

HB

321

LEGAL SERVICES

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MEMORANDUM

February 9, 1998

SUBJECT: Sectional Summary (HB 321)

TO: Representative Joe Ryan

FROM: Tamara Brandt Cook
Director *TBC*

Here is the sectional summary you requested for a bill dealing with trusts based on the Uniform Prudent Investor Act of the National Conference of Commissions on Uniform State Laws.

Secs. 1 and 2. Correct a cross-reference to a statute repealed in this bill.

Sec. 3. Adds a new article -- the Uniform Prudent Investor Act.

Sec. 13.36.200. Requires a trustee to comply with the prudent investor rule and permits the rule to be expanded, restricted, eliminated, or altered by the provisions of a trust.

Sec. 13.36.205. Requires a trustee to manage assets by considering the purposes, terms, distribution requirements, and other circumstances of the trust. Lists specific circumstances that a trustee must consider. Requires a trustee to make a reasonable effort to verify facts relevant to management of trust assets. A trustee with special skills has a duty to use those skills.

Sec. 13.36.210. Requires diversification of investments, unless the purposes of the trust are better served without diversifying.

Sec. 13.36.215. Requires a trustee to review a trust and make decisions regarding assets within a reasonable time after accepting a trusteeship or receiving the assets.

Sec. 13.36.220. Requires a trustee to manage assets solely in the interest of the beneficiaries.

Sec. 13.36.225. Requires a trustee to act impartially if a trust has two or more beneficiaries.

Sec. 13.36.230. A trustee may only incur costs that are reasonable in managing a trust.

Sec. 13.36.235. Compliance with the prudent investor rule is determined in light of the facts existing at the time of the trustee's decision or action.

Sec. 13.36.240. A trustee may delegate investment and management functions, but the trustee must exercise care, skill and caution in selecting an agent, establishing the terms of the delegation, and reviewing the agent's actions.

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Sec. 13.36.260. Certain general phrases that may appear in a trust invoke the standards of this article.

Sec. 13.36.265. The new article applies to trusts existing on and created after the effective date of those sections, but, as applied to existing trusts, the article governs only decisions or actions that occur after the effective date.

Sec. 13.36.270. The new article is to construed to make uniform the law among the states that adopt a Uniform Prudent Investor Act.

Sec. 13.36.275. The short title is the Uniform Prudent Investor Act.

Sec. 4. The existing statute dealing with a trustee's standard of care is repealed.

Sec. 5. Immediate effective date.

TBC:glc

98-070.glc

A Few Facts About
THE UNIFORM PRUDENT INVESTOR ACT

PURPOSE: This act removes much of the common law restriction upon the investment authority of trustees of trusts and like fiduciaries. It allows such fiduciaries to utilize modern portfolio theory to guide investment decisions. A fiduciary's performance is measured on the performance of the whole portfolio, not upon the performance of each investment singly. The act allows the fiduciary to delegate investment decisions to qualified and supervised agents. It requires sophisticated risk-return analysis to guide investment decisions.

ORIGIN: Completed by the Uniform Law Commissioners in 1994.

ENDORSED BY: American Bar Association
American Bankers Association

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For any further information regarding the Uniform Prudent Investor Act, please contact John McCabe or Katie Robinson at 312-915-0195.