

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

700.7817 Specific powers of trustee.

Sec. 7817.

Without limiting the authority conferred by section 7816, a trustee has all of the following powers:

- (a) To take possession, custody, or control of property transferred to the trust and accept or reject additions to the trust.
- (b) To retain property that the trustee receives, including property in which the trustee is personally interested, in accordance with the Michigan prudent investor rule.
- (c) To receive property from a fiduciary or another source that is acceptable to the trustee.
- (d) To perform, compromise, or refuse to perform a contract of the settlor that is an obligation of the trust, as the trustee may determine under the circumstances. In performing an enforceable contract by the settlor to convey or lease land, if the contract for a conveyance requires the giving of a warranty, the deed or other instrument of conveyance to be given by the trustee shall contain the warranty required. The warranty is binding on the trust as though made by the settlor, but does not bind the trustee except in the trustee's fiduciary capacity. The trustee, among other possible courses of action, may do either of the following:
 - (i) Execute and deliver a deed of conveyance for cash payment of money remaining due or the purchaser's note for the money remaining due secured by a mortgage on the land.
 - (ii) Deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the trustee, as designated in the escrow agreement.
- (e) To satisfy a settlor's written charitable pledge irrespective of whether the pledge constitutes a binding obligation of the settlor or was properly presented as a claim, if in the trustee's judgment the settlor would have wanted the pledge completed under the circumstances.
- (f) To deposit trust property in a financial institution, including a financial institution operated by or affiliated with the trustee and to invest and reinvest trust property as would a prudent investor acting in accordance with the Michigan prudent investor rule and to deposit securities with a depository or other financial institution.
- (g) To acquire property, including property in this or another state or country, in any manner for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, or change the character of trust property.
- (h) To make an ordinary or extraordinary repair or alteration in a building or another structure, to demolish an improvement, or to raze an existing or erect a new party wall or building.
- (i) To subdivide, develop, or dedicate land to public use; to make or obtain the vacation of a plat or adjust a boundary; to adjust a difference in valuation on exchange or partition by giving or receiving consideration; or to dedicate an easement to public use without consideration.
- (j) To enter for any purpose into a lease as lessor or lessee, with or without an option to purchase or renew, for a period within or extending beyond the duration of the trust.
- (k) To enter into a lease or arrangement for exploration and removal of minerals or another natural resource or to enter into a pooling or unitization agreement for a period within or extending beyond the duration of the trust.
- (l) To abandon or decline to administer property if, in the trustee's opinion, the property is valueless, or is so encumbered or in such a condition that it is of no benefit to the trust.
- (m) To vote a stock or other security in person, by general or limited proxy, or in another manner provided by law, or enter into or continue a voting trust agreement.
- (n) To pay a call, assessment, or other amount chargeable or accruing against or on account of a security, and sell or exercise stock subscription or conversion rights.
- (o) To hold property in the name of a nominee or in another form without disclosure of the interest of the trust. However, the trustee is liable for an act of the nominee in connection with the property so held.
- (p) To insure the trust property against damage, loss, or liability and to insure the trustee, the trustee's agents, and the trust beneficiaries against liability arising from the administration of the trust.
- (q) To borrow property, with or without security, for any purpose from the trustee or others and to mortgage or pledge trust property for a period within or extending beyond the duration of the trust.
- (r) To effect a fair and reasonable compromise with a debtor or obligor, or extend, renew, or in any manner modify the terms of an obligation owing to the trust. If the trustee holds a mortgage, pledge, or another lien on property of another person, the trustee may, instead of foreclosure, accept a conveyance or transfer of encumbered property from the property's owner in satisfaction of the indebtedness secured by a lien.
- (s) To pay a tax, an assessment, the trustee's compensation, or another expense incident to the administration of the trust.
- (t) To sell or exercise a subscription or conversion right or to consent, directly or through a committee or

another agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a business enterprise.

(u) To allocate an item of income or expense to either trust income or principal, as permitted or provided by law.

(v) To employ, and pay reasonable compensation for services performed by, a person, including an auditor, investment advisor, accountant, appraiser, broker, custodian, rental agent, realtor, or agent, even if the person is associated with the trustee, for the purpose of advising or assisting the trustee in the performance of an administrative duty; to act without independent investigation upon such a person's recommendation; and, instead of acting personally, to employ 1 or more agents to perform an act of administration, whether or not discretionary.

(w) To employ an attorney to perform necessary legal services or to advise or assist the trustee in the performance of the trustee's administrative duties, even if the attorney is associated with the trustee, and to act without independent investigation upon the attorney's recommendation. An attorney employed under this subdivision shall receive reasonable compensation for his or her employment.

(x) To prosecute, defend, arbitrate, settle, release, compromise, or agree to indemnify an action, claim, or proceeding in any jurisdiction or under an alternative dispute resolution procedure. The trustee may act under this subdivision for the trustee's protection in the performance of the trustee's duties.

(y) To sell, exchange, partition, or otherwise dispose of, or grant an option with respect to, trust property for any purpose upon any terms or conditions for a period within or extending beyond the duration of the trust.

(z) To continue or participate in a business or enterprise in any manner, in any form, and for any length of time.

(aa) To change the form, in any manner, of a business or enterprise in which the settlor was engaged at the time of death.

(bb) To provide for exoneration of the trustee from personal liability in a contract entered into on behalf of the trust.

(cc) To respond to environmental concerns and hazards affecting trust property as provided in section 7818.

(dd) To collect, pay, contest, settle, release, agree to indemnify against, compromise, or abandon a claim of or against the trust, including a claim against the trust by the trustee.

(ee) To respond to a tax matter as provided in section 7819.

(ff) To make a payment of money, or other property instead of money, to or for a minor or incapacitated trust beneficiary as provided in section 7820.

(gg) To make a distribution or division of trust property in cash or in kind, or both; to allot a different kind or disproportionate portion of, or an undivided interest in, trust property among beneficiaries and determine the value of allotted trust property; or to distribute an unclaimed share in the same manner as described in section 3916.

(hh) To transfer the property of a trust to another jurisdiction and appoint, compensate, or remove a successor trustee, individual or corporate, for trust property in another jurisdiction, with any trust powers set out in this part that the trustee delegates to the successor trustee.

(ii) To execute and deliver an instrument that accomplishes or facilitates the exercise of a power vested in the trustee.

(jj) To select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds.

(kk) To make loans out of trust property, including loans to a trust 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 loans made under this subdivision.

(ll) To pledge trust property to guarantee loans made by others to the trust beneficiary.

(mm) To resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution.

(nn) On termination of the trust, to exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it.

History: Add. 2009, Act 46, Eff. Apr. 1, 2010 ;-- Am. 2010, Act 325, Eff. Apr. 1, 2010

Compiler's Notes: Enacting section 1 of Act 325 of 2010 provides: "Enacting section 1. (1) Except as provided in subsection (2), this amendatory act takes effect April 1, 2010." (2) Section 3207 of the estates and protected individuals code, 1998 PA 386, MCL 700.3207, as amended by this amendatory act, takes effect on the date this amendatory act is enacted into law."

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