

TRUSTS, USES, AND POWERS

CHAPTER 694

SENATE BILL NO. 2292
(Satrom, Stenehjem)

TRUST FUND INVESTMENT IN MUTUAL FUNDS

AN ACT to amend and reenact section 59-02-05.1 of the North Dakota Century Code, relating to investment of trust funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 59-02-05.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

59-02-05.1. Investment of trust funds in mutual funds. Notwithstanding section 59-02-05, instead of investments specified in the trust, a trustee, unless expressly prohibited by the trust, may invest trust funds in shares of investment companies that are registered under the Investment Companies Company Act of 1940, as amended, and which invest in the investments specified in the trust. If the investments specified in the trust are direct obligations of the United States government or obligations issued by agencies of the United States, the investments may be made in the form of securities or other interests in an open-end management type investment company or investment trust registered under the Investment Company Act of 1940, as amended, if the portfolio of the investment company or investment trust is limited to United States government obligations and repurchase agreements fully collateralized by United States government obligations and the investment company or investment trust takes delivery of the collateral directly or through an authorized custodian.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 695

HOUSE BILL NO. 1449
(Payne, Kloubec)

TRUSTEE POWERS

AN ACT to amend and reenact sections 59-04-15 and 59-04-17 of the North Dakota Century Code, relating to powers and reports of trustees; and to repeal section 59-04-20 of the North Dakota Century Code, relating to evidence accompanying accounts of trustees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 59-04-15 of the North Dakota Century Code is amended and reenacted as follows:

59-04-15. Powers and duties of trustee.

1. Every act of the trustee in contravention of the terms of the trust and statute ~~shall be~~ is absolutely void except where the district or county court having jurisdiction and supervision of the administration of ~~such the~~ trust, by order, on notice and hearing as provided in this chapter, ~~shall authorize any such~~ authorizes the trustee to sell, mortgage, pledge, lease, or otherwise dispose of or invest trust property in ~~such the~~ manner as best may accomplish the object and purpose of the trust, where it is made to appear to the satisfaction of the court that ~~such the~~ order is necessary and for the best interests or benefit of the trust estate or person or persons beneficially interested ~~therein in the trust estate~~, or who thereafter may acquire an interest ~~therein in the trust estate~~, and where it is further established to the satisfaction of the court that the trust instrument is lacking in specific and adequate directions as to the disposition or investment of trust property, or that strict compliance with the terms of ~~such the~~ instrument will tend to destroy the trust estate or create losses of principal or income.
2. Unless otherwise provided by the terms of the trust or an order in a supervised proceeding, a trustee acting reasonably for the benefit of the beneficiaries may exercise the powers granted to a personal representative under section 30.1-18-15.
3. A trust agreement may grant the powers of section 30.1-18-15, as those powers exist on the date of signing the agreement, to a trustee by a specific reference to section 30.1-18-15.

SECTION 2. AMENDMENT. Section 59-04-17 of the North Dakota Century Code is amended and reenacted as follows:

59-04-17. Reports of trustee. The trustee of every trust estate placed under the supervision of the court as is provided in this chapter,

within ten days after the entry of the order taking jurisdiction of ~~such the~~ estate, shall file with the clerk of court a verified itemized account and report showing in detail the description, location, and value of all assets of the trust estate, the disposition ~~thereof of the assets~~, the income ~~therefrom~~ from the assets after the inception of the trust, and, annually thereafter, ~~said the~~ trustee shall file a verified like account and report ~~together with all vouchers and receipts, as is provided in section 59-04-20, duly verified.~~ The court, at any time and upon its own motion, or upon good cause shown by a petition of any beneficiary, and with or without notice, may require and compel the trustee to file a special itemized account, or report of any acts done, or acts contemplated by ~~him the trustee~~ in the disposition or investment of the trust. No account or report ~~shall~~ may be approved without notice of hearing as is provided by this chapter.

SECTION 3. REPEAL. Section 59-04-20 of the North Dakota Century Code is repealed.

Approved March 25, 1991
Filed March 26, 1991