

22-7-115 Judicial control of discretionary powers.

- (1) A court may not change a trustee's decision to exercise or not to exercise a discretionary power conferred by this chapter unless the court determines that the decision was an abuse of the trustee's discretion. A court may not determine that a trustee abused the trustee's discretion merely because the court would have exercised the discretion in a different manner or would not have exercised the discretion.
- (2) Where a beneficiary elects to challenge an action or nonaction by a trustee or a disinterested party under the powers and authority granted to the party under this chapter, the beneficiary has the burden of establishing, by a preponderance of the evidence, that the actions or nonactions by a trustee or a disinterested party abused the trustee's or the party's discretion. A beneficiary who fails to state a basis or reason for an objection or fails to prove by a preponderance of the evidence the proposed action should be taken or should not be taken shall be liable to the trust or all other beneficiaries for damages and costs associated with the objection.

Enacted by Chapter 244, 2013 General Session