

§ 36C-8A-2. Powers of a power holder.

(a) The terms of a trust may confer upon a power holder a power to direct or consent to a duty that would normally be required of a trustee, including, but not limited to, a power to direct or consent to the following:

- (1) Investments, including any action relating to investment of all or any one or more of the trust assets that a trustee may take under this Chapter.
- (2) Discretionary distributions of trust assets, including distributions to one or more beneficiaries, distribution of one or more trust assets, and termination of the trust by distribution of all of the trust assets.
- (3) Any other matter regarding trust administration, including the transfer of the principal place of administration of the trust.

(b) The terms of a trust may also confer upon a power holder any other power, including, but not limited to, the power to do the following:

- (1) Modify or amend the trust to do any of the following:
 - a. Achieve favorable tax status under applicable law.
 - b. Take advantage of laws governing restraints on alienation or other State laws restricting the terms of the trust, distribution of trust property, or the administration of the trust.
- (2) Remove and appoint trustees and power holders.
- (3) Increase or decrease the interests of any beneficiary.
- (4) Grant a power of appointment to one or more beneficiaries of the trust or modify the terms of or terminate a power of appointment granted to a beneficiary by the governing instrument, except that a grant or modification of a power of appointment shall not grant a beneficial interest to any of the following:
 - a. Any individual or class of individuals not specifically provided for in the trust instrument.
 - b. The person having the power to grant, modify, or terminate the power of appointment.
 - c. The estate and creditors of the person having the power to grant, modify, or terminate the power of appointment.
- (5) Change the governing law of the trust.

(c) A power holder may exercise any further power appropriate to the exercise or nonexercise of a power granted to the power holder under subsections (a) and (b) of this section.

(d) The powers granted to a power holder under this section are subject to the same provisions of G.S. 36C-8-814 regarding discretionary powers and tax savings that are applicable to a trustee in a like position and under similar circumstances. (2012-18, s. 3.4; 2021-85, s. 2(c).)