

**633A.4402 Specific powers of trustees.**

In addition to the powers conferred by the terms of the trust, a trustee may perform all actions necessary to accomplish the proper management, investment, and distribution of the trust property, including the following powers:

1. Collect, hold, and retain trust property received from a settlor or any other person. The property may be retained even though it includes property in which the trustee is personally interested.

2. Accept or refuse to accept additions to the property of the trust from a settlor or any other person.

3. With respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue or participate in the operation of a business or other enterprise that is part of the trust and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of a business organization and contributing additional capital.

4. Deposit trust funds in an account in a financial institution, including a financial institution operated by the trustee.

5. Acquire or dispose of property, for cash or on credit, at public or private sale, or by exchange.

6. Manage, control, divide, develop, improve, exchange, partition, change the character of, or abandon trust property. Consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise, and participate in voting trusts, pooling arrangements, and foreclosures, and in connection therewith, deposit securities with and transfer title and delegate discretion to any protective or other committee as the trustee considers advisable.

7. Encumber, mortgage, or pledge trust property for a term within or extending beyond the term of the trust in connection with the exercise of a power vested in the trustee.

8. Make ordinary or extraordinary repairs, alterations, or improvements in buildings or other trust property; demolish improvements; and raze existing or erect new party walls or buildings.

9. Subdivide or develop land, dedicate land to public use, make or obtain the vacation of plats and adjust boundaries, adjust differences in valuation on exchange or partition by giving or receiving consideration, and dedicate easements to public use without consideration.

10. Enter into a lease for any purpose as lessor or lessee with or without the option to purchase or renew and for a term within or extending beyond the term of the trust.

11. Enter into a lease or arrangement for exploration and removal of gas, oil, or other minerals or geothermal energy, and enter into a community oil lease or a pooling or unitization agreement.

12. Grant an option involving disposition of trust property or take an option for the acquisition of property, including an option that is exercisable beyond the duration of the trust.

13. With respect to shares of stock of a domestic or foreign corporation, any membership in a nonprofit corporation, or other property, the trustee may do the following:

a. Vote in person, and give proxies to exercise, any voting rights with respect to the shares, memberships, or property.

b. Waive notice of a meeting or give consent to the holding of a meeting.

c. Authorize, ratify, approve, or confirm any action that could be taken by shareholders, members, or property owners.

14. Pay calls, assessments, and any other sums chargeable or accruing against or on account of securities.

15. Sell or exercise stock subscription or conversion rights.

16. Select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, and exercise rights thereunder, including the right to indemnification for expenses and against liabilities, and take appropriate action to collect proceeds.

17. 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.

18. Deposit securities in a securities' depository.
19. Insure the property of the trust against damage or loss and insure the trustee against liability with respect to third persons.
20. Borrow money for any trust purpose to be repaid from trust property.
21. Pay or contest any claim; settle a claim by or against the trust by compromise, arbitration, or otherwise; and release, in whole or in part, a claim belonging to the trust.
22. Pay taxes, assessments, reasonable compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the collection, care, administration, and protection of the trust.
23. Make loans out of trust property to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances, and guarantee loans to the beneficiary by encumbrances on trust property.
24. Pay an amount distributable to a beneficiary, whether or not the beneficiary is under a legal disability, by paying the amount to the beneficiary or by paying the amount to another person for the use or benefit of the beneficiary.
25. Upon distribution of trust property or the division or termination of a trust, make distribution in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation.
26. Employ accountants, attorneys, investment advisors, appraisers, or other persons, even if they are associated or affiliated with the trustee, to advise or assist the trustee in the performance of administrative duties.
27. With respect to any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, a trustee shall do all of the following:
  - a. Inspect or investigate property the trustee holds or has been asked to hold or property owned or operated by an organization in which the trustee holds an interest in or has been asked to hold an interest in, and expend trust funds therefore, for the purpose of determining any potential environmental law violations with respect to the property.
  - b. Take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement.
  - c. Decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of any environmental law.
  - d. Negotiate claims against the trust which may be asserted for an alleged violation of environmental law.
  - e. Pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law.
28. Withhold funds from distribution for the purpose of maintaining a reserve for any valid business purpose, or as a depletion reserve, if, in the trustee's discretion, the failure to do so would unfairly, and materially, reduce the value of the interest of the remainder.
29. Execute and deliver instruments that are useful to accomplish or facilitate the exercise of the trustee's powers.
30. Prosecute or defend an action, claim, or proceeding in order to protect trust property.
31. Resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution.
32. Upon termination of the trust, exercise the powers necessary to conclude the administration of the trust and distribute the trust property to the person or persons entitled to the trust property.

99 Acts, ch 125, §72, 109

C2001, §633.4402

2002 Acts, ch 1107, §14, 15; 2005 Acts, ch 38, §54

CS2005, §633A.4402

Referred to in §633.750