

§7-403. Fiduciary duties; general principles

1. Allocating receipts and disbursements. In allocating receipts and disbursements to or between principal and income and with respect to any matter within the scope of subparts 2 and 3, a fiduciary:

A. Shall administer a trust or estate in accordance with the terms of the trust or the will, even if there is a different provision in this Part; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. May administer a trust or estate by the exercise of a discretionary power of administration given to the fiduciary by the terms of the trust or the will, even if the exercise of the power produces a result different from a result required or permitted by this Part; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Shall administer a trust or estate in accordance with this Part if the terms of the trust or the will do not contain a different provision or do not give the fiduciary a discretionary power of administration; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. Shall add a receipt or charge a disbursement to principal to the extent that the terms of the trust and this Part do not provide a method for allocating the receipt or disbursement to or between principal and income. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Fair and reasonable administration. In exercising the power to adjust under section 7-404, subsection 1 or a discretionary power of administration regarding a matter within the scope of this Part, whether granted by the terms of a trust, a will or this Part, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an intention that the fiduciary favor or that the fiduciary may favor one or more of the beneficiaries. A determination in accordance with this Part is presumed to be fair and reasonable to all of the beneficiaries.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

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