

## APPENDIX B

### List of States with Provisions for Trust-Owned Life Insurance

The following states have enacted laws that effectively reduce or eliminate the local Prudent Investor Rule as it applies to trust-owned life insurance:

Alabama: a trustee “may retain any life insurance policy contributed to a trust by a settlor, or purchased by the trustee upon the request of the settlor . . . without regard to any lack of diversification caused thereby.” ALA. CODE § 19-3B-818 (LexisNexis 2012).

Arizona: a trustee “may acquire or retain a contract of life insurance on the life of the settlor or the settlor’s spouse, or both, without liability for a loss arising from the trustee’s failure to. . . Diversify the contract.” ARIZ. REV. STAT. § 14-10908 (LexisNexis 2012).

Delaware enacted its own version of the prudent investor rule prior to the UPIA. The state allows a trustee to “acquire or retain a contract of life insurance upon the life of the trustor or the trustor’s spouse, or both, without liability for a loss arising from the trustee’s failure to.... Make a determination of whether to diversify such contracts.” DEL. CODE. ANN. tit. 12 § 3302 (2012).

Florida: if the trust instrument so directs, “with respect to any contract for life insurance acquired or retained on the life of a qualified person, a trustee has no duty to.... Diversify any such contract for life insurance or the assets of the trust with respect to the contract for life insurance.” FLA. STAT. ANN. § 736.0902 (LexisNexis 2012).

Maryland: a trustee may acquire, retain, or own a life insurance contract, subject to the “duty of loyalty and fair dealing” but not a duty to diversify. MD. CODE ANN. EST. & TRUSTS § 15-114 (LexisNexis 2012).

North Carolina: “the duties of a trustee with respect to acquiring or retaining a contract of insurance upon the life of the settlor, or the lives of the settlor and the settlor’s spouse, do not include a duty...to diversify any such contract.” N.C. GEN. STAT. § 36C-9-903.1 (2012).

Ohio: “the duties of a trustee with respect to the acquisition, retention, or ownership of a life insurance policy as a trust asset do not include any of the following duties... to diversify the investment in the policy relative to any other life insurance policies or to any other trust assets.” OHIO REV. CODE ANN. § 5809.031 (LexisNexis 2012).

Pennsylvania: a trustee “may acquire or retain a contract of life insurance upon the life of the settlor or the settlor’s spouse, or both, without liability for a loss arising from the trustee’s failure to...diversify the contract.” 20 PA. CONS. STAT. § 7208 (2012).

South Carolina: “the duties of a trustee with respect to acquiring a contract of insurance upon the life of the trustor or upon the lives of the trustor and the trustor’s spouse, children, or parents do not include a duty to...diversify the contract.” S.C. CODE ANN. § 62-7-933(J).

South Dakota: “Unless otherwise directed by the terms of the trust instrument or court order, no trustee of an irrevocable trust, with respect to acquiring, retaining, or disposing of a contract of insurance or holding one or more insurance contracts upon the life of the settlor, or the lives of the settlor and the settlor’s spouse, has the following duties.... To make a determination of whether to diversify any such contract relative to one another or to other assets, if any, administered by the trustee.” S.D. CODIFIED LAWS § 55-5-17 (2012).

Tennessee: “the duties of a trustee regarding the acquisition, retention or ownership of a contract of insurance on the life of the grantor of the trust, or on the lives of the grantor and the grantor’s spouse, children, grandchildren, or parents, do not include a duty to.... Diversify the investment.” TENN. CODE ANN. § 35-14-105.

Virginia: “A trustee may hold any policies of life insurance acquired by gift or pursuant to an express permission or direction in the governing instrument... with no duty or need to... dispose of such policy in order to diversify the investments of the trust.” VA. CODE ANN. § 26-45.4(G) (2012).

West Virginia: “Unless otherwise directed by the terms of the trust instrument, the duties of a trustee of an irrevocable life insurance trust with respect to acquiring or retaining a contract of insurance upon the life of the grantor, or the lives of the grantor and the grantor’s spouse, do not include a duty.... To diversify the contract.” W. VA. CODE ANN. § 44-6C-2(g) (LexisNexis 2012).

Wyoming: a trustee “may acquire or retain a life insurance contract upon the life of the settlor or the settlor’s spouse, or both, without liability for a loss arising from the trustee’s failure to perform any of the following duties, unless the trust instrument states or limits otherwise.... Make a determination of whether to diversify the contracts relative to one another or to other assets, if any, administered by the trustee.” WYO. STAT. ANN. § 4-10-902(g) (2012).