

1 ENGROSSED HOUSE  
2 BILL NO. 1596

By: Duncan of the House

and

Coffee of the Senate

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6  
7 An Act relating to property; creating the Uniform  
8 Prudent Management of Institutional Funds Act;  
9 providing short title; defining terms; establishing  
10 standards of conduct for management and investing of  
11 institutional funds; providing authority for  
12 appropriating for expenditure or accumulation of  
13 endowment fund; establishing rules of construction;  
14 authorizing delegation of management and investment  
15 functions; providing standard of care for certain  
16 functions; providing for release or modification of  
17 certain restrictions; providing notification  
18 requirements; providing standard for review of  
19 compliance; providing applicability to existing  
20 institutional funds; providing relationship to  
21 certain federal act; providing for uniformity of  
22 application and construction; amending 60 O.S. 2001,  
23 Sections 301.3, 301.5 and 301.7, which relate to the  
24 Oklahoma Charitable Fiduciary Act; modifying  
25 definitions; modifying references to certain act;  
26 repealing 60 O.S. 2001, Sections 300.1, 300.2, 300.3,  
27 300.4, 300.5, 300.6, 300.7, 300.8, 300.9 and 300.10,  
28 which relate to the Uniform Management of  
29 Institutional Endowment Funds Act; providing for  
30 codification; and providing an effective date.

31 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

32 SECTION 1. NEW LAW A new section of law to be codified  
33 in the Oklahoma Statutes as Section 300.11 of Title 60, unless there  
34 is created a duplication in numbering, reads as follows:

1       SHORT TITLE. Sections 1 through 10 of this act shall be known  
2 and may be cited as the "Uniform Prudent Management of Institutional  
3 Funds Act."

4       SECTION 2.       NEW LAW       A new section of law to be codified  
5 in the Oklahoma Statutes as Section 300.12 of Title 60, unless there  
6 is created a duplication in numbering, reads as follows:

7       DEFINITIONS. In the Uniform Prudent Management of Institutional  
8 Funds Act:

9       (1) "Charitable purpose" means the relief of poverty, the  
10 advancement of education or religion, the promotion of health, the  
11 promotion of a governmental purpose, or any other purpose the  
12 achievement of which is beneficial to the community.

13       (2) "Endowment fund" means an institutional fund or part  
14 thereof that, under the terms of a gift instrument, is not wholly  
15 expendable by the institution on a current basis. The term does not  
16 include assets that an institution designates as an endowment fund  
17 for its own use.

18       (3) "Gift instrument" means a record or records, including an  
19 institutional solicitation, under which property is granted to,  
20 transferred to, or held by an institution as an institutional fund.

21       (4) "Institution" means:

22               (A) a person, other than an individual, organized and  
23               operated exclusively for charitable purposes;

24

1 (B) a government or governmental subdivision, agency, or  
2 instrumentality, to the extent that it holds funds  
3 exclusively for a charitable purpose; or

4 (C) a trust that has both charitable and noncharitable  
5 interests, after all noncharitable interests have  
6 terminated.

7 (5) "Institutional fund" means a fund held by an institution  
8 exclusively for charitable purposes. The term does not include:

9 (A) program-related assets;

10 (B) a fund held for an institution by a trustee that is  
11 not an institution; or

12 (C) a fund in which a beneficiary that is not an  
13 institution has an interest, other than an interest  
14 that could arise upon violation or failure of the  
15 purposes of the fund.

16 (6) "Person" means an individual, corporation, business trust,  
17 estate, trust, partnership, limited liability company, association,  
18 joint venture, public corporation, government or governmental  
19 subdivision, agency, or instrumentality, or any other legal or  
20 commercial entity.

21 (7) "Program-related asset" means an asset held by an  
22 institution primarily to accomplish a charitable purpose of the  
23 institution and not primarily for investment.

1 (8) "Record" means information that is inscribed on a tangible  
2 medium or that is stored in an electronic or other medium and is  
3 retrievable in perceivable form.

4 SECTION 3. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 300.13 of Title 60, unless there  
6 is created a duplication in numbering, reads as follows:

7 STANDARD OF CONDUCT IN MANAGING AND INVESTING INSTITUTIONAL  
8 FUND.

9 (a) Subject to the intent of a donor expressed in a gift  
10 instrument, an institution, in managing and investing an  
11 institutional fund, shall consider the charitable purposes of the  
12 institution and the purposes of the institutional fund.

13 (b) In addition to complying with the duty of loyalty imposed  
14 by law other than the Uniform Prudent Management of Institutional  
15 Funds Act, each person responsible for managing and investing an  
16 institutional fund shall manage and invest the fund in good faith  
17 and with the care an ordinarily prudent person in a like position  
18 would exercise under similar circumstances.

19 (c) In managing and investing an institutional fund, an  
20 institution:

21 (1) may incur only costs that are appropriate and reasonable in  
22 relation to the assets, the purposes of the institution, and the  
23 skills available to the institution; and

24

1 (2) shall make a reasonable effort to verify facts relevant to  
2 the management and investment of the fund.

3 (d) An institution may pool two or more institutional funds for  
4 purposes of management and investment.

5 (e) Except as otherwise provided by a gift instrument, the  
6 following rules apply:

7 (1) In managing and investing an institutional fund, the  
8 following factors, if relevant, must be considered:

9 (A) general economic conditions;

10 (B) the possible effect of inflation or deflation;

11 (C) the expected tax consequences, if any, of investment  
12 decisions or strategies;

13 (D) the role that each investment or course of action  
14 plays within the overall investment portfolio of the  
15 fund;

16 (E) the expected total return from income and the  
17 appreciation of investments;

18 (F) other resources of the institution;

19 (G) the needs of the institution and the fund to make  
20 distributions and to preserve capital; and

21 (H) an asset's special relationship or special value, if  
22 any, to the charitable purposes of the institution.

23 (2) Management and investment decisions about an individual  
24 asset must be made not in isolation but rather in the context of the

1 institutional fund's portfolio of investments as a whole and as a  
2 part of an overall investment strategy having risk and return  
3 objectives reasonably suited to the fund and to the institution.

4 (3) Except as otherwise provided by law other than the Uniform  
5 Prudent Management of Institutional Funds Act, an institution may  
6 invest in any kind of property or type of investment consistent with  
7 this section.

8 (4) An institution shall diversify the investments of an  
9 institutional fund unless the institution reasonably determines  
10 that, because of special circumstances, the purposes of the fund are  
11 better served without diversification.

12 (5) Within a reasonable time after receiving property, an  
13 institution shall make and carry out decisions concerning the  
14 retention or disposition of the property or to rebalance a  
15 portfolio, in order to bring the institutional fund into compliance  
16 with the purposes, terms, and distribution requirements of the  
17 institution as necessary to meet other circumstances of the  
18 institution and the requirements of the Uniform Prudent Management  
19 of Institutional Funds Act.

20 (6) A person that has special skills or expertise, or is  
21 selected in reliance upon the person's representation that the  
22 person has special skills or expertise, has a duty to use those  
23 skills or that expertise in managing and investing institutional  
24 funds.

1           SECTION 4.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 300.14 of Title 60, unless there  
3 is created a duplication in numbering, reads as follows:

4           APPROPRIATION FOR EXPENDITURE OR ACCUMULATION OF ENDOWMENT FUND;  
5 RULES OF CONSTRUCTION.

6           (a) Subject to the intent of a donor expressed in the gift  
7 instrument, an institution may appropriate for expenditure or  
8 accumulate so much of an endowment fund as the institution  
9 determines is prudent for the uses, benefits, purposes, and duration  
10 for which the endowment fund is established. Unless stated  
11 otherwise in the gift instrument, the assets in an endowment fund  
12 are donor-restricted assets until appropriated for expenditure by  
13 the institution. In making a determination to appropriate or  
14 accumulate, the institution shall act in good faith, with the care  
15 that an ordinarily prudent person in a like position would exercise  
16 under similar circumstances, and shall consider, if relevant, the  
17 following factors:

18           (1) the duration and preservation of the endowment fund;

19           (2) the purposes of the institution and the endowment fund;

20           (3) general economic conditions;

21           (4) the possible effect of inflation or deflation;

22           (5) the expected total return from income and the appreciation  
23 of investments;

24           (6) other resources of the institution; and

1 (7) the investment policy of the institution.

2 (b) To limit the authority to appropriate for expenditure or  
3 accumulate under subsection (a), a gift instrument must specifically  
4 state the limitation.

5 (c) Terms in a gift instrument designating a gift as an  
6 endowment, or a direction or authorization in the gift instrument to  
7 use only "income", "interest", "dividends", or "rents, issues, or  
8 profits", or "to preserve the principal intact", or words of similar  
9 import:

10 (1) create an endowment fund of permanent duration unless other  
11 language in the gift instrument limits the duration or purpose of  
12 the fund; and

13 (2) do not otherwise limit the authority to appropriate for  
14 expenditure or accumulate under subsection (a) of this section.

15 SECTION 5. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 300.15 of Title 60, unless there  
17 is created a duplication in numbering, reads as follows:

18 DELEGATION OF MANAGEMENT AND INVESTMENT FUNCTIONS.

19 (a) Subject to any specific limitation set forth in a gift  
20 instrument or in law other than the Uniform Prudent Management of  
21 Institutional Funds Act, an institution may delegate to an external  
22 agent the management and investment of an institutional fund to the  
23 extent that an institution could prudently delegate under the  
24 circumstances. An institution shall act in good faith, with the

1 care that an ordinarily prudent person in a like position would  
2 exercise under similar circumstances, in:

3 (1) Selecting an agent;

4 (2) Establishing the scope and terms of the delegation,  
5 consistent with the purposes of the institution and the  
6 institutional fund; and

7 (3) Periodically reviewing the agent's actions in order to  
8 monitor the agent's performance and compliance with the scope and  
9 terms of the delegation.

10 (b) In performing a delegated function, an agent owes a duty to  
11 the institution to exercise reasonable care to comply with the scope  
12 and terms of the delegation.

13 (c) An institution that complies with subsection (a) of this  
14 section is not liable for the decisions or actions of an agent to  
15 which the function was delegated.

16 (d) By accepting delegation of a management or investment  
17 function from an institution that is subject to the laws of this  
18 state, an agent submits to the jurisdiction of the courts of this  
19 state in all proceedings arising from or related to the delegation  
20 or the performance of the delegated function.

21 (e) An institution may delegate management and investment  
22 functions to its committees, officers, or employees as authorized by  
23 law of this state other than the Uniform Prudent Management of  
24 Institutional Funds Act.

1 SECTION 6. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 300.16 of Title 60, unless there  
3 is created a duplication in numbering, reads as follows:

4 RELEASE OR MODIFICATION OF RESTRICTIONS ON MANAGEMENT,  
5 INVESTMENT, OR PURPOSE.

6 (a) If the donor consents in a record, an institution may  
7 release or modify, in whole or in part, a restriction contained in a  
8 gift instrument on the management, investment, or purpose of an  
9 institutional fund. A release or modification may not allow a fund  
10 to be used for a purpose other than a charitable purpose of the  
11 institution.

12 (b) The court, upon application of an institution, may modify a  
13 restriction contained in a gift instrument regarding the management  
14 or investment of an institutional fund if the restriction has become  
15 impracticable or wasteful, if it impairs the management or  
16 investment of the fund, or if, because of circumstances not  
17 anticipated by the donor, a modification of a restriction will  
18 further the purposes of the fund. The institution shall notify the  
19 Attorney General of the application, and the Attorney General must  
20 be given an opportunity to be heard. To the extent practicable, any  
21 modification must be made in accordance with the donor's probable  
22 intention.

23 (c) If a particular charitable purpose or a restriction  
24 contained in a gift instrument on the use of an institutional fund

1 becomes unlawful, impracticable, impossible to achieve, or wasteful,  
2 the court, upon application of an institution, may modify the  
3 purpose of the fund or the restriction on the use of the fund in a  
4 manner consistent with the charitable purposes expressed in the gift  
5 instrument. The institution shall notify the Attorney General of  
6 the application, and the Attorney General must be given an  
7 opportunity to be heard.

8 (d) If an institution determines that a restriction contained  
9 in a gift instrument on the management, investment, or purpose of an  
10 institutional fund is unlawful, impracticable, impossible to  
11 achieve, or wasteful, the institution, sixty (60) days after  
12 notification to the Attorney General, may release or modify the  
13 restriction, in whole or part, if:

14 (1) The institutional fund subject to the restriction has a  
15 total value of less than Twenty-five Thousand Dollars (\$25,000.00);

16 (2) More than twenty (20) years have elapsed since the fund was  
17 established; and

18 (3) The institution uses the property in a manner consistent  
19 with the charitable purposes expressed in the gift instrument.

20 SECTION 7. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 300.17 of Title 60, unless there  
22 is created a duplication in numbering, reads as follows:

23 REVIEWING COMPLIANCE. Compliance with the Uniform Prudent  
24 Management of Institutional Funds Act is determined in light of the

1 facts and circumstances existing at the time a decision is made or  
2 action is taken, and not by hindsight.

3 SECTION 8. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 300.18 of Title 60, unless there  
5 is created a duplication in numbering, reads as follows:

6 APPLICATION TO EXISTING INSTITUTIONAL FUNDS. The Uniform  
7 Prudent Management of Institutional Funds Act applies to  
8 institutional funds existing on or established after November 1,  
9 2007. As applied to institutional funds existing on November 1,  
10 2007, the Uniform Prudent Management of Institutional Funds Act  
11 governs only decisions made or actions taken on or after that date.

12 SECTION 9. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 300.19 of Title 60, unless there  
14 is created a duplication in numbering, reads as follows:

15 RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL  
16 COMMERCE ACT. The Uniform Prudent Management of Institutional Funds  
17 Act modifies, limits, and supersedes the Electronic Signatures in  
18 Global and National Commerce Act, 15 U.S.C. Section 7001 et seq.,  
19 but does not modify, limit, or supersede Section 101 of that act, 15  
20 U.S.C. Section 7001(a), or authorize electronic delivery of any of  
21 the notices described in Section 103 of that act, 15 U.S.C. Section  
22 7003 (b) .

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1 SECTION 10. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 300.20 of Title 60, unless there  
3 is created a duplication in numbering, reads as follows:

4 UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and  
5 construing the Uniform Prudent Management of Institutional Funds  
6 Act, consideration must be given to the need to promote uniformity  
7 of the law with respect to its subject matter among states that  
8 enact it.

9 SECTION 11. AMENDATORY 60 O.S. 2001, Section 301.3, is  
10 amended to read as follows:

11 Section 301.3 As used in ~~this act~~ the Oklahoma Charitable  
12 Fiduciary Act:

13 1. "Charitable organization" means an incorporated or  
14 unincorporated organization:

- 15 a. domiciled in the State of Oklahoma,
- 16 b. recognized under Section 501(c)(3) of the Internal  
17 Revenue Code as being organized and operated  
18 exclusively for charitable, religious, educational, or  
19 other eleemosynary purposes,
- 20 c. which has been in existence for at least five (5)  
21 years if the organization administers charitable  
22 trusts which benefit private individuals,
- 23 d. having a governing board of which a majority of its  
24 members are persons who are qualified by education or

1 experience to provide direction of the charitable  
2 organization in the administration of its charitable  
3 trusts,

4 e. having a governing board of which at least forty  
5 percent (40%) of its members are residents of the  
6 State of Oklahoma, provided that upon proper  
7 application the Attorney General may waive this  
8 requirement, and

9 f. which has filed the comprehensive annual audit  
10 required by Section ~~10~~ 301.9 of this ~~act~~ title;

11 2. "Charitable trust" means:

12 a. a trust which qualifies as a charitable remainder  
13 unitrust under the Internal Revenue Code,

14 b. a trust which qualifies as a charitable remainder  
15 annuity trust under the Internal Revenue Code,

16 c. a trust which is described as a charitable lead trust  
17 in the Internal Revenue Code,

18 d. a fund which qualifies as a pooled income fund under  
19 the Internal Revenue Code,

20 e. an ~~institutional~~ endowment fund as that term is  
21 defined in the ~~Oklahoma~~ Uniform Prudent Management of  
22 Institutional ~~Endowment~~ Funds Act,

23 f. a trust providing for the welfare, maintenance,  
24 support, and education of minor issue of a decedent

1 who has made a gift in the document creating the trust  
2 for the benefit of the minor issue to the charitable  
3 organization administering the trust or one or more of  
4 its affiliated charitable organizations at the  
5 decedent's death and the total of all gifts made to  
6 the charitable organization administering the trust or  
7 one or more of its affiliated charitable organizations  
8 at the decedent's death is as large as the largest  
9 distribution made to another person who is not a  
10 charitable organization, but in no event shall the  
11 total of all gifts made to the charitable organization  
12 administering the trust or one or more of its  
13 affiliated charitable organizations be less than  
14 twenty-five percent (25%) of the property which is  
15 available for distribution, or

16 g. any other irrevocable or revocable trust in which:

- 17 (1) one or more gifts of either trust income or  
18 principal, whether outright or in trust, are  
19 irrevocably made to or for the benefit of a  
20 charitable organization,  
21 (2) if the irrevocable gift is of income or principal  
22 which is distributed before the termination of  
23 the trust, the total of all such irrevocable  
24 gifts of income or principal made to the

1 charitable organization administering the trust  
2 or one or more of its affiliated charitable  
3 organizations is as large as the largest  
4 distribution to another beneficiary entitled to  
5 receive distributions of income or principal from  
6 the trust before the termination of the trust who  
7 is not the charitable organization administering  
8 the trust or an affiliated charitable  
9 organization, but in no event shall the total of  
10 all such irrevocable gifts of income or principal  
11 made to the charitable organization administering  
12 the trust or one or more of its affiliated  
13 charitable organizations before the termination  
14 of the trust be less than twenty-five percent  
15 (25%) of the income or principal available for  
16 distribution from the trust,

17 (3) if the irrevocable gift is of the remainder of  
18 the trust which is distributed upon the  
19 termination of the trust, the total of all  
20 irrevocable gifts of the remainder of the trust  
21 made to the charitable organization administering  
22 the trust or one or more of its affiliated  
23 charitable organizations is as large as the  
24 largest distribution made to another remainderman

1 who is not the charitable organization  
2 administering the trust or an affiliated  
3 charitable organization, but in no event shall  
4 the total of all irrevocable gifts of the  
5 remainder of the trust made to the charitable  
6 organization administering the trust or one or  
7 more of its affiliated charitable organizations  
8 be less than twenty-five percent (25%) of the  
9 remainder of the trust which is available for  
10 distribution at the termination of the trust, and

11 (4) if distributions of income from the trust are  
12 made to beneficiaries who are not charitable  
13 organizations, such distributions are in an  
14 amount specified by the donor in the governing  
15 instrument, or, if not in an amount specified by  
16 the donor in the governing instrument, are in an  
17 amount not less than five percent (5%) of the  
18 value of the principal of the trust determined  
19 annually, reduced by distributions of current  
20 income from the trust to charitable  
21 organizations, if any; and

22 3. "Affiliated charitable organization" means another  
23 charitable organization which directly or indirectly controls or is  
24

1 under direct or indirect common control with the charitable  
2 organization acting in a fiduciary capacity.

3 SECTION 12. AMENDATORY 60 O.S. 2001, Section 301.5, is  
4 amended to read as follows:

5 Section 301.5 In addition to the powers conferred on  
6 fiduciaries by the Oklahoma Trust Act, the ~~Oklahoma~~ Uniform Prudent  
7 Management of Institutional ~~Endowment~~ Funds Act, and the Oklahoma  
8 Uniform Prudent Investor Act, all charitable organizations acting as  
9 trustees of charitable trusts shall expressly be permitted to  
10 exercise the following powers:

11 1. To limit the investment of property received in trust to  
12 investments in real or personal property; securities including  
13 bonds, stocks, all kinds of negotiable and nonnegotiable paper; and  
14 other investment instruments, which are consistent with the  
15 charitable, religious, educational, or other eleemosynary purposes  
16 of the charitable organization;

17 2. To make distributions from an institutional endowment fund  
18 as that term is defined in the ~~Oklahoma~~ Uniform Prudent Management  
19 of Institutional ~~Endowment~~ Funds Act in a manner that will provide a  
20 consistent source of funds to charitable organizations benefited by  
21 such charitable trusts;

22 3. For assets held in an institutional endowment fund as that  
23 term is defined in the ~~Oklahoma~~ Uniform Prudent Management of  
24 Institutional ~~Endowment~~ Funds Act, to invest in loans of money upon

1 adequate collateral security to affiliated charitable organizations  
2 provided that the charitable organization serving in a fiduciary  
3 capacity conforms to the standard for care set forth in the document  
4 creating the trust or, in the absence of a standard of care in the  
5 document creating the trust, to the standard of care for fiduciaries  
6 as set forth in the Oklahoma Trust Code, the ~~Oklahoma~~ Uniform  
7 Prudent Management of Institutional Endowment Funds Act, and the  
8 Oklahoma Uniform Prudent Investor Act, and provided further that the  
9 loan furthers the charitable, religious, educational and other  
10 eleemosynary purposes of the affiliated charitable organization;

11 4. To recover costs and expenses to include a reasonable charge  
12 for administrative overhead incurred in administering charitable  
13 trusts to include costs incurred for investment counselors, advisors  
14 and agents; and

15 5. To delegate the investment of assets of charitable trusts  
16 and the administration of charitable trusts to state banks in  
17 Oklahoma having trust powers, national banking associations having  
18 trust powers, and trust companies having trust powers.

19 SECTION 13. AMENDATORY 60 O.S. 2001, Section 301.7, is  
20 amended to read as follows:

21 Section 301.7 A. Definitions. For purposes of this section:

22 1. "Common charitable trust fund" means a fund composed of  
23 assets from two or more charitable trusts and other charitable  
24 assets which are pooled for investment;

1        2. "Other charitable assets" means assets owned by an  
2 affiliated charitable organization or assets contributed to the  
3 charitable organization administering the common charitable trust  
4 fund in exchange for the issuance of charitable gift annuity  
5 contracts; and

6        3. "Affiliated charitable organization" means another  
7 charitable organization which directly or indirectly controls or is  
8 under direct or indirect common control with the charitable  
9 organization administering a common charitable trust fund.

10        B. Powers. Any charitable organization acting as a trustee of  
11 charitable trusts in this state may:

12        1. Establish one or more common charitable trust funds for the  
13 exclusive purpose of furnishing investments to itself as fiduciary,  
14 to itself and others as cofiduciaries, or to affiliated charitable  
15 organizations;

16        2. Invest funds which it holds for investment in such common  
17 charitable trust funds, unless:

18            a. the investment is prohibited by the instrument,  
19                judgment, decree, or order creating the fiduciary  
20                relationship,

21            b. consent to investment in the common charitable trust  
22                fund is intentionally withheld in writing by a  
23                cofiduciary, or

24

1           c.    a cofiduciary that is not a charitable organization  
2                    has the right to direct the management of the common  
3                    charitable trust fund; and

4           3.    Employ and delegate to investment advisors, investment  
5   counselors, state banks in Oklahoma having trust powers, national  
6   banking associations having trust powers, and trust companies having  
7   trust powers the discretion to make specific investment decisions  
8   provided that the charitable organization shall at all times  
9   maintain ultimate control of the management of the common charitable  
10   trust fund.

11           C.    Common charitable trust fund investments.

12           1.    A charitable organization administering a common charitable  
13   trust fund shall not commingle its administrative and operating  
14   funds with its common charitable trust funds but may place its  
15   endowment and funds its governing board has designated as endowment  
16   in its common charitable trust funds.

17           2.    Each charitable trust and each other charitable asset shall  
18   be deemed to own a proportionate share of each asset of the common  
19   charitable trust fund.

20           3.    In determining whether the investment in the common  
21   charitable trust fund by the charitable trust is a proper investment  
22   for assets held by a fiduciary, the charitable organization acting  
23   as fiduciary may consider the common charitable trust fund as a  
24   whole and shall not be prohibited from making the investment if any

1 one or more of the assets of the common charitable trust fund are  
2 nonincome producing or might not otherwise be considered proper  
3 investments for a fiduciary account.

4 4. The charitable organization administering a common  
5 charitable trust fund may limit investments in its common charitable  
6 trust funds to investments which are compatible with or further the  
7 charitable, religious, educational, or other eleemosynary purposes  
8 of the charitable organization administering the common charitable  
9 trust fund.

10 5. The charitable organization administering a common  
11 charitable trust fund consisting solely of assets held in an  
12 ~~institutional~~ endowment fund, as that term is defined in the  
13 ~~Oklahoma~~ Uniform Prudent Management of Institutional ~~Endowment~~ Funds  
14 Act, may invest such assets in loans upon adequate collateral  
15 security to an affiliated charitable organization provided that the  
16 charitable organization administering the common charitable trust  
17 fund conforms to the standard for care set forth in the documents  
18 creating the trusts or, in the absence of a standard of care in the  
19 documents creating the trusts, to the standard of care for  
20 fiduciaries as set forth in the Oklahoma Trust Code, the ~~Oklahoma~~  
21 Uniform Prudent Management of Institutional ~~Endowment~~ Funds Act, and  
22 the Oklahoma Uniform Prudent Investor Act, and provided further that  
23 the loan furthers the charitable, religious, educational and other  
24 eleemosynary purposes of the affiliated charitable organization.

1           6. In selecting investments and when making investment  
2 decisions pursuant to this subsection, the charitable organization  
3 shall be bound by the provisions of ~~this act~~ the Oklahoma Charitable  
4 Fiduciary Act, the Oklahoma Trust Act, the ~~Oklahoma~~ Uniform Prudent  
5 Management of Institutional Endowment Funds Act, and the Oklahoma  
6 Uniform Prudent Investor Act, unless otherwise provided by law.

7           7. Nothing in this subsection shall diminish the standard of  
8 care of a fiduciary of charitable trust funds or institutional  
9 endowment funds.

10           D. Reporting.

11           1. The charitable organization administering a common  
12 charitable trust fund shall keep records which shall at all times  
13 show all necessary and proper matters related to the administration  
14 of the common charitable trust fund to include the proportionate  
15 interest in the common charitable trust fund of each trust or  
16 investment account of an affiliated charitable organization.

17           2. Within one hundred twenty (120) days following the end of  
18 the common charitable trust fund's fiscal year, the charitable  
19 organization administering a common charitable trust fund shall make  
20 a report of the condition of the common charitable trust fund. This  
21 report shall include, as of the date of the report, a list of the  
22 investments comprising the common charitable trust fund and the  
23 value placed on each investment on such list by the charitable  
24 organization. The report shall also include a statement of income

1 and disbursements since the last report and appropriate comments as  
2 to any investment in default as to payment of principal or interest.  
3 The reasonable expenses of preparing the report may be charged to  
4 the common charitable trust fund.

5 3. The charitable organization shall send a copy of the latest  
6 report required by this subsection annually to each person to whom a  
7 regular periodic accounting of the trusts or other charitable assets  
8 participating in the common charitable trust fund ordinarily would  
9 be rendered, or shall advise each such person annually that the  
10 report is available and that a copy will be furnished without charge  
11 upon request.

12 E. Recovery of costs. The charitable organization  
13 administering a common charitable trust fund may recover its costs  
14 of administration of the common charitable trust fund to include a  
15 reasonable charge for administrative overhead and the fees and costs  
16 of investment advisors, counselors and agents.

17 F. Accounting to court. Unless ordered by a court of competent  
18 jurisdiction, the charitable organization administering common  
19 charitable trust funds is not required to render an accounting to  
20 the court with regard to such funds. The charitable organization  
21 administering a common charitable trust fund may, by application to  
22 the district court, secure approval of such an accounting after such  
23 notice, and on such conditions as the court may establish.

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