

## **IC 30-4-4**

### Chapter 4. Rules Governing the Rights of Third Parties

#### **IC 30-4-4-1**

##### **Presumption of trustee's authority**

###### Sec. 1. (Presumption of Trustee's Authority)

(a) Except as provided in subsection (b) of this section, any third person dealing with the trustee or assisting him in conducting a transaction:

(1) may assume without inquiry that the trustee has the powers he purports to exercise and has exercised them properly; and

(2) shall not be responsible for the application of money or property paid or delivered to the trustee.

(b) If the third person has actual knowledge that the trustee is exceeding his powers or is improperly exercising them, that person will not be protected under subsection (a) of this section.

(c) If a trust which includes real estate is a public record in the county in which the real estate is situated, a third person dealing with the trustee with respect to that real estate shall be deemed to have actual notice of the terms of the trust.

*(Formerly: Acts 1971, P.L.416, SEC.5.)*

#### **IC 30-4-4-2**

##### **Transfers by the trustee to third persons**

###### Sec. 2. (Transfers by the Trustee to Third Persons)

(a) If, in transferring an interest in trust property to a third party, the trustee is not committing a breach of trust, the transferee holds the interest free of the trust and incurs no liability to the beneficiary.

(b) A third person, to whom an interest in trust property is transferred by the trustee in breach of trust, takes his interest free of the trust if he:

(1) takes for value and without notice of the breach of trust; and

(2) is not taking part in what he knows to be an illegal transaction.

*(Formerly: Acts 1971, P.L.416, SEC.5.)*

#### **IC 30-4-4-3**

##### **Judgment lien against the trustee or beneficiary**

###### Sec. 3. (Judgment Lien against the Trustee or Beneficiary)

(a) A judgment against a person individually who may also be a trustee shall not be a lien against the trust estate.

(b) When trust property is properly sold or disposed of by the trustee to a third person, the liens against a beneficiary's interest in the trust estate, if any, will be divested from that property and will attach to the interest of that beneficiary in the proceeds from its sale or other disposition.

*(Formerly: Acts 1971, P.L.416, SEC.5.)*

#### **IC 30-4-4-4**

##### **Disclosure of information concerning beneficiaries**

###### Sec. 4. (Disclosure of Information Concerning Beneficiaries)

(a) Any person may petition the court for disclosure of information concerning beneficiaries or the trust estate. The court may order the disclosure of all or any part of the information requested in the petition only after the petitioner has shown both a reasonable need for it and that the trustee has either refused or neglected to provide the information on written request delivered to the trustee.

(b) The court shall, upon petition, order the disclosure of the identity of the beneficiaries or their agents, if any, and any other information concerning the trust, in any case in which:

(1) in a trust of real estate, there is a violation of a state law or an ordinance or resolution of a political subdivision relating to the structure or condition of buildings, or the health and safety of occupants of or visitors to buildings; or

(2) there has been or may be a deed, sale, lease, purchase, mortgage, assignment or similar transfer of any interest in trust property to or from any unit of state or local government or agency or official thereof;

and the trustee has refused to disclose the identities of the beneficiaries within a reasonable time after written demand.

*(Formerly: Acts 1971, P.L.416, SEC.5.)*

#### **IC 30-4-4-5**

##### **Certification of trust; contents; liability of person relying on certification of trust**

Sec. 5. (a) A trustee may furnish to a person other than a beneficiary a certification of trust instead of a copy of the trust instrument. The certification of trust must contain the following information:

(1) That the trust exists and the date the trust instrument was executed.

(2) The identity of the settlor.

(3) The identity and address of the currently acting trustee.

(4) The powers of the trustee.

(5) The revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust.

(6) The authority of cotrustees to sign or otherwise authenticate and whether all or less than all the cotrustees are required in order to exercise the powers of the trustee.

(7) The manner of taking title to trust property.

(b) A certification of trust may be signed or authenticated by any trustee.

(c) A certification of trust must state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.

(d) A certification of trust may contain the dispositive terms of a trust.

(e) A recipient of a certification of trust may require the trustee to furnish copies of excerpts from the original trust instrument and later amendments that:

- (1) designate the trustee; and
- (2) confer on the trustee the power to act in a pending transaction in which the recipient has an interest.

(f) A person who acts in reliance on a certification of trust without knowledge that the representations contained in the certification of trust are incorrect:

- (1) is not liable to any person for acting in reliance on the certification of trust; and
- (2) may assume without inquiry the existence of the facts contained in the certification of trust.

Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying on the certification.

(g) A person who in good faith enters into a transaction in reliance on a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

(h) A person making a demand for the trust instrument in addition to a certification of trust or excerpts from the original trust instrument is liable for damages if the court determines that a person did not act in good faith in demanding the trust instrument.

(i) This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.

*As added by P.L.238-2005, SEC.41. Amended by P.L.95-2007, SEC.18; P.L.202-2007, SEC.5.*