

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

700.5424 Powers regarding environmental matters.

Sec. 5424.

(1) To respond to an environmental concern or hazard affecting property, the conservator may do any of the following:

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

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

(c) Settle or compromise at any time a claim against the estate that is asserted by a governmental body or private party 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 conservator, may cause the conservator to incur personal liability under an environmental law.

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

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

(2) The powers listed in subsection (1) are by way of enumeration and not limitation on the conservator's power to respond to an environmental concern or hazard.

(3) A conservator is not personally liable to a beneficiary or other party for a decrease in the value of estate property by reason of the conservator's compliance with an environmental law, specifically including a reporting requirement under such a law. Neither the acceptance by the conservator of property nor a failure by the conservator to inspect property or a business operation creates 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 conservator than imposed by law absent these provisions.

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

Popular Name: EPIC