

Prudent Investor Rule – MCL 700.1501, et. seq.

700.1501 Short title of part; definitions.

- (1) This part shall be known and may be cited as the “Michigan prudent investor rule”. This part prescribes the Michigan prudent investor rule.
- (2) As used in this part:
 - (a) “Governing instrument” includes, but is not limited to, a court order.
 - (b) “Portfolio” means all property of every kind and character held by a fiduciary on behalf of a fiduciary estate.

700.1502 Prudent investor rule.

- (1) A fiduciary shall invest and manage assets held in a fiduciary capacity as a prudent investor would, taking into account the purposes, terms, distribution requirements expressed in the governing instrument, and other circumstances of the fiduciary estate. To satisfy this standard, the fiduciary must exercise reasonable care, skill, and caution.
- (2) The Michigan prudent investor rule is a default rule that may be expanded, restricted, eliminated, or otherwise altered by the provisions of the governing instrument. A fiduciary is not liable to a beneficiary to the extent that the fiduciary acted in reasonable reliance on the provisions of the governing instrument.

700.1503 Portfolio strategy; risk and return objectives.

- (1) A fiduciary's investment and management decisions with respect to individual assets shall be evaluated not in isolation, but rather in the context of the fiduciary estate portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the fiduciary estate.
- (2) Among circumstances that a fiduciary must consider in investing and managing fiduciary assets are all of the following that are relevant to the fiduciary estate or its beneficiaries:
 - (a) General economic conditions.
 - (b) The possible effect of inflation or deflation.
 - (c) The expected tax consequences of an investment decision or strategy.
 - (d) The role that each investment or course of action plays within the overall portfolio, which may include financial assets, interests in closely-held enterprises, tangible and intangible personal property, and real property.
 - (e) The expected total return from income and the appreciation of capital.
 - (f) Other resources of the beneficiaries.
 - (g) The need for liquidity, regularity of income, and preservation or appreciation of capital.

(h) An asset's special relationship or special value, if any, to the purposes of the fiduciary estate or to 1 or more of the beneficiaries.

(3) A fiduciary shall make a reasonable effort to verify facts relevant to the investment and management of fiduciary assets.

(4) A fiduciary may invest in any kind of property or type of investment consistent with the standards of the Michigan prudent investor rule. A particular investment is not inherently prudent or imprudent.

(5) A fiduciary who has special skill or expertise, or is named fiduciary in reliance upon the fiduciary's representation that the fiduciary has special skill or expertise, has a duty to use that special skill or expertise.

700.1504 Diversification.

A fiduciary shall diversify the investments of a fiduciary estate unless the fiduciary reasonably determines that, because of special circumstances, the purposes of the fiduciary estate are better served without diversifying.

700.1505 Duties at inception.

Within a reasonable time after accepting appointment as a fiduciary or receiving fiduciary assets, a fiduciary shall review the assets, and make and implement decisions concerning the retention and disposition of assets, in order to bring the fiduciary portfolio into compliance with the purposes, terms, distribution requirements expressed in the governing instrument, and other circumstances of the fiduciary estate, and with the requirements of the Michigan prudent investor rule.

700.1506 Duties of fiduciary in interest of beneficiaries.

A fiduciary shall invest and manage fiduciary assets solely in the interest of the beneficiaries.

700.1507 Impartiality.

If a fiduciary estate has 2 or more beneficiaries, the fiduciary shall act impartially in investing, managing, and distributing the fiduciary assets, and shall take into account any differing interests of the beneficiaries.

700.1508 Investment costs.

In investing and managing fiduciary assets, a fiduciary may only incur costs that are appropriate and reasonable in relation to the assets, the purposes of the fiduciary estate, and the skills of the fiduciary.

700.1509 Reviewing compliance.

Compliance with the prudent investor rule is determined in light of the facts and circumstances that exist at the time of a fiduciary's decision or action, and not by hindsight. The prudent investor rule requires a standard of conduct, not outcome or performance.

700.1510 Delegation of investment and management functions.

- (1) A fiduciary may delegate investment and management functions provided that the fiduciary exercises reasonable care, skill, and caution in all of the following:
 - (a) Selecting an agent.
 - (b) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the governing instrument.
 - (c) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.
- (2) A fiduciary who complies with the requirements of subsection (1) is not liable to the beneficiaries or to the fiduciary estate for a decision or action of the agent to whom the function was delegated.
- (3) In performing a delegated function, an agent owes a duty to the fiduciary estate to exercise reasonable care to comply with the terms of the delegation. If an agent accepts the delegation of a fiduciary function from a fiduciary that is subject to the laws of this state, the agent submits to the jurisdiction of this state's court.

700.1511 Language invoking standard of prudent investor rule.

The following terms or similar language in a governing instrument, unless otherwise limited or modified, authorize any investment or strategy permitted under the Michigan prudent investor rule:

- (a) "Investments permissible by law for investment of trust funds".
- (b) "Legal investments".
- (c) "Authorized investments".
- (d) "Using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital".
- (e) "Prudent man rule".
- (f) "Prudent trustee rule".
- (g) "Prudent person rule".
- (h) "Prudent investor rule".

700.1512 Application to existing fiduciary estates.

The Michigan prudent investor rule applies to a fiduciary estate that exists on or is created after this act's effective date. As applied to a fiduciary estate that exists on this act's effective date, the Michigan prudent investor rule governs only a decision or action that occurs after that date.