

58-24a09. Delegation of investment and management functions. (a) A fiduciary may delegate investment and management functions that a prudent fiduciary of comparable skills could properly delegate under the circumstances. For a fiduciary to properly delegate investment functions under this subsection, the fiduciary shall:

(1) Exercise reasonable care, skill and caution in selection of the investment agent, in establishing the scope and specific terms of any delegation and in periodically reviewing the investment agent's actions in order to monitor overall performance and compliance with the scope and specific terms of the delegation;

(2) conduct an inquiry into the experience, performance history, errors and omissions coverage, professional licensing or registration, if any, and financial stability of the investment agent; and

(3) if a trust, send written notice of such trust's intention to begin delegating investment functions under this section to each beneficiary eligible to receive income from the trust on the date of the initial delegation at least 30 days before such delegation. This notice shall thereafter, until or unless each beneficiary eligible to receive income from the trust at the time are notified to the contrary, authorize the fiduciary to delegate investment functions pursuant to this section.

(b) In performing a delegated function, an investment agent shall be subject to the same standards that are applicable to the fiduciary.

(c) An investment agent shall be liable to each beneficiary of the trust and to the designated fiduciary to the same extent as if the investment agent were a designated fiduciary in relation to the exercise or nonexercise of the investment function.

(d) A fiduciary who complies with the requirements of subsection (a) is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

(e) By accepting the delegation of a trust function from the fiduciary of a trust that is subject to the law of this state, an agent submits to the jurisdiction of the courts of this state.

History: L. 2000, ch. 80, § 9; July 1.