

ASSEMBLY BILL NO. 275—ASSEMBLYMAN NELSON

MARCH 12, 2015

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing certain trusts.
(BDR 13-1013)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to directed trusts; authorizing a fiduciary or excluded fiduciary to delegate a duty of the fiduciary or excluded fiduciary to an agent under certain circumstances; limiting the duties and liability of an excluded fiduciary; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth provisions governing certain trusts, including, without limitation, the powers and duties of a fiduciary or excluded fiduciary under those trusts. (NRS 163.553-163.556) **Section 3** of this bill exempts an excluded fiduciary from certain fiduciary duties. **Section 3.7** of this bill limits his or her liability for certain acts or omissions. **Section 2** of this bill allows a fiduciary or excluded fiduciary to delegate a duty of the fiduciary or excluded fiduciary, as appropriate, to an agent and limits his or her liability if the delegation is made with the prior written approval of the trust beneficiaries or a court. **Section 5** of this bill provides that the amendatory provisions of the bill apply only to an administrative, civil or criminal cause of action that accrues on or after October 1, 2015.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 163 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *A fiduciary or excluded fiduciary may, as reasonable and prudent, delegate a duty of the fiduciary or excluded fiduciary, as appropriate, to an agent.*



2. Before delegating a duty pursuant to subsection 1, a fiduciary or excluded fiduciary shall obtain the prior written approval of all beneficiaries or the court.

3. If written approval is obtained pursuant to subsection 2, the fiduciary or excluded fiduciary is not liable for the acts of the agent, except in cases of gross negligence or willful misconduct in the selection or monitoring of the agent.

Sec. 3. An excluded fiduciary has no duty:

1. To review or evaluate any direction from a trust adviser, custodial account owner or authorized designee of a custodial account owner; or

2. To advise or warn any beneficiary or third party where, in the judgment of the excluded fiduciary, providing the advice or warning is not advisable.

Sec. 3.5. NRS 163.553 is hereby amended to read as follows:

163.553 As used in NRS 163.553 to 163.556, inclusive, **and sections 2 and 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 163.5533 to 163.5547, inclusive, have the meanings ascribed to them in those sections.

Sec. 3.7. NRS 163.5549 is hereby amended to read as follows:

163.5549 1. An excluded fiduciary is not liable, individually or as a fiduciary for any loss which results from:

(a) Complying with a direction of a trust adviser, custodial account owner or authorized designee of a custodial account owner ~~to~~, **including, without limitation, where the trust adviser is breaching his or her fiduciary responsibilities or acting beyond the scope of his or her authority;**

(b) A failure to take any action proposed by an excluded fiduciary which requires prior authorization of the trust adviser if the excluded fiduciary timely sought but failed to obtain such authorization; ~~to~~

(c) **Any act or omission, except gross negligence or willful misconduct, when acting as a trust adviser or trust protector pursuant to the instrument or for any other reason; or**

(d) Any action taken at the direction of a trust protector.

2. An excluded fiduciary is not liable for any obligation to perform an investment or suitability review, inquiry or investigation or to make any recommendation or evaluation with respect to any investment, to the extent that the trust adviser, custodial account owner or authorized designee of a custodial account owner had authority to direct the acquisition, disposition or retention of such investment.

3. The provisions of this section do not impose an obligation or liability on a custodian of a custodial account for providing any authorization.



1 **Sec. 4.** (Deleted by amendment.)

2 **Sec. 5.** The amendatory provisions of this act apply only to an
3 administrative, civil or criminal cause of action that accrues on or
4 after October 1, 2015.

