDUCIARY DETERMINES.

1 (2) AT THE DISCRETION OF THE FIDUCIARY, TO RECEIVE ADDITIONS  
2 TO THE TRUSTS OR ESTATE FROM ANY SOURCE, IN CASH OR IN KIND, AND TO HOLD,  
3 ADMINISTER, AND DISTRIBUTE SUCH ADDITIONS AS A PART OF AND UNDER THE  
4 SAME TERMS AND CONDITIONS AS THE TRUST OR ESTATE THEN CURRENTLY HELD.

5 (3) TO SELL, ASSIGN, EXCHANGE, TRANSFER, AND CONVEY OR  
6 OTHERWISE DISPOSE OF, ANY OR ALL OF THE INVESTMENTS AND PROPERTY, THAT  
7 MAY BE INCLUDED IN, OR MAY AT ANY TIME BECOME PART OF THE TRUST OR  
8 ESTATE UPON THE TERMS AND CONDITIONS AS THE FIDUCIARY, MAY DEEM  
9 ADVISABLE, AT PUBLIC OR PRIVATE SALE, EITHER FOR CASH OR DEFERRED  
10 PAYMENTS OR OTHER CONSIDERATION, AS THE FIDUCIARY MAY DETERMINE; AND  
11 TO SELL, ASSIGN, EXCHANGE, TRANSFER, OR CONVEY THE SAME, TO MAKE,  
12 EXECUTE, ACKNOWLEDGE, AND DELIVER ANY AND ALL INSTRUMENTS OF  
13 CONVEYANCE, DEEDS OF TRUST, OR ASSIGNMENTS IN THE FORM AND WITH THE  
14 WARRANTIES AND COVENANTS AS THE FIDUCIARY MAY REQUIRE; AND IN THE  
15 EVENT OF ANY SALE, CONVEYANCE, EXCHANGE, OR OTHER DISPOSITION OF ANY  
16 OF THE TRUST OR ESTATE, THE PURCHASER MAY NOT BE OBLIGATED TO SEE TO  
17 THE APPLICATION OF THE PURCHASE MONEY OR OTHER CONSIDERATION.

18 (4) TO GRANT, SELL, TRANSFER, EXCHANGE, PURCHASE, OR ACQUIRE  
19 OPTIONS OF ANY KIND ON PROPERTY HELD BY THE TRUST OR ESTATE OR TO BE  
20 ACQUIRED BY THE TRUST OR ESTATE OR HELD OR OWNED BY ANY OTHER PERSON.

21 (5) TO INVEST AND REINVEST ALL OF THE PROPERTY OF THE TRUST OR  
22 ESTATE AS THE FIDUCIARY DETERMINES INCLUDING INVESTMENT IN STOCKS,  
23 COMMON AND PREFERRED, SHARES OF MUTUAL FUNDS INTERESTS IN COMMON  
24 TRUST FUNDS, AND INVESTMENT TRUSTS, AND ANNUITIES WITHOUT BEING  
25 RESTRICTED TO THOSE INVESTMENTS EXPRESSLY APPROVED BY STATUTE FOR  
26 INVESTMENT BY FIDUCIARIES; AND TO CHANGE INVESTMENTS FROM REALTY TO  
27 PERSONALTY, AND VICE VERSA.

28 (6) TO LEASE ANY OR ALL OF THE REAL ESTATE THAT MAY BE  
29 INCLUDED IN OR AT ANY TIME BECOME A PART OF THE TRUST OR ESTATE, ON SUCH  
30 TERMS AND CONDITIONS AS THE FIDUCIARY DETERMINES AND ANY LEASE MADE  
31 BY THE FIDUCIARY MAY EXTEND BEYOND THE TERM OF THE TRUST OR  
32 ADMINISTRATION OF THE ESTATE; AND FOR THE PURPOSE OF LEASING THE REAL  
33 ESTATE, TO MAKE, EXECUTE, ACKNOWLEDGE, AND DELIVER ANY AND ALL  
34 INSTRUMENTS, IN SUCH FORM AND WITH SUCH COVENANTS AND WARRANTIES AS  
35 THE FIDUCIARY DETERMINES.

36 (7) TO VOTE ANY STOCKS, BONDS, OR OTHER SECURITIES HELD BY THE  
37 FIDUCIARY AT ANY MEETING OF STOCKHOLDERS, BONDHOLDERS, OR OTHER  
38 SECURITY HOLDERS, AND TO DELEGATE THE POWER TO VOTE TO ATTORNEYS IN  
39 FACT OR PROXIES UNDER POWER OF ATTORNEY.

40 (8) TO BORROW MONEY, AND AS MAKER OR ENDORSER TO RENEW  
41 EXISTING LOANS, FOR THE TIME AND ON THE TERMS AND CONDITIONS AS TO  
42 RATES, MATURITIES, RENEWALS, AND SECURITY THAT THE FIDUCIARY  
43 DETERMINES, INCLUDING THE POWER TO BORROW FROM THE FIDUCIARY, FOR THE  
44 PURPOSE OF PAYING DEBTS, TAXES, OR OTHER CHARGES AGAINST THE TRUST OR  
45 ESTATE OR ANY PART THEREOF, AND WITH PRIOR APPROVAL OF THE COURT FOR

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1 ANY PROPER PURPOSE OF THE TRUST OR ESTATE; AND TO MORTGAGE, PLEDGE, OR  
2 OTHERWISE ENCUMBER SUCH PORTION OF THE TRUST OR ESTATE AS MAY BE  
3 REQUIRED TO SECURE SUCH LOAN OR LOANS.

4 (9) TO MAKE LOANS OR ADVANCES FROM TRUST ASSETS TO THE  
5 PERSONAL REPRESENTATIVE OF THE ESTATE IN ORDER TO PROVIDE CASH WITH  
6 WHICH TO PAY TAXES, CLAIMS, OR OTHER INDEBTEDNESS OF THE GRANTOR'S  
7 ESTATE.

8 (10) TO SUE ON OR DEFEND, COMPROMISE, ADJUST, ARBITRATE,  
9 ABANDON, OR OTHERWISE DEAL WITH AND SETTLE CLAIMS, IN FAVOR OF OR  
10 AGAINST THE TRUST OR ESTATE AS THE FIDUCIARY DECIDES, AND THE DECISION  
11 SHALL BE CONCLUSIVE.

12 (11) TO MAKE DISTRIBUTIONS OR ALLOCATIONS IN CASH OR IN KIND, OR  
13 PARTLY IN EACH, EVEN IF SUCH SHARES BE COMPOSED DIFFERENTLY, AT SUCH  
14 VALUES AND SUCH TIMES AND WITH SUCH COMPOSITIONS AS SHALL BE  
15 DETERMINED BY THE FIDUCIARY IN HIS DISCRETION, PROVIDED, HOWEVER, THAT  
16 UNLESS OTHERWISE STATED IN THE WILL OR TRUST INSTRUMENT, DATE OF  
17 DISTRIBUTION OR ALLOCATION VALUES SHALL BE USED; AND TO DIVIDE ANY  
18 TRUST INTO TWO OR MORE TRUSTS WITH IDENTICAL PROVISIONS AND TO MAKE  
19 DISTRIBUTIONS OR ALLOCATIONS TO SUCH TRUSTS AS PROVIDED IN THIS SECTION.

20 (12) TO DETERMINE WHETHER ANY PART OF THE TRUST OR ESTATE OR  
21 ANY ADDITION OR INCREMENT BE INCOME OR PRINCIPAL, OR WHETHER ANY COST,  
22 CHARGE, EXPENSE, TAX, OR ASSESSMENT SHALL BE CHARGED AGAINST INCOME OR  
23 PRINCIPAL, OR PART AGAINST INCOME AND PART AGAINST PRINCIPAL, PROVIDED  
24 THAT THIS DETERMINATION BE MADE TO BALANCE FAIRLY THE INTERESTS OF THE  
25 INCOME BENEFICIARY AND THE REMAINDERMAN.

26 (13) TO REPAIR, ALTER, IMPROVE, RENOVATE, RECONSTRUCT, AND  
27 DEMOLISH ANY OF THE BUILDINGS ON THE REAL ESTATE HELD BY THE FIDUCIARY  
28 AND TO CONSTRUCT THE BUILDINGS AND IMPROVEMENTS ON THE REAL ESTATE  
29 THAT THE FIDUCIARY MAY DETERMINE.

30 (14) TO EMPLOY AND COMPENSATE, OUT OF THE PRINCIPAL OR THE  
31 INCOME OR BOTH AS THE FIDUCIARY SHALL DEEM PROPER, AGENTS,  
32 ACCOUNTANTS, BROKERS, ATTORNEYS IN FACT, ATTORNEYS AT LAW, TAX  
33 SPECIALISTS, LICENSED REAL ESTATE BROKERS, LICENSED SALESMEN, AND OTHER  
34 ASSISTANTS AND ADVISORS SELECTED BY THE FIDUCIARY, INCLUDING FIRMS IN  
35 WHICH THE FIDUCIARY HAS AN INTEREST FOR THE PROPER ADMINISTRATION OF  
36 THE TRUST OR ESTATE, AND TO DO SO WITHOUT LIABILITY FOR ANY NEGLIGENCE,  
37 OMISSION, MISCONDUCT, OR DEFAULT OF ANY AGENT OR PROFESSIONAL  
38 REPRESENTATIVE WHO WAS SELECTED AND RETAINED WITH REASONABLE CARE.

39 (15) TO RELY ON ANY AFFIDAVIT, CERTIFICATE, LETTER, NOTICE,  
40 TELEGRAM, OR OTHER PAPER OR ON ANY TELEPHONE CONVERSATION BELIEVED  
41 BY THE FIDUCIARY TO BE GENUINE AND UPON ANY OTHER EVIDENCE BELIEVED BY  
42 THE FIDUCIARY TO BE SUFFICIENT, AND TO BE PROTECTED AND SAVED HARMLESS  
43 IN ALL PAYMENTS OR DISTRIBUTIONS REQUIRED TO BE MADE HEREUNDER IF  
44 MADE IN GOOD FAITH AND WITHOUT ACTUAL NOTICE OR KNOWLEDGE OF THE

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1 CHANGED CONDITION OR STATUS OF ANY PERSON RECEIVING PAYMENTS OR  
2 OTHER DISTRIBUTIONS UPON A CONDITION.

3 (16) (I) TO RETAIN ANY INTEREST HELD BY THE FIDUCIARY IN ANY  
4 BUSINESS, WHETHER AS A STOCKHOLDER OR SECURITY HOLDER OF A  
5 CORPORATION, A PARTNER, A MEMBER OF A LIMITED LIABILITY COMPANY, A SOLE  
6 PROPRIETOR, OR OTHERWISE, FOR ANY LENGTH OF TIME, WITHOUT LIMITATIONS,  
7 SOLELY AT THE RISK OF THE TRUST OR ESTATE AND WITHOUT LIABILITY ON THE  
8 PART OF THE FIDUCIARY FOR ANY LOSSES RESULTING THEREFROM; TO  
9 PARTICIPATE IN THE CONDUCT OF SUCH BUSINESS AND TAKE OR DELEGATE TO  
10 OTHERS DISCRETIONARY POWER TO TAKE ANY ACTION WITH RESPECT TO ITS  
11 MANAGEMENT AND AFFAIRS WHICH AN INDIVIDUAL COULD TAKE AS THE OWNER  
12 OF SUCH BUSINESS, INCLUDING THE VOTING OF STOCK, AND THE DETERMINATION  
13 OF ANY OR ALL QUESTIONS OF POLICY; TO PARTICIPATE IN ANY INCORPORATION,  
14 REORGANIZATION, MERGER, CONSOLIDATION, RECAPITALIZATION, OR  
15 LIQUIDATION THEREOF; TO INVEST ADDITIONAL CAPITAL IN, SUBSCRIBE TO  
16 ADDITIONAL STOCK OR SECURITIES OF, AND LOAN MONEY OR CREDIT WITH OR  
17 WITHOUT SECURITY TO, SUCH BUSINESS OUT OF THE TRUST OR ESTATE PROPERTY;  
18 TO ELECT OR EMPLOY AS DIRECTORS, OFFICERS, EMPLOYEES, OR AGENTS OF SUCH  
19 BUSINESS, AND COMPENSATE ANY PERSONS, INCLUDING THE FIDUCIARY OR A  
20 DIRECTOR, OFFICER, OR AGENT OF THE FIDUCIARY, AND TO OBTAIN AND PAY FOR  
21 LIABILITY INSURANCE FOR ACTS AND OMISSIONS OF SUCH PERSONS; TO ACCEPT AS  
22 CORRECT FINANCIAL OR OTHER STATEMENTS RENDERED BY THE BUSINESS FROM  
23 TIME TO TIME AS TO ITS CONDITIONS AND OPERATIONS EXCEPT WHEN HAVING  
24 ACTUAL NOTICE TO THE CONTRARY; TO REGARD THE BUSINESS AS AN ENTITY  
25 SEPARATE FROM THE TRUST OR ESTATE WITH NO DUTY TO ACCOUNT TO ANY  
26 COURT AS TO ITS OPERATIONS; TO DEAL WITH AND ACT FOR THE BUSINESS IN ANY  
27 CAPACITY, INCLUDING ANY BANKING OR TRUST CAPACITY AND THE LOANING OF  
28 MONEY OUT OF THE FIDUCIARY'S OWN FUNDS, AND TO BE COMPENSATED  
29 THEREFOR; AND TO SELL OR LIQUIDATE SUCH INTEREST OR ANY PART THEREOF  
30 AT ANY TIME BY PUBLIC OR PRIVATE SALE OR SALES WITHOUT A SOLICITATION OF  
31 OFFERS AS THE FIDUCIARY SHALL DEEM APPROPRIATE.

32 (II) IF ANY BUSINESS SHALL BE UNINCORPORATED,  
33 CONTRACTUAL AND TORT LIABILITIES ARISING OUT OF SUCH BUSINESS SHALL BE  
34 SATISFIED, FIRST, OUT OF THE BUSINESS, AND SECOND, OUT OF THE TRUST OR  
35 ESTATE; BUT IT IS INTENDED THAT IN NO EVENT SHALL THERE BE A LIABILITY OF  
36 THE FIDUCIARY, AND IF THE FIDUCIARY SHALL BE HELD LIABLE, THE FIDUCIARY  
37 SHALL BE ENTITLED TO INDEMNIFICATION FROM THE BUSINESS AND THE TRUST OR  
38 ESTATE IN THE ORDER NAMED.

39 (III) THE FIDUCIARY SHALL BE ENTITLED TO SUCH ADDITIONAL  
40 COMPENSATION AS IS COMMENSURATE WITH THE TIME, EFFORT, AND  
41 RESPONSIBILITY INVOLVED IN HIS PERFORMANCE OF SERVICES WITH RESPECT TO  
42 SUCH BUSINESS.

43 (IV) SUCH COMPENSATION FOR SERVICES RENDERED TO THE  
44 BUSINESS MAY BE PAID BY THE FIDUCIARY FROM THE BUSINESS OR FROM OTHER  
45 ASSETS OR FROM BOTH AS THE FIDUCIARY, MAY DETERMINE TO BE ADVISABLE.

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1 (V) THE AMOUNT OF THE ADDITIONAL COMPENSATION SHALL BE  
2 SUBJECT TO THE FINAL APPROVAL OF THE COURT.

3 (17) TO HOLD PROPERTY IN HIS NAME OR IN THE NAME OF NOMINEES.

4 (18) IN HIS SOLE DISCRETION, DURING THE MINORITY, INCAPACITY, OR  
5 DISABILITY OF ANY BENEFICIARY, TO DISTRIBUTE INCOME AND PRINCIPAL TO THE  
6 BENEFICIARY IN ANY ONE OF THE FOLLOWING WAYS:

7 (I) DIRECTLY TO THE BENEFICIARY;

8 (II) TO A RELATIVE, GUARDIAN, CONSERVATOR, OR COMMITTEE,  
9 TO BE EXPENDED BY SUCH PERSON FOR THE EDUCATION, MAINTENANCE, SUPPORT,  
10 OR BENEFIT OF THE BENEFICIARY;

11 (III) BY HIMSELF EXPENDING THE SAME FOR THE EDUCATION,  
12 MAINTENANCE, SUPPORT, OR BENEFIT OF THE BENEFICIARY; OR

13 (IV) IF THE BENEFICIARY IS UNDER THE AGE OF 21 YEARS, TO AN  
14 ADULT PERSON OR BANK AUTHORIZED TO EXERCISE TRUST POWERS SELECTED BY  
15 THE FIDUCIARY TO SERVE AS CUSTODIAN UNDER THE MARYLAND UNIFORM  
16 TRANSFERS TO MINORS ACT, TO BE HELD BY SUCH CUSTODIAN UNDER THE TERMS  
17 OF SUCH ACT UNTIL THE BENEFICIARY ATTAINS AGE 21.

18 (19) (I) TO CONTINUE AND CARRY ON ANY FARMING OPERATION  
19 TRANSFERRED TO THE FIDUCIARY AND TO OPERATE THE FARMS AND ANY OTHER  
20 FARM WHICH MAY BE ACQUIRED AND, IN SO DOING, BY WAY OF ILLUSTRATION  
21 AND NOT IN LIMITATION OF HIS POWERS, TO OPERATE THE FARM WITH HIRED  
22 LABOR, TENANTS, OR SHARECROPPERS; TO HIRE A FARM MANAGER OR A  
23 PROFESSIONAL FARM MANAGEMENT SERVICE TO SUPERVISE THE FARMING  
24 OPERATIONS; TO LEASE OR RENT THE FARM FOR CASH OR FOR A SHARE OF THE  
25 CROPS; TO PURCHASE OR OTHERWISE ACQUIRE FARM MACHINERY AND  
26 EQUIPMENT AND LIVESTOCK; TO CONSTRUCT, REPAIR, AND IMPROVE FARM  
27 BUILDINGS, NEEDED IN THE FIDUCIARY'S JUDGMENT FOR THE OPERATION OF THE  
28 FARM; TO MAKE LOANS OR ADVANCES OR TO OBTAIN SUCH FROM ANY SOURCE,  
29 INCLUDING THE FIDUCIARY AT THE PREVAILING RATE OR RATES OF INTEREST FOR  
30 FARM PURPOSES SUCH AS FOR PRODUCTION, HARVESTING, OR MARKETING, OR  
31 FOR THE CONSTRUCTION, REPAIR, OR IMPROVEMENT OF FARM BUILDINGS, OR FOR  
32 THE PURCHASE OF FARM MACHINERY OR EQUIPMENT OR LIVESTOCK; TO EMPLOY  
33 APPROVED SOIL CONSERVATION PRACTICES TO CONSERVE, IMPROVE, AND  
34 MAINTAIN THE FERTILITY AND PRODUCTIVITY OF THE SOIL; TO PROTECT, MANAGE,  
35 AND IMPROVE THE TIMBER AND FOREST ON THE FARM AND SELL THE TIMBER AND  
36 FOREST PRODUCTS WHEN IT IS TO THE BEST INTEREST OF THE ESTATE OR TRUST;  
37 TO DITCH AND DRAIN DAMP OR WET FIELDS AND AREAS OF THE FARM WHEN AND  
38 WHERE NEEDED; TO ENGAGE IN LIVESTOCK PRODUCTION, IF IT IS DEEMED  
39 ADVISABLE AND TO CONSTRUCT FENCES AND BUILDINGS AND PLANT PASTURES  
40 AND CROPS THAT ARE NECESSARY TO CARRY ON A LIVESTOCK PROGRAM; TO  
41 EXECUTE CONTRACTS, NOTES, AND CHATTEL MORTGAGES RELATING TO  
42 AGRICULTURE WITH THE COMMODITY CREDIT CORPORATION, THE UNITED STATES  
43 SECRETARY OF AGRICULTURE, OR ANY OTHER OFFICER OF THE FEDERAL OR  
44 STATE GOVERNMENT; TO ENTER INTO ACREAGE REDUCTION AGREEMENTS, TO

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1 MAKE SOIL CONSERVATION COMMITMENTS, AND TO DO ALL ACTS NECESSARY TO  
2 COOPERATE WITH ANY GOVERNMENTAL AGRICULTURAL PROGRAM; AND TO  
3 EMPLOY THE METHODS OF CARRYING ON THE FARMING OPERATION THAT ARE IN  
4 COMMON USE BY THE COMMUNITY IN WHICH THE FARM IS LOCATED.

5 (II) THE FIDUCIARY IS ENTITLED TO ADDITIONAL REASONABLE  
6 COMPENSATION THAT IS COMMENSURATE WITH THE TIME, EFFORT, AND  
7 RESPONSIBILITY INVOLVED IN HIS PERFORMANCE OF SUCH SERVICES.

8 (20) TO PURCHASE AND HOLD POLICIES OF LIFE INSURANCE ON THE  
9 LIFE OF ANY BENEFICIARY, OR ANY PERSON IN WHOM THE BENEFICIARY HAS AN  
10 INSURABLE INTEREST, AND PAY THE PREMIUMS THEREON OUT OF INCOME OR  
11 PRINCIPAL AS HE DEEMS APPROPRIATE; PROVIDED THAT THE DECISION OF THE  
12 BENEFICIARY OF ANY TRUST OTHERWISE MEETING THE REQUIREMENTS OF §  
13 2056(B)(5) OR (B)(7) OF THE INTERNAL REVENUE CODE SHALL CONTROL IN RESPECT  
14 TO THE PURCHASE OR HOLDING OF A POLICY OF LIFE INSURANCE BY THE TRUSTEE  
15 OF SUCH TRUST.

16 (21) TO MAKE ANY ELECTION AUTHORIZED UNDER ANY LAW  
17 REQUIRING, OR RELATING TO THE REQUIREMENT FOR, PAYMENT OF ANY TAXES  
18 OR ASSESSMENTS ON ASSETS OR INCOME OF THE ESTATE OR IN CONNECTION WITH  
19 ANY FIDUCIARY CAPACITY, REGARDLESS OF WHETHER ANY PROPERTY OR INCOME  
20 IS RECEIVED BY OR IS UNDER THE CONTROL OF THE FIDUCIARY, INCLUDING, BUT  
21 NOT LIMITED TO, ELECTIONS CONCERNING THE TIMING OF PAYMENT OF ANY SUCH  
22 TAX OR ASSESSMENT, THE VALUATION OF ANY PROPERTY SUBJECT TO ANY SUCH  
23 TAX OR ASSESSMENT, THE ALTERNATIVE USE OF ITEMS OF DEDUCTION IN  
24 COMPUTING ANY TAX OR ASSESSMENT, AND INCLUDING SPECIFICALLY ELECTIONS  
25 PERMITTED BY STATUTES ENACTED AFTER THE DATE OF EXECUTION OF THE WILL  
26 OR TRUST INSTRUMENT.

27 (22) TO TAKE ANY ACTION HE MAY DEEM APPROPRIATE TO COMPLY  
28 WITH AN ENVIRONMENTAL LAW AS PROVIDED IN § 7-401(BB) OR § 15-102(Y) OF THE  
29 ESTATES AND TRUSTS ARTICLE.

30 (23) TO COLLECT PROCEEDS FROM LIFE INSURANCE, RETIREMENT  
31 PLANS, ANNUITIES, RETIREMENT ACCOUNTS, AND OTHER BENEFITS FOR WHICH  
32 THE FIDUCIARY, THE TRUST, OR ESTATE IS THE BENEFICIARY AND TO EXERCISE  
33 OPTIONAL METHODS OF PAYMENT FOR SUCH BENEFITS.

34 (24) TO RESIGN AS A FIDUCIARY IF THE FIDUCIARY REASONABLY  
35 BELIEVES THAT THERE IS OR MAY BE A CONFLICT OF INTEREST BETWEEN ACTING  
36 IN A FIDUCIARY CAPACITY AND ACTING IN AN INDIVIDUAL CAPACITY BECAUSE OF  
37 POTENTIAL CLAIMS OR LIABILITIES THAT MAY BE ASSERTED AGAINST THE  
38 FIDUCIARY ON BEHALF OF THE TRUST OR ESTATE BECAUSE OF THE TYPE OR  
39 CONDITION OF ASSETS HELD.

40 (25) TO DO ALL OTHER ACTS AND THINGS NOT INCONSISTENT WITH THE  
41 PROVISIONS OF THE TRUST INSTRUMENT OR WILL INTO WHICH THESE POWERS ARE  
42 INCORPORATED WHICH THE FIDUCIARY MAY DEEM NECESSARY OR DESIRABLE  
43 FOR THE PROPER MANAGEMENT OF THE TRUST OR ESTATE, IN THE SAME MANNER

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1 AND TO THE SAME EXTENT AS AN INDIVIDUAL MIGHT OR COULD DO WITH RESPECT  
2 TO HIS OWN PROPERTY.

3 (26) TO EXERCISE ANY AND ALL OF THE POWERS LISTED IN THIS  
4 SUBSECTION WITHOUT COURT APPROVAL UNLESS COURT APPROVAL IS  
5 SPECIFICALLY REQUIRED.

6 (B) (1) IN THIS SECTION THE "FIDUCIARY" MEANS ONE OR MORE  
7 INDIVIDUALS OR CORPORATIONS HAVING TRUST POWERS.

8 (2) ANY SUBSTITUTE, ADDED, OR SUCCESSOR FIDUCIARY SHALL HAVE  
9 ALL OF THE POWERS HEREBY PROVIDED FOR THE FIDUCIARY NAMED IN THE WILL  
10 OR TRUST INSTRUMENT.

11 (3) THE PROVISIONS OF THIS SECTION MAY BY SPECIFIC REFERENCE  
12 HERETO BE MADE APPLICABLE TO A FIDUCIARY OF THE ESTATE OF A DECEDENT AS  
13 WELL AS TO THE TRUSTEE OF AN INTER VIVOS OR TESTAMENTARY TRUST.

14 (C) (1) ANY FIDUCIARY UPON WHOM A DOCUMENT CONFERS ANY OR ALL  
15 OF THE POWERS SET FORTH IN SUBSECTION (A) OF THIS SECTION MAY  
16 IRREVOCABLY DISCLAIM THE RIGHT TO EXERCISE ANY OR ALL OF THE POWERS  
17 CONFERRED BY FILING A SUITABLE WRITTEN DISCLAIMER WITH THE REGISTER OF  
18 WILLS WHERE THE DOCUMENT IS PROBATED OR, IF THE DOCUMENT IS NOT  
19 PROBATED, BY SENDING A WRITTEN DISCLAIMER BY REGISTERED OR CERTIFIED  
20 MAIL TO THE LAST KNOWN ADDRESS OF ALL PERSONS THEN LIVING AND ELIGIBLE  
21 TO RECEIVE DISTRIBUTION OF THE PRINCIPAL OR INCOME.

22 (2) THE DISCLAIMER SHALL RELATE BACK TO THE TIME WHEN THE  
23 DISCLAIMING FIDUCIARY ORIGINALLY ASSUMED SUCH FIDUCIARY CAPACITY AND  
24 SHALL BE BINDING UPON ANY SUCCESSOR FIDUCIARY.

25 (3) FOR THE PURPOSE OF THIS SUBSECTION, A FIDUCIARY IS NOT  
26 DEEMED TO HAVE ASSUMED A FIDUCIARY CAPACITY UNDER A REVOCABLE  
27 DOCUMENT UNTIL THE SAME BECOMES IRREVOCABLE.

28 (D) FOR THE PURPOSES OF THIS SECTION, UNLESS THE WILL OR TRUST  
29 INSTRUMENT EXPRESSES A CONTRARY INTENTION, THE INCORPORATION BY  
30 REFERENCE OF POWERS ENUMERATED BY THIS STATUTE SHALL REFER TO THOSE  
31 POWERS EXISTING AT THE TIME OF DEATH OR THE TIME THAT THE TRUST  
32 INSTRUMENT OTHERWISE BECOMES IRREVOCABLE.

33 (E) THIS SECTION IS NOT INTENDED AND MAY NOT BE CONSTRUED TO  
34 AFFECT THE APPLICATION OF THE STANDARD OF JUDGMENT AND CARE AS SET  
35 FORTH IN § 15-114 OF THIS ARTICLE.

36 (F) (1) IF THE WILL OR TRUST INSTRUMENT CONTAINS A PROVISION IN  
37 FAVOR OF A SURVIVING SPOUSE OF THE TESTATOR OR GRANTOR, THE POWERS  
38 LISTED IN THIS SECTION MAY NOT BE CONSTRUED OR INTERPRETED TO CAUSE THE  
39 BEQUEST TO FAIL TO QUALIFY FOR THE MARITAL DEDUCTION PERMITTED UNDER  
40 THE FEDERAL ESTATE TAX LAW, UNLESS THE WILL OR TRUST INSTRUMENT SHALL  
41 SPECIFICALLY PROVIDE TO THE CONTRARY.

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1                   (2) A FIDUCIARY ACTING REASONABLY UNDER A CONSTRUCTION OR  
2 INTERPRETATION OF A POWER MAY NOT INCUR RESPONSIBILITY FOR ACTS TAKEN  
3 IN GOOD FAITH WHICH ARE THEREAFTER CONCLUDED TO BE IN A FASHION WHICH  
4 MIGHT CAUSE DISQUALIFICATION FOR THE MARITAL DEDUCTION.

5                   (3) THIS SUBSECTION APPLIES WITHOUT REGARD TO THE TIME THE  
6 WILL OR TRUST WAS EXECUTED OR PROBATED OR THE TESTATOR DIED IN  
7 RELATION TO THE EFFECTIVE DATE OF THIS SECTION.

8                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 1997.