

JAN 23 2009

S.B. NO. 106

A BILL FOR AN ACT

RELATING TO PERSONAL LIABILITY OF TRUSTEE TO THIRD PARTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 560:7-306, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§560:7-306 Personal liability of trustee to third
4 parties. (a) Unless otherwise provided in the contract, a
5 trustee is not personally liable on contracts entered into in
6 the trustee's fiduciary capacity in the course of administration
7 of the trust estate[-], unless the trustee fails to disclose the
8 trustee's representative capacity and identify the trust estate
9 in the contract.

10 (b) A trustee is personally liable for obligations arising
11 from ownership or control of property of the trust estate [and]
12 or for torts committed in the course of administration of the
13 trust estate[-] only if the trustee is personally at fault.

14 (c) Claims based on contracts entered into by a trustee in
15 the trustee's fiduciary capacity, on obligations arising from
16 ownership or control of the trust estate, or on torts committed
17 in the course of trust administration may be asserted against
18 the trust estate by proceeding against the trustee in the



1 trustee's fiduciary capacity, whether or not the trustee is
2 personally liable therefor.

3 (d) The question of liability as between the trust estate
4 and the trustee [~~personally~~] individually may be determined in a
5 proceeding for accounting, surcharge or indemnification or other
6 appropriate proceeding."

7 SECTION 2. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect on July 1, 2009.

13

INTRODUCED BY: _____


By Request



Report Title:

Personal Liability of Trustee to Third Parties

Description:

Amends Hawaii Probate Code provisions on personal liability of a trustee for consistency with Uniform Probate Code.

