

633A.4802 Liability limits of excluded fiduciary.

1. An excluded fiduciary is not liable, either individually or as a fiduciary, for any of the following:

a. Any loss that results from compliance with a direction of the trust director, including any loss from the trust director breaching fiduciary responsibilities or acting beyond the trust director's scope of authority.

b. Any loss that results from a failure to take any action proposed by an excluded fiduciary that requires prior authorization of the trust director if that excluded fiduciary timely sought but failed to obtain that authorization.

c. Any loss that results from any action or inaction of the excluded fiduciary, except for gross negligence or willful misconduct, when the excluded fiduciary is required, pursuant to the trust agreement or any other reason, to assume the role of trust director or trust protector.

2. An excluded fiduciary is relieved of any obligation to review or evaluate any direction from a trust director or to perform investment or suitability reviews, inquiries, or investigations or to make recommendations or evaluations with respect to any investments to the extent the trust director had authority to direct the acquisition, disposition, or retention of the investment. If the excluded fiduciary offers recommendations or evaluations with respect to any investments to the trust director, trust protector, or any investment advisor selected by the investment trust director, such action may not be deemed to constitute an undertaking by the excluded fiduciary to monitor or otherwise participate in actions within the scope of the trust director's authority or to constitute any duty to do so.

3. An excluded fiduciary is relieved of any duty to communicate with, warn, or apprise any beneficiary or third party concerning instances in which the excluded fiduciary may have exercised the excluded fiduciary's own discretion in a manner different from the manner directed by the trust director or trust protector.

4. Absent contrary provisions in the governing instrument, the actions of the excluded fiduciary pertaining to matters within the scope of authority of the trust director or trust protector shall be deemed to be administrative actions taken by the excluded fiduciary solely to allow the excluded fiduciary to perform those duties assigned to the excluded fiduciary under the governing instrument, and such administrative actions shall not be deemed to constitute an undertaking by the excluded fiduciary to monitor, participate, or otherwise take on any fiduciary responsibility for actions within the scope of authority of the trust director or trust protector. For purposes of [this subsection](#), "administrative actions" shall include communications with the trust director or others and carrying out, recording, or reporting actions taken at the trust director's direction.

5. In an action against an excluded fiduciary pursuant to the provisions of [this section](#), the burden to prove the matter by clear and convincing evidence is on the person seeking to hold the excluded fiduciary liable.

[2020 Acts, ch 1076, §8](#)

Referred to in [§633A.4207](#)

NEW section