

ASSEMBLY BILL

No. 792

Introduced by Assembly Member Chiu

February 25, 2015

An act to amend Sections 5240 and 9250 of the Corporations Code, relating to corporations.

LEGISLATIVE COUNSEL'S DIGEST

AB 792, as introduced, Chiu. Board of directors: investment standards.

The Nonprofit Public Benefit Corporation Law and the Nonprofit Religious Corporation Law each require a board of directors for a corporation formed under its provisions to manage corporate investments in compliance with proscribed investment standards. The laws specify that compliance with its proscribed standards do not preclude the application of a separate investment standard under the Uniform Prudent Management of Institutional Funds Act.

This bill would modify the proscribed investment standard in each law to include the Uniform Prudent Management of Institutional Funds Act, if that act would be applicable.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5240 of the Corporations Code is
- 2 amended to read:
- 3 5240. (a) This section applies to all assets held by the
- 4 corporation for investment. Assets which are directly related to

1 the corporation's public or charitable programs are not subject to
2 this section.

3 (b) Except as provided in subdivision (c), in investing,
4 reinvesting, purchasing, acquiring, exchanging, selling and
5 managing the corporation's investments, the board shall do the
6 following:

7 (1) Avoid speculation, looking instead to the permanent
8 disposition of the funds, considering the probable income, as well
9 as the probable safety of the corporation's capital.

10 (2) Comply with additional standards, if any, imposed by the
11 articles, bylaws or express terms of an instrument or agreement
12 pursuant to which the assets were contributed to the corporation.

13 (c) No investment violates this section where it conforms to
14 provisions authorizing the investment contained in an instrument
15 or agreement pursuant to which the assets were contributed to the
16 corporation. No investment violates this section or Section 5231
17 where it conforms to provisions requiring the investment contained
18 in an instrument or agreement pursuant to which the assets were
19 contributed to the corporation.

20 (d) In carrying out duties under this section, each director shall
21 act as required by subdivision (a) of Section 5231, may rely upon
22 others as permitted by subdivision (b) of Section 5231, and shall
23 have the benefit of subdivision (c) of Section 5231, and the board
24 may delegate its investment powers as permitted by Section 5210.

25 ~~(e) Nothing in this section shall be construed to preclude the~~
26 ~~application of the Uniform Prudent Management of Institutional~~
27 ~~Funds Act (Part 7 (commencing with Section 18501) of Division~~
28 ~~9 of the Probate Code) if that act would otherwise be applicable,~~
29 ~~but nothing in the Uniform Prudent Management of Institutional~~
30 ~~Funds Act alters the status of governing boards, or the duties and~~
31 ~~liabilities of directors, under this part.~~

32 *(e) Compliance with the Uniform Prudent Management of*
33 *Institutional Funds Act (Part 7 (commencing with Section 18501)*
34 *of Division 9 of the Probate Code), if that act would be applicable,*
35 *will be deemed to be compliance with subdivision (b).*

36 SEC. 2. Section 9250 of the Corporations Code is amended to
37 read:

38 9250. (a) In investing, reinvesting, purchasing, acquiring,
39 exchanging, selling, and managing a corporation's investments,
40 the board shall meet the standards set forth in Section 9241.

1 ~~(b) Nothing in this section shall be construed to preclude the~~
2 ~~application of the Uniform Prudent Management of Institutional~~
3 ~~Funds Act, Part 7 (commencing with Section 18501) of Division~~
4 ~~9 of the Probate Code, if that act would otherwise be applicable.~~
5 ~~However, nothing in the Uniform Prudent Management of~~
6 ~~Institutional Funds Act alters the status of governing boards, or~~
7 ~~the duties and liabilities of directors, under this part.~~

8 *(b) Compliance with the Uniform Prudent Management of*
9 *Institutional Funds Act (Part 7 (commencing with Section 18501)*
10 *of Division 9 of the Probate Code), if that act would be applicable,*
11 *will be deemed to be compliance with subdivision (a).*