

§ 36C-10-1010. Limitation on personal liability of trustee.

(a) Except as otherwise provided in the contract, a trustee is not personally liable on a contract properly entered into in the trustee's fiduciary capacity in the course of administering the trust if the trustee in making the contract disclosed the fiduciary capacity. The addition of the phrase "trustee" or "as trustee" or a similar designation to the signature of a trustee on a written contract is considered prima facie evidence of a disclosure of fiduciary capacity.

(b) A trustee is personally liable for torts committed in the course of administering a trust, or for obligations arising from ownership or control of trust property, including liability for violation of environmental law, only if the trustee is personally at fault.

(c) A claim based on a contract entered into by a trustee in the trustee's fiduciary capacity, on an obligation arising from ownership or control of trust property, or on a tort committed in the course of administering a trust, may be asserted in a judicial proceeding against the trustee in the trustee's fiduciary capacity, whether or not the trustee is personally liable for the claim. Any judgment rendered in favor of a claimant in such a judicial proceeding against a trust may be recovered from the trust property without proof that the trustee could have obtained reimbursement from the trust if the trustee had paid the claim.

(d) A trustee is entitled to indemnity from the trust for any claim, other than a breach of trust, for which the trustee is liable:

- (1) If the claim arose from a common incident of activity in which the trustee was properly engaged for the trust;
- (2) If the trustee was not personally at fault; or
- (3) To the extent that the trustee's actions increased the value of trust property.

(e) A decision by a trustee not to inspect property, or to decline to accept property, shall not create any inference as to liability, under any environmental law, with respect to that property. A trustee shall have no liability for a decrease in value of property in a trust by reason of the trustee's compliance with any environmental law, including reporting requirements. (2005-192, s. 2.)