

(F) NOTHING IN THIS SECTION SHALL ABROGATE OR RESTRICT THE POWER OF A COURT TO:

(1) DIRECT OR PERMIT A FIDUCIARY TO DEVIATE FROM THE TERMS OF A GOVERNING INSTRUMENT; OR

(2) DIRECT OR PERMIT A FIDUCIARY TO TAKE, OR TO RESTRAIN A FIDUCIARY FROM TAKING, ANY ACTION REGARDING THE MAKING OR RETENTION OF INVESTMENTS.

(G) THIS SECTION SHALL APPLY TO ANY PERSON WHO:

(1) IS A TRUSTEE, GUARDIAN, CONSERVATOR, COMMITTEE, CUSTODIAN UNDER THE MARYLAND UNIFORM TRANSFERS TO MINORS ACT, INVESTMENT MANAGER, OR INVESTMENT ADVISOR; AND

(2) FILES WITH THE STATE BANK COMMISSIONER A STATEMENT THAT THE PERSON ELECTS TO HAVE THIS SECTION APPLY TO ALL FIDUCIARY ASSETS CONTROLLED BY THE PERSON.

13-312.

(b) (1) [In] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN dealing with custodial property[, a]:

(I) A custodian shall observe the standard of care that would be observed by a prudent person dealing with property of another and is not limited by any other statute restricting investments by fiduciaries[.];

[(2)](II) If a custodian has a special skill or expertise or is named custodian on the basis of representations of a special skill or expertise, the custodian shall use that skill or expertise[.]; AND

[(3)](III) A custodian, in the custodian's discretion and without liability to the minor or the minor's estate, may retain any custodial property received from a transferor.

(2) A FIDUCIARY SUBJECT TO § 15-114 OF THIS ARTICLE SHALL COMPLY WITH THAT SECTION IN DEALING WITH CUSTODIAL PROPERTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to fiduciary assets existing on or after the effective date of this Act, but only as to actions by fiduciaries occurring on or after that date or, if later, on or after an election is made pursuant to this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1994.

Approved May 26, 1994.