

ASSEMBLY, No. 940

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman KRAMER

1 AN ACT concerning the standards for prudent investing by fiduciaries
2 of certain trust estates and of certain funds by the Director of the
3 Division of Investment, supplementing and amending chapter 20 of
4 Title 3B of the New Jersey Statutes, amending P.L.1948, c.67 and
5 P.L.1959, c.17 and repealing parts of the statutory law.

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9
10 1. (New section) Sections 1 through 24 of this act shall be known
11 and may be cited as the "Prudent Investor Act."

12
13 2. (New section) a. Except as provided in subsection b. of this
14 section, a fiduciary who invests and manages trust assets owes a duty
15 to the beneficiaries of the trust to comply with the prudent investor
16 rule, as set forth in this article.

17 b. The prudent investor rule is a default rule that may be expanded,
18 restricted, eliminated, or otherwise altered by express provisions of the
19 trust instrument. A fiduciary is not liable to a beneficiary to the extent
20 that the fiduciary acted in reasonable reliance on those express
21 provisions. Nothing herein shall affect the jurisdiction of the Superior
22 Court to order or authorize a fiduciary to deviate from the express
23 terms or provisions of a trust instrument for the causes, in the manner,
24 and to the extent otherwise provided by law.

25
26 3. (New section) a. A fiduciary shall invest and manage trust
27 assets as a prudent investor would, by considering the purposes, terms,
28 distribution requirements, and other circumstances of the trust. In
29 satisfying this standard, the fiduciary shall exercise reasonable care,
30 skill, and caution.

31 b. A fiduciary's investment and management decisions respecting
32 individual assets shall not be evaluated in isolation, but in the context
33 of the trust portfolio as a whole and as a part of an overall investment
34 strategy having risk and return objectives reasonably suited to the
35 trust.

1 c. Subject to the standards established in this article, a fiduciary
2 may invest in any kind of property or type of investment. No specific
3 investment or course of action is inherently imprudent.

4 d. Among the circumstances that the fiduciary shall consider in
5 investing and managing trust assets are those of the following as are
6 relevant to the trust and its beneficiaries:

7 (1) general economic conditions;
8 (2) the possible effect of inflation or deflation;
9 (3) the expected tax consequences of investment decisions or
10 strategies;

11 (4) the role that each investment or course of action plays
12 within the overall trust portfolio;

13 (5) the expected total return from income and the appreciation
14 of capital;

15 (6) other resources of the beneficiaries;

16 (7) the need for liquidity, for regularity of income, and for
17 preservation or appreciation of capital; and

18 (8) an asset's special relationship or special value, if any, to the
19 purposes of the trust or to one or more of the beneficiaries as, for
20 example, an interest in a closely-held enterprise, tangible and
21 intangible personalty, or real estate.

22 e. The fiduciary shall take reasonable steps to verify facts relevant
23 to the investment and management of trust assets and may rely and be
24 fully protected in relying upon statistical, financial, corporate or other
25 information as to a particular investment, and upon ratings or other
26 opinion as to the financial or other status thereof, contained in or
27 offered by any financial, statistical, investment, rating or other
28 publication or service published for the use of and accepted as reliable
29 by investors in like investments or upon a copy of the prospectus
30 prepared and filed with the Securities and Exchange Commission in
31 connection with a new issue.

32 f. A fiduciary who has special skills or expertise, or is named
33 fiduciary in reliance upon representations of special skills or expertise,
34 has a duty to use those special skills or expertise.

35

36 4. (New section) A fiduciary shall diversify the investments of the
37 trust unless the fiduciary reasonably determines that, because of
38 special circumstances, the purposes of the trust are better served
39 without diversifying.

40

41 5. (New Section) A fiduciary shall invest and manage the trust
42 assets solely in the interest of the beneficiaries.

1 6. (New Section) If a trust has two or more beneficiaries, the
2 fiduciary shall act impartially in investing and managing the trust
3 assets, taking into account any differing interests of the beneficiaries.

4
5 7. (New section) Within a reasonable time after accepting trust
6 assets, the fiduciary shall review the trust assets and shall make and
7 implement decisions concerning the retention and disposition of assets
8 received at the inception of the trust, in order to bring the trust
9 portfolio into compliance with the provisions of the trust instrument
10 or with the requirements of this article.

11
12 8. (New section) In investing and managing trust assets, a
13 fiduciary may only incur costs that are appropriate and reasonable in
14 relation to the assets, the purposes of the trust, and the skills of the
15 fiduciary. A fiduciary who delegates investment and management
16 functions pursuant to section 8 of P.L. , c. (C.)(pending before
17 the Legislature as this bill) shall control the overall costs of the
18 delegation, including making a reduction in the amount of corpus
19 commissions otherwise allowable to the fiduciary with respect to the
20 trust assets for which investment responsibility has been delegated,
21 which reduction shall take account of the duties and responsibilities
22 retained by the fiduciary with respect to such assets.

23
24 9. (New section) The prudent investor rule expresses a standard
25 of conduct, not outcome. Compliance with the rule is determined in
26 light of the facts and circumstances existing at the time of the
27 fiduciary's decision or action.

28
29 10. (New section) a. A fiduciary may delegate investment and
30 management functions that a prudent fiduciary of comparable skills
31 could properly delegate under the circumstances. The fiduciary shall
32 exercise reasonable care, skill, and caution in:

33 (1) selecting an agent with special investment skills and
34 expertise and of sound financial standing;

35 (2) establishing the scope and terms of the delegation
36 consistent with the purpose and terms of the trust instrument; and

37 (3) periodically reviewing the agent's actions in order to
38 monitor the agent's performance and compliance with the scope and
39 terms of the delegation.

40 b. In performing a delegated function, the agent shall owe to the
41 trustee and the beneficiaries the same duties as the fiduciary and shall
42 be held to the same standards as the fiduciary.

43 c. The fiduciary who complies with the requirements of subsection
44 a. of this section shall not be liable to the beneficiaries or to the trust
45 for the decisions or actions of the agent to whom the function was
46 delegated.

1 d. By accepting the delegation of a trust function from the
2 fiduciary of a trust that is subject to the law of New Jersey, the agent
3 submits to the jurisdiction of the courts of New Jersey, even if the
4 delegation agreement provides otherwise.

5 e. If there are two or more fiduciaries serving, only one of whom
6 has special investment and management skills or expertise or has been
7 named in reliance upon representations of such special skills or
8 expertise, then the fiduciary or fiduciaries not possessed of such
9 special skills or expertise may, pursuant to this section, delegate
10 investment and management functions to the other fiduciary as if such
11 other fiduciary were an agent selected in accordance with this section
12 and subject to the provisions of this section.

13 f. A fiduciary shall provide reasonable advance written notice on
14 each occasion upon which the fiduciary intends to delegate investment
15 and management functions pursuant to this section, including the
16 identity of the agent, to the beneficiary or beneficiaries eligible to
17 receive income from the trust on the date of the intended delegation.
18 Upon providing such notice, the fiduciary shall be authorized to
19 delegate investment and management functions pursuant to this
20 section.

21
22 11. (New section) The following terms or comparable language in
23 a trust instrument, unless otherwise limited or modified by that
24 instrument, shall be construed as authorizing any investment or
25 strategy permitted under this article: "investments permissible by law
26 for investment of trust funds," "legal investment," "authorized
27 investments," "using the judgement and care under the circumstances
28 then prevailing that persons of prudence, discretion, and intelligence
29 exercise in the management of their own affairs, not in regard to
30 speculation but in regard to the permanent disposition of their funds,
31 considering the probable income as well as the probable safety of their
32 capital," "prudent man rule," "prudent trustee rule," "prudent person
33 rule," and "prudent investor rule."

34
35 12. (New section) This article shall apply to and govern trusts
36 existing on and created after its effective date. As applied to trusts
37 existing on its effective date, this article governs only actions or
38 omissions occurring after that date.

39
40 13. N.J.S.3B:20-1 is amended to read as follows:

41 3B:20-1. Definitions. As used in this chapter:

42 a. "Trust instrument" means and includes a will, deed, agreement,
43 court order or other instrument pursuant to which money or other
44 property is entrusted to a fiduciary;

45 b. "Fiduciary" means an individual or corporation that is authorized
46 to act as or acts as a trustee, personal representative, conservator,

1 guardian, and every other [person] individual or corporation charged
2 with the duty of administering a trust estate;

3 c. "Trust estate" or "trust assets" means money or other property
4 entrusted to a fiduciary pursuant to a trust instrument, will, estate of
5 an intestate decedent or the estate of a minor or mentally incompetent
6 person being administered by a guardian;

7 d. ["Investments" means and includes property of every nature,
8 real, personal and mixed, tangible and intangible, and specifically
9 includes, solely by way of description and not by way of limitation,
10 bonds, debentures and other corporate obligations, direct and indirect
11 investment in equity real estate mortgages and other direct or indirect
12 interests in real estate or investments secured by real estate, capital
13 stocks, common stocks, preferred stocks, diversified pools of venture
14 capital which otherwise could be made consistently with the standard
15 of care required by N.J.S.3B:20-13, common trust funds as defined in
16 and regulated by article 9, "Common Trust Funds," P.L.1948, c.67
17 (C.17:9A-36 et seq.), repurchase agreements, securities loan
18 transactions secured by cash, securities issued by the United States
19 government or its agencies, irrevocable bank letters of credit, whether
20 directly or through a bank or similar financial institution acting as
21 agent or trustee, mutual funds, and any other security issued by an
22 investment company or investment trust, whether managed or not by
23 third parties, registered under the "Investment Company Act of 1940,"
24 15 U.S.C.§800-1 et seq., as from time to time amended. No
25 investment that is otherwise permissible under this subsection shall be
26 considered to be unlawful solely because the investment is made
27 indirectly through a partnership, trust, or other legal entity.] (~~Deleted~~
28 ~~by amendment, P.L. , c. .)~~

29 e. "Beneficiary" means an individual or corporation for whose
30 benefit a fiduciary acts or is authorized to act.

31 (cf: P.L.1995, c.48, s.1)

32

33 14. N.J.S.3B:20-7 is amended to read as follows:

34 3B:20-7. Directions of court concerning the sale, conversion or
35 retention of investments. When securities or other property come into
36 possession of a fiduciary as part of the assets of the trust estate [he]
37 the fiduciary is to administer or manage, the fiduciary may apply to the
38 court for direction as to the sale, conversion or retention of the
39 securities or property.

40 The court shall make an order as it shall deem most advantageous
41 to the trust estate[, or the trust fund] and the interests of persons
42 entitled to share therein.

43 (cf: N.J.S.3B:20-7)

44

45 15. N.J.S.3B:20-8 is amended to read as follows:

46 3B:20-8. Protection afforded fiduciary continuing investments

1 under court order. A fiduciary [continuing to hold securities or other
2 property as investments in accordance with an order of court pursuant
3 to N.J.S.3B:20-7] shall not be held accountable for any loss by reason
4 of continuing to hold the [securities or other property] trust assets in
5 accordance with an order pursuant to N.J.S.3B:20-7.

6 (cf: N.J.S.3B:20-8)

7

8 16. N.J.S.3B:20-9 is amended to read as follows:

9 3B:20-9. Application to court upon change in conditions. If, as a
10 result of a change in conditions which occurs or which may be
11 reasonably foreseen, the objects of [a] the trust [created by a will,
12 other instrument or order of court] estate may be defeated in whole or
13 in part by the investment or retention of investments of the trust estate
14 in [securities or other] property to which the fiduciary is limited by the
15 [will, other] trust instrument [or court order creating the trust], the
16 fiduciary or any beneficiary of the trust may apply to the court to
17 secure authority permitting or directing the fiduciary to invest all or
18 any part of the trust estate in [other investments] accordance with the
19 provisions of this chapter.

20 (cf: N.J.S.3B:20-9)

21

22 17. N.J.S.3B:20-10 is amended to read as follows:

23 3B:20-10. Investments by court order upon change in conditions.
24 If the court finds that by reason of a change in conditions which has
25 occurred since the creation of the trust or which may be reasonably
26 foreseen, the objects of the trust estate may be defeated in whole or in
27 part by the investment or retention of the trust estate in [securities or
28 other] property to which the fiduciary is limited by the trust instrument
29 [or court order creating the trust estate] and that objects of the trust
30 estate and those interested in it would be promoted by the investment
31 of all or part of the trust estate otherwise, the court shall authorize or
32 direct the fiduciary to invest the whole of the trust estate or that part
33 of it as shall be designated, in [any securities or other property which
34 in its judgment will promote the objects of the trust and those
35 interested in it] accordance with the provisions of this chapter.

36 (cf: N.J.S.3B:20-10)

37

38 18. N.J.S.3B:20-18 is amended to read as follows:

39 3B:20-18. Authority to exchange or convert securities. Except as
40 otherwise provided in [a will, deed of trust, other] the trust instrument
41 [or court order], a fiduciary who holds securities in a trust issued by
42 a corporation which has been recapitalized or reorganized, or which
43 has been a party to a merger or consolidation, may exchange or
44 convert the securities so held for or into other securities issued by the
45 corporation as an incident of its recapitalization, reorganization,
46 merger or consolidation, or issued by the corporation's successor

1 corporation as an incident of the merger or consolidation.
2 (cf: N.J.S.3B:20-18)

3

4 19. N.J.S.3B:20-19 is amended to read as follows:

5 3B:20-19. Fiduciary as issuing corporation. An exchange or
6 conversion of securities may be made pursuant to this article
7 notwithstanding that the fiduciary which holds the securities in a trust
8 estate is the same corporation which issued the securities.

9 (cf: N.J.S.3B:20-19)

10

11 20. N.J.S.3B:20-23 is amended to read as follows:

12 3B:20-23. Banking institution acting as fiduciary. An exchange or
13 conversion of shares may be made pursuant to this article
14 notwithstanding that the fiduciary which holds the shares in the trust
15 estate is the banking institution which issued them.

16 (cf: N.J.S.3B:20-23)

17

18 21. N.J.S.3B:20-25 is amended to read as follows:

19 3B:20-25. Application of article. This article shall not apply where
20 a [will, deed of trust or other] trust instrument contains provisions
21 inconsistent with or contrary to the provisions of this article.

22 (cf: N.J.S.3B:20-25)

23

24 22. N.J.S.3B:20-27 is amended to read as follows:

25 3B:20-27. Definitions. As used in this article:

26 a. ["Fiduciary" includes an individual or corporation authorized to
27 act as a custodian under the "New Jersey Uniform Gifts to Minors
28 Act," P.L.1963, c. 177 (C. 46:38-13 et seq.);](Deleted by amendment,
29 P.L. . . , c. . .)

30 b. "Securities" means instruments which are commonly dealt with
31 on securities exchanges or markets or commonly recognized in any
32 area in which they are issued or dealt with as a medium for investment,
33 and which are subject to the provisions of chapter 8, "Uniform
34 Commercial Code-Investment Securities" (chapter 8, Title 12A of the
35 New Jersey Statutes);

36 c. "Clearing corporation" means a corporation as defined in N.J.S.
37 12A:8-102.

38 (cf: N.J.S.3B:20-27)

39

40 23. N.J.S.3B:20-34 is amended to read as follows:

41 3B:20-34. Application of article. This article shall apply to any
42 fiduciary holding securities in its fiduciary capacity, and to any banking
43 institution holding securities as a custodian, managing agent or
44 custodian for a fiduciary, acting on January 2, 1974, or who thereafter
45 may act regardless of the date of the [agreement,]trust instrument [or
46 court order] by which the fiduciary is appointed and regardless of

1 whether or not the fiduciary[,]or the banking institution acting as
2 custodian, managing agent or custodian for a fiduciary owns capital
3 stock of the clearing corporation.

4 (cf: N.J.S.3B:20-34)

5

6 24. Section 38 of P.L.1948, c.67 (C.17:9A-38) is amended to read
7 as follows:

8 38. Effect of trust instruments

9 A. Except as otherwise provided by subsection B of this section,
10 where the trust instrument defines, limits, or specifies the investments
11 which may be made of a trust estate, any common trust fund in which
12 all or any part of such trust estate is invested shall consist only of the
13 investments defined, limited, or specified in such trust instrument.

14 B. Where the trust instrument makes no provision governing the
15 investments which may be made of a trust estate, or where the trust
16 instrument directs that an estate be invested in "legal investments" or
17 in "investments in which a fiduciary may by law invest" or in "legal
18 investments for trustees," or uses words of similar import, investment
19 of such trust estate may be made, in whole or in part, in a common
20 trust fund, consisting of property [of every nature, real, personal, and
21 mixed, tangible and intangible, and further including, solely by way of
22 description and not by way of limitation, bonds, debentures, and other
23 corporate obligations, capital stocks, common stocks, preferred
24 stocks, investments as authorized by article 1 of chapter 15 of Title 3A
25 of the New Jersey Statutes, and shares of any open-end or closed-end
26 management type investment company or investment trust registered
27 pursuant to the Federal Investment Company Act of 1940, as from
28 time to time amended] in which fiduciaries of trust estates in this State
29 may invest pursuant to chapter 20 of Title 3B of the New Jersey
30 Statutes.

31 C. (Deleted by amendment.)

32 D. In making investments as provided in this section a bank shall
33 exercise [care and judgment under the circumstances then prevailing,
34 which persons of ordinary prudence and reasonable discretion exercise
35 in the management of and dealing with the property and affairs of
36 another, considering the probable income as well as the probable
37 safety of capital, and, if the bank has special skills or is named as the
38 fiduciary on the basis of representations of special skills or expertise,
39 it is under a duty to exercise those skills] the standard of care required
40 of a fiduciary of trust assets in New Jersey pursuant to chapter 20 of
41 Title 3B of the New Jersey Statutes.

42 (cf: P.L.1975, c.338, s.2)

1 25. Section 1 of P.L.1959, c.17 (C.52:18A-88.1) is amended to
2 read as follows:

3 1. a. The Director of the Division of Investment, in addition to
4 other investments, presently or from time to time hereafter authorized
5 by law, shall have authority to invest and reinvest the moneys in, and
6 to acquire for or on behalf of the funds of the following enumerated
7 agencies:

8 The Consolidated Police and Firemen's Pension Fund Commission;
9 The Police and Firemen's Retirement System of New Jersey;
10 The Prison Officers' Pension Fund Commission;
11 The Public Employees' Retirement System of New Jersey;
12 The State Police Retirement System;
13 The Teachers' Pension and Annuity Fund;
14 The 1837 Surplus Revenue Fund; and
15 The Trustees for the Support of Public Schools;

16 such investments which shall be authorized or approved for
17 investment by regulation of the State Investment Council [and in
18 which fiduciaries of trust estates in this State may legally invest and
19 subject to the limitations and conditions applicable thereto].

20 b. The director shall exercise the care, skill, prudence and diligence
21 under the circumstances then prevailing that a prudent person acting
22 in a like capacity and familiar with such matters would use in the
23 conduct of an enterprise of a like character and with like aims. In
24 making each investment, the director may, depending on the nature
25 and objectives of the portfolio, consider the whole portfolio, provided
26 that, in making each investment, the director shall act with the
27 reasonable expectation that the return on each investment shall be
28 commensurate with the risk associated with each investment. The
29 director shall be under a duty to manage and invest the portfolio solely
30 in the interests of the enumerated agency and for the exclusive purpose
31 of providing financial benefits to the enumerated agency.

32 c. For the purposes of this section, "investments" means and
33 includes property of every nature, real, personal and mixed, tangible
34 and intangible, and specifically includes, solely by way of description
35 and not by way of limitation, bonds, debentures and other corporate
36 obligations, direct and indirect investment in equity real estate
37 mortgages and other direct or indirect interests in real estate or
38 investments secured by real estate, capital stocks, common stocks,
39 preferred stocks, diversified pools of venture capital which otherwise
40 could be made consistent with the standard of care required by
41 subsection a. of this section, common trust funds as defined in and
42 regulated by article 9, Common Trust Funds, P.L.1948, c.67
43 (C.17:9A-36 et seq.), repurchase agreements, securities loan
44 transactions secured by cash, securities issued by the United States
45 government or its agencies, irrevocable bank letters of credit, whether
46 directly or through a bank or similar financial institution acting as

1 agent or trustee, mutual funds, and any other security issued by an
 2 investment company or investment trust, whether managed or not by
 3 third parties, registered under the "Investment Company Act of 1940,"
 4 15 U.S.C. §80a-1 et seq., as from time to time amended. No investment
 5 that is otherwise permissible under this subsection shall be considered
 6 to be unlawful solely because the investment is made indirectly
 7 through a partnership, trust, or other legal entity.

8 d. Notwithstanding any provision of this section to the contrary,
 9 and with the exception of sections 1 through 12 of the "Prudent
 10 Investor Act," P.L. , c. (c.) (pending before the Legislature as
 11 this bill), all other limitations and conditions applicable to investments
 12 by fiduciaries of trust estates in this State shall apply to the investment
 13 and management of funds in the custody of the State Treasurer.

14 e. The provisions of this section shall apply to the investment and
 15 management of all funds in the custody of the State Treasurer, unless
 16 otherwise provided by law.

17 (cf: P.L.1972, c.176, s.1)

18
 19 26. The following are repealed:

20 N.J.S.3B:20-2;

21 N.J.S.3B:20-6;

22 N.J.S.3B:20-11 through N.J.S.3B:20-17 inclusive;

23 N.J.S.3B:20-20; and

24 N.J.S.3B:20-24.

25
 26 27. This act shall take effect 90 days after enactment.

27 28 29 STATEMENT

30
 31 This bill repeals existing law, N.J.S.3B:20-12 through 17,
 32 commonly known as the "prudent man rule" and, in its place,
 33 establishes a new prudent investor rule for fiduciaries in New Jersey.
 34 The bill incorporates many of the provisions of the Uniform Prudent
 35 Investor Act recently adopted by the National Conference of
 36 Commissioners on Uniform State Laws which, in turn, drew upon the
 37 revised standards for prudent trust investment stated in the
 38 Restatement (Third) of Trusts: Prudent Investor Rule (1992).

39 Fiduciaries must follow the investment standard set forth in their
 40 governing instrument, such as a will, deed, agreement or court order
 41 pursuant to which money or other property is entrusted to a fiduciary.
 42 If no standards are specified, the bill requires that the fiduciary comply
 43 with the new prudent investor rule. The bill's definition of "fiduciary"
 44 includes executors, trustees, guardians, conservators and "every other
 45 individual or corporation charged with the duty of administering a
 46 trust estate."

1 The bill changes substantially the criteria for prudent investing by
2 fiduciaries. The bill requires a fiduciary to invest trust assets as a
3 prudent investor would, by considering the purposes, terms,
4 distribution requirements, and other circumstances of the trust, and
5 requires the fiduciary to exercise reasonable care, skill and caution.
6 The bill incorporates the "modern portfolio theory" approach, by
7 requiring a fiduciary to apply the prudent investor rule to the trust
8 portfolio as a whole rather than to each individual trust investment.
9 A fiduciary may invest in any kind of property or type of investment;
10 no specific investment or course of action is per se imprudent, so long
11 as such investment or course of action is consistent with an overall
12 investment strategy having risk and return objectives reasonably suited
13 to the trust estate. Specific circumstances that a fiduciary should
14 consider are set forth in the bill, but the list is not intended to be
15 exclusive. Investments that could be made by fiduciaries under the bill
16 include, but are not limited to, real estate, mortgages, repurchase
17 agreements, mutual funds, and diversified pools of venture capital.

18 The bill requires a fiduciary to diversify the investments of the trust
19 unless it is reasonably determined that, because of special
20 circumstances, the purposes of the trust are better served without
21 diversification.

22 The new prudent investor rule imposes a standard of conduct, not
23 of performance or outcome. Compliance by a fiduciary is determined
24 in light of the facts and circumstances existing at the time of the
25 fiduciary's decision or action.

26 The second major revision to current law made by the bill concerns
27 delegation of investment responsibility. The bill allows a fiduciary to
28 delegate investment and management functions that a prudent fiduciary
29 of comparable skills could properly delegate under the circumstances.

30 A fiduciary that exercises reasonable care, skill and caution in
31 selecting an investment agent, establishing the scope and terms of the
32 delegated function, and periodically monitoring the agent's
33 performance and compliance with the scope and terms of the
34 delegation shall not be liable to the beneficiaries or to the trust for the
35 agent's decisions or actions. The agent to whom a fiduciary has
36 delegated investment responsibility owes to the trustee and to the
37 beneficiaries the same duties as the fiduciary and shall be held to the
38 same standards as the fiduciary. The bill makes the agent subject to
39 the jurisdiction of the courts of New Jersey, even if the agent
40 delegation agreement provides otherwise. The bill requires the
41 fiduciary to give the income beneficiaries advance notice of any
42 intended delegation.

43 In investing and managing trust assets, the bill requires that a
44 fiduciary incur only those costs that are appropriate and reasonable in
45 relation to the assets, the trust purposes and the skills of the fiduciary.
46 To protect the beneficiaries, where the fiduciary has delegated

1 investment responsibility the bill requires a reduction in the fiduciary's
2 compensation to reflect the fiduciary's lessened responsibilities.

3 In addition, the bill amends section 38 of P.L.1948, c.67 (N.J.S.
4 17:9a-38) to make the new prudent investor rule applicable to the
5 investments of common trust funds maintained by New Jersey banks.

6 The bill also amends section 1 of P.L.1959, c.17 (C.52:18A-88.1)
7 to provide that the Director of the Division of Investment shall not be
8 subject to the fiduciary standards of the new "Prudent Investor Act,"
9 and to keep the director subject to fiduciary standards identical to the
10 standards of the current "Prudent Investment Law" (N.J.S.A.3B:20-12
11 et seq.) when the director invests and manages funds in the custody of
12 the State Treasurer.

13

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15

16

17 Concerns the investment and management of certain trust estates by
18 fiduciaries and of certain funds by the Director of the Division of
19 Investment.