

**UNIFORM PRUDENT INVESTOR ACT AND
MODERN PORTFOLIO TRUST INVESTMENT STATUTES¹**

This survey examines the modifications made to the Uniform Prudent Investor Act by the forty-one states and the District of Columbia which have officially adopted the UPIA. The survey also examines the laws governing investment of trust assets in the nine states that have not officially adopted the UPIA.

BY: TRENT S. KIZIAH

	UPIA enacted	Degree of Changes made from UPIA (see Key below)	Citations	Law applies to all trustees?	Portfolio Investment Approach	Risk & Return	All Investments Permissible	Diversification Required?	Inception Asset Preference	Life Insurance Carve Out	Delegation Permitted?	Express waiver required to override UPIA?	Modifications to §2(c)
Alabama	Yes	SM	Ala. Code §§ 19-3B 901 to 19-3B 906	Yes	Yes	Yes	No ³	Yes	Yes	Yes	Yes	No	Shall to may; additional factors added
Alaska	Yes	SM	Alaska Stat. §§13.36.225 to 13.36.290	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Arizona	Yes	SM	Ariz. Rev. Stat. Ann. §§ 14-10901 to 14-10909	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No	Modifications to (4)
Arkansas	Yes	M	Ark. Code Ann. §§28-73-901 to 28-73-908	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
California	Yes	SM	Cal. Prob. Code §§ 16045 to 16054	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Shall to may; modifications to (4) & (6)
Colorado	Yes	V	Colo. Rev. Stat. §§15-1.1-101 to 15-1.1-115	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Connecticut	Yes	SM	Conn. Gen. Stat. §§45a-541 to 45a-5411	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	Modifications to (3) & (6); additional factors added
Delaware	No		Del. Title 12, Chpt. 33, §§3302- 3304	Yes	Yes	? ²	Yes	Yes, by case law	No	Yes	Yes	No	Significant modifications; additional factors added
D.C.	Yes	SM	D.C. Code Ann. §§19-1309.01 to 19-1309.06	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Florida	No		Fla. Stat. §§518.11-518.112	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Shall to may; significant modifications

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	UPIA enacted	Degree of Changes made from UPIA (see Key below)	Citations	Law applies to all trustees?	Portfolio Investment Approach	Risk & Return	All Investments Permissible	Diversification Required?	Inception Asset Preference	Life Insurance Carve Out	Delegation Permitted?	Express waiver required to override UPIA?	Modifications to §2(c)
Georgia	No		Ga. Code §53-12-340	Yes	Yes	Yes	Yes	Yes, but see effective date provision	No	No	Yes	No	Significant modifications; additional factors added
Hawaii	Yes	NV	Haw. Rev. Stat. §§554c-1 to 554c-12	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Idaho	Yes	NV	Idaho Code §§68-501 to 68-514	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Illinois	No		760 ILCS 5/5 & 5/5.1	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Shall to may; significant modifications; additional factors added
Indiana	Yes	M	Ind. Code §§30-4-3.5 to 30-4-3.5-13	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Iowa	Yes	SM	Iowa Code §§633 A.4301 to 633 A.4401	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Kansas	Yes	SM	Kansas Stat. Ann. §§58-24a01 to 58-24a14	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	Modifications to (6)
Kentucky	No		KY Stat. §286.3-277	Only applies to corporate fiduciaries.	Yes	Yes	?*	Yes	No	No	Yes	?°	Not adopted
Louisiana	No		LA Stat. RS 9:2082, 9:2087; 9:2090; 9:2117; 9:2127	Yes	Yes	Yes	Yes	Yes, per comments to state statute	No	No	Yes	?°	Not adopted
Maine	Yes	SM	Me. Rev. Stat. Tit. 18-1, §§901 to 1104	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	Modifications to (6)

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Maryland	No		Md. Stat. §15-114	Only applies to corporate fiduciaries. Individuals may elect to have statute apply.	Yes	Yes	?*	Yes	Yes	No	No	No	Shall to may; significant modifications; additional factors added
Massachusetts	Yes	SM	Mass. Gen. L. Ch. 203C, §§1-11	Yes	Yes	?²	Yes	Yes	No	No	Yes	No	Modifications to (4)
Michigan	Yes	SM	Mich. Comp. Laws §§700.1501 to 700.1512	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Minnesota	Yes	SM	Minn. Stat. §501 B.151	Yes	Yes	Yes	Yes	Yes	No	No	No	No	Shall to may; modifications to (4), (6) & (8)
Mississippi	Yes	SM	Mississippi Code Ann. §§19-9-601 to 91-9-627	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Missouri	Yes	SM	Missouri Rev. Stat. §§469.900 to 469.913	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Modifications to (4) & (6); additional factors added
Montana	Yes	SM	Montana Code Ann. §§72-34-602 to 72-34-610	Yes	Yes	Yes	Yes	Yes	Specific Asset Carve Out	No	Yes	Yes	Shall to may; modifications to (4) & (6)
Nebraska	Yes	M	Nebraska Rev. Stat. §§30-3883 to 30-3889	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Nevada	Yes	SM	Nev. Rev. Stat. §§164.705 to 164.775	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
New Hampshire	Yes	SM	N.H. Rev. Stat. Ann. §§564-B: 9-901 to 564-B: 9-907	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	

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New Jersey	Yes	SM	N.J. Stat. Ann. §§3B:20-11.1 to 3B:20-11.12	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Modifications to (4) & (8)
New Mexico	Yes	E	N.M. Stat. Ann. §§45-7-602 to 45-7-612	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
New York	No		N.Y. EPTL §11-2.3	Yes	Yes	Yes	Yes	Yes	No, but see case law developments	No	Yes	Yes	Significant modifications; additional factors added
North Carolina	Yes	M	N.C. Gen. Stat. §§36C-9-901 to 36C-9-907	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No	Modifications to (6)
North Dakota	Yes	SM	N.D. Cent. Code §§59-17-01 to 59-17-06	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No	
Ohio	Yes	SM	Ohio Rev. Code Ann. §§5809.01 to 5809.08	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No	
Oklahoma	Yes	E	Okla. Stat. Ann. §§60-175.60 to 60-175.72	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Oregon	Yes	SM	Oregon Rev. Stat. §§130-750 to 130.775	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Pennsylvania	Yes	SM	Pa. 20 Cons. Stat. §§7203 to 7206	Yes	Yes	? ²	Yes	Yes, but see effective date provision	Yes	Yes	Yes	No	Significant modifications; additional factors added
Rhode Island	Yes	E	R.I. Gen. Laws §§18-15-1 to 18-15-13	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
South Carolina	Yes	SM	S.C. Code Ann. §62-7-933	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No	
South Dakota	No		S.D. Codified Laws Ann. §§55-5-6 to 55-5-17	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No	Shall to may; significant modifications

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Tennessee	Yes	SM	Tenn. Code Ann. §§35-14-101 to 35-14-114	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	
Texas	Yes	SM	Texas Prop. Code Ann. §§117.001 to 117.012	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Utah	Yes	SM	Utah Code Ann. §§75-7-901 to 75-7-907	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Vermont	Yes	M	Vt. Stat. Ann. Tit. 9, §§901 to 906	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Virginia	Yes	SM	Va. Code Ann. §§26-45.3 to 26-45.14	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No	
Washington	Yes	SM	Wash. Rev. Code §11.100.020	Yes	Yes	? ²	Yes	Yes	Yes	No	Yes	Yes	Significant modifications
West Virginia	Yes	E	W.Va. Code §§44-6C-1 to 44-6C-15	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Wisconsin	Yes	SM	Wisconsin Stat. §881.01	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No	
Wyoming	Yes	SM	Wyoming Stat. §§4-10-901 to 4-10-913	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No	

Key:

- V -verbatim enactment
- NV- nearly verbatim enactment
- E- editorial changes only
- M- modifications made
- SM - substantial modifications made

Footnotes

¹Nine states have not formally adopted the UPIA. These nine states have in place modern trust investment statutes. The chart lists the applicable statutes.

²The investment statutes in Delaware, Massachusetts, Pennsylvania and Washington do not reference "risk and return." Legislative history in Pennsylvania indicates the phrase "risk and return" was omitted "so that the fiduciary is not restricted to modern portfolio theory but instead can follow any reasonable theory of investing."

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³While the first sentence of Alabama Code §19-3B-902(e) permits every type of investment, the second sentence and the Alabama Constitution prohibits investments of trust assets in private corporations.

*Kentucky and Maryland did not adopt UPIA §2(e).

°Kentucky and Louisiana did not adopt UPIA §1(b).

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