

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

700.3722 Authority regarding environmental matters.

Sec. 3722.

(1) In response to an environmental concern or hazard, a personal representative may do any of the following:

(a) Inspect property or the operation of a business activity on property held by the personal representative, including property held in or operated by a sole proprietorship, partnership, corporation, or limited liability company or any other type of entity, for the purpose of determining compliance with environmental law affecting the property and to respond to an actual or threatened violation of an environmental law affecting property held by the personal representative.

(b) Take action necessary to prevent, abate, or otherwise remedy an actual or threatened violation of an environmental law affecting property held by the personal representative, either before or after a governmental body initiates an enforcement action.

(c) Settle or compromise at any time a claim against the estate that a governmental body or private party may assert involving the alleged violation of an environmental law affecting property held in the trust or estate.

(d) Disclaim a power granted by a document, statute, or rule of law that, in the sole discretion of the personal representative, may cause the personal representative to incur personal liability under an environmental law.

(e) Decline to serve or resign as a personal representative if the personal representative reasonably believes that there is or may be a conflict of interest between it in its fiduciary capacity and in its individual capacity because of a potential claim or liability that may be asserted against the personal representative on the estate's behalf because of the type or condition of property held in the estate.

(f) Charge the cost of an inspection, review, abatement, response, cleanup, settlement of claim, or remedial action authorized by this section against the income or principal of the estate.

(2) A personal representative is not personally liable to a beneficiary or other party for a decrease in value of estate property by reason of the personal representative's compliance with an environmental law, specifically including a reporting requirement under that law. The personal representative's acceptance of property or failure to inspect property or a business operation does not create an inference that there is or may be liability under an environmental law with respect to the property or business operation. The authority granted by this section is solely to facilitate the administration and protection of estate property and is not to impose greater responsibility or liability on the personal representative than imposed by law absent this section.

History: 1998, Act 386, Eff. Apr. 1, 2000

Popular Name: EPIC