

### **386.810 Powers of trustees conferred by this chapter.**

- (1) From time of creation of the trust until final distribution of the assets of the trust, a trustee has the power to perform, without court authorization, every act which a prudent man would perform for the purposes of the trust including but not limited to the powers specified in subsection (3).
- (2) In the exercise of his powers including the powers granted by this chapter, a trustee has a duty to act with due regard to his obligation as a fiduciary, including a duty to give consideration to available tax exemptions, deductions, or credits for tax purposes. "Tax" includes, but is not limited to, any federal, state, or local income, gift, estate, or inheritance tax.
- (3) A trustee has the power, subject to subsections (1) and (2) of this section:
  - (a) To collect, hold, and retain trust assets received from a trustor until, in the judgment of the trustee, disposition of the assets should be made; and the assets may be retained even though they include an asset in which the trustee is personally interested;
  - (b) To receive additions to the assets of the trust;
  - (c) To continue or participate in the operation of any business or other enterprise, and to effect incorporation, dissolution, or other change in the form of the organization of the business or enterprise;
  - (d) To acquire an undivided interest in a trust asset in which the trustee, in any trust capacity, holds an undivided interest;
  - (e) To invest and reinvest trust assets in accordance with the provisions of the trust or as provided by law;
  - (f) To deposit trust funds in a bank, including a bank operated by the trustee;
  - (g) To acquire or dispose of an asset, for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, change the character of, or abandon a trust asset or any interest therein; and to encumber, mortgage, or pledge a trust asset for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the trustee;
  - (h) To make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, to raze existing or erect new party walls or buildings;
  - (i) To subdivide, develop, or dedicate land to public use; or to make or obtain the vacation of plats and adjust boundaries; or to adjust differences in valuation on exchange or partition by giving or receiving consideration; or to dedicate easements to public use without consideration;
  - (j) To enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the trust;
  - (k) To enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;
  - (l) To grant an option involving disposition of a trust asset, or to take an option for the acquisition of any asset;

- (m) To vote a security, in person or by general or limited proxy;
- (n) To pay calls, assessments, and any other sums chargeable or accruing against or on account of securities;
- (o) To sell or exercise stock subscription or conversion rights; to consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;
- (p) To hold a security in the name of a nominee or in other form without disclosure of the trust, so that title to the security may pass by delivery, but the trustee is liable for any act of the nominee in connection with the stock so held;
- (q) To insure the assets of the trust against damage or loss, and the trustee against liability with respect to third persons;
- (r) To borrow money to be repaid from trust assets or otherwise; to advance money for the protection of the trust, and for all expenses, losses, and liability sustained in the administration of the trust or because of the holding or ownership of any trust assets, for which advances with any interest the trustee has a lien on the trust assets as against the beneficiary;
- (s) To pay or contest any claim; to settle a claim by or against the trust by compromise, arbitration, or otherwise; and to release, in whole or in part, any claim belonging to the trust to the extent that the claim is uncollectible;
- (t) To pay taxes, assessments, compensation of the trustee, and other expenses incurred in the collection, care, administration, and protection of the trust;
- (u) To allocate items of income or expense to either trust income or principal, as provided by law, including creation of reserves out of income for depreciation, obsolescence, or amortization, or for depletion in mineral or timber properties;
- (v) To pay any sum distributable to a beneficiary under legal disability, without liability to the trustee, by paying the sum to the beneficiary or by paying the sum for the use of the beneficiary either to a legal representative appointed by the court, or if none, to a relative;
- (w) To effect distribution of property and money in divided or undivided interests and to adjust resulting differences in valuation;
- (x) To employ persons, including attorneys, auditors, investment advisors, or agents to advise or assist the trustee in the performance of his administrative duties; to act without independent investigation upon their recommendations; and instead of acting personally, to employ one (1) or more agents to perform any act of administration, whether or not discretionary;
- (y) To prosecute or defend actions, claims, or proceedings for the protection of trust assets and of the trustee in the performance of his duties;
- (z) To execute and deliver all instruments which will accomplish or facilitate the exercise of the powers vested in the trustee; and

- (aa) To take such actions as are necessary to cause gains from the sale or exchange of trust assets, as determined for federal income tax purposes, to be taxed for federal income tax purposes as a part of a distribution of income, including the power to allocate such gains to income for the purpose of making discretionary distributions and to allocate such gains to income which has been increased by an adjustment from principal to income pursuant to KRS 386.454(2), to a unitrust distribution, or to a distribution of principal to a beneficiary.

**Effective:** July 12, 2012

**History:** Amended 2012 Ky. Acts ch. 59, sec. 5, effective July 12, 2012. -- Created 1976 Ky. Acts ch. 218, sec. 46.